

and in some cases to insert covenants on the part of the patentee to proceed against persons infringing the patent (see *Henderson v. Mostyn*, L. R. 3 C. P. 202), or to permit the licensee to proceed in the patentee's name. The Court will grant an injunction at the suit of exclusive licensees (*Renard v. Levinstein*, H. & M. 628).

When a sum of money has been paid for a licence, and the consideration fails, the money may be recovered. Thus in *Knowles v. Bovill* (22 L. T. N. S. 70), it appeared that a patentee had granted to the plaintiff a licence to use his patent, and had agreed to apply for a prolongation of the patent of which the plaintiff was to have the benefit; and he further agreed to grant a licence under a new patent for which he had applied. The patentee, however, died shortly afterwards without having done anything. It was held that the plaintiff could recover the money paid from the patentee's executors. On the other hand, it has been decided that money paid in consideration of a licence cannot be recovered by action when the patent turns out to be void (*Taylor v. Hare*, 1 Bos. and Pul. N. R. 260); except where fraud is proved (*Lovell v. Hicks*, 2 Y. and C. 472). To meet this case it will be prudent to have a covenant in the licence, under which the parties may readjust their accounts in the event of the patent proving void or voidable.

A licensee during the continuance of the licence cannot set up as a defence to an action for the royalty that the invention was not new or not useful, or that the patentee was not the first inventor, or that the specification is insufficient (*Nolon v. Brooks*, 7 H. & N. 499; *Trotman v. Wood*, 10 C. B. N. S. 479; *Smith v. Scott*, 5 Jur. N. S. 1356; *Chavasse v. Stevens*, W. N. 1874, p. 193; *Adie v. Clark*, L. R. 2 App. Cas. 423; *Liardet v. Electric Lighting Co.*, W. N. 1883, p. 96).

But when in such a case the claim in the specification is susceptible of two constructions, one of which would make the specification bad, and the other and more natural one would make it good, it was held that the licensee may insist that the latter is the true construction (*Trotman v. Wood*, 16 C. B. N. S. 479). But now see *Adie v. Clark* cited above. Even where no formal licence has been executed, a person who has paid money in the nature of a royalty will not be allowed to dispute the validity of the patent (*Crossley v. Dixon*, 10 H. L. C. 293). Neither will a patentee, after assigning all his interest in a patent for a valuable consideration, be allowed, in an action against himself for an infringement, to raise the question whether the patent is void for want of novelty (*Walton v. Lavater*, 8 C. B. N. S. 162, 187; and see also *Chambers v. Crichley*, 33 Bea. 374). Furthermore, a licensee will not be permitted to use the invention without payment of the royalties he has covenanted to pay, even after the patent has been found invalid in proceedings between other parties (*The Grover & Baker Sewing Machine Company v. Millard*, 8 Jur. N. S. 713). But where judgment was given by consent before declaration filed in an action by a patentee against the members of a partnership firm for an alleged infringement, and the defendants immediately took a license to use the invention, and the patentee subsequently instituted a suit to restrain infringement against the defendants at law and two fresh partners, it was held that the defendants in equity were not estopped from disputing the validity of the patent (*Goucher v. Clayton*, 11 Jur. N. S. 107).

A licensee has, however, a right to have it ascertained what is the field covered by the specification as properly construed, and is entitled to say that he has not gone inside that field. He may seek to have the boundary of the patentee's invention defined with the

view of showing that he had not rendered himself liable to make the payments stipulated in the licence (*Adie v. Clark*, L. R. 4 App. Cas. 423). And after a licence has been determined, a licensee is at liberty to dispute the validity of a patent in a suit for an injunction to restrain an infringement (*Dangerfield v. Jones*, 13 L. T. N. S. 142; *Aermann v. Lund*, L. R. 18, Ch. D. 330; and see *Neilson v. Hothergill*, 1 W. P. C. 290).

It was held by *Lord Romilly, M. R.*, in *Mathers v. Green* (34 Beav. 170), that when one of three joint patentees had granted licences, he was bound to account to his co-patentees for the royalties received.

An exclusive licensee has a right to apply in the name of the owner of the patent for an injunction to restrain infringements (*Renard v. Levinstein*, 2 H. & M. 632); but an ordinary licensee has not such a right (*Newby v. Harrison*, 1 J. & H. 393), nor has the agent of the patentee (*Adams v. North British Railway Company*, W. N. 1873, p. 191).

A patentee will not be allowed to publish advertisements and circulars calculated to deter the public from dealing with his licensee (*Clark v. Adie*, 21 W. R. 764).

Formerly when the patent was silent as to the form of licence, a simple licence, without covenants, need not have been under seal (*Chanter v. Dewhurst*, 12 M. & W. 823; *Reuss v. Lever*, Ch. Div. April 9, 1879, *V. C. Hall*); nor, it seems, if it was not a deed, did it require a stamp (*Chanter v. Johnson*, 14 M. & W. 408). But now the form of patent set forth in the first schedule of the Act requires licences to be in writing under the hand and seal of the patentee. A stamp of 10s. must be impressed in ordinary cases, and an *ad valorem* stamp on the consideration-money when a fixed sum is paid. When a licence contains a covenant for the payment of a minimum royalty, the Stamp Office insists

upon payment of an *ad valorem* duty upon the gross minimum royalty reserved, and this although the licence contains power for licensor or licensee to determine the licence.

Whether a licence not under seal was revocable or not depended on its construction (*Reuss v. Lever*, Ch. Div. April 9, 1879, cited above).

As to the procedure on the registration of licences see Rule 74 of the Patents Rules 1883 and Form M in the second schedule.

CHAPTER XIII.

THE REGISTRATION OF PATENTS, ETC.

THE twenty-third section of the Patent Act of 1883, directs that 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 licences 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. The Register of Patents will be *primâ facie* evidence of any matters by the Act directed or authorised to be inserted therein. Copies of deeds, licences, and any other documents affecting the proprietorship in any letters patent or in any licence thereunder, must be supplied to the Comptroller in the prescribed manner for filing in the Patent Office.

By the eighty-seventh section of the Act, where a person becomes entitled by assignment, transmission, or other operation of law to a patent, 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, in the Register of Patents. The person for the time being entered in the Register of Patents, as proprietor of a patent, shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to assign,

grant licences as to, or otherwise deal with, the same and to give effectual receipts for any consideration for such assignment, licence, or dealing. Any equities in respect of such patent may be enforced in like manner as in respect of any other personal property.

Notices of trusts expressed, implied, or constructive, are not to be entered in the register nor to be received by the Comptroller (sect. 85).

The procedure as to the registration of patent documents is set forth in Rules 64-74 of the Patents Rules 1883. A fee of ten shillings is payable for each entry on the register.

The Court may (sect. 90) on the application of any person aggrieved by the omission without sufficient cause of the name of any person from the register or by any entry made without sufficient cause in 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. Further 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. Any order of the Court rectifying a register must direct that due notice of the rectification be given to the Comptroller; and Rule 71 of the Patents Rules 1883 requires an office copy of the order to be left at the Patent Office.

It would seem that under the Judicature Acts there lies an appeal from any order made by a judge under this section (*Morgan's Patent*, 24 W. R. 245).

If any rectification of a register 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 must be served on the Comptroller, and he is to rectify the register accordingly (sect. 111).

The Comptroller is empowered (sect. 91) to correct any clerical error in the name, style, or address of the registered proprietor of a patent.

The making of false entries in the register, the making of any writing falsely purporting to be a copy of an entry therein; and the tendering in evidence of any such writing, are declared to be severally misdemeanors (sect. 93).

The former registers of patents and of proprietors are to be deemed parts of the register of patents kept under the new Act (sect. 114), which is directed to be open at all convenient times to the inspection of the public, subject to such regulations as may be prescribed (see Rule 75).

Certified copies, sealed with the seal of the Patent Office, of any entry in such register will be given to any person requiring the same on payment of the prescribed fee (sect. 88, and see Rule 76).

The thirty-fifth section of the Patent Act of 1852 provided that until registration of an assignment the grantee of the patent should be deemed the proprietor of the exclusive privileges thereby granted; and it was held in *Chollet v. Hoffmann* (7 E. and B. 636) that an assignee could not bring an action for an infringement against third parties until his assignment had been registered. But in the case of *Hassall v. Wright* (L. R. 10 Eq. 509) *Sir R. Malins, V. C.*, was of opinion that an assignee of a patent might maintain a suit against the assignor and subsequent licencees of the assignor with notice of the assignment to restrain them from using the patent, although at the time of the institution of the suit the assignment had not been registered. And from the same case it seems that

registration relates back to the date of the assignment, so as to enable the assignee to maintain a suit to restrain infringement instituted between the dates of the assignment and registration. When the executors of a patentee obtained probate of their testator's will and assigned his patent, but the probate was not registered till after the assignment, it was held that the assignment was valid. (*Ellwood v. Christy*, 10 Jur. N. S. 1079; *S. C.* 11 L. T. N. S. 342).

Under the thirty-eighth section of the Patent Act of 1852, which gave power to the Courts to expunge entries in the register of patents similar to that conferred by the ninetieth section of the new Act, the Master of the Rolls ordered the registry of a second assignment of a patent to be expunged on the application of the assignees under a prior assignment, which had not been registered until after the second, as it appeared that the second assignment had been executed for a fraudulent and improper purpose. (*Re Green's Patent*, 24 Bea. 145). In another case, the Master of the Rolls said that if there were two deeds assigning the patent *simpliciter* to two different persons, and the second was registered before the first, and if it were clearly proved that the second deed was executed with full and complete notice of the prior one, though subsequently registered, he conceived he should have power to direct an entry to be made upon the register, stating the facts. In *Re Morey's Patent* (25 Bea. 58) it was said to be the duty of the Court to insert on the register any facts relating to the proprietorship, but not the legal inferences to be drawn from them. One of two joint patentees assigned by deed his interest in the patent to a third person, and released him from all claims on the part of both patentees. At the instance of the other patentee the Master of the Rolls ordered the entry of the assignment to be expunged (*Re Horsley and Knighton's Patent*, L. R. 8 Eq. 475).

In the matter of the same patent (L. R. 4 Ch. 784) it was decided that there was no appeal from such an order of the Master of the Rolls. But the jurisdiction having now been transferred to the High Court of Justice (*Re Morgan's Patent*, 24 W. R. 245), it would seem to be subject to appeal.

In *Speckhart v. Campbell* ('Times,' March 13, 1884) it was held by the Court of Appeal that a person (who in this case was a foreigner) may bring an action in his own name for an infringement when the patent is registered in the name of another person, if that other person is a trustee for the plaintiff.

CHAPTER XIV.

INFRINGEMENTS.

THE first section of this chapter will be devoted to a discussion of the substantive law and the reported cases; and the second will treat shortly of the practice connected with the proceedings for infringements in the High Court of Justice.

§ 1.—*The Substantive Law of Infringements.*

The rights of a patentee may be violated in several ways. 1. The invention may be overtly exercised exactly as the specification has described it without the permission of the patentee. 2. The invention may be copied not textually and literally, but with certain changes and variations, such as additions, omissions or substitutions of parts, so as to produce something colourably different from the original. 3. By dealing in articles made by the patented method. 4. By the user of articles made by the patented method.

As to the first mode of infringing a patent, nothing more need be said at present, because when the fact is capable of proof, the remedy can be readily applied. It is the second method of encroaching on his rights that gives most trouble to the patentee. Certain devices (mechanical equivalents, transpositions of parts, &c.) having been employed to give a different appearance to the copy with the design of seeming not to trespass within the pale set up by the patentee, and with the view of causing that copy to be mistaken for

a distinct plan, it becomes the patentee's task to expose the scheme and to show that the pretended novelty is in truth an infringement in disguise. The leading idea, or principle, as it is usually termed, remaining the same, the contrivances will be considered identical, and when that is capable of satisfactory proof, the continuance of the infringement may be stopped by application to a court of law, and the infringer may be compelled to make compensation for the injury he has committed.

A person will not be allowed to deprive an inventor of the fruits of his discovery by substituting a well-known equivalent, either chemical or mechanical, for some part of the patented invention. Where the question arises as to the infringement of the patent for a machine, the substance and not merely the form of the invention will be looked at in a court of justice. Therefore, where it is shown that two machines are alike in principle, and that the constructor of the second machine has carried the principle of the first into effect by substituting one mechanical equivalent for another, here it will be held that there has been an infringement. (See *Morgan v. Seward*, 1 W. P. C. 171; *Thorn v. Worthing Skating Rink Company*, L. R. 6 Ch. D. 415 n. *Adair v. Young*, L. R. 12 Ch. 21).

It will not be the less an infringement (said *Lord Cairns, C.*, in *Dudgeon v. Thomson*, L. R. 3 App. Ca. 44) because it has been coloured or disguised by additions or subtractions, which additions or subtractions may exist and yet the thing protected by the specification be taken notwithstanding. And in the same case (p. 53) *Lord Blackburn* said, 'If part of the property in the invention be really taken, there is an infringement, however much that may be disguised or sought to be hidden. If that is detected by the patentee, and if what is taken is really part of his property given to

him by the letters patent, he has a right to proceed against the infringer, however ingeniously the colours may have been contrived to try to conceal the fact that there has been a taking of part of the property.'

The following cases will show clearly that to make a colourable alteration in a patented invention, or to arrive at the same result by means which are substantially the same, although independently discovered, will be an infringement of the patent. Walton took out a patent for making cards for carding textile materials with the aid of caoutchouc, the object being to obtain an increased degree of elasticity and durability. The wire teeth were described as inserted in a foundation of slices of caoutchouc, on the back of which a piece of cloth was cemented. The claim was not confined to the use of caoutchouc in slices, but he claimed the exclusive right of making cards by fixing the teeth in caoutchouc as the fillet, or sheet, or medium. After the date of this patent, Potter and Horsfall took out a patent for a new material for forming the backs of cards, and their mode of preparing it was by repeatedly passing a woven fabric of a peculiar construction through, and saturating it with, a solution of caoutchouc, and then drying it to evaporate the solvents, and leave the fabric impregnated and coated with caoutchouc, the object being to render the fabric so dealt with extremely elastic in the direction of the thickness of the fabric, so as to impart elasticity to the wire teeth when set. It was held (*Walton v. Potter*, 1 W. P. C. 585) that Potter's process fell within the generality of Walton's claim, and was an infringement of his patent. At the trial, *Tindal, J.*, told the jury that, 'when a party has obtained a patent for a new invention made by his own ingenuity, it is not in the power of any other person, simply by varying in form or in immaterial circumstances the nature or subject-

matter of that invention, to obtain either a patent for it himself, or to use it without the leave of the patentee, because that would be in effect and in substance an evasion of the right; and therefore what you have to look at upon the present occasion is not simply whether in form or in circumstances—that may be more or less immaterial—that which has been done by the defendants varies from the specification of the plaintiff's patent, but to see whether in reality, in substance and in effect, the defendants have availed themselves of the plaintiff's invention, in order to make that fabric or to make that article which they have sold in the way of their trade.' Then referring to a card purchased from the defendants, which was produced to the jury, he said, 'Now, what you have to say is, whether you are satisfied that the card produced is a specious variation in form only, an ingenious alteration in the mode of adaptation, or whether it is really and substantially a new discovery on the part of the defendants. In the one case it would be an infringement of the patent; in the other it would not. . . . There can be no doubt whatever that, although one man has obtained a patent for a given object, there are many modes still open for other men of ingenuity to obtain a patent for the same object; there may be many roads leading to one place; and if a man has, by dint of his own genius and discovery, after a patent has been obtained, been able to give to the public, without reference to the former one, or borrowing from the former one, a new and superior mode of arriving at the same end, there can be no objection to his taking out a patent for that purpose. But he has no right whatever to take, if I may so say, a leaf out of his neighbour's book, for he must be contented to rest upon his own skill and labour for the discovery, and he must not avail himself of that which has been before granted exclusively to

another; and therefore the question again comes round to this, whether you are of opinion that the subject-matter of this second patent is perfectly distinct from the former, or whether it is virtually bottomed upon the former, varying only in certain circumstances which are not material to the principle and substance of the invention.'

Under a patent for improvements in apparatus for the manufacture of sulphate of soda, &c., the plaintiff claimed the use of iron retorts worked in connection with each other. The essence of the invention was held to be the use of two chambers with separate furnaces worked in connection with each other, so that the materials might be decomposed in one and then removed to and finished in the other. The defendant for the same purpose employed two chambers, one of iron, the other of brick. This was decided to be an infringement of the patent (*Gamble v. Kurtz*, 3 C. B. 425).

Trotman obtained a patent for improvements in anchors. His mode of making the improved anchor was to affix the 'palm' and 'horn' to the back of the 'arm' by a separate operation. It was held that the making of similar anchors by forging the arm, palm, and horn all in one piece was an infringement (*Trotman v. Wood*, 16 C. B. n. s. 479).

In 1871, E. L. Hayward obtained a patent for an improved pavement-light. A piece of glass in the form of a prism was fitted into a frame and let into a floor with the object not only of allowing light to pass through, but also of sending it obliquely into the room below. In 1874, Hamilton took out a patent for a contrivance for the same purpose. He employed also a prism of glass shaped like that used by Hayward, except that pieces were cut out of it. The Court of Appeal held that as the notches had no effect on the

strength of the apparatus, nor any optical effect, affording, in fact, no advantage whatever, there was no substantial difference between the two contrivances, and the second patent was therefore adjudged to be an infringement of the earlier one (*Hayward v. Hamilton*, 'Engineer,' vol. 51, p. 408, Court of App., April, 1881).

It is not permissible for a person to evade a patent by simply taking the various steps of an operation or process in a different order; or by altering the shape of part of a machine in an unimportant particular (*Per Parke, B.*, in *Barber v. Grace*, 1 Exch. 339); or by transposing the action of some of the parts, as, for example, in a brick machine, moving the clay against the cutters, instead of making the cutters move against the clay (*Murray v. Clayton*, L. R. 7 Ch. 570).

When a mode of carrying a principle into effect has been invented, and the principle itself is new, then a patent can be obtained for securing not only that particular mode, but every other mode of carrying the principle into effect. 'When you have invented some mode of carrying the principle into effect,' said *Alderson, B.*, in *Jupe v. Pratt* (1 W. P. C. 146), 'you are entitled to protect yourself from all other modes of carrying the same principle into effect.'

'There never were two things to the eye more different,' said *Alderson, B.* (1 W. P. C. 146), commenting upon the case of *Crossley v. Beverley*, 'than the plaintiff's invention of a gas-meter, and what the defendant had done in contravention of the patent right. The plaintiff's invention was different in form, different in construction; it agreed with it only in one thing, and that was, by moving in the water, a certain point was made to open, either before or after, so as to shut up another, and the gas was made to pass through this opening; passing through it, it was made to revolve it. The scientific men, all of them, said, the moment a

practical scientific man has got that principle in his head he can multiply, without end, the forms in which that principle can be made to operate.'

In the case of the *Househill Company v. Neilson* (1 W. P. C. 685), *Lord Justice Clerk Hope* said, 'You may obtain a patent for a mode of carrying a principle into effect; and if you discover not only the principle, but how it may be applied to a practical result by a mechanical contrivance and apparatus, and show that you are aware that no particular modification or form of the apparatus is essential in order to obtain benefit from the principle, then you may take out your patent for the mode of carrying it into effect, and are not under the necessity of confining yourself to one form of apparatus. . . . You may generally claim the mode of carrying the principle into effect by mechanical contrivance, so that any sort of apparatus applied in the way stated will more or less produce the benefit, and you are not tied down to any form.'

In the case of *Otto v. Linford* (Court of App., 46 L. T. N. S. 35), it appeared that the plaintiff, having patented a gas engine working on a certain new principle, the defendant had subsequently constructed an engine working in rather a different way with two pistons instead of one, and with six motions in place of four, which required the cams, slides, &c., to be altered. It was held that notwithstanding these differences, as he had borrowed the plaintiff's new principle, his engine was substantially similar to the plaintiff's, and was therefore an infringement. And the same doctrine holds good in chemical inventions. 'When a patent is taken out for a new result' (said *Mr. Justice Pearson*, in delivering judgment in the case of the *Badische Anilin und Soda Fabrik v. Levinstein*, 24 Ch. D. L. R. 156), 'and there is one process described in the specification which is effectual for the

purpose of arriving at that new result at the time when the patent is taken out, the patentee is entitled to protection against all other processes for the same result; and no person can, without infringing upon his patent, adopt simply a different process for arriving at the same result.'

And it has been held, that a patent for improvements in a known process secures those improvements to the patentee, whether applied to the process as known at the date of the patent, or to the same process altered and improved by discoveries not known at that time, so long as that process remains essentially the same (*Electric Telegraph Company v. Brett*, 10 C. B. 881).

'Where the thing is wholly novel, and one that has never been achieved before, the machine itself which is invented, necessarily contains a great amount of novelty in all its parts, and one looks very narrowly and very jealously upon any other machines for effecting the same object, to see whether or not they are merely colourable contrivances for evading that which has been done before.' (*Per Wood, V. C.*, in *Curtis v. Platt*, L. R. 3 Ch. 135 n.)

When the principle is not new, any patent taken out for a method of carrying it into effect is substantially confined to that method, and cannot be extended to other methods, because they involve some common principle applied to the common object, and may apparently be described by the same general phrase. Thus in *Barber v. Grace* (1 Exch. 339) it was held that the pressing of woollen goods by a set of rollers, heated within by steam, was not an infringement of a patent for a mode of pressing similar goods by two cast-iron boxes filled with steam. The jury found that the former was not a colourable variation of the latter process, and the Court, after argument, approved of the finding.

In the case of interfering patents, the following rule was laid down by *Pollock, C. B.*, in *Bush v. Poole* (Maer. P. C. 165): 'Whenever it appears that the use of a prior patent invention would be an infringement of a subsequent patent, the second patent cannot be sustained.' See also *Thomas v. Bowell* (5 Jur. N. S. 39), and *Betts v. Menzies* (1 Ell. & Ell. 1020).

In *Saxby v. Hennell* (L. R. 8 Ex. 210) it was held that where two patents are in existence for the same invention, acts done under the patent of later date are infringements of the earlier patent.

In considering the operation of a patent obtained for an object similar to that of a patent previously granted to another inventor, care should be taken to discriminate cases that are sometimes insufficiently distinguished, although their consequences are very different. The invention under the latter patent may comprise an improvement upon a prior patented invention; or it may be only a variation of the means there adopted to effect the given object; or it may be a distinct method of attaining a common end. With respect to the first of these cases, it is well established that a person is at liberty to patent an improvement upon an invention which forms the subject of an existing patent, without rendering himself liable for an infringement; but he will not be able to use the improved invention before the expiration of the earlier patent unless he obtains the licence of the patentee (*Lister v. Leather*, 8 E. & B. 1004). In the second case, the later patent never had any validity whatever, on account of its being an invention already published, and therefore destitute of novelty, though disguised by colourable alterations. Besides this, it is an illegal imitation of another man's invention, which it endeavours to evade. These points have been sufficiently discussed elsewhere in this volume. In the third case, since the inventions, that is, the means

employed, are distinct, although the object is the same, the patents stand independently one of the other, provided that the earlier patent does not cover the principle common to the two, and is limited to the particular combination or method. Identity of object must not be mistaken for identity of means. The doctrine of mechanical equivalents is not applicable here. The whole apparatus may be nothing more than a particular mode of attaining a certain end, and if one man is entitled to a patent for one road to that end, any other person is on the same ground entitled to a patent for another road to the same end. For example, it had been long known that if grain were kept cool during the process of grinding, the flour was of superior quality. To effect this desideratum various contrivances had been adopted, and several patents had been obtained for them, before Bovill obtained one for an invention consisting of the application of ventilating vanes or screws at the centre of the grinding-stones, by which means air was supplied between the grinding surfaces. A portable ventilating machine, blowing in a screw vane, which caused a flow of air parallel to the axis of the vane, was attached externally to the eye of the upper millstone. When the screw vane was set in motion, air was compelled to pass through the eye of the upper millstone into the centre of the two stones, and found its way out between them. Pimm subsequently took out a patent for improvements in grinding wheat. His plan for keeping the grain cool whilst grinding consisted in the removal from the centre of both stones of a large circular portion, and in the space thus obtained to place a fan, by the rapid rotation of which a centrifugal motion was given to the air, and it was driven between the stones. It was held that the latter method was no infringement of Bovill's; the two inventions were deemed independent original improvements, and

each inventor was entitled to protection in respect of the method disclosed in their respective specifications, but could not claim beyond the method actually described (*Bovill v. Pimm*, 11 Exch. Rep. 718).

And again in *Curtis v. Platt* (L. R. 3 Ch. D. 135 n.), Sir W. P. Wood, V. C., said: 'When the object itself is one which is not new, but the means only are new, one is not inclined to say that a person who invents a particular means of doing something that has been known to all the world long before, has a right to extend very largely the interpretation of those means which he has adopted for carrying it into effect. Because, otherwise, that would be to say that the whole world is to be precluded from exercising its invention for achieving some desirable and well-known object which everybody has had in view for years. One looks more jealously at the claims of inventors seeking to limit the rights of the public at large for effecting that which has been commonly known to all the world long ago. Of course no patent can be taken out for effecting this as a new object, but only for effecting it by a new means. What those means may be, and what is the extent of the claim which the patentee has a right to insist upon as to those means, is often a matter of much difficulty.' See also *Saxby v. Clunes* (43 L. J. Ex. 228); *Dudgeon v. Thomson* (L. R. 3 App. Ca. 34).

When there are several distinct heads of invention, an infringement of any one renders the infringer liable to legal proceedings (*Gillett v. Wilby*, 1 W. P. C. 271).

COMBINATIONS.

With regard to the infringement of patents obtained for a general arrangement and combination of numerous parts, all of them old, or some old and some new, the whole in either case forming a new apparatus or

machine, questions of some complication may arise, and it may not be easy to decide in a given case whether what has been done amounts to an infringement or not. A patentee may assert that although his invention as described in the specification has not been exactly copied by another person part by part, yet sufficient has been taken to bring it within the reach of the law and render him liable as an infringer. In other words, that the differences are merely colourable, and that the inventions specified by the patentee and practised by the defendant are substantially identical. On the other hand, the alleged infringer may aver that what he has done, though directed to the same object and producing the same result, has been effected by means that were open to all the world, and that if the means employed by him are to a certain extent similar to those employed by the patentee, they yet differ so far as to render his process or apparatus a distinct and independent method of arriving at a common end, and do not constitute an illegal copy or evasion of the patentee's method. These opposite views may both be supported by witnesses of equal weight and credibility, and thus a very difficult question of fact may be placed before a jury or submitted to the decision of a judge. Those upon whom may devolve the duty of deciding a controversy of this nature will anxiously seek to discover on which side lies the preponderance of probability after hearing the whole case.

The contention, however, often turns upon a narrow question. It is admitted that the defendant has not attempted to take the entire combination, but he is charged with having taken a part of it; if so, has he infringed the patent? Of course he cannot incur liability for borrowing a part that was old, but if the part taken was new, is not he open to an action for

infringement? We will give a series of reported cases bearing upon this point, and from these it will be seen that there is often great difficulty in applying the law to the facts of particular cases.

When *Olark v. Adie* was taken to the House of Lords (L. R. 2 App. Ca. 335) Lord Blackburn said, 'I incline to agree with what was said by the Exchequer Chamber in the case of *Lister v. Leather*, that you cannot decide in the abstract whether the using of two parts A and B of a combination A B and C is or is not using part of that invention, nor can you decide in the abstract the other question whether or no the specification shows that A or B is sufficiently claimed as a part of the invention or not. I do not think that either of those questions can be decided in the abstract. I would wish like the Exchequer Chamber in *Lister v. Leather*, before deciding, to have before me the nature of the machine, in order that I might see what A B and C are, and what is their relation to each other.'

'Where the invention' (said Alderson, B., in the case of *Newton v. Grand Junction Railway Co.*, 5 Exch. 334) 'consists partly of what is old and partly of what is new, the combination is the subject of the patent. Therefore, a person cannot infringe that part of the patent which is old, because the public cannot be prevented from using that which they had before used in that state.' If the invention consists of something new, and a combination of that with what is old, then, if an individual takes for his own, and uses that which is the new part of the patent, that is an infringement of it.' See also *Smith v. London and South-Western Railway Co.* (Macr. P. C. 203), and *Smith v. London and North-Western Railway Co.* (2 E. & B. 69). And in the case of *Bovill v. Keyworth* (7 E. & B. 725), the

¹ See also the observations of Martin, B., in *Newall v. Elliott* (10 Jur. N. S. 954; S. C. 13 W. R. 11).

Court said: 'Supposing the patent to be for a combination consisting of several parts for one process, we are of opinion that the defendants are liable in this action' (which was brought for an alleged infringement of the plaintiff's patent for grinding grain) 'for having used a material part of the process, which was new, for the same purpose as that mentioned in the specification, although they did not at the same time use all the parts of the process specified.'

In the case of *Seilers v. Dickenson* (5 Exch. Rep. 312), *Pollock, C. B.*, said: 'The argument addressed to us was, that this is a patent for a combination of old and new mechanism, and the defendant not having used the combination, there can be no infringement. But that is not so. There may be an infringement by using so much of a combination as is material; and it would be a question for the jury, whether that used was not substantially the same thing. . . . I think it may be laid down as a general proposition . . . that if a portion of a patent for a new arrangement of machinery is in itself new and useful, and another person, for the purpose of producing the same effect, uses that portion of the arrangement, and substitutes for the other matters combined with it another mechanical equivalent, that would be an infringement of the patent.'

The case of *Lister v. Leather* (8 E. & B. 1004; *S. C.* in error, *ibid.* 1032) arose out of the alleged infringement of a patent for a carding machine obtained by the plaintiff in 1850. At the trial of the action the evidence was strong to show that a material part of the process used by the defendant was identically the same as that specified by the plaintiff, and that the combination of mechanism used by the defendant for performing a certain part of the process was essentially the same as that described in the plaintiff's specification. *Lord Campbell*, before whom the case was tried,

told the jury that the plaintiff's patent was for the whole combination, for the whole process as specified, but that the defendant might be guilty of an infringement without using the whole combination. Objections were taken to this ruling, and it was argued in the Court of Error that the taking of a part is either no infringement of a patent for a combination, or if it is, the patent for the combination is void unless every part is new. 'But,' said *Lord Campbell*, in delivering the judgment of the Court, 'all the points made for the defendant here were made and overruled in the three cases which decide that a patent for a whole combination may be infringed by taking a part, provided that is a new and material part of the combination.' His lordship then proceeded to comment on the cases of *Sellers v. Dickenson*, *Newton v. Grand Junction Railway*, and *Smith v. London and North-Western Railway Co.*, cited above, and continued:—'The principle in all these cases is the same as that laid down to the jury in the present case, and they establish that a valid patent for an entire combination for a process gives protection to each part thereof that is new and material for that process, without any express claim of particular parts, and notwithstanding that parts of the combination are old.'

In *The Bottle Envelope Co. v. Seymer* (5 Jur. N. S. 174, C. P.), it was said by the Court that the infringement of any part of a patent process is actionable if that part is of itself new and useful, so as that it might be the subject-matter of a patent, and is used by the infringer to effect the object or part of the object proposed by the patentee. And in *Parke v. Stevens* (L. R. 8 Eq. 358), *James, V. C.*, held that a patent for a combination will not cover any part which would not be of itself patentable. In deciding this case the learned judge made these remarks on the case

of *Lister v. Leather*, cited above: 'The authority of that case has been pressed upon me as if it really established this, which would be a most startling proposition, that a patent for a combination or arrangement would be a distinct patent for everything that was new and material, and that went to make up the combination. The marginal note, if read hastily, is calculated to give some colour to that contention. But if the judgment be read it will be found to give no warrant whatever for such, I must call it, baseless notion. . . . It was contended (in the case before the judge) that because it (a sliding door) was as alleged a novel part of a novel combination (forming a lamp), it was protected. To say that a patent for an entire combination is a valid patent for a part when that part would not of itself have been patentable is in my judgment a *reductio ad absurdum* of the supposed principle in *Lister v. Leather*.'

The case of *Saxby v. Clunes* (43 L. J. Ex. 228), arose out of the alleged infringement of a patent for a mode of working the points and signals of railways. When it went on appeal to the House of Lords, *Lord Chelmsford* said that although the defendant's invention was a great improvement upon the plaintiff's, yet if, in carrying it out, the former made use of any part of the invention to which the plaintiff's patent extended, and which was new and material, it was an infringement. See also the case of *White v. Fenn* (15 W. R. 348).

It was decided in a case where the patentee's combination consisted of three old mechanical parts, that another person might use two of those parts and substitute hand-power for the third, *Murray v. Clayton* (L. R. 10 Ch. 675 n.)

In the case of *Harrison v. Anderston Foundry Co.* (L. R. 1 App. Ca. 574), *Lord Cairns, L. C.*, said:

‘ If it is clear that the claim is for a combination and nothing but a combination, there is no infringement unless the whole combination is used, and it is in that way immaterial whether any or which of the parts are new.’ And in the same case *Lord Chelmsford* said: ‘ If a patent is solely for a combination nothing is protected by it, and consequently nothing can be infringed but the use of the entire combination.’ See also *Dudgeon v. Thomson* (L. R. 3 App. Ca. 34), and the remarks of Sir G. Jessel, M.R., in *Townsend v. Haworth* (L. R. 12 Ch. D. 837 n).

When the case *Clark v. Adie*, which arose out of an alleged infringement of a patent for improvements in apparatus for clipping horses, was taken on appeal to the House of Lords (L. R. 2 App. Ca. 315), *Lord Cairns, L. C.*, made the following general remarks on infringements of patents for inventions of this nature: (1) ‘ One mode of infringement would be a very simple and clear one; the infringer would take the whole instrument from beginning to end, and would produce a clipper made in every respect like the clipper described in the specification. About an infringement of that kind no question could arise.’ (2) ‘ The second mode would be one which might occasion more difficulty. The infringer might not take the whole of the instrument, but he might make an instrument which in many respects might resemble the patented instrument, but would not resemble it in all its parts. And there the question would be, whether that which was done by the alleged infringer amounted to a colourable departure from the instrument patented, and whether in what he had done he had not really taken and adopted the substance of the instrument patented.’ (3) ‘ But there is a third way in which it is possible to conceive an infringement of a patent of this kind. Inside the whole invention there may be that which in

itself is a minor invention, and which does not extend to the whole, but forms only a subordinate part or integer of the whole. Now again, that subordinate integer may be a step or a number of steps in the whole, which is or are perfectly new; or the subordinate integer may not consist of new steps, but may consist of a certain number of steps so arranged as to form a novel combination within the meaning which is attached by the patent law to the term "combination." . . . In a patent of that kind the monopoly would or might be held to be granted not only to the whole and complete thing described, but to those subordinate integers entering into the whole which I have described. But then the invention must be described in that way; it must be made plain to ordinary apprehension upon the ordinary rules of construction that the patentee has had in his mind and has intended to claim protection for those subordinate integers.' Proceeding to apply these principles to the case before the House his lordship said: 'I cannot find from beginning to end of the specification any sentence or any number of sentences, as to which, by any reasonable interpretation, you can say that they may make a claim to a subordinate combination of these particular items as constituting in itself a novelty, a new manufacture, a thing to be protected by the patent.'

The preceding cases seem to establish the following propositions. If the claim is solely for a combination, there is no infringement, unless the entire combination is taken. To protect subordinate parts or minor combinations, it is necessary to claim them, even when new and material. Subordinate parts and minor combinations when claimed must be new, useful, and patentable *per se*.

When, however, it is laid down that to constitute

an infringement of a combination the entire combination must be taken, the proposition must be understood in this sense, that if the substance of the combination is borrowed there will be an infringement although all the details of the invention as described by the patentee may not have been taken. It is a clear principle in patent law that a person cannot borrow some substantial part of that which as a whole is a useful invention and thereby take the benefit of it without rendering himself liable for an infringement.

In *Parkes v. Stevens* (L. R. 8 Eq. 358), *James, V. O.*, stated the law on this branch of the subject as follows: 'The law is summed up thus; the cases establish that a valid patent for an entire combination for a process gives protection to each part thereof that is new and material for that process, which is nothing more than stating in other words that you not only have no right to steal the whole, but you have no right to steal any part of a man's invention; and the question in every case is a question of fact—is it really and substantially a part of the invention? Supposing that a clock was now for the first time invented and patented as a machine for measuring and indicating time, a man could not evade the patentee's right by substituting a spring for a weight, or by leaving out the whole of the striking apparatus.' See also *Walton v. Potter* (1 W. P. C. 586) and *Thorn v. Worthing Skating Rink Company* (L. R. 6 Ch. D. 415 n.)

The case of *Lister v. Leather* (said Lord Penzance in *Harrison v. Anderston Foundry Co.*, L. R. 1 App. Ca. 574), decided nothing more than this, that though the patent is for a combination it does not follow that there can be no infringement of it, unless every part of that combination without exception is pirated. What the Court said was that the taking of a subordinate part or parts of the combination *might* be, not that it

necessarily would be, an infringement of the patent; and that whether it would be so or not depended, as the Court of Error said, 'upon what the parts taken were, how they contributed to the object of the invention and what relation they bore to each other.' This only amounts to saying that on a question of infringement the essential nature of the invention will be regarded; and that there may be cases in which, though the patent is for an entire combination of numerous parts, a collusive imitation of that invention may be effected, though some detail of the combination is omitted or changed, which is a doctrine familiar enough in patent law.

In *Flower v. Lloyd* (W. N. 1877, p. 132), it was held by the Court of Appeal that in order to constitute an infringement of a patent for a combination there must be an infringement of the whole combination, not in the sense that every step of the combination must be adopted, but that there must be an adoption of that which constitutes the essence of the combination.

The plaintiffs were the owners of a patented transmitting instrument for telephonic purposes. It was composed of several parts, the outermost being a mica diaphragm for receiving the vibrations of the voice, under which was placed a slice of cork, and under the cork was a piece of platina foil. In a box below the platina was the substance which served as a tension regulator. After this combination had been patented it was discovered that the instrument would act without the mica and the cork. The defendants having made and sold instruments similar to those manufactured under the patent, except that the mica and cork were left out, it was held that they were liable for an infringement. (*United Telephone Company v. Harrison*, L. R. 21 Ch. D. 720.)

‘I understand the rule to be that if a man uses a part of that to which the patent applies for the purpose for which the patentee intended it, and for which he has taken out his patent, and the difference is unsubstantial or colourable, the use of it is an infringement. See *Newton v. Grand Junction Railway Co.* 5 Exch. 381.’ (Per Mr. Justice Field in *Burnett v. Tate*, Q. B., April 27, 1883.)

When a patent is for a new combination of machinery, every part being old, it may be that the manufacture of the separate parts in this country, and the exportation of them abroad, will be no infringement; but in *Goucher v. Olayton* (11 Jur. N. s. 462, 465) it was held to be otherwise when the part so made and exported is new and is claimed as new.

CHEMICAL PROCESSES AND PRODUCTS.

Precisely the same rules of law are applicable to the case of chemical as to the case of mechanical inventions. The chief questions will continue to be, Has the new principle discovered and applied by the patentee, or his new method of carrying out a known principle, or his new combination of parts or ingredients, been borrowed by the alleged infringer?

In *Stevens v. Keating* (W. P. C. 2, 188) it was a question whether the use of borax (a compound of boracic acid and soda) was not an infringement of a patent, the specification of which claimed the use of acids and alkalies in the preparation of cements. Both *Lord Cottenham* and *Pollock, C.B.*, held that it was an infringement.

In *Hancock v. Moulton* (June 1852), an application in the Court of Chancery for an injunction to restrain the manufacture by the defendant of vulcanised or cured caoutchouc, alleged to be an infringement of the

plaintiff's patent, it appeared that this patent was for obtaining a certain useful product by subjecting a mixture of sulphur and caoutchouc to heat. The mixture was first made mechanically, and then, by the operation of heat, the character of the caoutchouc was changed so that it ceased to be liable to stiffen from cold, it was not decomposed by heat, and it was improved in elasticity. The patent extended to the incorporation of sulphur, and of sulphur only, with the caoutchouc by means of heat. The defendant subsequently obtained a patent for the combination of hyposulphate of lead and artificial sulphuret of lead with caoutchouc; that combined mass, acted upon by heat, was alleged by the defendant to produce more beneficial results, but the results were of the same character as those which were produced by the plaintiff's patent. 'Assuming,' said *Turner, V. O.*, 'the materials thus used by the defendant to be different, the process of the defendant would *per se* be no infringement of the plaintiffs' patent. The plaintiffs confined their patent to sulphur; the defendant had used hyposulphate of lead and artificial sulphuret of lead. But it was alleged by the plaintiffs that the materials were not in truth different, or at least that the materials which produce the result are the same. It was said that sulphate and sulphuret of lead do not of themselves produce the change, but that the change is produced by the sulphur which they contain, and which forms one of their several constituent parts; and that those parts being decomposed by heat, the sulphur combined with the caoutchouc and left a residuum of lead, which had no operation in the change which was effected. If the qualities conferred upon the caoutchouc by the process were imparted by the sulphur, it would no doubt be an infringement of the plaintiff's patent.' The judge's opinion, after examining the evidence, was, that the

evidence preponderated very considerably in favour of the plaintiffs.

The case of *Talbot v. Larroche* (15 C. B. 310) deserves attentive study for the questions raised in it as to the substitution of one chemical equivalent for another. The plaintiff was the inventor of a photographic process, patented in 1841. The specification claimed, amongst other things, the employment of gallic acid or tincture of galls, in conjunction with a salt of silver, to render paper more sensitive to the action of light; and also the making visible photographic images upon paper by washing them with liquids (meaning only, as other parts of the specification showed, gallo-nitrate of silver), which act upon those parts which had been previously acted on by light. Subsequently to the date of this patent, the collodion process was discovered, and the defendant having practised it, the plaintiff brought this action, alleging that this process was an illegal copy of his process. It was argued by the defendant—firstly, that the plaintiff had claimed only the rendering of *paper* more sensitive to light; whereas collodion, the substance he employed, was a different thing, being a solution of gun-cotton in ether; secondly, that when the collodion was put into the camera, it contained no gallic acid, a material essential to the plaintiff's process: thirdly, that in developing the image, he employed pyrogallic acid, and not gallic acid. Several scientific persons gave evidence that collodion was not only a different material from paper, calling into play processes not needed when paper was employed, but that it possessed peculiar photographic properties, as was proved by the fact that no gallic acid was required to render it sensitive, as in the case of paper; also, that pyrogallic acid was much more rapid in its action than gallic acid, and that it was, in many respects, a different thing from gallic acid. The questions

submitted by the judge to the jury upon this part of the case were these: Is the use of collodion with nitrate of silver and iodide of potassium the same as the use of paper prepared with nitrate of silver, iodide of potassium, and gallic acid? Is pyrogallio acid the same as, or a chemical equivalent for, gallo-nitrate of silver? The jury returned a verdict implying that, in practising the collodion process, the defendant had not infringed the plaintiff's process.

The difficulty that sometimes exists in determining whether one chemical process is, in contemplation of law, distinct from, or an illegal copy of another, is exemplified in the history of the case of *Heath v. Unwin*.

Under a patent for improvements in the manufacture of iron and steel, the patentee claimed 'the use of carburet of manganese in any process whereby iron is converted into cast steel;' and his specification stated, that the invention consisted in adding from one to three per cent. of the carburet to iron or blistered steel whilst in the crucible. The carburet of manganese was separately prepared, by subjecting oxide of manganese and carbonaceous matter to a strong heat, and the resulting carburet was then added to the crucible containing the metal to be converted into cast-steel. Upon the trial of an action for an infringement, it appeared that the defendant did not use any single substance answering to the description of carburet of manganese; but he placed in the crucible containing the iron or blistered steel some oxide of manganese and carbonaceous matter. These two substances would form during the process of conversion, and before actual union with the melted iron, carburet of manganese in a state of fusion; but the quantity of the carburet so formed was less than one per cent. of the weight of iron in the crucible. It was held by the Court of Exchequer, that

since the defendant had not contemplated the use of carburet of manganese, and had not known prior to the investigation that took place in consequence of the action, that the result of his adding the oxide and carbon was to produce the carburet—since, moreover, the patentee had expressly stated his invention to be the addition of the substance called carburet of manganese to the crucible, there was no infringement on the part of the defendant, for there was no imitation of the patentee's process behind a colourable variation. The specification was construed as claiming the use of one particular combination of carbon and manganese, namely, the carburet of that metal; and a particular mode of using that combination, namely, by putting a certain quantity by weight, in an unmelted state, into the crucible.

Heath v. Unwin subsequently went before the Court of Exchequer Chamber. A majority of the judges of that Court held that, inasmuch as the plaintiff had not limited his claim to the particular mode of using the carburet described in his specification, the defendant's process was an infringement of the patented invention, since it effected the manufacture of cast-steel by the employment of either carburet of manganese or a chemical equivalent. A minority of the judges thought that the defendant had not infringed the patent; for, though he had used a chemical equivalent for the carburet of manganese—viz. its component parts—it was not known at the date of the patent that such component parts were equivalent to the carburet, in such special applications of it as were described in the specification, and for the purpose there mentioned. Moreover, they thought that the defendant's process was an improvement upon the plaintiff's, for the same quality of steel was made at less expense, one crucible and one heating effecting the desired result.

When this extraordinary case came before the House of Lords, the judges were called upon to attend the argument, and give their opinions. Eleven judges attended, seven of whom concurred with the Court of Exchequer Chamber, and four disagreed. Notwithstanding this large majority, the two law lords who heard the case (*Lord Cranworth* and *Lord Brougham*) gave judgment for the plaintiff in error, thereby deciding that Heath's patent had not been infringed. 'I think,' said *Lord Cranworth*, 'that the use of substances thus producing carburet of manganese in a state of fusion was no violation of the patent. The substance for the use of which (*inter alia*) the patent was granted was a solid metallic substance capable of being broken into fragments and weighed, so that certain definite quantities might be put into the crucible with the steel. There is no evidence whatever tending to prove that, at the date of the patent, it was known to persons acquainted with the subject of manufacturing steel, that coal-tar and oxide of manganese would be a chemical equivalent for the carburet of manganese claimed by Heath. Indeed it is obvious that the discovery of such an equivalent was made after the use of the carburet as a distinct metallic substance had been some short time in operation. It was itself a most valuable discovery, and would have legitimately formed the subject of a new patent. The costly nature of the substance claimed in the patent might, and probably would, have prevented its use altogether; and if, at the date of the specification, it was known to Heath, that by the use of two common substances, well known in commerce, more than one hundredfold cheaper than carburet of manganese, the same results precisely would be obtained as by the use of that material, the specification would have been bad, as not truly disclosing the invention. On the short ground,

therefore, that the invention claimed is for the use of a particular metallic substance, viz. carburet of manganese in certain definite proportions, according to the weight of the steel under fusion, and that no such substance, nor any equivalent for it, known to be such at the date of the specification, was used by the defendant, I think that there was no evidence of infringement' (5 H. L. C. 505, 543).

On the trial of *Muntz v. Foster* (2 W. P. C. 96), an action brought for the infringement of a patent for an improved manufacture of metal plates for sheathing the bottoms of ships, it appeared that the patentee claimed the invention of an alloy of 60 per cent. of copper and 40 per cent. of zinc—the copper and zinc being of the best quality—which alloy could be rolled at a red heat into sheets that furnished a sheathing for ships which was more durable, under the corrosive action of salt water, than copper sheathing; whilst it oxidated sufficiently to keep the ship's bottom clean from barnacles and other things that impeded the ship's progress. A patent had been obtained in 1800, by one Collins, for a preparation of sundry materials, to be used chiefly for the preservation of shipping or for marine purposes, the specification of which described, amongst other things, a mixture of 100 parts copper and 80 parts zinc—*i.e.* 55½ per cent. of copper and 44½ per cent. of zinc—which was to be extended into proper form by rolling. The two inventions, on their faces, seemed to be substantially the same, but the following arguments were used to prove a difference. Collins stated that other metallic substances might be added to the alloy of copper and zinc; whereas Muntz alleged that foreign ingredients would destroy the value of his composition. Collins stated that a good composition might be made of 55½ per cent. of copper and 44½ per cent. of zinc; whereas Muntz alleged that 60 per cent.

of copper and 40 per cent. of zinc were the precise proportions required to produce the best metal for sheathing, and that a variation of one or two parts of copper or zinc, on one side or the other, made a very material difference in the result. Again, it was alleged on the part of Muntz, that, at the time of Collins' invention, neither copper nor zinc existed of the purity required for the successful production of an alloy as suitable as Muntz's for ship-sheathing; and that before his invention it was not possible to obtain a metal which would roll hot or cold, and could at the same time serve for sheathing. The defendants alleged, that the sheathing made by them was the result of following the directions of Collins' specification. (As to this part of the case, however, *Lord Lyndhurst*, on the hearing of an appeal from an order of *Knight Bruce, V. O.*, said he was satisfied that the object could not be accomplished by uniting ordinary copper and zinc according to Collins' process. The defendants must, therefore, have originally used, not the ordinary, but the purest quality of the two metals, or they must have purified them in the course of the process by some mode not suggested in Collins' specification. In one case the invasion of Muntz's invention was plain and direct; in the other it was colourable and indirect.) Furthermore, witnesses stated that no person could make the compound material by following Collins' directions. The jury found a verdict for the plaintiff, the judge having taken a favourable view of Muntz's case in his address to the jury.

A man may invent improvements on a patented chemical process, by which improvements he may produce a better result in a simpler manner at less cost and with less waste, but if these are effected by equivalent operations known to be equivalent at the date of the patent, he will be deemed an infringer if he puts them

in practice. Thus in the case of the *Badische Anilin und Soda Fabrik v. Levinstein* (Ch. D. June 27, 1883), an action brought for the infringement of a chemical patent, *Mr. Justice Pearson* said: 'The processes employed by the defendant are processes deserving of great praise, but they are simply processes which produce exactly the same results from the same materials which are produced under the patent. The same object is pursued, the same materials are employed, the same result is obtained. I cannot do otherwise than come to the conclusion that these processes are not an invention differing from the patented one.'

In those cases where the invention consists of the employment of a material composed of several ingredients, and the inventor has stated the most suitable proportions known to him, another person will not be allowed to evade the patent by employing somewhat different proportions. (*Patent Type Founding Company v. Richard*, Johns. 381.)

INFRINGEMENT BY DEALING IN ARTICLES MADE BY INFRINGING A PATENT.

The sale by a dealer of articles made in infringement of a patent is itself an infringement, and it is not necessary for the patentee to prove that the dealer was aware of the articles having been surreptitiously made by a patented process (*Wright v. Hitchcock*, 5 Ex. 37; *Davenport v. Rylands*, L. R. 1 Eq. 303). And this is so whether such articles have been made in this country or have been imported from abroad (*Walton v. Lavater*, 8 C. B. N. s. 162; *Elmslie v. Boursier*, L. R. 9 Eq. 217; *Von Heyden v. Neustadt*, L. R. 14 Ch. D. 230; *Burnett v. Tate*, Q.B., April 27, 1883; *La Société Anonyme des Manufactures de Glaces v. Tilghman's Patent Sand Blast Co.*, L. R. 25 Ch. D. 1). This will be so even

where the persons importing the patented articles are the licensees under a foreign patent obtained by the same inventor for the same invention as that secured by the British patent (see the two last cited cases). The circumstances, however, may be such that the patentee is bound to prove not only the sale, but that the article was not made and sold by himself or his agents (*Betts v. Willmott*, L. R. 6 Ch. 239; and see observation of *Cotton, L. J.*, on this case in *Société Anonyme, &c. v. Tilghman, &c. Company*, L. R. 25, Ch. D. 1). In this case, a patentee having manufactories both in England and on the Continent, filed a bill against a druggist to restrain him from infringing his patent for metallic capsules, the infringement consisting of the sale of a bottle of French toilet vinegar having a capsule attached similar to those manufactured under the patent, but the bill was dismissed (and on appeal *Lord Hatherley, C.*, upheld the Vice-Chancellor's decision) on the ground that the plaintiff had not shown that he had not himself sold through his house in Paris the very article the use of which he sought to prohibit. A sale of the article by the patentee in one country would imply a right to use it in another.

Proof of the sale of an article shown to have been made in the same way as that for which a patent has been obtained, such sale being without the leave, expressed or implied, of the patentee, is *prima facie* evidence of an infringement (*Gibson v. Brand*, 1 W. P. C. 630). But there must be proof that the article was made according to the patented method. Thus on the trial of an action for an infringement, a candle with a plaited wick, made by the defendant and sold at his manufactory, was produced to the jury as evidence that he had infringed the patent. It was held that, as the patent was not for the candle itself, but

for the mode of manufacturing it, the mere production of a candle similar to the plaintiff's was no evidence that it had been made by his patented method. It should have been shown how the candle had been made, seeing that it was quite possible the same result had been produced by a different method (*Palmer v. Wagstaff*, 8 Exch. 840; 9 Exch. 404).

But in *Huddart v. Grimshaw* (1 W. P. C. 91) it was held that the production of pieces of rope having the essential qualities of the patented article was *prima facie* evidence of infringement. And in *Hall v. Boot* (1 W. P. C. 186) it was held that the sale of an article, which might during manufacture have been improved according to a patented process coupled with the fact of the necessary machine being in the defendant's possession, was sufficient evidence of infringement. (See also *Davenport v. Richards*, 3 L. T. N. S. 504.)

The point whether a mere exposure or offering for sale of a patented article amounts to an infringement, in the absence of proof of actual sale, seems to have been decided differently in the cases of *Minter v. Williams* (1 W. P. C. 137) and *Oxley v. Holden* (5 C. B. N. S. 667). In *Muntz v. Foster* (2 Web. P. C. 101), *Tindal, C. J.*, held that the making of ten tons of metal sheathing was an infringement, although no sale was proved.

In *Speckhart v. Campbell* ('Times,' March 13, 1884) it was held by the Court of Appeal that the defendant who was domiciled in Scotland had committed an infringement in England of the plaintiff's patent by buying in London articles made in infringement of the patent, and advertising them for sale in Scotland; and by sending to a Liverpool firm, in exchange for postage stamps, samples of the article, accompanied by a letter stating the price per gross.

AGENTS.

Where an infringement is committed through an agent both employer and agent are liable; it being no justification for the agent to allege that he did the acts complained of by the order of his principal (*Gibson v. Brand*, 4 M. & G. 170; *Betts v. De Vitre*, 11 Jur. n. s. 9; *Sykes v. Howarth*, L. R. 12 Ch. D. 833).

INFRINGEMENT BY USER.

The user in this country of an article made abroad, but which is the subject of a British patent, is illegal, even when such user is merely of a passive nature, and takes place in the course of transit from one foreign country where the articles have been made to another to which they are consigned (*Betts v. Neilson*, 6 N. R. 221, affirmed on appeal, *ibid.* 361; 3 De G. J. & D. 82; L. R. 3 Ch. 431; L. R. 5 H. L. 1). In this case bottles of beer sent from Scotland protected by capsules made in contravention of an English patent were transhipped in an English port for convenience of exportation to India. It was held, first by *Wood, V. C.*, and afterwards by the Court of Appeal and the House of Lords, that as the capsules were necessary for the preservation of the beer, there had been a user of the invention in England, and an injunction was granted. But his Honour said he could well conceive a case in which there would be no user in England, as, for instance, foreign tools infringing an English patent, packed up in boxes and lying inert, or transhipped in course of transit in an English harbour (6 N. R. 222). And so in *Nobel's Explosives Co. v. Jones* (L. R. 17 Ch. D. 271), where the object of a patent in regard to a preparation of nitro-glycerine was to render it non-explosive with a view to its safe conveyance from place to place, it was held that the transhipment in an English port

of a quantity of nitro-glycerine prepared abroad according to the British patent was a user of the invention and an infringement of the patent. See also *Caldwell v. Van Vlissingen* (9 Haro. 416, 428), where the user was an active use.

But the doctrine of *Betts v. Neilson* will not be extended so as to allow an injunction to issue against persons who merely acted as Custom House agents for the importers of the patented articles. (*Nobel's Explosives Co. v. Jones*, L. R. 17 Ch. D. 721, affirmed in H. L. 8 App. Cas. 5.)

Where infringements have been committed both in England and Scotland by a defendant domiciled in Scotland, it was held by the Court of Appeal that the Court, in deciding in which country proceedings should be taken, will be guided by the particular circumstances of the case and the convenience of the parties. (*Speckhart v. Campbell*, 'Times,' March 13, 1884.)

The possession of articles made in infringement of a patent is sometimes enough to afford ground for an injunction without proving user, if the circumstances are such as to show that user is intended. An injunction was granted by V. C. Bacon against the master of a ship restraining him from using certain pumps constructed according to the plaintiff's patented invention and placed on board the vessel. The validity of the patent and the fact of infringement by the manufacturers of the pumps were established, but actual user of the pumps was not proved. The master, however, acted with the makers in asserting his right to use the pumps as against the patentee. It was held on appeal that the injunction was properly granted, *Adair v. Young* (L. R. 12 Ch. D. 13). On the general question of infringement by user see *The Universities of Oxford and Cambridge v. Richardson* (6 Ves. 689); *Minter v. Williams* (1 W. P. C. 137).

THE CROWN.

It was decided in the case of *Feather v. The Queen* (6 B. & S. 257) that as all grants made by the Crown must be construed favourably to the grantor and adversely to the grantee, there was nothing in the ordinary form of Letters Patent in use up to January 1, 1884, to debar the Crown from using the invention comprised therein, and consequently that the Crown had a right either by itself or by its officers, agents, or servants, to exercise such invention and manufacture the patented object without paying royalties or compensation.

However, in *Dixon v. The London Small Arms Company* (L. R. 1 App. Ca. 632), where a manufacturing company had entered into a contract with the Government for the supply of a patented article for the public service at a fixed price, and in pursuance thereof had manufactured the article without the patentee's licence, and delivered the same and received payment, it was held by the House of Lords that the manufacturers were not in the position of servants or agents of the Crown, although they had received an indemnity from the Government against the claims of the patentee; and therefore that they were not entitled to the privilege of the Crown against a patentee, but were liable to an action for an infringement of the patent. See also *Vavasseur v. Krupp* (L. R. 9 Ch. D. 351).

The case of *Feather v. The Queen* will still apply to patents granted before the commencement of the Patent Act of 1883 or on applications then pending (sect. 45) but by the twenty-seventh section of that Act a patent granted on an application made after the commencement of that Act shall have to all intents the like effect as against Her Majesty the Queen, her heirs and

successors, as it has against a subject. 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.

FOREIGN VESSELS.

By the forty-third section subs. (1) of the Patent Act of 1883, the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction 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, shall not be deemed an infringement of any British patent obtained for such invention, unless it is used for the manufacture or preparation of something intended to be sold in or exported from the United Kingdom or Isle of Man. But by subs. (2) the first subsection is not to extend to vessels of any foreign state which does not show similar indulgence to British vessels under like circumstances.

Any case not coming under the protection afforded by the first subsection will be governed by the decision in *Caldwell v. Van Vlissingen* (9 Hare. 415), where an injunction was obtained to restrain the use on board of a Dutch vessel within British waters of certain propelling apparatus made according to a British patent.

CASES OF NON-INFRINGEMENT.

To construct a patented machine simply as an amusement or as a model is not an infringement of the

patent (*Jones v. Peuroe*, 1 W. P. O. 125); nor is the making of the patented article for the purpose of *bona fide* experiment (*Freearson v. Loe*, L. R. 9 Ch. D. 48); and if a person makes use of a patented process and obtains the product, not for the purpose of commercial profit, he is not guilty of infringing the patent. Thus Higgs obtained a patent for a process of precipitating, by means of hydrate of lime, the animal and vegetable matters suspended in sewage water, with a view to their use as manures. Godwin employed the same process, but solely for the purpose of purifying the sewage water, and he derived no profit from the product. It was held that the patent was not infringed (*Higgs v. Goodwin*, E. B. & E. 529). But if the patented articles, though made only for experiment, are used for profit, or with a view of obtaining profit even to a limited extent, the patent will be infringed. Thus, where a defendant had made a screw-making machine in infringement of one patent, and in order to try the machine made a few screws of a description covered by another patent, and made such screws with the view of trying the screws themselves, he was held to have also infringed the latter patent (*Freearson v. Loe*, L. R. 9 Ch. D. 48).

It has been decided that the application of a new and material part of an arrangement to a purpose *different* from that to which it is applied in the patented combination does not infringe the patent (*Lister v. Eastwood*, 9 L. T. N. S. 766; *McCormick v. Gray*, 7 H. & N. 25).

In *Newall v. Elliott* (10 Jur. N. S. 954; S. C. 13 W. R. 11) a patent for an invention of improvements in apparatus employed in laying down submarine telegraph cables which consisted of an internal cone placed in the eye of the coil of cable, an external cylinder round the coil and rings suspended over it was held

not to have been infringed by an apparatus in which the cable was coiled round a cylinder and prevented from slipping by means of a cylinder placed outside, it being found that this had been done before for the purpose of safe carriage, and there being no evidence that the defendants used their apparatus for any other purpose.

The mere registration of a specification is not an infringement of a prior patent. It is the use of the earlier invention that constitutes the infringement. 'Where the invention is the mode of working or the mode of manufacturing an engine, there is no infringement until another engine is worked or made in the same way. Upon the question of infringement, the specification of the defendant (the alleged infringer) is of very little importance, Per *L. J. Brett* in *Otto v. Linford* (46 L. T. N. s. 35).

The application of a natural mineral substance to effect a given purpose is not an infringement of a patent obtained for the application to the same purpose of an artificial substance having the same chemical constitution. A patent was obtained for a process of purifying coal gas by means of hydrated oxide of iron, and the method of obtaining that material artificially was described in the specification: The use for the same purpose of a natural substance called bog ochre, containing oxide of iron, was held not to be an infringement of the patent. The specification also described and claimed a mode of revivifying the artificial oxide for subsequent use in the same way. *Lord Westbury, C.*, granted an injunction to restrain the user of the natural substance after it had been revivified by the process described in the patent. (*Hills v. Liverpool Gas Light Company*, 9 Jur. N. s. 140.)

It is not an infringement of a patent to sell chemical substances, knowing that the buyer intends to use

them in infringing the patent. Nor is it an infringement for the seller, in consideration of the purchase, to indemnify the buyer against proceedings by the patentee, if the patent is disputed or likely to be so. If buyer and seller know the patent to be valid, an agreement for indemnity would be void as being against public policy, and the seller would not be guilty of infringement. (*Townsend v. Haworth*, L. R. 12 Ch. D. 826 n. before *Sir G. Jessel, M. R.*, 1875, whose judgment was affirmed by the Court of Appeal. Appendix to Mr. C. Higgins's *Digest of Patent Cases*, 1880, p. 60. And see *Sykes v. Howarth*, L. R. 12 Ch. D. 831.)

A patent for the United Kingdom will not be infringed by acts done on board a British vessel at Malta or on the high seas. (*Newall v. Elliott*, 4 N. R. 429.)

A right of property in an article made in infringement of a patent remains in the maker or his assignee, notwithstanding the patentee's privilege and remedies; and therefore, where a foreign sovereign had bought abroad articles made in infringement of an English patent, and they were brought to England to be placed on board a ship of war belonging to the foreign sovereign, it was held that, as the Court had no jurisdiction to interfere with the property of a foreign sovereign, it could not prevent him from removing the articles in question (*Vavasour v. Krupp*, L. R. 9 Ch. D. 351).

INTENTION OF INFRINGER NOT MATERIAL.

In determining the question of infringement, the *intention* of the infringer is immaterial; if he violate the patentee's rights he renders himself liable to make compensation, although he acted in ignorance. In the case of *Stead v. Anderson* (2 W. P. C. 156), *Wilde*,

C. J., when delivering the judgment of the Court of Common Pleas, said that, 'in the action of *Heath v. Unwin*, the Court of Exchequer seems to have deemed it material to consider the intention of the defendant in determining whether he had infringed a patent. But in that case the evidence negatived any such intention, and the other circumstances of the case were not such as to show an infringement; so that there was no evidence as to what the effect of such intention would be, and we think it clear that the action is maintainable in respect of what the defendant does, not what he intends.' And *Shadwell, V. C.*, said, in *Heath v. Unwin* (15 Sim. 553): 'I am at a loss to see how the want of intention can be any answer where the act complained of is an injury. The party complaining of the act is not the less prejudiced by it because it was committed unintentionally, and my opinion is that if a party has done an act that is injurious to the rights of another (though without any intention of doing him an injury) he is answerable for the consequences.'

In a subsequent stage of the case of *Heath v. Unwin* it was admitted by Mr. Baron Parke that the Court of Exchequer had been in error when it took the intention of the alleged infringer into consideration, adding, 'There may be an indirect infringement as well as a direct one, though the intention of the party be perfectly innocent, and even though he may not know of the existence of the patent itself' (25 L. J. C. P. 19). See also *Wright v. Hitchcock* (L. R., 5 Exch. 37), and *Davenport v. Rylands* (L. R. 1 Ch. D. 303). Nor can a master of workmen protect himself by alleging that the infringement was committed by them against his orders, *Betts v. De Vitre* (3 Ch. D. 430). But where a retail dealer had, in ignorance of the plaintiff's rights, sold to an agent of the plaintiff an article made in

infringement of the patent, and the article itself showed from whom its vendor had bought it, and the Court was satisfied that the infringement was innocent, accidental, and trivial, and not such as to have produced any substantial damage to the plaintiff, *James, V. C.*, dismissed a bill for an injunction (*Betts v. Willmott*, 18 W. R. 946). The case went afterwards on appeal before *Lord Hatherley, C.*, who affirmed the decision, but upon other grounds (L. R. 6 Ch. 239). See also *Upmann v. Elkun* (L. R. 12 Ch. 145).

§ 2.—*The Practice.*

When a patentee's rights had been infringed, it was formerly matter for consideration whether he should proceed at law, or in equity, or in the courts both of law and equity at the same time. If his object was only damages for past infringements, his course was to bring an action at Common Law; but if he required an injunction to restrain future infringements, or an inspection, or an account of profits, he was compelled to proceed in a Court of Equity. Recent legislation, and especially the Judicature Acts of 1873 and 1875, have, however, abolished the distinction between the Courts of Law and Equity, and a patentee may now obtain an injunction, an inspection, and an account, or damages, in any division of the High Court of Justice.

Every question of law and fact, or mixed law and fact, arising in any action is now determined wholly in that division of the High Court of Justice in which the action is brought, subject to certain powers of transfer of the action from one division to another, and subject also to the further qualification that trials by jury cannot be had before a judge of the Chancery Division (*Warner v. Murdoch*, L. R. 4 Ch. D.

750), and that by the twenty-eighth section of the Act of 1883 the trial will be without a jury unless the judge otherwise directs. It may be presumed that henceforth trials of patent cases will very seldom take place before juries.

The thirteenth section of the Patent Act of 1883 directs that no proceeding shall be taken in respect of an infringement committed before the publication of the complete specification. And the fifteenth section provides that an applicant shall not be entitled to institute any proceedings for infringement until a patent has been granted to him. Hence a patentee may sue for infringements committed after the publication of his specification, but not for those committed previously.

Although by the 113th section of the Patent Act of 1883 all the Acts or parts of Acts relating to patents and set forth in the third schedule are repealed; yet the past operation of those Acts is not to be affected, nor is the repeal to interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof. Any such proceeding may be carried on as if the Act had not been passed, and any protection or benefit in relation to any such action or proceeding is not taken away or abridged.

‘A plaintiff is not bound before commencing proceedings to apply to the defendant and ascertain whether he will without suit do what is required (*Upmann v. Elkan*, L. R. 12 Eq. 146). Nor is a plaintiff compelled to rely on the promise of the offending party not to infringe again, but is entitled to the protection of an injunction (*Geary v. Norton*, 1 De G. and Sm. 9).’¹

It has always been the practice of the Court of

¹ W. N. Lawson: Patents Designs and Trademarks Practice, p. 49. In this work will be found carefully collected and arranged all the cases bearing on legal proceedings in patent actions.

Chancery, when the plaintiff can make out a proper case, to grant an interlocutory injunction, that is, an injunction before the trial of the action, without requiring the patent to be established. 'The principle on which the Court acts,' said *Lord Eldon*, in *Hill v. Thompson* (3 Mer. 622), 'in cases of this description is the following:—Where a patent has been granted, and an exclusive possession of some duration under it, the Court will interpose its injunction, without putting the party previously to establish the validity of his patent by an action at law. But where the patent is but of yesterday, and, upon an application being made for an injunction, it is endeavoured to be shown in opposition to it that there is no good specification, or otherwise that the patent ought not to have been granted, the Court will not, from its own notions respecting the matter in dispute, act upon the presumed validity or invalidity of the patent, without the right having been ascertained by a previous trial, but will send the patentee to law, and oblige him to establish the validity of his patent in a court of law, before it will grant him the benefit of an injunction.' And, again, in *Dudgeon v. Thomson* (30 L. T. N. S. 244), *Sir George Jessel, M. R.*, said, 'The Court can grant an injunction before the hearing when the patent is an old one, and the patentee has been in long and undisturbed enjoyment of it, or when its validity has been established elsewhere, and the Court sees no reason to doubt the propriety of the result, or when the conduct of the defendant is such as to enable the Court to say that as against the defendant himself there is no reason to doubt the validity of the patent.' (See also *Renard v. Levinstein*, 10 L. T. N. S. 94, affirmed on appeal, *ibid.* p. 177; *Betts v. Menzies*, 3 Jur. N. S. 357; *Clark v. Ferguson*, 5 Jur. N. S. 1155; *Brereton v. Richardson*, 1 R. F. C. 174).

When it can be shown that the patentee has had undisturbed possession for many years the Court will grant an interlocutory injunction without requiring the patent to be established, notwithstanding doubts may exist as to the validity of the patent (*Losh v. Hague*, 1 W. P. C. 201; *Muntz v. Foster*, 2 W. P. C. 93, 95; *Betts v. Menzies*, 3 Jur. N. s. 357). But in order to establish a right to an interlocutory injunction on this ground, the patentee must show actual public user of the invention (*Plimpton v. Malcolmson*, L. R. 20 Eq. 37), unfettered by the necessity of obtaining the licence of any prior patentee (*Heugh v. Magill*, W. N. 1877, 62). Where the patent has been the subject of several suits, all of which have terminated in favour of the patentee, an interlocutory injunction will be granted, notwithstanding a fresh fact is brought forward tending to impeach the novelty of the invention (*Newall v. Wilson*, 2 De G. M. & G. 282; *Davenport v. Jepson*, 4 De G. F. & J. 440), or the defendant offers to keep an account (*Renard v. Levinstein*, 2 H. & M. 628). And the fact that the validity of the patent has been established in Scotland is sufficient *primâ facie* evidence of the validity of the patent to warrant the granting an interlocutory injunction in England (*Dudgeon v. Thomson*, 30 L. T. N. s. 244).

If the plaintiff has shown negligence in prosecuting his rights, even though his patent has been established against another defendant (*Bridson v. Benecke*, 12 Bea. 1; *Bovill v. Crate*, L. R. 1 Eq. 388), or if the fact of infringement is matter of doubt, an injunction will be refused until after a trial; and even then, if there is ground for supposing that a new trial will be obtained (*Collard v. Allison*, 4 My. & Cr. 487; *Electric Telegraph Co. v. Nott*,¹ 2 Coop. C. C. 41, and the other

¹ In this case *Cottenham C.*, said that the Court will not grant an injunction where the legal right is disputed, unless it is satisfied

cases collected by the reporter). In almost all cases, however, the Court thinks it right, when it postpones the consideration of the injunction, to order the defendant to keep an account until the plaintiff has had an opportunity of testing the validity of his patent. But if the interlocutory injunction be granted, the Court always requires from the plaintiff an undertaking to abide by any order the Court may make as to damages in case it should ultimately be of opinion that the defendant has sustained any by the injunction which the plaintiff ought to pay (*Wakefield v. Duke of Buccleuch*, 11 Jur. N. s. 523).

For further statements of the general principles on which the Court acts in granting or withholding interlocutory injunctions see *Bacon v. Jones* (4 My. & Cr. 434); *Bridson v. M'Alpine* (8 Bea. 229); *Davenport v. Jepson* (4 De G. F. & J. 440); *Plimpton v. Spiller* (L. R. 4 Ch. D. 286).

The Court, however, being now empowered to try the validity of the patent, and having the control of the proceedings, and being, consequently, able to prevent any undue delay, is less disposed than formerly to grant an interlocutory injunction, but will generally content itself with giving directions to insure an immediate trial of the questions at issue between the parties, and order the motion for the injunction to stand to the hearing of the cause, adding, when necessary, a direction for the defendant to keep an account. The action may then proceed to trial in the ordinary way. (See the remarks of *Sir George Jessel, M. R.*, in *Plimpton v. Malcolmson*, L. R. 20 Eq. 37.)

that the legal right will eventually be established; nor where the legal right is disputed, unless satisfied that the acts complained of are a violation of it. Where, however, the sole question is the validity of the patent, and there has been exclusive enjoyment under it for a reasonable time, the Court will interpose, by injunction, until the invalidity has been established; but the injunction will be refused if there is conflicting evidence as to the infringement.

But where there has been unnecessary delay in filing the bill an account of profits before the filing of the bill will not be ordered (*Harrison v. Taylor*, 11 Jur. N. S. 408; *Beard v. Turner*, 13 L. T. N. S. 746; *Ford v. Foster*, L. R. 7 Ch. 616; *Crossley v. Derby Gas Light Company*, 1 Web. P. C. 120).

It is open to either party to move that issues may be settled, raising the various questions of fact in the cause. In a patent case the issues usually are, whether the invention be new, whether it be useful, whether it was a new manufacture, whether the patentee was the first and true inventor, whether the specification be sufficient, and whether the defendant has infringed; but, of course, these may be varied as circumstances require.¹ Since the Judicature Acts, however, the practice appears to be not to apply for issues, but to let the action come on for trial generally, upon the pleadings and objections and particulars of breaches.

It is not a matter of course for the Court to grant issues, and they are sometimes refused (*Davenport v. Goldberg*, 2 H. & M. 282; *Davenport v. Phillips*, 5 N. R. 485; *Bovill v. Goodier*, Law Rep. 1 Eq. 36). The Court will at any time during the progress of a suit allow the defendant to raise a fresh issue on the discovery of facts which could not with due diligence have been previously discovered (*Holste v. Robertson*, L. R. 4 Ch. D. 9).

By the Patent Act of 1883, sect. 29, the plaintiff in an action for infringement of a patent must deliver with his statement of claim, or by order of the Court or the judge at any subsequent time, particulars of the

¹ For a collection of the numerous cases decided as to the proper pleas to raise the issues in an action for infringement Mr. W. N. Lawson's cited work (p. 68) may be consulted.

breaches complained of. The particulars may be from time to time amended by leave of the Court or a judge.

If the particulars delivered are insufficient, further and better particulars may be required. In *Needham v. Oxley* (1 H. & M. 248) it was held by *Wood, V. C.*, that particulars of breaches are sufficient if, *taken together with the pleadings*, they give the defendant full and fair notice of the case made against him. See, however, the subsequent case of *Curtis v. Platt* (8 L. T. 657), before the same learned judge.

A plaintiff may be ordered to point out by reference to the pages and lines the parts of his specification which he alleges to be infringed (*Lamb v. The Nottingham Manufacturers' Company*, Seton on Decrees, 4th ed. p. 349). But this will not be required when the things alleged to be an infringement have been made an exhibit in the action (*Batley v. Kynock*, No. 2, L. R. 19 Eq. 229).

Where particulars of breaches alleged divers sales and specified sales to two persons, evidence of a sale to a third person was allowed where the defendant admitted having had transactions with him (*Sykes v. Howarth*, L. R. 12 Ch. D. 827).

The twenty-ninth section of the Patent Act of 1883, sub-sections 2 and 3, requires the defendant to 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; and 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 these grounds is want of novelty, he must state the time and place of the previous publication or user alleged by him. And sub-section 5 enables the defendant to amend such

particulars from time to time by leave of the Court or judge.¹

A defendant who has furnished particulars literally in compliance with the statute may be called upon to answer interrogatories as to the names and addresses of alleged prior users, and whether the machines are in existence (*Birch v. Mather*, L. R. 22 Ch. D. 629). A defendant was ordered to give the pages and lines of the specifications to which he referred as anticipating the plaintiff's invention, and to state which of the claims in the plaintiff's specification had been anticipated by the prior specifications (*London Hosiery Company v. Hingham*, reported in the 'Evening Standard,' July 7, 1883).

The defendant, under an order requiring him to furnish further and better particulars of his objections, gave the names and addresses of three persons as prior users of the invention, and stated that it had also been used by 'other persons in London and Birmingham.' The words between inverted commas were ordered to be struck out, as not giving sufficiently specific information (*Flower v. Lloyd*, S. J. 1876, p. 860).

¹ Upon the corresponding section (41) of the Patent Act of 1852 the following cases have been reported:—*Penn v. Bibby* (L. R. 1 Eq. 548); *Grover & Baker Company v. Wilson* (W. N. 1870, p. 78); *Flower v. Lloyd* (L. R. 6 Ch. D. 297); *Crossley v. Toney* (L. R. 2 Ch. D. 533); *Plimpton v. Spiller* (20 S. J. 859); *Morgan v. Fuller*, No. 2 (L. R. 2 Eq. 297).

It has been held that the objections cannot go beyond the pleas; they are merely to state more particularly what the pleas state generally (*Macnamara v. Hulse*, 2 W. P. C. 128). As to other points bearing upon this subject see *Palmer v. Wagstaff* (8 Exch. Rep. 840); *Palmer v. Cooper* (9 Exch. Rep. 231); *Hull v. Bollard* (1 H. & N. 134); *Lister v. Leather* (3 Jur. N. S. 816); *Greaves v. Eastern Counties Railway Company* (1 Ell. & Ell. 961; S. C. 5 Jur. N. S. 733); *Talbot v. Larroche* (15 C. B. 310); *Electric Telegraph Company v. Nott* (4 C. B. 462); *Fisher v. Dewick* (1 W. P. C. 551 n.); *Heath v. Unwin* (1 W. P. C. 551); *Jones v. Berger* (1 W. P. C. 544 n.); *Househill Company v. Neilson* (1 W. P. C. 552); *Holland v. Fox* (1 C. L. R. 440).

The following cases were decided under the old law with reference to the amendment by the defendant of his particulars of objection (*Penn v. Bibby*, L. R. 1 Eq. 548; *Wilson v. Gann*, 23 W. R. 546; *Renard v. Levinstein*, 13 W. R. 229; 11 L. T. N. S. 505; *Daw v. Eley*, L. R. 1 Eq. 38; *Edison Telephone Co. v. India-rubber Co.* 17 Ch. D. 137).

Under an objection that the invention is not new the defendant may show the want of novelty of one of two inventions described in the specification (*Sugg v. Silber*, L. R. 2 Q. B. D. 493).

When a plaintiff commences several actions at one time against separate infringers, the Court will, on the application of the several defendants, order the validity of the patent and other questions common to all the cases to be tried in one of the actions, and will in the meantime stay proceedings in the other actions; but this order will not be made until the defendants have given full discovery of the machines used by them and alleged to be infringements (*Foxwell v. Webster*, 2 Dr. & Sm. 250; *S. C.* on appeal, 10 Jur. N. S. 137).¹

But the plaintiff is not bound by the result of the trial if it goes against him, and he may proceed against any of the other infringers.

In regard to the evidence it may be useful to remember that the Court looks with distrust on experiments conducted for the express purpose of manufacturing evidence for the cause. (*Young v. Fernie*, 5 Giff. 577; *Betts v. Neilson*, L. R. 3 Ch. 429, 433.)

It is a rule of the Court not to interfere until the

¹ It was said by *Wood, V. C.*, in the case of *Bovill v. Crate* (L. R. 1 Eq. 388), that when the infringers are very numerous, the proper course for a plaintiff to pursue before filing separate bills against the infringers is to select one as a defendant, and write to the others, and ask if they object to be bound by the proceedings against that one and have the case tried once for all.

patentee's rights have been actually violated. But where a defendant alleges an intention and claims the right to infringe, the Court will grant an injunction, although no actual infringement may have taken place (*Threacarson v. Loo*, L. R. 9 Ch. D. 48; *Adair v. Young*, L. R. 12 Ch. D. 13). The case of *Crossley v. Beverley* (1 W. P. C. 119) shows how far the Court will go in aiding a patentee to repress infringements. It appeared that the defendants had been secretly manufacturing gas-meters, which were copies of those protected by the plaintiff's patent, their object being to pour them into the market as soon as the patent expired. A few days before the expiration of the patent, the plaintiff, having discovered what had been done, filed his bill, and obtained an injunction to restrain the using of the articles so made even after the patent expired.

In an action for infringement of a patent, the Court or a judge may, under the thirtieth section of the Patent Act of 1883, and 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 same and the proceedings thereon as the Court or a judge may see fit.

The following cases were decided under the old law with reference to an inspection of the processes used or the articles made by the defendant in alleged violation of the rights of the plaintiff:—*Bovill v. Moore* (2 Coop. C. C. 56); *Brown v. Moore* (3 Bligh. 180); *Morgan v. Seward* (1 W. P. C. 169). In the case of *The Patent Type Founding Company v. Walter* (Johns. 727), the defendant, a printer, who used types alleged to be made in colourable imitation of the type patented by the plaintiffs, was on motion ordered by *Wood, V. C.*, to deliver a sample of type to the plaintiffs for analysis, although a similar application had been refused by the Court of Exchequer in *The Patent Type*

Founding Company v. Lloyd, 5 H. & N. 192. However, by Order L., Rule 3 of the Supreme Court Rules 1883, the Court or a Judge is empowered in any cause or matter to authorise any samples to be taken, or any observation to be made, or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

But where, in a suit for an injunction to restrain the infringement of a patent for a sewing machine, an application was made for an inspection of *all* the machines of every kind on the defendant's premises, the Court declined to make the order in the terms asked for, but (following what was stated to be the practice at common law) directed the defendant to verify on affidavit the several kinds of sewing machines which he had sold or exposed for sale since the date of the plaintiff's last disclaimer, and to produce at his solicitor's office one of each class for inspection by the plaintiff's solicitor and two of their scientific witnesses (*The Singer Manufacturing Company v. Wilson*, 13 W. R. 560; S. C. 5 N. R. 505). And inspection will not be granted unless the Court is satisfied that there is really a case to be tried at the trial, and that inspection is essential to enable the plaintiff to prove his case (*Piggott v. Anglo-American Telegraph Company*, 91 L. T. N. S. 46; *Butley v. Kynock*, L. R. 19 Eq. 90).

In a suit for an injunction a defendant denying infringement may be compelled to answer whether he used the plaintiff's materials, whether he makes any addition to them, and whether such addition makes any difference (*Renard v. Levinstein*, 10 L. T. N. S. 94). As to the limits of such discovery see *Crossley v. Tomey*, 2 C. L. D. 53; *Crossley v. Stewart*, 1 N. R. 426; *Rolls v. Isaacs*, W. N. 1878, 36. As to the discovery which a defendant in such a suit may obtain from the plain-

tiff as to his patent, see *Renard v. Levinstein* (11 L. T. N. S. 79); *Hoffman v. Postill* (L. R. 4 Ch. 673).

By the fifty-seventh section of the Judicature Act of 1873, the judge before whom a case requiring 'scientific investigation' comes for trial is empowered to send the issues of fact to be tried by an official referee. Where a patent case had been so sent for trial before an official referee, it was contended by the plaintiff in the Court of Appeal that the case was not one that required 'scientific investigation' within the meaning of the Judicature Act, but it was held to be impossible for that Court to say that an action for the infringement of a patent did not require scientific investigation; and that as the judge had decided that it did, the Court would not interfere with his discretion (*Saxby v. Gloucester Waggon Company*, W. N. 1880, p. 28).

The official referee will make a report as to the issues of fact which were sent to him for trial, and his findings so reported are to be considered equivalent to the finding of a jury.

On the trial of an action for the infringement of a patent the Court has power, under sect. 56 of the Judicature Act of 1873, to order without the consent of the parties that a competent person should make experiments, and report the result of his inquiry for the information and guidance of the Court (*Badische Anilin und Soda Fabrik v. Levinstein*, L. R. 24 Ch. Div. 156).

By the twenty-eighth section of the Patent Act of 1883 it is enacted that, 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.

Under the third sub-section of the same section the remuneration, if any, to be paid to such assessor shall be determined by the Court and be paid in the same manner as the other expenses of the execution of the Act; and under the fourth sub-section no evidence is to be admitted at the hearing, except by leave of the Court or a judge, in proof of any alleged infringement or objection of which particulars have not been delivered.

See also Order XXXVI. Rule 5 and Rule 7 (a) of the Supreme Court Rules 1883, as to the trial of causes and issues.

The defendant in an action for the infringement of a patent for a chemical process set up by his defence that he had a secret process which was not an infringement. The judge, seeing that irreparable mischief would be done to him if he were called upon to state in open Court what that secret process was, in case it should turn out that the patent was bad, allowed him not to answer certain questions which were put to him, but left him to determine for himself whether he would or not communicate his secret process to the Court, so that the Court might be able to determine whether he infringed the patent or not. The defendant, acting on the advice of his counsel, elected before the termination of the case to disclose his secret to the judge, who heard his description of it with closed doors, no persons being present except the parties and their scientific assistants (*Badische Anilin und Soda Fabrik v. Levinstein*, 24 Ch. D. 156).

It is now settled that the plaintiff in a patent action cannot have both damages and an account of profits, but must elect between the two which he will adopt (*Neilson v. Betts*, L. R. 5 H. L. 1).

In estimating the amount of damages sustained by a plaintiff in respect of an infringement of his patent, the Court adopts a form of inquiry different from that which it employs in the analogous case of an imitation of a plaintiff's trade-mark. In the latter instance the Court will not assume in the absence of evidence that the plaintiff would have sold all the articles which the defendant has wrongfully sold (*The Leather Cloth Company v. Hirschfeld*, 1 L. R. Eq. 299). But every sale without licence of a patented article must be a damage to a patentee, and therefore the inquiry in a patent case will extend to the sale by the defendant of *any* articles made by him since the infringement was commenced (*Davenport v. Rylands*, 1 L. R. Eq. 308). The inquiry will extend to the sales by the defendant within six years before the commencement of the proceedings (*Davenport v. Rylands*, L. R. 1 Eq. 302; *Crossley v. Derby Gas Light Company*, 1 W. P. C. 119); but if the plaintiff be an assignee of the patent the amount will only be taken from the date of the registration of the assignment to him (*Elwood v. Christy*, 5 N. R. 312). And in stating such an account the defendant must file an affidavit, stating the number of the patented articles made by him since the date of the patent, and the names and addresses of the purchasers to whom the same have been sold (*Murray v. Clayton*, L. R. 15 Eq. 115), and the account may be taken notwithstanding the pendency of an appeal (*Saxby v. Easterbrook*, L. R. 7 Ex. 207).

Where separate proceedings have been taken against the manufacturer and user of the patented article the plaintiff may have an account of profits against the manufacturer, and also damages against the user (*Penn v. Bibby*, L. R. 3 Eq. 308), and he cannot be compelled to accept the same royalty from a litigant as

he receives from others (*ibid.*); but a patentee being himself a manufacturer of the patented article, and having been in the habit of licensing the use of his invention on payment of a fixed royalty, is not entitled to claim as against an infringer a manufacturing profit in addition to his ordinary royalty (*Penn v. Jack*, L. R. 5 Eq. 81); and where such a patentee had in some instances received from users (not being the manufacturers of the patented article) his ordinary royalty, it was held that in every such case no further royalty was payable by the manufacturer (*ibid.*).

When an amendment by way of disclaimer, correction, or explanation has been allowed under the Patent Act of 1883 (see sect. 20), no damages are obtainable in any action in respect of the use of the invention before the amendment 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.

The seventeenth section of the Patent Act of 1883 directs (sub-sect. 4 *b*) that if any proceeding shall be taken in respect of an infringement of a patent committed after a failure to make any prescribed payment within the prescribed time and before the enlargement of the time, 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 plaintiff is entitled to a perpetual injunction when the validity of the patent has been conclusively established, and the fact of infringement has been proved. And if the defendant chooses to submit the injunction may be obtained without proceeding to trial.

Where a plaintiff in an action for infringement has obtained judgment at the trial the injunction will not

be suspended pending an appeal (*Flower v. Lloyd*, 36 L. T. N. S. 444).

The Court has power to order the destruction of machines made in violation of a patent (*Betts v. De Vitre*, 34 L. J. N. S. 289, 291; *Tengye v. Stott*, 14 W. R. 386). However, where the patent was for a combination, and the defendant might still use for other purposes the several parts of the machine, *Wood, V. C.*, refused to order the machines to be destroyed, but directed them to be marked so as to prevent their being used at any future time in such a way as to continue the infringement (*Needham v. Oxley*, 8 L. T. N. S. 604); and in *Plimpton v. Malcolmson* (*Seton on Decrees*, 4th ed. p. 354) the order was that the defendant should upon oath deliver up to the plaintiff, or break up or otherwise render unfit for use, the articles complained of. See also *Frearson v. Loe* (L. R. 9 Ch. D. 48, 67).

It has been stated already that a patentee after disclaiming will not be allowed to enforce an injunction obtained before disclaiming, but must proceed *de novo* (*Dudgeon v. Thomson* L. R. 3, App. Cas. 34).

The question of infringement is one of mixed law and fact. 'There may well be a case' (said *Lord Campbell*, in *De la Rue v. Dickinson*, 7 E. & B. 738) 'where the judge may and ought to take upon himself to say that the plaintiff has offered no evidence to be left to the jury to prove infringement, as if there be a patent for a chemical composition, and the evidence was that the defendant had constructed and used a machine for combing wool. But if the evidence has a tendency to show that the defendant has used substantially the same means to obtain the same result as specified by the plaintiff, and scientific witnesses have sworn that the defendant actually has used such means, the question becomes one of fact, or of fact mixed with law,

which the judge is bound to submit to the jury.' The construction of the specification is for the Court alone after the meaning of technical terms has been ascertained by the jury. But in deciding the question of infringement there is (said *Lord Wensleydale*, in *Seed v. Higgins*, 8 H. L. Cas. 550) 'a question of fact wholly for the jury—viz. what the defendants have done; and if scientific evidence is necessary fully to elucidate the case on either side, it is no doubt admissible; and in determining the question of infringement the judge must apply what the jury find to be true.'

In *Rollins v. Hinks* (L. R. 13 Eq. 355) and *Axmann v. Lund* (L. R. 18 Eq. 330) it was held that a patentee would not be permitted to publish statements of his intention to commence legal proceedings with a view of deterring persons from purchasing articles made in alleged infringement of his patent when he had no *bonâ fide* purpose of the kind.

The judges sitting *in banc* refused an injunction to restrain a patentee from sending out circulars containing a verbatim report copied from a newspaper of the trial of an action for the infringement of his patent, the trial having terminated in his favour, and the applicants for the injunction being the defendants in the action (*Hayward v. Hamilton*, 'Engineer,' vol. 48, p. 428, Exch. Div. Dec. 1879).

By the thirty-second section of the Patent Act of 1883 it was enacted that if 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. But this section is not to apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.

Previously to the passing of this Act it had been held that it was necessary to show a want of good faith as well as the untruth of his assertions to render a patentee liable for threatening proceedings (*Halsey v. Brotherhood*, L. R. 15 Ch. D. 514; *Burnett v. Tate*, Q. B. April 27, 1883; *La Société Anonyme des Manufactures de Glaces v. Tilghman's Patent Sand Blast Co.*, 25 Ch. D. 1); but now the patentee's *bona fides* is by the operation of the Act no longer a good defence. Since the Act the following cases have been decided upon the construction of this section:—*Barnett and Foster v. Barrett's Screw Stopper Bottling Company, Limited* (1 R. P. C. 9); *Sugg and Sugg and Company Limited v. George Bray and Co.* (1 R. P. C. 45); *Jackson v. Wulstenhulmes, Rye and Co. Limited* (1 R. P. C. 106).

SCOTLAND.

The 107th section of the Patent Act of 1883 directs that in any action for infringement of a patent in Scotland the provisions of the 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' is to mean any court to which such action is appealed.

And by the 111th section the provisions of the Act conferring a special jurisdiction on the Court as defined by the Act shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Scotland in any proceedings relating to patents; 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.

The Court of Appeal has held in the case of *Speckhart v. Campbell* reported in the 'Times,' March 13, 1884, that where infringements have been committed both in England and Scotland by a defendant domiciled in Scotland, the Court, in deciding in which country proceedings should be taken, will be guided by the particular circumstances of the case and the convenience of the parties.

IRELAND.

By section 110 of the new Act all parties shall, notwithstanding anything in the 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. And by the 111th section the jurisdiction of any court in Ireland in proceedings relating to patents is not to be affected by the provisions of the Act conferring a special jurisdiction on the Court as defined by the Act, except so far as the latter jurisdiction extends; and with reference to any such proceedings in Ireland, the terms 'the Court' and 'the Court of Appeal' respectively are to mean the High Court of Justice in Ireland and Her Majesty's Court of Appeal in Ireland.

ISLE OF MAN.

By the 112th section of the new Act it is enacted

that it shall extend to the Isle of Man, but that nothing therein 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 competent to those courts.

COSTS.¹

The successful plaintiff is entitled to his costs, unless his conduct has been such as to induce the judge to deprive him of them (*Nunn v. Albuquerque*, 31 Bea. 595).

The plaintiff will not be deprived of costs because he did not apply to the defendant before taking proceedings (*Burgess v. Hateley*, 26 Bea. 249; *Upmann v. Forrester*, 24 Ch. D. 231), nor because the defendant was unacquainted with the plaintiff's rights, nor because he had no intention to do wrong (*Burgess v. Hills*, 26 Bea. 244; *Cooper v. Whittingham*, 24 Ch. D. 231).

It is directed by the sixth sub-section of the twenty-ninth section of the Patent Act of 1883, that on the 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 particulars 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.

By the thirty-first section of the Patent Act of 1883 it is enacted that, 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

¹ See the cases as to costs collected in Mr. W. N. Lawson's cited work, pp. 81-87.

client, unless the Court or judge trying the action certifies that he ought not to have the same.

Under the corresponding section in the Patent Act of 1852 this certificate was given in suits in the Court of Chancery as well as in actions at common law (*Needham v. Oaley*, 8 L. T. N. S. 604; *Davenport v. Rylands*, 1 Law Rep. Eq. 308). In the latter case, *Wood, V. C.*, decided that a patentee who has obtained this certificate may have his full costs in any subsequent action for infringement, although the validity of the patent may not have been in question in such action. In *Penn v. Bibby* (L. R. 3 Eq. 309) it was held that the section does not apply to the costs of the first trial.

As to what is a sufficient certificate to enable the Court to direct the costs to be taxed as above mentioned see *Betts v. De Vitre* (11 Jur. N. S. 11), *Bovill v. Hadley* (17 C. B. N. S. 435).

Other cases relating to the certificate are *Stocker v. Rodgers* (1 C. & R. 99); *Ball v. Lehm* ('Times,' April 14, 1881).

When directors of a limited company are active parties in an infringement of a patent by the company, they may be made parties to a suit against the company, and may be ordered personally to pay the costs of suit (*Betts v. De Vitre*, 11 Jur. N. S. 9, affirmed on appeal, L. R. 3 Ch. 429).

See further as to the taxation of costs in patent suits, *Smith v. Buller* (L. R. 19 Eq. 473); *Batley v. Kynock* (L. R. 20 Eq. 632); *Weymann v. Corcoran* (27 W. N. 357).

CHAPTER XV.

REVOCATIONS.

THE old action of *scire facias*, which was one brought in the name of the Crown for the purpose of repealing a grant of letters patent, has been abolished, so far as patents for inventions are concerned, by the twenty-sixth section of the Patent Act of 1883. By that section it is enacted that the revocation of a patent may be obtained on petition to the Court, and that every ground on which a patent might, at the commencement of the 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.

A petition for the revocation of a patent may be presented by (a) the Attorney General in England or Ireland, or by the Lord Advocate in Scotland; (b) any person authorised by these law officers; (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 patentee's claim; (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. That is to say, the persons who, in addition to

the law officers and those whom they authorise, may present a petition for the revocation of a patent are persons who allege that they have been defrauded by the grant; or those who claim to be the true inventors of the patented invention; or those who set up anterior public user by themselves, or by persons through whom they claim. Before a petition can be presented on the ground of user by other persons it will be necessary to obtain the authority of a law officer.

Along with his petition the plaintiff will have to deliver particulars of his objections to the patent, and no evidence will be admitted at the trial in proof of any objection not included in such particulars, except by leave of the Court or of a judge; but the particulars delivered may be from time to time amended by leave of the Court or of a judge. (See the section on the practice in the chapter on Infringements.) The proceedings at the trial will be similar to the proceedings in actions when the validity of a patent is in dispute. The defendant is 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 is entitled to reply. By the twenty-eighth section of the Act the Court in any proceeding for the revocation of a patent may, if it thinks fit, and shall on the request of either of the parties, call in the aid of an assessor specially qualified, and try and hear the case wholly or partially with his assistance. The case shall be tried without a jury unless the Court shall otherwise direct.

Previous to the new Act, if two patents had been issued to different persons for the same invention, the first patentee could have brought an action of *sci. fa.* to repeal the second patent (*R. v. Neilson*, 1 W.P. C. 671). And where there had been a false suggestion, such as was involved in a want of novelty or utility in the invention, the patent could have been repealed by the same proceedings. Fraud, non-compliance with the conditions of

the letters patent, such as filing, or insufficient specification (*Ree v. Arkwright*, 1 W. P. C. 66), and the fact that the invention was not a patentable one (*R. v. Cutler*; Maer. P. C. 124), were also grounds for the action of *sei. fa.* We have seen that every ground on which a patent might have been formerly repealed by *sei. fa.* is by the twenty-sixth section of the new Act still available as a ground of revocation.

In Scotland, proceedings for the revocation of a patent are directed by the 109th section of the Act to 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. Service of all writs and summonses in that action are to be made according to the forms and practice existing at the commencement of the Act.

By the nineteenth section of the new Act, the Court or a judge may, in a proceeding for the revocation of a patent, order at any time that the patentee shall, subject to such terms as to costs or 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.

Where a patent has been revoked on the ground of fraud, the Comptroller is authorised by the twenty-sixth section of the new Act, on the application of the true inventor made in accordance with the provisions of the Act, to grant him a patent in lieu of the revoked patent. The new patent is to have the same date as the date of the revocation, but is to expire at the end of the term for which the revoked patent was granted.

Where the Court has made an order for the revocation of a patent, an office copy thereof must be left at the Patent Office, that an entry may be made in the register. Rule 71 of Patents Rules 1883.

CHAPTER XVI.

OFFENCES AND THEIR PENALTIES.

THE only penalties imposed by the Act of 1883 are those prescribed for the offences set forth in the 105th and 106th sections. By the 105th section it is enacted that any person who represents that any article sold by him is a patented article when no patent has been granted for the same . . . shall be liable for every offence on summary conviction to a fine not exceeding 5*l.* And further, that a person shall be deemed for the purposes of the enactment to represent that an article is patented . . . if he sells the article with the word 'patent,' 'patented,' or any word or words expressing or implying that a patent has been obtained for the article stamped, engraved, or impressed on or otherwise applied to the article.

It may be mentioned here that, according to the case of *Cheavin v. Walker* (L. R. 5 Ch. D. 862), the use of the word 'Patent,' along with a representation of the royal arms as a label on an article made according to an invention for which the patent has expired, was considered to be a representation that the patent was still subsisting, and was held to disentitle the plaintiff from obtaining an injunction to restrain the wrongful use of the label. The plea of its being a trade-mark cannot be set up. 'It is impossible (said *Sir G. Jessel, M. R.*) to allow a man who has once had the protection of a patent to obtain a further protection by using the name of his patent as a trade-mark. No man can claim a trade-mark

in a falsehood. It is a falsehood in representing the patent as still subsisting.' See also the *Linoleum Manufacturing Company v. Nairn* (L. R. 7 Ch. D. 834).

By the 106th section it is enacted that any person who, without the authority of her Majesty or any of the Royal Family or of any Government Department, assumes or uses in connection 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 20*l.*

Many persons engaged in business have been accustomed to make use of the royal arms in one way or another, and if they continue to do so they should be careful not to bring themselves within the purview of this section.

In Scotland any offence under the Act declared to be punishable on summary conviction may be prosecuted in the Sheriff's Court (sect. 108). In the Isle of Man any offence under the Act which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of the person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted (sect. 112, sub-sect. 3).

The ninety-third section of the Patent Act of 1883 enacts that 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.

In the Isle of Man the punishment for a misdemeanor under the Act is imprisonment for any term not exceeding two years with or without hard labour, and with or without a fine not exceeding 100*l.* at the discretion of the Court (sect. 112, sub-sect. 2).

CHAPTER XVII.

INTERNATIONAL AND COLONIAL ARRANGEMENTS.

International Arrangements.

It is enacted by the 103rd section of the Patent Act of 1883 that, if the Crown should make any arrangement with the government or governments of any foreign state or states for the mutual protection of inventions, then any person who has applied for protection for any invention in any such state shall be entitled to a patent for his invention under the Act in priority to other applicants, and such patent shall have the same date as the date of the protection obtained in such foreign state. But the application must be made in this country in the same manner as an ordinary application under the Act, and within seven months from the date of the application for protection in the foreign state. A patentee under this section will not be allowed to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification in this country. By the second subsection of the same section it is enacted that the publication in the United Kingdom or the Isle of Man, during the said period of seven months, of any description of the invention, or the use therein during the said period of the invention, shall not invalidate the patent which may be granted for the invention.

Then by the fourth subsection it is directed that these provisions are only to apply to 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.

On March 20, 1883, a Convention was signed by representatives of the governments of Belgium, Brazil, Spain, France, Guatemala, Italy, Holland, Portugal, Salvador, Servia and Switzerland, which was afterwards ratified by these governments. By the first article of this Convention it was declared that the said States formed themselves into a *Union for the Protection of Industrial Property*, which words were (according to the Protocol accompanying the Convention¹ and having the same force, validity, and duration as the Convention itself) to be understood in their broadest sense, and to be applicable not only to industrial products properly so called, but also to agricultural products (wines, corn, fruits, cattle, &c.) and to mineral products employed in commerce (mineral waters, &c). It may here be remarked that neither agricultural products nor mineral products are patentable in this country.

By the second article of the Convention, the subjects or citizens of each of the contracting States are to enjoy in all the other States of the Union the same advantages as regards patents of every kind (see the second paragraph of the Protocol) that their respective laws grant to their own subjects or citizens. They are to have the same protection and the same legal 'recourse' [*i.e.* remedies] on any infringement of their rights provided they observe the formalities and conditions imposed on subjects, or citizens by the internal legislation [*i.e.* laws] of each State. With regard to this clause the third paragraph of the Protocol explains that it is not to affect the legislation [*i.e.* laws] of the contracting states relating to legal procedure, jurisdiction, &c.

Subjects or citizens of States not forming part of

¹ The Convention and Protocol will be found reprinted in the Appendix.

the Union who are domiciled or have industrial or commercial establishments on the territory of any of the States of the Union are by article 3 of the Convention to be on the same footing as the subjects or citizens of the contracting States.

Then by Article 4, any person who has duly registered [*i.e.* made] an application for a patent in one of the contracting States shall enjoy as regards registration in the other States, and reserving the rights of these parties, a right of priority for six months, an additional month being allowed for countries beyond sea. Subsequent registration (*i.e.* a patent obtained on a subsequent application) in any of the other States of the Union before expiry of that period shall not be invalidated by any acts done in the interval, either by registration, by publication of the invention, or the working of it by a third party.

Article 5 declares that the introduction by the patentee into the country where the patent has been granted of articles manufactured in any of the States of the Union, shall not entail forfeiture of the patent as it did in several states before the date of the Convention. But this clause is followed by another which declares that the patentee shall remain bound to work his patent in those States where the law of the country obliges him to do so. It would appear, therefore, that although a patentee is entitled to introduce into a country articles made abroad, he must still work the invention in that country if the law has a regulation to that effect.

Temporary protection is to be granted under Article eleven to patentable inventions appearing at official or officially recognised international exhibitions.

In order to carry the Convention into full effect, it was directed by Article 13 that an International Office should be organised under the name of *Bureau International de l'Union pour la protection de la Propriété Industrielle*, and that this Office should be placed

under the authority of the Central Administration of the Swiss Confederation, and worked under its supervision.

It was then agreed by the next Article that the Convention should be submitted to periodical revisions, with a view to improving its provisions, for which end conferences by delegates from the contracting States will be held. It was also agreed that special arrangements for the protection of industrial property might be made separately between any of the contracting States, provided that such arrangements do not contravene the provisions of the Convention.

By Article 16 it was agreed that States which did not originally take part in the Convention should be permitted to join the Union afterwards by diplomatically notifying their intention to do so to the Government of the Swiss Confederation. And by Article 18 it is provided that any State might retire from the Union by giving notice to that effect to the Government of the Swiss Confederation. At the expiration of one year from the date of the notice the State giving it will cease to be a member of the Union.

Great Britain joined this Convention on May 1, 1884, and the Order in Council under section 103 of the Patents Act will shortly be made. The Board of Trade will immediately issue rules as to applications for patents under this Convention.

Colonial Arrangements.

When it is made to appear to Her Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions patented in this country, Her Majesty is empowered, by the 104th section of the Patents Act of 1883 by Order in Council, to apply the provisions of the 103rd section, with such variations or additions as may seem fit, to such British possession, but such order is made revocable by another Order in Council.

CHAPTER XVIII.

THE PATENT OFFICE—THE COMPTROLLER—GENERAL RULES
—SEAL OF THE OFFICE—OFFICIAL DOCUMENTARY EVIDENCE—REGISTERS—PUBLICATIONS AND INDEXES—LIBRARY—PATENT MUSEUM.

UNTIL a new office has been provided by the Treasury, under the authority of the eighty-second section of the Act of 1883, the business relating to patents is transacted at the offices of the defunct Commissioners of Patents in Southampton Buildings, Chancery Lane. All the officers and clerks of the office are appointed by the Board of Trade, subject to the approval of the Treasury.

The Office is open to the public every week-day between the hours of ten and four, except on Christmas day, Good Friday, the day observed as her Majesty's birthday, and the days observed as days of public fast or thanksgiving, or as holidays at the Bank of England.

THE COMPTROLLER-GENERAL.

The Comptroller-General of Patents, Designs, and Trade-Marks, is an officer appointed by the Board of Trade under the eighty-third section of the new statute to act under the superintendence and direction of the Board as chief of the Patent Office, which is placed under his immediate charge.

Besides acting as general manager of the business of the office, and as superintendent of the examiners and clerks therein, his principal duties, as prescribed by

the legislature, so far as regards patents, are those already mentioned in the preceding chapters relating to the various steps to be taken on applications for patents, on oppositions to grants, on the issue of patents, and on applications for leave to amend specifications.

In addition to these, which may be called his routine duties, though some of them will call for the exercise of much care and thought, he is required, by section 40, to issue periodically an Illustrated Journal of Patented Inventions, as well as reports of patent cases decided by courts of law, and any other information that he may deem generally useful or important. He has to make provision for keeping on sale copies of the journal, and also of all complete specifications for the time being in force, with their accompanying drawings. And he is directed to continue in such form as he may deem expedient the indexes and abridgments of specifications hitherto published, and to prepare and publish from time to time such other indexes, abridgments of specifications, catalogues, and other works relating to inventions as he may see fit.

He is empowered to refuse patents when their use would, in his opinion, be contrary to law or morality (sect. 86).

He is enabled to correct clerical errors in or in connection with applications for patents, or in the name, style, or address of the registered proprietor of a patent (sect. 91).

By Rule 18 the Comptroller is empowered to amend documents and to obviate irregularities in procedure; by Rule 47 he is authorised to enlarge the time prescribed by the Rules for doing any act or taking any proceeding thereunder, and by Rule 77 large powers are given to him, with the sanction of the Board of Trade, to dispense with acts, documents, evidence, &c., required under the Rules.

Where any discretionary power is by the Act given to the Comptroller, it is expressly directed by the ninety-fourth section, that he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, without (if so required within the proscribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent. As to the procedure, see Rules 11-14 of the Patents Rules, 1883.

In any case of doubt or difficulty arising in the administration of any of the provisions of the Act, the ninety-fifth section directs that he may apply to either of the law officers for directions in the matter.

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

In case of the absence of the Comptroller any act, or thing directed to be done by or to him may be done by or to any officer authorised in that behalf by the Board of Trade (sect. 82, sub-sect. 4).

GENERAL RULES.

The Board of Trade is empowered by the 101st section of the new Act to make rules for regulating generally the business of the Patent Office and all things placed under the direction and control of the Comptroller or of the Board; and particularly for regulating the practice of registration; for making or requiring duplicates of specifications, amendments (*sic*), drawings, and other documents; for securing and regulating

the publishing and selling of copies thereof; for securing and regulating the making, printing, publishing and selling of Indexes to abridgments of specifications and other documents in the Patent Office, and providing for the inspection of indexes, abridgments, and other documents. Such general rules are to be of the same effect as if they were contained in the Act, and are to be judicially noticed. They must be laid before the two Houses of Parliament, either of which has power within a limited time to annul any of them.

The Rules which have been issued by the Board of Trade, with the short title of the Patents Rules, 1883, are reprinted in the Appendix to this volume.

THE SEAL OF THE PATENT OFFICE.

By the eighty-fourth section of the Patent Act of 1883, it is directed that there shall be a seal for the Patent Office, and that impressions thereof shall be judicially noticed and admitted in evidence.

OFFICIAL DOCUMENTARY EVIDENCE.

By the eighty-ninth section of the same Act it is enacted that printed or written copies or extracts, purporting to be certified by the Comptroller and sealed with the seal of the Patent Office, of 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 and in all proceedings, without further proof or production of the originals.

Then by the ninety-sixth section a certificate purporting to be under the hand of the Comptroller as to any entry, matter, or thing which he is authorised by the Act, or any general rules made thereunder, to make or do, shall be *primâ 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.

By the twenty-third section of the same Act, it is enacted that the Register of Patents to be kept at the Patent Office shall be *prima facie* evidence of any matters directed or authorised to be inserted therein.

Finally, by the hundredth section of the Act it is directed that copies of all specifications, drawings, and amendments left at the Patent Office after the commencement of the Act, printed for and sealed with the seal of the Patent Office, shall be transmitted to the Edinburgh Museum of 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.

REGISTERS.

The Register of Patents kept at the office and mentioned in the chapter on Registration is open to public inspection daily (with certain exceptions mentioned in Rule 75) between the hours of ten and four. Up to the end of 1883 the registers kept at the Patent Office were two. In the one called the Register of Patents were recorded, in chronological order and with the dates, all patents granted under the Patent Act of 1852, as well as the deposit or filing of specifications, disclaimers, memoranda of alterations, amendments, confirmations, and extensions, and the expiry, vacating, and cancelling of patents. The other register, called the Register of

Proprietors, contains entries of the assignments of patents, or of any share or interest therein; and of licences, mentioning the districts to which they relate, with the names of persons having shares or interests in patents and licences, and the dates at which such shares or interests were acquired.

PUBLICATIONS AND INDEXES.

Besides the Illustrated Journal of Patented Inventions and reports of Patent cases directed to be published by the fortieth section of the new Act, several other publications are issued by the Patent Office. Printed copies of all the specifications filed under the Patent Act of 1852, and of all specifications enrolled previously to the passing of the said Act are purchasable for small sums at the office, with lithographed outline copies of the drawings accompanying such specifications. All the complete specifications under the new Act are also printed and published when approved.

Alphabetical indexes of all the specifications of patents enrolled in Chancery, from 1617 to the latest available date, have been published under the authority of the office, as well as an index arranging the specifications according to the subject matter, and supplemental indexes continue to be published annually. Chronological indexes of patents, from the earliest date to the year 1875, have also been published. Another index, called the Reference Index of Patents, points out the office in which each enrolled or filed specification of a patent may be consulted; the books in which specifications, law proceedings, and other subjects connected with inventions have been noticed; also, such specifications as have been published under official authority. These indexes are of great service in tracing the history of inventions.

The volumes containing Abridgments of specifications arranged chronologically in classes are of immense utility to inventors who wish to discover what has been already done in any particular branch of invention.

Copies of the Commissioners' publications are presented to the principal Public Offices, Seats of Learning, Societies, Institutions, Libraries, British Colonies, and Foreign States.

PUBLIC LIBRARY.

A library has been established in connection with the Patent Office, and this is open free to the public. The whole of the publications of the office are on the shelves of the library, where may also be consulted all the leading British and Foreign Scientific Journals and text-books in the various departments of science and art.

PATENT MUSEUM.

The Patent Museum at South Kensington is transferred by the forty-first section of the new Act to the Department of Science and Art, which is empowered by the forty-second section to require any patentee to furnish them with a model of his invention on payment of the cost, the amount in case of dispute to be settled by the Board of Trade.

ADDITIONS TO RULES.

The following instructions have been issued by the Comptroller of Patents since the issue of the Patents Rules :—

CONCISE EXPLANATORY STATEMENT NOT REQUIRED.

By direction of the Board of Trade, the 'concise explanatory statement' required by Rule 31 of the Patents Rules will no longer be required to be furnished

to this Office by applicants for Patents. The drawing, as prescribed by Rule 31, must, however, be supplied.

CAVEATS AS TO PATENTS AND AMENDMENTS.

Any person who may be interested in knowing the date when the complete specification in respect of any particular application shall have been accepted by the Comptroller and advertised in the Official Journal, or the date when an application for leave to amend any particular specification shall have been filed at the Patent Office and advertised, may be informed of such dates upon his forwarding to the Comptroller a request in writing (upon foolscap paper), to that effect, together with a Patents' Form Q., bearing a 5s. stamp.

AS TO PATENTS OF COMMUNICATION.

Patents Rule 6 prescribes that an application for a patent shall be made upon Form A or A1.

Form A1 provides only for the declaration being made by a person resident in the United Kingdom.

An application for a Patent upon A1 from persons resident abroad will not therefore in future be received at the Patent Office.

This regulation will not, it is believed, in any way impede the introduction of inventions into the United Kingdom. Applications by persons resident abroad can, as heretofore, be made upon Form A, or through an agent residing in the United Kingdom on Form A1.

The regulation is only intended to prohibit agents living abroad from making the declaration on Form A1, and does not interfere with their acting for applicants in the preparation of their specifications, drawings, amendments, &c., &c.

PAYMENT OF SEVENTH YEAR'S DUTIES BY INSTALMENTS.

The Board of Trade, with the consent of the Treasury, have made the following reduction relating to certain fees prescribed by the Second Schedule of the Patents, Designs, and Trade Marks Act, 1883. In the case of patents granted before the commencement of the said Act, a patentee who has paid the prescribed fee of 50*l.* may in lieu of the prescribed fee of 100*l.* payable before the end of seven years from the date of patent, pay the following annual fees:—

			£	s.	d.
Before the end of the 7th year	{ from date }		10	0	0
	{ of patent }				
„ „ 8th „	„ „		10	0	0
„ „ 9th „	„ „		10	0	0
„ „ 10th „	„ „		15	0	0
„ „ 11th „	„ „		15	0	0
„ „ 12th „	„ „		20	0	0
„ „ 13th „	„ „		20	0	0

FEES ON CORRECTIONS.

The Board of Trade, with the consent of the Treasury, have ordered that from and after the 1st of October, 1884, the fee No. 36 in the First Schedule to the Patents Rules, 1883, be amended, and shall in future be as follows:—

No. 36. On request to Comptroller to correct a clerical error,

	£	s.	d.
Up to sealing	0	5	0
After „	1	0	0

APPENDIX.

PART I.

STATUTES, RULES, AND FORMS.

Statutes.

	PAGE
21 JAMES I. CH. 3 [1623]	321
46 & 47 VICTORIA, CH. 57 [1883]	325

Forms and Rules.

RULES OF THE BOARD OF TRADE REGULATING THE BUSINESS OF THE PATENT OFFICE	360
RULES OF THE LAW OFFICERS	374
FORMS UNDER THE RULES	379 to 394
PRIVY COUNCIL RULES	395

PART II.

PATENT LAWS OF FOREIGN COUNTRIES	401
PATENT LAWS OF BRITISH COLONIES	413

PART III.

INTERNATIONAL CONVENTION AND PROTOCOL	462
---	-----

APPENDIX.

PART I.

STATUTES.

21 Jac. I. c. 3. [A.D. 1623.]

An Act concerning Monopolies and Dispensations with Penal Laws, and the Forfeitures thereof.

FORASMUCH as your most excellent Majesty, in your royal judgment, and of your blessed disposition to the weal and quiet of your subjects, did in the year of our Lord God 1610, publish in print to the whole realm, and to all posterity, that all grants and monopolies, and of the benefit of any penal laws, or of power to dispense with the law, or to compound for the forfeiture, are contrary to your Majesties laws, which your Majesties declaration is truly consonant and agreeable to the ancient and fundamental laws of this your realm: And whereas your Majesty was further graciously pleased expressly to command that no suitor should presume to move your Majesty for matters of that nature; yet nevertheless, upon misinformations, and untrue pretences of public good, many such grants have been unduly obtained, and unlawfully put in execution, to the great grievance and inconvenience of your Majesties subjects, contrary to the laws of this your realm, and contrary to your Majesties most royal and blessed intention so published, as aforesaid; for avoiding thereof, and preventing of the like to come, may it please your excellent Majesty, at the humble suit of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, that it may be declared and enacted, and be it declared and enacted by authority of this present Parliament, that all

monopolies, and all commissions, grants, licences, charters, and letters patent heretofore made or granted, or hereafter to be made or granted to any person or persons, bodies politic or corporate whatsoever, of or for the sole buying, selling, making, working, or using of anything within this realm, or the dominion of Wales; or of any other monopolies, or of power, liberty, or faculty to dispense with any others, or to give licence or toleration to do, use, or exercise anything against the tenour or purport of any law or statute; or to give or make any warrant for any such dispensation, licence, or toleration to be had or made, or to agree or compound with any others for any penalty, or forfeitures limited by any statute, or of any grant or promise of the benefit, profit, or commodity, of any forfeiture, penalty, or sum of money, that is or shall be due by any statute, before judgment thereupon had, and all proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things whatsoever, any way tending to the instituting, erecting, strengthening, furthering, or countenancing of the same, or any of them, are altogether contrary to the laws of this realm, and so are, and shall be utterly void and of none effect, and in no wise to be put in use or execution.

Monopolies, etc., shall be tried by the common laws of this realm.

2. And be it further declared and enacted by the authority aforesaid, that all monopolies, and all such commissions, grants, licences, charters, letters patents, proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things tending, as aforesaid, and the force and validity of them, and every of them, ought to be, and shall be for ever hereafter examined, heard, tryed, and determined by and according to the common laws of this realm, and not otherwise.

All persons disabled to use monopolies, etc.

3. And be it further enacted by the authority aforesaid, that all person and persons, bodies politic and corporate whatsoever, which now are, or hereafter shall be, shall stand and be disabled, and incapable to have, use, exercise or put in use any monopoly, or any such commission, grant, licence, charter, letters patents, proclamation, inhibition, restraint, warrant of assistance, or other matter or thing tending, as aforesaid, or any liberty, power or faculty, grounded, or pretended to be grounded, upon them or any of them.

4. And be it further enacted by the authority aforesaid, that if any person or persons at any time after the end of forty days next, after the end of this present session of parliament, shall be hindred, grieved, disturbed, or disquieted, or his or their goods or chattels any way seized, attached, distrained, taken, carried away, or detained, by occasion or pretext of any monopoly, or of any such commission, grant, licence, power, liberty, faculty, letters patents, proclamation, inhibition, restraint, warrant of assistance, or other matter or thing tending as aforesaid, and will sue to be relieved in or for any of the premises, that in every such case the same person and persons shall and may have his and their remedy for the same at the common law, by an action or actions to be grounded upon this statute; the same action and actions to be heard and determined in the Courts of King's Bench, Common Pleas, and Exchequer, or in any of them, against him or them by whom he or they shall be so hindred, grieved, disturbed, or disquieted, or against him or them by whom his or their goods or chattels shall be so seized, attached, distrained, taken, carried away or detained, wherein all and every such person and persons which shall be so hindred, grieved, disturbed, or disquieted, or whose goods or chattels shall be so seized, attached, distrained, taken, carried away, or detained, shall recover three times so much as the damages which he or they sustained, by means or occasion of being so hindred, grieved, disturbed, or disquieted, or by means of having his or their goods or chattels seized, attached, distrained, taken, carried away, or detained, and double costs; and in such suits, or for the staying or delaying thereof, no essoin, protection, wager of law, aid, prayer, privilege, injunction, or order of restraint, shall be in any wise prayed, granted, admitted, or allowed, nor any more than one imparlance: And if any person or persons shall, after notice given that the action depending is grounded upon this statute, cause or procure any action at the common law, grounded upon this statute, to be stayed or delayed before judgment, by colour or means of any order, warrant, power, or authority, save only of the court wherein such action, as aforesaid, shall be brought and depending, or after judgment had upon such

The party
relieved by pre-
text of a mono-
poly, etc., shall
recover treble
damages and
double costs.

He that delayeth
an action
grounded upon
this statute
incurs a *pre-
munire*.

Stat. 16 R. II. c. 5.

Letters patents
to use new manu-
factures, saved.

action, shall cause or procure the execution of or upon any such judgment to be stayed, or delayed by colour or means of any order, warrant, power, or authority, save only by writ of error or attain, that then the said person and persons so offending shall incur and sustain the pains, penalties, and forfeitures ordained and provided by the statute of provision and prœmunire, made in the sixteenth year of the reign of King Richard the Second.

5. Provided nevertheless, and be it declared and enacted, that any declaration before mentioned shall not extend to any letters patents and grants of privilege for the term of one and twenty years, or under, heretofore made of the sole working or making of any manner of new manufacture within this realm to the first and true inventor or inventors of such manufactures, which others at the time of the making of such letters patents and grants did not use, so they be not contrary to the law, nor mischievous to the state, by raising of the prices of commodities at home, or hurt of trade, or generally inconvenient, but that the same shall be of such force as they were, or should be, if this Act had not been made, and of none other : And if the same were made for more than one and twenty years, that then the same for the term of one and twenty years only, to be accounted from the date of the first letters patents and grants thereof made, shall be of such force as they were or should have been, if the same had been made but for the term of one and twenty years only, and as if this Act had never been had or made, and of none other.

6. Provided also, and be it declared and enacted, that any declaration before mentioned shall not extend to any letters patents and grants of privilege for the term of fourteen years or under, hereafter to be made, of the sole working or making of any manner of new manufactures within this realm, to the true and first inventor or inventors of such manufactures, which others at the time of making such letters patents and grants shall not use, so as also they be not contrary to the law, nor mischievous to the state, by raising prices of commodities at home, or hurt of trade, or generally inconvenient : the said fourteen years to be accounted from the date of the first letters patents or grant of such privilege hereafter to be

made, but that the same shall be of such force as they should be if this Act had never been made, and of none other.¹

46 & 47 VICT. C. 57.

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

[The sections relating to the Registration of Designs and of Trade Marks are not here reprinted.]

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.

Commencement of Act.

3. This Act, except where it is otherwise expressed, shall commence from and immediately after the thirty-first day of December 1883.

PART II.—PATENTS.

Application for and Grant of Patent.

Persons entitled to apply for patent.

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

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

¹ The remaining sections of the Act have become obsolete or have been repealed.

Application and
specification.

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.

(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.

(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.

(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.

Power for Comptroller to refuse application or require amendment.

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 require that the application, specification, or drawings be amended before he proceeds with the application.

(2) Where the Comptroller 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 has been made, but before a patent has been sealed, an application is made, accompanied by a specification bearing the same or a similar title, it shall be the duty of the examiner to report to the Comptroller whether the specification appears to him to comprise the same invention; and, if he reports in the affirmative, the Comptroller shall give notice to the applicants that he has so reported.

(6) Where the examiner reports in the affirmative, the Comptroller may determine, subject to an appeal to the law officer, whether the invention comprised in both applications is the same, and if so he may refuse to seal a patent on the application of the second applicant.

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.

(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 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.

(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.

Time for leaving complete specification.

Comparison of provisional and complete specification.

(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 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.

Advertisement
on acceptance of
complete speci-
fication.

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, 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 assist-

ance of an expert, who shall be paid such remuneration as the law officer, with the consent of the Treasury, shall appoint.

Sealing of patent.

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.

(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 hereinafter mentioned, that is to say—

(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.

(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 the 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 extent of 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.

Amendment of Specification.

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.

(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) The foregoing provisions of this section do not apply when and so long as any action for infringement or other legal proceeding in relation to a patent is pending.

Power to disclaim part of invention during action, &c.

19. 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 Licences.

Power for Board to order grant of licences.

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 licences on reasonable terms—

(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 licences 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.

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 licences 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.

(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, licences, and any other documents affecting the proprietorship in any letters patent or in any licence thereunder, must be supplied to the Comptroller in the prescribed manner for filing in the Patent Office.

Fees.

Fees in schedule

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.

(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, pray-

ing 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 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.

(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.

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.

Delivery of
particulars.

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.

(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.

Order for inspection, &c., in action.

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 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 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 application in fraud of him.

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.

Assignment for particular places.

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.

Loss or destruction of patent.

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.

Proceedings and costs before law officer.

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.

Exhibition at industrial or international exhibition not to prejudice patent rights.

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 :—

- (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.

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.

Power to require models on payment.

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.

Foreign vessels in British waters.

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 connection with the manufacture or preparation of anything intended to be sold in or exported from the United Kingdom or Isle of Man.

(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.

Assignment to Secretary for War of certain inventions.

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 (hereinafter referred to as the Secretary of State), or 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.

(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 be 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.

Existing Patents.

Provisions
respecting exist-
ing 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.

(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 licences.

(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 Act concerning monopolies and dispensations with penal laws and the forfeiture thereof ’), and includes an alleged invention.

In Scotland ‘ injunction ’ means ‘ interdict.’

[Sections forty-seven to sixty-one relate exclusively to the Registration of Designs, and sections sixty-two to eighty-one exclusively to the Registration of Trade Marks.]

PART V.—GENERAL.

Patent Office and Proceedings thereat.

Patent Office.

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.

(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 com-

monument 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.

Officers and clerks.

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, 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, 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, in the register of patents. The person for the time being entered in the register of patents, as proprietor of a patent, shall, subject to any rights appearing from such register to be vested in any other person, have

power absolutely to assign, grant licences as to, or otherwise deal with, the same, and to give effectual receipts for any consideration for such assignment, licence, or dealing : Provided that any equities in respect of such patent may be enforced in like manner as in respect of any other personal property.

88. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject 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.

89. Printed or written copies or extracts, purporting to be certified by the Comptroller and sealed with the seal of the Patent Office, of 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.

90. (1) The Court may on the application of any person aggrieved by the omission without sufficient cause of the name of any person 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.

(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,—

(a) Correct any clerical error in or in connection with an application for a patent ; or

Inspection of
and extracts
from registers.

Sealed copies to
be received in
evidence.

Rectification of
registers by
court.

Power for Comptroller to correct errors.

- (b) Correct any clerical error in the name, style, or address of the registered proprietor of a patent.
- (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.

[Section 92 relates to the alteration of a registered trade mark.]

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, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

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 thereunder, 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.

Applications and notices by post.

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.

(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 excluded 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.

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.

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 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

Provision as to days for leaving documents at office.

Declaration by infant, lunatic, &c.

Transmission of certified printed copies of specifications, &c.

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—

(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 (*sic*), 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 hereinafter 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.

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.

International and Colonial Arrangements.

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, then any person who has applied for protection for any invention in any such state, shall be entitled to a patent for his invention under this Act, in priority to other applicants; and such patent shall have the same date as the date of the protection obtained in such foreign state.

Provided that his application is made, in the case of a patent within seven 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 to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification in this country, as the case may be.

Annual reports
of Comptroller.

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

(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, shall not invalidate the patent which may be granted for the invention.

(3) The application for the grant of a patent under this section, must be made in the same manner as an ordinary application 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.

Provision for
colonies and
India.

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, patented 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.

(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.

Penalty on
falsely repre-
senting articles
to be patented.

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, shall be liable for every offence on summary conviction to a fine not exceeding five pounds.

(2) A person shall be deemed, for the purposes of this enactment, to represent that an article is patented if he sells the article with the word 'patent,' 'patented,' or any word or words expressing or implying that a patent has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to, the article.

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 connection 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.

107. In any action for 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.

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

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.

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.

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

Penalty on unauthorised assumption of royal arms.

Saving for Courts in Scotland.

Summary proceedings in Scotland.

Proceedings for revocation of patent in Scotland.

Reservation of remedies in Ireland.

General saving for jurisdiction of courts.

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.

Isle of Man.

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

(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.

Repeal ; Transitional Provisions ; Savings.

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,

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

or any patent granted, 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

(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. 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.

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.

Saving for prerogative.

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.

General Definitions.

General definitions.

117. In and for the purposes of this Act, unless the context otherwise requires,—

‘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 hereinafter 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 possessions; 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.

SCHEDULES.

THE FIRST SCHEDULE.

FORMS OF APPLICATION, &c.

Section 6.

For the Forms A B and C the Patents Rules, 1883, have substituted the Forms A, A1, B and C. See pp. 379 to 382.

Section 33.

Form D.

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 *20 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 (hereinafter 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

licence, 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, licence, 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, or that the said patentee is not the first and true inventor thereof within this realm as aforesaid, these our letters patent shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained: Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these letters patent, or in respect of any matter relating thereto at the time or times, and in manner for the time being by law provided; and also if the said patentee shall not supply or cause to be supplied, for our service all such articles of the said invention as may be required by the officers or commissioners administering any department of our service in such manner, at such times, and at and

upon such reasonable prices and terms as shall be settled in manner for the time being by law provided, then, and in any of the said cases, these our letters patent, and all privileges and advantages whatever heroby granted shall determine and become void notwithstanding anything herobefore contained: Provided also that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted: And lastly, we do by these presents for us, our heirs and successors, grant unto the said patentee that these our letters patent shall be construed in the most beneficial sense for the advantage of the said patentee. In witness whereof we have caused these our letters to be made patent this
 one thousand eight hundred and _____ and to be sealed as
 of the _____ one thousand eight hundred
 and _____



Section 24.

THE SECOND SCHEDULE.

FEES.

For this schedule the First Schedule to the Patents Rules, 1888, has been substituted. See p. 876.

THE THIRD SCHEDULE.

ENACTMENTS REPEALED.

21 James I. c. 3. [1623.]	The Statute of Monopolies. In part; namely,— Sections ten, eleven, and twelve.
5 & 6 Will. IV. c. 62. [1835.] In part.	The Statutory Declarations Act, 1835. In part; namely,— Section eleven.
5 & 6 Will. IV. c. 83. [1835.]	An Act to amend the law touching letters patent for inventions.
2 & 3 Vict. c. 67. [1830.]	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.'
7 & 8 Vict. c. 69. (a) [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,— Sections two to five, both included.
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.

(a) NOTE.—Sections six and seven of this Act are repealed by the Statute Law Revision (No. 2) Act, 1874.

<p>16 & 17 Vict. c. 115. [1853.]</p>	<p>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.</p>
<p>22 Vict. c. 13. [1859.]</p>	<p>An Act to amend the law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war.</p>
<p>28 & 29 Vict. c. 3. [1865.]</p>	<p>The Industrial Exhibitions Act, 1865.</p>
<p>33 & 34 Vict. c. 27. [1870.]</p>	<p>The Protection of Inventions Act, 1870.</p>
<p>43 & 44 Vict. c. 10. [1880.]</p>	<p>The Great Seal Act, 1880. In part; namely,— Section five.</p>

RULES RELATING TO APPLICATIONS FOR PATENTS FOR INVENTIONS AND PROCEEDINGS THEREON, AND REGISTRATION OF PATENTS; WITH LIST OF FEES, AND RULES FOR APPEALS TO THE LAW OFFICERS.

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

Short Title.

Short title.

1. These Rules may be cited as the Patents Rules, 1883.

Commencement.

Commencement.

2. These Rules shall come into operation from and immediately after the 31st day of December 1883.

Interpretation.

Interpretation.

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

Fees.

Fees.

4. The fees to be paid under the above-mentioned Act, in addition to the fees mentioned in the Second Schedule thereto, so far as it relates to patents, shall be those specified in the list of fees in the First Schedule to these Rules.

Forms.

Forms.
Alterations.

5. The Forms A, B, and C in the First Schedule to the said Act shall be altered or amended by the substitution therefor respectively of the Forms A, A1, B, and C in the Second Schedule hereto.

Application.

6. (1) An application for a patent shall be made either in the Form A or the Form A1 set forth in the Second Schedule hereto, as the case may be.

Specification.

2. The Form B in such schedule of provisional specification and the Form C of complete specification shall respectively be used.

Other forms.

(3) The remaining forms set forth in such schedule may, as far as they are applicable, be used in any proceedings under these Rules.

General.

Hours of business.

7. The Patent Office shall be open to the public every week day during the hours of ten and four, except on the days and times following :—

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.

Agency.

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.

Statement of address.

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 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 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 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 two inches on the left-hand part thereof, 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 Comp-
troller.

Notice of
hearing.

Notice by
applicant.

11. Before exercising any discretionary power given to the Comptroller by the said Act adversely to the applicant for a patent or for amendment of a specification, the Comptroller shall give ten 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.

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 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.

Definition of
'applicant.'

15. The term 'applicant' in Rules 11, 12, and 13 shall include an applicant whose specification bears a title the same as or similar to that of the specification of a prior applicant, and has been reported on by the examiner.

Prior and
second appli-
cant may
attend hearing.

16. Such prior and second applicant respectively may attend the hearing of the question whether the invention comprised in both applications is the same, but neither party shall be at liberty to inspect the specification of the other.

Industrial or
International
Exhibitions.

17. 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 having obtained from the Board of Trade a certificate that the exhibition is an industrial or international one, give to the Comptroller seven days' notice of his intention to exhibit, publish, or use the invention, as the case may be.

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.

Power of amendment, &c.

18. Any document for the amending of which no special provision is made by the said Act 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.

Documents by post.

19. 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 respectively 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.

Affidavits.

20. Affidavits may, except where otherwise prescribed by these Rules, be used as evidence in any proceedings thereunder when sworn to in any of the following ways, viz. :—

- (1) In the United Kingdom before any person authorised to administer oaths in the Supreme Court of Judicature or before a justice of the peace for the county or place where it is sworn or made.
- (2) In any place in the British dominions out of the United Kingdom before any court, judge, or justice of the peace, or any person authorised to administer oaths there in any court.
- (3) In any place out of the British dominions before a British minister, or person exercising the functions of a British minister, or a British consul, vice-consul, or other person exercising the functions of a British consul, or a notary public, or before a judge or magistrate.

Statutory
declarations.

21. Where any statutory declaration proscribed by these Rules, or used in any proceedings thereunder, is made out of the United Kingdom, the words 'and by virtue of the Statutory Declarations Act, 1835,' must be omitted, and the declaration shall (unless the context otherwise requires) be made in the manner proscribed in Rule 20, subsection (3).

Application with Provisional or Complete Specification.

Order of record-
ing applications.

22. Applications for a patent sent by prepaid letter 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.

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.

Application for
separate patents
by way of
amendment.

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

Every such application shall bear the date of the first application, and shall, together therewith, be proceeded with in the manner proscribed by the said Act and by these Rules as if every such application had been originally made on that date for one invention only.

Application by
representative of
deceased
inventor.

24. 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.

Notice and
advertisement of
acceptance.

25. On the acceptance of an application with 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 speci-
fication.

26. Upon the publication of such advertisement of acceptance in the case of an application with a complete speci-

fication, 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.

27. An application for a patent for an invention communicated from abroad shall be made in the form A1 set forth in the Second Schedule hereto.¹

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

Size of drawings.

28. The drawings accompanying provisional or complete specifications shall be made upon half-sheets or sheets of imperial drawing paper, to be within a border line of 19 inches by 12 inches, or 27 inches by 19 inches, with a margin of $\frac{1}{2}$ an inch all round.

Copies of drawings.

29. A copy of the drawings will be required upon *rolled* imperial drawing paper or upon thin Bristol board of the same dimensions as the original drawing or drawings. All the lines must be absolutely black, Indian ink of the best quality to be used, and the same strength or colour of the ink maintained throughout the drawing. Any shading must be in lines clearly and distinctly drawn, and as open as is consistent with the required effect. Section lines should not be too closely drawn. No colour must be used for any purpose upon the copy of the drawings. All letters and figures of reference must be bold and distinct. The border line should be one fine line only. The drawings must not be folded, but must be delivered at the Patent Office either in a perfectly flat state, or rolled upon a roller so as to be free from creases or breaks²

30. Where a complete specification is left at the Patent Office after a provisional specification has been accepted, the complete specification and drawing or drawings accompanying

¹ The Patent Office has recently given notice that applicants using Form A1, must be resident in the United Kingdom.

² As the drawings accompanying the provisional and complete specification respectively are copied at the Patent Office for publication by the process of photo-lithography, this rule must be strictly observed in order that correct copies may be made.

the same, as well as the copy thereof, must be prepared in accordance with Rules 10, 28, and 29.

Illustrated Journal.

Additional drawing to be furnished.

31. Every applicant for the grant of a patent shall, in addition to the drawings to be furnished with his complete specification, furnish the Comptroller with a drawing illustrative of the feature or features of novelty constituting his invention. Such drawing must be prepared in the manner prescribed for the copy of the original drawing or drawings accompanying the specification, but must not cover a space exceeding 16 square inches. The drawing must be accompanied by a concise explanatory statement on foolscap paper, and legibly written or printed.¹

Opposition to Grants of Patents.

Notice of opposition.

32. A notice of opposition to the grant of a patent shall state the ground or grounds on which the person giving such notice (hereinafter called the opponent) intends to oppose the grant, and shall be signed by him. Such notice shall state his address for service in the United Kingdom.

Copy for applicant.

33. On receipt of such notice a copy thereof shall be furnished by the Comptroller to the applicant.

Particulars of prior patent.

34. 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 title, number, and date of the patent granted in such prior application shall be specified in the notice.

Opponent's evidence.

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

Applicant's evidence.

36. Within 14 days from the delivery of such list the applicant shall leave at the Patent Office statutory declarations in answer, and deliver to the opponent a list thereof, and within seven days from such delivery the opponent shall leave at the Patent Office his statutory declarations in reply,

Evidence in reply.

¹ The office now dispense with the concise explanatory statement.

and deliver to the applicant a list thereof. Such last-mentioned declarations shall be confined to matters strictly 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.

Closing of evidence.

37. 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 made to him for that purpose.

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

Notice of hearing.

39. On the completion of the evidence the Comptroller shall appoint a time for the hearing of the case, and shall give to the parties seven days' notice at the least of such appointment.

Disallowance of opposition in certain cases.

40. 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 title, number, and date of the patent granted on such prior application shall have been duly specified in the notice of opposition.

Decision to be notified to parties.

41. The decision of the Comptroller in the case shall be notified by him to the parties.

Certificates of Payment or Renewal.

Payment of fees of 50*l.* and 100*l.* for continuance of patent.

42. If a patentee intends at the expiration of the fourth or eighth year from the date of his patent to make the prescribed payment for keeping the same in force, he shall, seven days at least before such expiration, give notice to the Comptroller of such intention, and shall, before the expiration of such fourth or eighth year, as the case may be, leave at the Patent Office a form of certificate of payment, duly stamped, subject as hereinafter provided, with the prescribed fee of 50*l.* or 100*l.* as the case may be.

As to patents granted before commencement of Act.

43. In the case of patents granted before the commencement of the said Act, the above Rule shall be read as if the words 'seventh year' were therein written instead of the words 'eighth year.'

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

44. If the patentee intends to pay annual fees in lieu of the above-mentioned fees of 50*l.* and 100*l.*, he shall, seven days at least before the expiration of the fourth and each succeeding year during the term of the patent, until and inclusive of the thirteenth year thereof, give notice to the Comptroller of such intention, and shall, before the expiration of such respective periods as aforesaid, leave at the Patent Office a form of certificate of payment, duly stamped with the fee prescribed to be paid at such periods respectively.

Certificate payment.

45. 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 give to the patentee a certificate that the prescribed payment has been duly made.

Enlargement of Time.

Enlargement of time for payments.

46. 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.

In other cases.

47. 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.

Amendment of Specification.

Request for leave to amend.

48. A request for leave to amend a specification shall be signed by the applicant or patentee and accompanied by a copy of the original specification and drawings, showing in red ink the proposed amendment, and shall be advertised by pub-

Advertisement.

lication 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.

Notice of opposition.

49. A notice of opposition to the amendment shall state the ground or grounds on which the person giving such notice (hereinafter called the opponent) intends to oppose the amendment, and shall be signed by him. Such notice shall state his address for service in the United Kingdom.

Copy for the applicant.

50. On receipt of such notice a copy thereof shall be furnished by the Comptroller to the applicant or patentee, as the case may be (hereinafter called the applicant).

Opponent's evidence.

51. Within 14 days after the expiration of one month from the first advertisement of the application for leave to amend, the opponent shall leave at the Patent Office statutory declarations in support of his opposition, and deliver to the applicant a list thereof.

Further proceedings.

52. Upon such declarations being left, and such list being delivered, the provisions of Rules 36, 37, 38, and 39 shall apply to the case, and the further proceedings therein shall be regulated in accordance with such provisions as if they were here repeated.

Decision to be notified to parties.

53. The decision of the Comptroller in the case shall be notified by him to the parties.

Requirements thereon.

54. 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, 28, and 29.

Leave by order of Court.

55. 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.

Advertisement of amendment.

56. 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 Licences.

Petition for compulsory grant of licence.

57. A petition to the Board of Trade for an order upon a patentee to grant a licence 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.

To be left with evidence at Patent Office.

58. 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.

Directions as to further proceedings unless petition refused.

59. 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.

60. 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.

61. 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.

Evidence in reply.

62. 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 petitioner; such last-mentioned affidavits or declarations shall be confined to matters strictly in reply.

Further proceedings.

63. 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 ac-

cordance 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.

64. 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.

Request for entry of subsequent proprietorship.

65. 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.

Signature of request.

66. 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.

Particulars to be stated in request.

67. 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 (hereinafter 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.

Production of documents of title and other proof.

68. 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.

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.

Copies for
Patent Office.

69. There shall also be left with the request an examined copy of the assignment or other document above required to be produced.

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 examined copy.

Body corporate.

70. A body corporate may be registered as proprietor by its corporate name.

Entry of
Orders of the
Privy Council or
of the Court.

71. 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, 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 said Act, or otherwise affecting the validity or proprietorship of the patent, the person in 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 pay-
ment of fees on
issue of cer-
tificate.

72. Upon the issue of a certificate of payment under Rule 45, 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.

73. 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
licences.

74. An examined copy of every licence 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 licence shall at the same time be produced and left at the Patent Office if required for further verification.

Hours of
inspection of
register.

75. 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 at 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.

76. 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.

Power to dispense with Evidence, &c.

77. 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 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.

Repeal.

78. All general rules made by the Lord Chancellor, or by any other authority, under the Patent Law Amendment Acts, and in force on the 31st day of December 1883, shall be and they are hereby repealed as from that date, without prejudice, nevertheless, to any application then pending.

Dated the 21st day of December 1883.

(Signed) J. CHAMBERLAIN,
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 Act, he shall within 14 days from the date of the decision appealed against file in the Patent Office a notice of such his intention.

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 officer's 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 transmit to the law officer's 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 officer's 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.

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.

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 officer's clerk, under these Rules, may be sent by a prepaid letter through the post.

HENRY JAMES, A.G.

FARRER HERSCHELL, S.G.

*FIRST SCHEDULE.*LIST OF FEES PAYABLE ON AND IN CONNECTION WITH LETTERS
PATENT.*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 licence. By person applying				5	0	0
13. On opposition to grant of compulsory licence. By patentee				5	0	0
<hr/>						
14. On certificate of renewal:—						
Before end of 4 years from date of patent				50	0	0
15. Before end of 7 years, or in the case of patents granted under the 'Patents, Designs, and Trade Marks Act, 1883,' before the end of 8 years from the date of patent				100	0	0

or in lieu of the fees of 50*l.* and 100*l.*, the following annual fees:—

		£	s.	d.
16.	Before the expiration of the	4th year	{ from the date	. 10 0 0
			{ of the patent }	
17.	"	5th "	" "	. 10 0 0
18.	"	6th "	" "	. 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, licence, 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	. . . . .	0 5 0
37.	For certificate of comptroller under section 96	. . . . .	0 5 0
38.	For altering address in register	. . . . .	0 5 0

(Signed) **J. CHAMBERLAIN,**
President of the Board of Trade.

21st December 1883.

Approved:

(Signed) **CHARLES C. COTES,**
HERBERT J. GLADSTONE.
Lords Commissioners of
Her Majesty's Treasury

4th December 1883.

*THE SECOND SCHEDULE.***FORMS.**

	PAGE
A. Form of Application for Patent	370
A1. " " communicated from abroad	380
B. " Provisional Specification	381
C. " Complete "	382
D. " Opposition to Grant of Patent	383
E. " Application for hearing by Comptroller	383
F. " " to amend Specification or Drawings	384
G. " Opposition to Amendment of Specification or Drawings	384
H. " Application for Compulsory Grant of Licence	385
H1. " Petition for Compulsory Grant of Licences	386
I. " Opposition to Compulsory Grant of Licence	387
J. " Application for Certificate of Payment or Re- newal	388
K. " Application for enlargement of Time for Pay- ment of Renewal Fee	389
L. " Request to enter Name upon the Register of Patents	390
M. " Request to enter Notification of Licence in Register	391
N. " Application for Duplicate of Letters Patent	391
O. " Notice of Intended Exhibition of Unpatented Invention	392
P. " Request for Correction of Clerical Error	392
Q. " Certificate of Comptroller	393
R. " Notice for Alteration of an Address in Register	393
S. " Application for Entry of Order of Privy Council in Register	394
T. " Appeal to Law Officer	394

PATENT.

Form A.

APPLICATION FOR PATENT.

(a) Here insert name, full address, and calling of applicant or applicants.

(b) Here insert title of invention.

(c) Signature of applicant or applicants.

(d) If declared by more than one applicant and at different times or places, insert after 'Declared' the words 'by the above-named.'

(e) Signature and title of the person before whom the declaration is made.

(f) If not required as in note (d), strike out part within brackets.

(a) _____, do solemnly and sincerely declare that _____ in possession of an invention for (b) _____ that _____ the true and first inventor _____ 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 _____ for the said invention.

And _____ make the above solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

(c)

Declared at (d) _____ in the _____
 this _____ day of _____ 18 .
 Before me,
 (e)

[Declared at (d) _____ in the _____
 this _____ day of _____ 18 .
 Before me,
 (e)]

(f)]

NOTE.—Where the above declaration is made out of the United Kingdom, the words 'and by virtue of the Statutory Declarations Act, 1835,' must be omitted, and the declaration must be made before a British Consular Officer, or where it is not reasonably practicable to make it before such officer, then before a public officer duly authorised in that behalf.

PATENT.

Form A1.

APPLICATION FOR PATENT FOR INVENTIONS COMMUNICATED FROM ABROAD.

(a) Here insert name, full address, and calling of applicant.

(b) Here insert title of invention.

(c) Here insert name, address, and calling of communicant.

I (a) _____ of _____ in the
county of _____ do solemnly and sincerely declare that I
am in possession of an invention for (b)

which invention has been communicated to me from abroad by (c)

that I claim to be the true and first
inventor thereof: and that the same is not in use within this realm
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.

And I make the above solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

(d) Signature of applicant.

(d)

Declared at _____ in the county of _____
this _____ day of _____ 18 .

(e) Signature and title of the officer before whom the declaration is made.

Before me,
(e)

NOTE.—Where the above declaration is made out of the United Kingdom the words ‘and by virtue of the Statutory Declarations Act, 1835,’ must be omitted, and the declaration must be made before a British Consular Officer, or where it is not reasonably practicable to make it before such officer, then before a public officer duly authorised in that behalf.

To be issued with Form A or A1.

Form B.

PROVISIONAL SPECIFICATION.

(To be furnished in Duplicate.)

(a) Here insert
title as in
declaration. **(a)**

(b) Here insert
name, full ad-
dress, and calling
of applicant or
applicants, as in
declaration. **(b)**

do hereby declare the nature of said invention for

(c) Here insert
short description
of invention. to be as follows **(c)** :

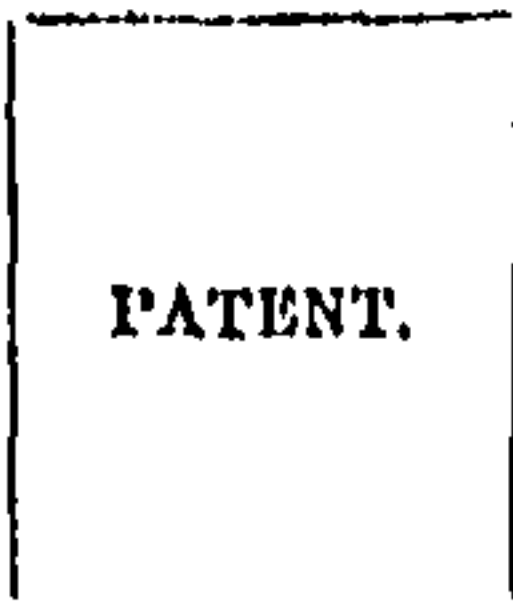
NOTE.—No stamp is required on this document, which must form the commencement of the Provisional Specification; the continuation to be upon wide-ruled foolscap paper (but on side only) with a margin of two inches on left hand of paper. The Provisional Specification and the 'Duplicate' thereof must be signed by the applicant or his agent on the last sheet, the date being first inserted as follows:—

' Dated this day of 18 . '

Form C.

COMPLETE SPECIFICATION.

(To be furnished in Duplicate—one unstamped.)



(a) Here insert
title, as in
declaration. (a)

(b) Here insert
name, full ad-
dress, and calling
of applicant or
applicants, as in
declaration. (b)

do hereby declare the nature of invention for

and in what manner the same is to be performed, to be particu-
larly 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:*
'Having now
particularly
described and
ascertained the
nature of my said
invention, and in
what manner the
same is to be per-
formed, I declare
that what I claim
is—

(1)
(2)
(3)
Here state
distinctly the
features of
novelty claimed.

(c) :—

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 two inches
on left hand of paper. The complete Specification and the 'Dupli-
cate' 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 .'

PATENT.

Form D.

FORM OF OPPOSITION TO GRANT OF PATENT.

[To be accompanied by an unstamped copy.]

* Here insert 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 †

(Signed) †

‡ Here insert signature of opponent or agent.

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

PATENT.

Form E.

FORM OF APPLICATION FOR HEARING BY THE COMPTROLLER.

IN CASES OF REFUSAL TO ACCEPT, OPPOSITION, OR APPLICATIONS FOR AMENDMENTS, ETC.

(a) Here insert full address.

Sir,
 _____ of (a)
 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.*

PATENT.

Form F.

**FORM OF APPLICATION FOR AMENDMENT OF SPECIFICATION
OR DRAWINGS.**

* Here state name and full address of applicant or patentee.

seek leave to amend the specification of Letters Patent No. of 188 , as shown in red ink in the copy of the original specification hereunto annexed.

† Here state reasons for seeking amendment; and where the applicant is not the patentee, state what interest he possesses in the letters patent.

My reasons for making this amendment are as follows: †

(Signed)

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

PATENT.

Form G.

**FORM OF OPPOSITION TO AMENDMENT OF SPECIFICATION
OR DRAWINGS.**

[To be accompanied by an unstamped copy.]

* 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.*

Form II.**FORM OF APPLICATION FOR COMPULSORY GRANT OF LICENCE.**

[To be accompanied by an unstamped copy.]

PATENT.

* Here state name and full address of applicant.

† Here state name and address 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 licence 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.*

Form H1.

FORM OF PETITION FOR COMPULSORY GRANT OF LICENCES.

To the Lords of the Committee of Privy Council for Trade.

(a) Here insert name, full address, and description.

(b) Here insert title of invention.

(c) Here state fully the nature of petitioner's interest.

(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 licences 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.

(e) Here state the ground or grounds on which relief is claimed in the language of section 22, subsection (a), (b), or (c), as the case may be.

(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.

THE PETITION of (a) _____ of _____ in the county of _____, being a person interested in the matter of this petition as hereinafter described:—

SHEWETH as follows:—

1. A patent dated _____ No. _____ was duly granted to _____ for an invention of (b)
2. The nature of my interest in the matter of this petition is as follows:—(c)

3. (d)

Having regard to the circumstances above stated, the petitioner alleges that by reason of the aforesaid default of the patentee to grant licences on reasonable terms (c)

Your petitioner therefore prays that an order may be made by the Board of Trade (f)

or that the petitioner may have such other relief in the premises as the Board of Trade may deem just.



Form I.

FORM OF OPPOSITION TO COMPULSORY GRANT OF LICENCE.

• Here state
name and full
address.

•
heroby give notice of objection to the application of

for the compulsory grant of a licence under Patent No.

of 188 .

(Signed)

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

Form J.**APPLICATION FOR CERTIFICATE OF PAYMENT OR RENEWAL.**

hereby transmit the fee prescribed for the continua-
tion in force of Patent No. _____, of 18
for a further period of _____.

* Here insert
name and full
address of
patentee or his
agent.

Name *

Address

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

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
remain in force.*

* See section
17 of the Patents,
Designs, and
Trade Marks
Act, 1883.

Seal.

Patent Office, London.

PATENT.

Form L.

FORM OF REQUEST TO ENTER NAME UPON THE REGISTER OF PATENTS, AND OF DECLARATIONS IN SUPPORT THEREOF.

(a) Or We.
Here insert name, full address, and description.

I (a),

(b) My or our.
(c) Or names.

hereby request that you will enter (b) Register of Patents:—

name (c) in the

(d) I or we.
(e) Here insert the nature of the claim.

(d) claim to be entitled (e)

(f) Here give name and address, &c., of Patentee or Patentees.

of the Patent No. of 188 , granted to (f)

(g) Here insert title of the invention.

for (g)

(h) Here specify the particulars of such document, giving its date, and the parties to the same, and showing 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 examined copy thereof (j)

(j) Where any document which is a matter of record is required to be left, a certified or official copy in lieu of an examined copy must be left.

I am,
Sir,
Your obedient Servant,

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

PATENT.

Form M.

FORM OF REQUEST TO ENTER NOTIFICATION OF LICENCE IN THE REGISTER OF PATENTS.

SIR,

I HEREBY transmit an examined copy of a licence granted to me by
 under Patent No. of 188 , as well as the original licence 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.*

PATENT.

Form N.

APPLICATION FOR DUPLICATE OF PATENT.

Date

SIR,

I REGRET to have to inform you that the Letters Patent, dated * No. granted to

for an invention of †
 have been ‡

I beg therefore to apply for the issue of a duplicate of such Letters Patent.§

[Signature of Applicant.]

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

[* Here insert date, No., name, and full address of Patentee.]

[† Here insert title of invention.]

[‡ Here insert the word 'destroyed' or 'lost,' as the case may be.]

[§ Here state interest possessed by applicant in the Letters Patent.]



* Here state name and full address of applicant.

† State 'opened' or 'is to open.'

‡ Insert brief description of invention, with drawings if necessary.

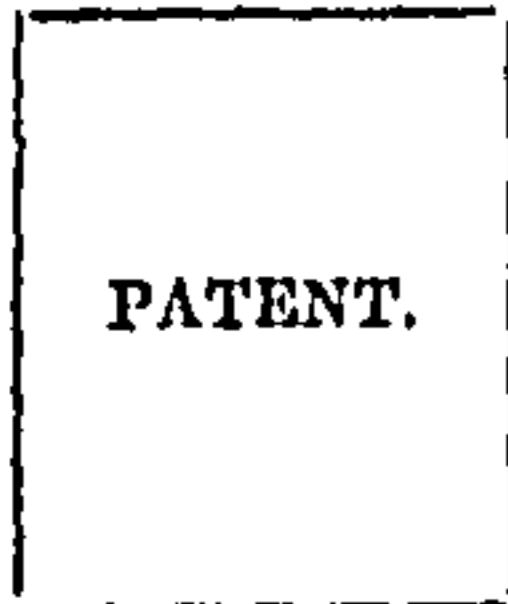
Form O.

NOTICE OF INTENDED EXHIBITION OF AN UNPATENTED INVENTION.

•
 I hereby give notice of my intention to exhibit a
 of _____ at the
 Exhibition, which † _____ of _____ 18 _____, under
 the provisions of the Patents, Designs, and Trade Marks Act of
 1883.

‡ _____ herewith enclose
 _____ (Signed)

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



(a) or errors.
 (b) Here state whether in application, specification, or register.

Form P.

FORM OF REQUEST FOR CORRECTION OF CLERICAL ERROR.

SIR,

I HEREBY request that the following clerical error (a) may be corrected in (b)

Signature
 Full Address

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

PATENT.

Form Q.

CERTIFICATE OF COMPTROLLER-GENERAL.

Patent Office,
London,

188 .

I, _____, Comptroller-General of Patents,
Designs, and Trade Marks, hereby certify

PATENT.

Form R.

FORM OF NOTICE FOR ALTERATION OF AN ADDRESS IN
REGISTER.

SIR,
(a)

(a) Here state
name or names
and full address
of applicant or
applicants.

hereby request that _____ address now upon the Register may be
altered as follows :—

(b) Here insert
full address. (b)

Sir,
Your obedient Servant,

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

PATENT.

Form S.

FORM OF APPLICATION FOR ENTRY OF ORDER OF PRIVY COUNCIL IN REGISTER.

(a) Here state name and full address of applicant.

(b) Here state the purport of the order.

(a)

hereby transmit an office copy of an Order in Council with reference to (b)

Sir,
Your obedient Servant,

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

PATENT.

Form T.

FORM OF APPEAL TO LAW OFFICER.

(a) Here insert name and full address of appellant.

(b) Here insert 'the decision' or 'that part of the decision,' as the case may be.

(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.

(d) Insert number and year.

I, (a) of (a) hereby give notice of my intention to appeal to the Law Officer from (b)

of the Comptroller of the day of 188 , whereby he (c)

No. (d) of the year 188 (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.

21st December 1883.

(Signed) J. CHAMBERLAIN,
President of the Board of Trade.

PRIVY COUNCIL.

*RULES IN PATENT CASES BEFORE THE
JUDICIAL COMMITTEE.*

RULES TO BE OBSERVED IN PROCEEDINGS BEFORE THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL UNDER THE ACT OF THE 5TH & 6TH WM. IV.¹

Rule I.—Relates to proceedings for the confirmation of patents under the second section of the repealed Statute, which has not been reenacted.

Rule II.—A party intending to apply by petition, under section 4 of the said Act (sect. 25 of Patents Act, 1883) shall, in the advertisements directed to be published by the said section, give notice of the day on which he intends to apply for a time to be fixed for hearing the matter of his petition (which day shall not be less than four weeks from the date of the publication of the last of the advertisements to be inserted in the 'London Gazette'), and that on or before such day caveats must be entered; and any person intending to enter a caveat shall enter the same at the Council Office, on or before such day so named in the said advertisements; and having entered such caveat, shall be entitled to have from the petitioner four weeks' notice of the time appointed for the hearing.²

¹ Although this Act is repealed, these Rules are continued in force by the sixth subsection of the twenty-fifth section of the Patent Act of 1883, until her Majesty in Council shall be pleased to issue new rules.

² The fourth section of the 5 and 6 Wm. IV. c. 83 required the applicant to advertise his intention to apply for a prolongation three times in the London Gazette and in three London papers and three times in some country paper published in the town where or near to which he carried on any manufacture of anything made accord-

Rule III.—Petitions under section 4 of the said Act (sect. 25 of Patents Act, 1883) must be presented within one week from the insertion of the last of the advertisements required to be published in the 'London Gazette.'

Rule IV.—All petitions must be accompanied with affidavits of advertisements having been inserted according to the provisions of section 4 of the said Act (sect. 25 subs. 1 of Patents Act, 1883) and the 1st and 2nd of these Rules, and the matters in such affidavits may be disputed by the parties opposing upon the hearing of the petitions.

Rule V.—All persons entering caveats under section 4 of the said Act (sect. 25 subs. 2 of Patents Act, 1883) and all parties to any former suit or action touching letters patent, in respect of which petitions shall have been presented under section 2 of the said Act, and all persons lodging notices of opposition under the 1st of these Rules, shall respectively be entitled to be served with copies of petitions presented under the said sections, and no application to fix a time for hearing shall be made without affidavit of such service.

Rule VI.—All parties served with petitions shall lodge at the Council Office, within a fortnight after such service, notice of the grounds of their objections to the granting of the prayers of such petitions.

Rule VII.—Parties may have copies of all papers lodged in respect of any application under the said Act, at their own expense.

Rule VIII.—The Registrar of the Privy Council, or other officer to whom it may be referred to tax the costs incurred in the matter of any petition presented under the said Act, shall allow or disallow, in his discretion, all payments made to persons of science or skill examined as witnesses to matters of opinion chiefly.

ing to his specification, or near to or in which he resided in case he carried on no such manufacture, or published in the county where he carried on such manufacture or where he lived in case there should not be any paper published in such town.

In *Derosne's Patent* (4 Moo. P. C. 416 S. C. 2 W. P. C. 2) it was held that when the petitioner resided abroad and had no manufactory in England, he would sufficiently comply with these directions if he inserted advertisements in the newspapers published in the towns or county where his licensees were resident.

Rule IX.—A party applying for an extension of a patent, under section 4 of the said Act (sect. 25 of Patents Act, 1888) must lodge at the Council Office six printed copies of the specification, and also four copies of the balance-sheet of expenditure and receipts relating to the patent in question, which accounts are to be proved on oath before the Lords of the Committee at the hearing. In the event of the applicant's specification not having been printed, and if the expense of making six copies of any drawing therein contained or referred to would be considerable, the lodging of two copies only of such specification and drawing will be deemed sufficient.

All copies mentioned in this Rule must be lodged not less than one week before the day fixed for hearing the application.

The Judicial Committee will hear the Attorney-General, or other Counsel, on behalf of the Crown, against granting any application made under either the second or fourth section of the said Act (sect. 25 of Patents Act, 1888) in case it shall be thought fit to oppose the same on such behalf.

APPENDIX.

PART II.

PATENT LAWS OF FOREIGN COUNTRIES.

AMERICA, U.S. OF.	JAPAN.
ARGENTINE REPUBLIC.	LUXEMBURG.
AUSTRIA.	MEXICO.
BELGIUM.	NICARAGUA.
BRAZIL.	NORWAY.
CHILE.	PARAGUAY.
COLOMBIA.	PORTUGAL.
DENMARK.	RUSSIA AND FINLAND.
FINLAND.	SAN SALVADOR.
FRANCE.	SPAIN.
GERMANY.	SWEDEN.
GUATEMALA.	SWITZERLAND.
HOLLAND.	TURKEY.
ITALY.	VENEZUELA.

PATENT LAWS OF BRITISH COLONIES.

AUSTRALIAN COLONIES.

NEW SOUTH WALES.	SOUTH AUSTRALIA.
NEW ZEALAND.	TASMANIA.
QUEENSLAND.	VICTORIA.
WESTERN AUSTRALIA.	
BRITISH GUIANA.	JAMAICA.
BRITISH HONDURAS.	LEEWARD ISLANDS
CANADA.	MAURITIUS.
CAPE OF GOOD HOPE.	NATAL.
CEYLON.	NEWFOUNDLAND.
HONGKONG.	ST. HELENA.
INDIA.	STRAITS SETTLEMENTS.
TRINIDAD.	

PART III.

INTERNATIONAL CONVENTION

PART II.

FOREIGN PATENTS.

THE field for enterprise in this respect is so large, that it behoves the inventor, who is not satisfied with the protection afforded him at home, to consider well the countries in which his invention is likely to come into use, and also his own personal prospects of pushing his invention abroad.

It is well known that a very large sum of money is annually spent upon foreign patents without the slightest return; and this arises, not so much from the fact that the inventions patented abroad are not of value or suited to the requirements of the countries in which they are patented, but that the inventors having once obtained patents, do not attend to the requirements of the several states as to the acts to be done and duties paid, and do not take the trouble to obtain a commercial introduction of their inventions, but seem to think, contrary to general experience, that nothing more than the possession of the patent is requisite for the purpose of obtaining a return for the invention.

There are many rules with respect to foreign patents which differ from our British regulations: for instance, it is nearly universally necessary that the inventor should himself apply for the patent, and that the inventions patented should be put into practice within a certain definite period from the grant, and should continue in use year by year during the term. Annual and other duties have to be paid, and in some states the patented articles must be made in the country itself, and cannot be imported. It should also be borne in mind that in many foreign states publication at home is a bar to obtaining a patent afterwards; also that the patent

for an imported invention expires with the determination of the grant in that country from which the invention has been imported.

The recent International Convention on patents is printed on page 462 of this appendix, and it will be found to make the following important alterations as to patents taken out by subjects of the several States who are parties to it. First, that the subjects of the several States enjoy in all other States the advantages that their respective laws grant to them as subjects. Second, any person who has registered an application for a patent in any one of the States enjoys a right of priority protecting the first patentee against any acts accomplished in the interval, for a term of six months, a month longer being allowed for countries beyond the sea. Third, the introduction by the patentee into the country where the patent has been granted of objects manufactured in any of the other States does not entail forfeiture, but the patentee must work his patent in conformity with the laws of the country into which he introduces the patented object. Fourth, the several States agree to grant temporary protection to patentable inventions for articles appearing at officially recognised International Exhibitions.

The following summaries of Foreign Patent Laws have been carefully revised by patent agents and lawyers practising in the respective States.

UNITED STATES OF AMERICA.

The existing laws of patents in the United States, comprising various Acts of Congress passed from time to time, have been collected and embodied in the Revised Statutes, approved June 4, 1874. There is now no difference in fees paid by citizens and foreigners.

Probably in no country in the world are the rights of inventors more cherished than in the United States, and the number of patents issued there annually far exceeds that granted in any other country.

The facilities for obtaining patents have been largely increased of late years, and no application for an invention

possessing any features of novelty and utility is refused, if perseveringly and skilfully prosecuted.

The following particulars will be found, we believe, to give all the information an inventor can require as to the patent laws in the United States:—

Every original and first inventor, whether native or foreign, may obtain a patent for his invention, provided only it has not been in public use or on sale in the United States for more than two years previously to his application. The application must be in the name of and executed by, the inventor himself, and must be confined strictly to a single invention.

Patentable invention includes new and useful arts, new machines and implements, new chemical compounds, and new manufactures, but mere applications involving no new results cannot be patented.

By executing and recording in the Patent Office an assignment, the patent may be issued to an assignee.

The petition to the Commissioner of Patents must be accompanied by the first fee of 15 dollars, a specification fully explaining the nature of the invention and the best mode contemplated of carrying the same into effect; drawings, if the invention be susceptible of such illustration, and on oath in the prescribed form. The requirement of a model is now practically abolished, being only insisted on in cases where, by reason of its complicated nature, the invention cannot be understood without such aid.

The prosecution of cases before the United States Patent Office is conducted under a complex system of rules, constantly revised by the Secretary of the Interior and Commissioner of Patents, which renders such prosecution difficult and uncertain, and requires the exercise of great care and skill on the part of applicants and their attorneys.

In the order of their filing applications are taken up for examination by one of a corps of twenty-five skilled examiners, each of whom has under him four assistants and a number of clerks. Precedence is given to applications for inventions that have been patented abroad.

A thorough investigation is then conducted to ascertain

the novelty of the invention claimed, the search extending through domestic and foreign patents, and the scientific and industrial publications of different countries bearing on the invention under examination.

If the invention is found to be wholly or partly wanting in novelty, or if the application includes more than one invention, or if any formal defects are discovered, the application is rejected, the reasons therefor being clearly pointed out.

The application may be again presented, either with or without amendment, and a reconsideration obtained. If the applicant is dissatisfied with the final action of the examiner he may appeal upon the points of disagreement to the Board of Examiners-in-Chief. From their decision appeal lies to the Commissioner of Patents in person, and from his to the supreme court of the district of Columbia. For such appeals additional fees are required.

It often happens that two or more applicants before the Patent Office claim the same invention, or that an applicant claims to be the prior inventor of a thing already patented to another. In such case the commissioner declares an interference, which is a proceeding (somewhat analogous to a suit in chancery) to determine which of the rival claimants is in law the prior inventor of the thing in dispute. This question is determined, from proofs taken in writing, in the first instance by the Examiner of Interferences. Appeals may be taken the same as in uncontested cases, except that no appeal lies to the supreme court of the district.

Provision is made by law for the reissue of a patent in case of an insufficient or defective specification, or where the patentee has claimed more than is new. Owing to abuse of this privilege, whereby patents have been unduly expanded and made to cover different inventions from that originally patented, the courts have of late years been very severe in dealing with reissued patents, invariably declaring invalid all those that appear to have been unwarrantably broadened in scope. For this reason reissues are now looked upon with distrust and disfavour, and it becomes of great importance to the inventor that his patent should be taken out in the first

instance in such shape as to fully protect the invention, thus avoiding the necessity of a reissue.

The protection afforded by caveats is now generally regarded as of little importance, and is seldom sought. The protection was practically only open to citizens.

All patents are issued for a term of seventeen years, unless the invention has been previously patented abroad, in which case the patent is limited to expire with the foreign patent, or if there be more than one, with that having the shortest term. Under this provision an inventor suffers great disadvantage by delaying his United States application. The practice prevails in America, when an invention is to be patented in several countries, to first file the United States application and prosecute it to allowance. The day for issue of the patent can then be definitely fixed, and the patents in other countries are so obtained as to bear the same date with the United States patent. By this simultaneous issue the inventor may enjoy the full term of all his patents. This course of proceeding is not, however, possible in the case of foreign inventors where the inventor naturally applies for the home patent as being of most consequence to him in the first instance.

Upon allowance of a patent the final fee of 20 dollars must be paid.

Applications not prosecuted for two years become abandoned.

No prolongations of patents can be obtained except by special Act of Congress. Improvements upon the original invention must be protected by new patents.

After issue of the patent there are no further taxes required, and no conditions imposed upon the inventor as to working of his invention, &c.

As the novelty of a patented invention has been established by the Commissioner of Patents after a searching investigation, the presumption of law is that the patent is valid, and the courts will so construe it as to sustain it if possible.

Patents will, however, be declared void—

1. If the specification was made misleading for the purpose of deceiving the public.

2. If the thing patented were really the invention of another than the patentee.

3. If the invention had been patented or described in a printed publication before the invention of the patentee.

4. If the invention had been in public use or on sale in the United States for more than two years previously to the filing of the application.

ARGENTINE REPUBLIC.

This republic has established a Patent Office on the model of that of the United States, by a law dated October 11, 1864.

Patents are granted for terms of five, ten, or fifteen years for all new and useful inventions and discoveries excepting pharmaceutical compositions, providing that such inventions or discoveries have not been previously published.

The Government fees on a patent are 80, 200, or 350 piastres (*pesos fuertes*), according to its term (in addition to sundry petty stamp duties), one-half of which amount has to be paid at the time of the application, and the remainder by yearly payments for which the inventor must give a guarantee.

Certificates of addition or improvement are also granted both to the original patentee and to others. In the former case one-fourth of the fees required for an original patent have to be paid, and in the latter case one-half of the said fees.

Provisional patents are also granted for one year, the payment for which is 50 piastres. These patents are renewable at the expiration of each year.

Applications for patents are to refer to a single chief object with its accessories and applications.

Patents may be assigned. A patent is invalid if the drawing or specification is incorrect or incomplete. It also becomes void if not worked within two years from the date of issue, or if the working has been interrupted for a similar period, except by circumstances beyond control or accident. In either case no special judicial decree is required to render the patent null and void.

Proceedings may be taken for infringement.

AUSTRIA.

The patent law of this empire was remodelled by an imperial decree, dated August 15, 1852, which established the following regulations throughout the empire:—

Patents are not allowed for alimentary preparations, beverages, and medicines, nor for discoveries, inventions, or improvements which are contrary to public health, public welfare, morality, or the interest of the state. Scientific principles or purely scientific theories cannot be patented. With these exceptions, patents are granted for every new discovery, invention, or improvement, having for its object (a) a new industrial product, (b) a new means of producing, or (c) a new method of producing—that is to say, new within the empire.

An invention is deemed new when, up to the moment the patent was applied for, the same had not been put into operation, or been made public in the empire.

Foreigners, as well as Austrian subjects, may be patentees; but with regard to inventions made by foreigners not resident in Austria, patents are only granted when a patent has been obtained in a foreign country for the same object, and then only to the original patentee, or his legal assignee, during the term of his foreign patent.

Two or more inventions cannot be included in a single patent, unless they refer to the same subject-matter, as essential parts of it.

The petition for a patent may be made either by the inventor, if he is a resident of the empire, or by his legal attorney. Foreigners not residing must have a legal attorney. It must state the exact title of the invention, and the number of years for which it is desired the patent should last. The maximum duration of a patent is fifteen years, which length of time cannot be exceeded except by special imperial authority.

The amount of Government tax is as follows:—For the first five years, $26\frac{1}{4}$ florins a year; sixth year, 40 florins; seventh year, 46 florins; eighth year, $52\frac{1}{2}$ florins; ninth year, 60 florins; tenth year, 66 florins; eleventh year, 79 florins;

twelfth year, 92 florins; thirteenth year, 105 florins; fourteenth year, 119 florins; fifteenth year, 132 florins; or for the entire fifteen years 918 florins (92*l.*). In addition to these taxes there are also stamps upon petitions upon each sheet of the specification, drawings, &c., payable upon patents. Previously to, or at the time of lodging the petition, the tax must be paid for the entire number of years for which the patent is applied for.

A description must accompany the petition, and this must contain a full, clear, and minute explanation of the invention and claims, so as to enable all competent persons to manufacture the article according to that specification; if drawings, samples, or models are required for the full comprehension of the description, they must be supplied.

A patentee is entitled to establish workshops or factories, to employ the workpeople he may find requisite to carry out the object of the patent to its fullest extent, and consequently to form establishments, stores, and warehouses for the manufacture, within the entire empire, under the existing legal prescriptions. He may sell and dispose of the proceeds, and license others to use his invention, take partners, and dispose of his patent right by assignment or in any way whatsoever.

When the original term of a patent is less than fifteen years, the patentee may apply to have it prolonged for one or more years within the full period of fifteen years. He must make application before the term originally limited has expired, pay the entire tax for the term of prolongation, and deposit the original letters patent and the receipt of the corresponding paid annuities of his foreign patent if the applicant is a foreigner.

A patent will be cancelled on proof that the legal requisites for a patent do not exist, or that the description does not fulfil the prescribed conditions, or that the invention is not new, or being an importation from abroad, that the patentee is not the real owner of the foreign patent, or that the object of the patent is contrary to law, or to the health or morality of the public, or the interest of the state.

A patent will expire not only by efflux of the term, but also in case the patentee has not begun to work his invention

in the empire with inland materials, within a year from the date of the patent, or in case he should entirely suspend working the same for the space of two years. Patents are invalidated if it is proved (*a*) that the description of the patent is insufficient; (*b*) that the patented invention, before the date of the official certificate, was not novel in the empire, or that the invention had been imported and that the Austrian patent has not been granted to the original proprietor of the foreign patent or to his legal assignee; (*c*) if the proprietor of a valid patent proves that the invention patented at a later period is identical with his own discovery or invention previously patented.

BELGIUM.

An Act bearing date May 24, 1854, and a royal decree of the same date, and an amending law of March 27, 1857, determine the law of patents in this kingdom. The International Convention includes this country.

Patents are granted without previous examination, at the sole risk of the applicants.

The duration of patents is fixed at twenty years, except in the case of inventions previously patented in some other country, where the Belgian patent expires with the foreign patent of the greatest length.

Patents are subject to an annual and progressive tax, viz.:—first year, 10 frs. (8s.); second year, 20 frs. (16s.); third year, 30 frs. (24s.); and so on till the twentieth year, when the tax will be 200 frs. (8*l.*). Each annual tax is to be paid in advance.

No tax is payable on patents for improvement when delivered to the original patentee; such patents expire with the original patent.

Patents confer on their owners or assigns the exclusive right of working the invention for themselves, or having it worked by persons authorised by them.

Applicants for patents are required to lodge at the proper office, in duplicate, a full description of the invention, with drawings, models, or samples, when necessary. The first annual tax is paid when the documents are lodged.

Specifications of patents are published three months after the grant. The annual tax can be paid within one month after the date when it is due without fine, and can be paid within five months after the expiration of the one month, on payment of 10 frs. besides the annual tax.

The owner of a patent must work the invention in Belgium within one year from its having been worked abroad; otherwise the government will, on presentation of a petition to that effect, declare the patent to be void, and this will be the case if a suspension of the working of the invention for one year takes place, unless good reason can be given.

Patents will become void if the invention is destitute of novelty, either by reason of having been previously worked in Belgium or of having been published in a printed work; if the specification is not full and complete; also in case the invention has been previously patented in Belgium or abroad, the patentee not being the proprietor of the foreign patent.

BRAZIL.

The law No. 3129 of 1882 regulates the granting of patents in Brazil. This State is also a party to the International Convention. Patents are granted in Brazil for the term of fifteen years, and patents of addition are also granted expiring with the original patent. Foreigners having obtained patents abroad must apply for their patents in Brazil within seven months from the date of their foreign patent, and are not then prejudiced by any other application, or by the publication of the invention in Brazil in the meantime.

Inventors can also publicly exhibit their inventions in Brazil prior to their applications for patents, on obtaining the necessary permission for the purpose. An inventor desiring to obtain a patent in Brazil must deposit in duplicate a specification in Portuguese, together with drawings of the invention. The application must be limited to one invention only; if the invention has for its object chemical, pharmaceutical, or alimentary products, the Government will order an examination of samples; but if it involves none of these things the patent will issue as of course.

The patent will continue valid so long as the previous foreign patent remains in force on payment of a duty of 1*l.* for the first year, 2*l.* for the second year, 3*l.* for the third, and so on, increasing 1*l.* yearly. All assignments must be registered in the Government Office. The patent will become void if the invention is not carried into operation within three years from the grant, or if the working is thereafter interrupted for more than a year, if the annuities are not duly paid, if the patentee residing out of the country has no representative in Brazil, and upon the expiration of an earlier foreign patent for the same invention.

Legal proceedings can be taken for infringements, and the patentee can recover damages.

Under this law patents are obtained in Brazil without difficulty.

CHILI.

Article 152 of the Chilean Constitution, dated May 1833, accords to every author or inventor the exclusive proprietorship of his discovery or invention for a limited period to be fixed by law.

The conditions under which such privileges are granted, and the duration of the same, are regulated by a law passed in 1840, supplemented by other laws decreed and promulgated in August 1851, and on August 16th, 1856.

The inventor of a new invention or discovery may submit the same to the Home Minister, who will refer the application to Commissioners for examination, and if their report be favourable, the Minister will grant a patent.

The term of a patent cannot exceed ten years. The patentee has to pay a sum of 10*l.* into the Treasury. The specification, &c., is kept secret until the expiration of the term.

Patents are also granted under similar conditions for the introduction into Chili of foreign arts and industries, but in this case the term does not exceed eight years.

Patents may be extended when the importance of the invention justifies it, but application must be made therefor six months before the expiration of the first term.

A period exclusive of the term of the patent is allowed for the erection of machinery, &c., for working the patent, but should the inventor fail to carry out the same within that period, or discontinue the working for more than a year, or produce articles inferior to the original sample, the patent becomes void.

Patents may be assigned. Infringers of a patented article are liable to a fine and to the forfeiture of the article produced, and the establishment and implements used in its manufacture. Any person not being the true inventor fraudulently obtaining a patent is liable to fine or imprisonment.

COLOMBIA.

The power to grant patents in Colombia is limited and defined by the law of May 13, 1867.

A patent may be obtained for any invention or improvement of mechanical apparatus, combination of materials or process, and for the making and sale of any manufacture or industrial product, but not for the importation of foreign productions whether natural or manufactured.

The duration of a patent cannot exceed twenty nor be less than five years, and in the case of an invention previously patented abroad, such duration is subject to the earlier expiration of the prior foreign patent.

The inventor is required to present a petition to the executive power setting forth the nature of his invention or improvement, and stating the number of years for which a patent is desired; and if the decision be favourable, he must furnish within forty days a full description of the invention, accompanied by drawings or models if necessary. A patent will then be issued without any previous examination as to the novelty or utility of the invention.

A patent is refused when the invention endangers public salubrity or security, or encroaches upon proprietary rights already acquired, and a grant may be subsequently revoked if it is found to violate existing rights. A patent also becomes void if during a whole year the invention is not worked, unless it be from unavoidable circumstances.

A fee of from 1*l.* to 2*l.* for every year of the duration of the patent has to be paid in full at the time of the grant. A sum of 2*l.* is required to be paid into the Treasury on presenting the petition, which sum is either computed as part payment or forfeited according as the patent is granted or refused.

An injunction may be obtained for infringement.

DENMARK.

Inventors, whether natives or foreigners, as well as the first importer, may obtain patents.

All inventions or improvements are patentable.

The patent dates from the day of the signature of the King to the patent.

Patents of invention and of importation are granted. Improvements can only be protected by new patents of invention.

The term of patents of invention is fixed by the Government, and cannot exceed fifteen years; that of patents of foreigners is five years.

A uniform tax of 3*l.* kroner=60 francs is required for each application for a patent. Over and above these sums are stamp duties, the same to be paid in advance.

Prolongations are not usually granted beyond the term fixed by Government for the duration of the patent.

A slight examination of the invention is made before granting the patent.

Patents are not published, and information respecting them cannot be obtained without the intervention of the Ministry of the Interior, to whom a demand, with the special motives for the same, must be presented.

The working of the invention must be proceeded with during the first year of the patent, and continued without interruption during the whole term.

The patent does not prevent the introduction of similar products into the country, provided they have been manufactured abroad.

Assignments of patents are not authorised; they may,

however, be accomplished by the joint demand of the proprietor and of the assignee, for a new patent in the name of the latter.

The petition to the King should indicate the object of the invention.

The agent or attorney must be furnished with a power of attorney.

The patent becomes void if the invention is not new, or if it has not been worked within the given time.

FINLAND.

See under Russia.

FRANCE.

As the country nearest our own shores, and with which our intercourse is so close, it is desirable all inventors should be well informed on the subject of the French laws.

It is highly important inventors should bear in mind that prior to the International Convention, to which France is a party, French patents must have been applied for prior to the filing the complete specification in England. (See *Lister's Patent*, Newton's London Journal, August 1, 1859.)

Letters patent for inventions (*brevets d'invention*) are principally regulated in France by a law bearing date July 5, 1844, the material parts of which are as follow:—

Every new discovery or invention in any branch of industry confers upon its author, under the conditions and for the time hereafter mentioned, the exclusive right of working the same for his own benefit. Such right is constituted by the documents issued by Government denominated *brevets d'invention*.

The following cannot be patented:—(1) Pharmaceutical compounds, or medicines of any kind, these being governed by special laws and regulations, principally by a decree of August 18, 1810; (2) schemes and projects of credit and finance.

The duration of patents is fifteen years; the payment in respect of a patent for fifteen years, is 1,500 francs. This

sum is to be paid by yearly instalments of 100 francs, and the patent will expire if default is made in payment of any one instalment. The duties may all be paid up in advance when desired.

Foreigners may obtain patents in France; and persons who have patented their inventions abroad may obtain patents for them in France. In such a case the French patent will expire when the foreign patent expires.

Persons desirous of obtaining a patent apply by petition to the Minister of Agriculture and Commerce, and give a description of the discovery, invention, or application forming the subject of the proposed patent, accompanied, when needful, by drawings.

The petition must be in the French language, and restricted to a single principal object, with the necessary details and its proposed applications. It must mention the duration which the applicant desires for the patent. It must also give a title, comprehending a summary and precise designation of the subject of the invention.

No documents will be received except on production of a receipt proving payment of a sum of 100 francs (4*l.*), on account of the tax on the patent.

The patents which have been applied for in due form, are delivered out without previous examination, at the risk and peril of the applicants, and without Government guarantee, either as to the reality, the novelty, or the merit of the invention, or as to the fidelity or accuracy of the description.

The patentee, or the person entitled to the patent, has the right, during the currency of the patent, to make alterations, additions, or improvements in the invention, and the proceedings are similar to those required to be taken in applying for an original patent. The petition is subjected to a tax of twenty francs only. The certificates of addition obtained by any one person entitled under the patent accrue to the benefit of all.

A patentee who, in respect of an alteration, addition, or improvement, desires to take out a principal patent in place of a certificate of addition expiring with the original patent, must pay the tax levied on original patents.

Only the patentee, and those claiming under him, can, during a year, obtain a valid patent for an alteration, improvement, or addition to the invention forming the subject of the original patent; nevertheless, every person wishing to obtain a patent for an alteration, improvement, or addition to a discovery already patented, may, in the course of the said year, make a formal application to the Minister of Agriculture and Commerce, which is to be transmitted to him, and remains deposited under seal. At the expiration of the year the seal is broken and the patent issued; but the original patentee always has the preference in respect of alterations, improvements, and additions, for which he himself shall, during the year, have demanded a certificate of addition or a patent.

A patentee may assign the whole or part of his property under a patent. The entire or partial assignment of a patent, whether as a gift or for valuable consideration, can only be made by a notarial act, and after payment of all the instalments of the tax. No assignment is valid with respect to third parties until after registration, but it is not necessary to register a simple licence to manufacture.

The descriptions, drawings, specimens, and models of patents issued, remain deposited, until the expiration of the patents, with the Minister of Agriculture and Commerce, where they may be inspected by any one, free of charge. After their expiration patents can be inspected gratuitously at the Conservatory of Arts and Commerce.

Patents are null and of no effect in the following cases, viz. (1) if the discovery, invention, or application is not new; (2) if the discovery, invention, or application is not patentable; (3) if they refer to principles, methods, systems, discoveries, and theoretical or purely scientific conceptions, the industrial applications of which are not shown; (4) if the discovery, invention, or application is contrary to the order, safety, morals, or laws of France; (5) if the title under which the patent has been applied for, fraudulently indicates something which is not the true subject-matter of the invention; (6) if the description annexed to the patent is insufficient for carrying the invention into effect, or if it does not completely and fairly state the real methods adopted by the inventor.

No discovery is held new which, previously to the date of the deposit of the petition, has received publicity in France, or in a foreign country, sufficient to enable any one to execute it.

A patentee will be deprived of his rights under the following circumstances: (1) If he should fail to pay the annual payment before the commencement of each year of the term of the patent; (2) if he shall not put his invention or discovery into execution within two years from the date of the signature of the patent, or if he shall cease for the space of two consecutive years to work the patent—unless, in either case, he can justify his inaction; (3) and in the case of patents applied for before the International Convention came into force, if he introduced into France objects made in a foreign country similar to those protected by his own patent. This did not apply to models introduced by the patentee with the permission of the Government.

Whoever, in his trade inscriptions, advertisements, prospectuses, marks, or stamps, shall assume the title of patentee, without possessing a patent issued according to law, or after the expiration of a patent; or who, being a patentee, shall describe himself as a patentee, or refer to his patent, without adding thereto the words—'*sans garantie du gouvernement*' (without the guarantee of the Government), is liable to a penalty of from 50 to 1,000 francs. In case of a repetition of the offence the penalty may be doubled.

The patent covers all the French colonies.

GERMANY.

The law of the empire of Germany with respect to patents is regulated by an Act which was passed May 25, 1877, and came into operation July 1, 1877. By this law patents are granted for new inventions which admit of industrial use, with the exception of—(1) inventions the use of which would be incompatible with the laws or the public morals; (2) inventions relating to articles of food (for nourishment or luxuries), of medicines and of substances produced by chemical process, so far as the invention does not relate to the method of producing such articles.

An invention is not regarded as new if it has already been described in a printed publication in any country, or publicly used in Germany at the time of application for a patent.

The first applicant for a patent of invention is entitled to the grant.

The claim of the petitioner to the grant of a patent is void if the essential contents of his application have without permission been taken from the descriptions, drawings, models, implements, or arrangements of another person, or from a method of manufacture used by the same, and if such person raises opposition on that account.

The patent has no effect against a person who, at the time the patentee made his application, had already been using the invention in Germany, or who had made the necessary preparations for using the same; neither has it any effect in so far as the invention is intended to be used for the army or navy or in the interest of public welfare. In such a case the patentee is, however, entitled to an adequate compensation by the Empire or the State in whose special interest a limitation of the effect of the patent has been applied for. The amount of such compensation is fixed by a court of law in case an agreement cannot be arrived at. The patent does not affect means of conveyance coming temporarily within the empire.

Patents are granted for fifteen years, commencing with the day following the day of application. If an invention is an improvement upon an earlier invention patented by the applicant, he may apply for a supplementary patent, which expires with the original patent.

A fee of 30 marks is to be paid on the issue of the patent, and a further fee must be paid for each patent at the commencement of the second and every subsequent year, amounting in the first instance to 50 marks, and increasing by 50 marks per annum for the time of duration of the patent.

The patent expires if the patentee resigns the same, or if he fails to pay the fees within three months at the latest after they have become due.

Patents are to be annulled if it is found that the invention was not patentable according to the law, or if the essential contents of the application have, without permission, been taken from the descriptions, drawings, models, implements, or arrangements of another person, or from a method of manufacture used by another.

The patent can be revoked after the expiration of three years if the patentee fails to carry out his invention in Germany to a suitable extent, or at least to do everything that is necessary to ensure its being carried out, or if the grant of licence to others for using the invention appears to be in the interest of public welfare, but the patentee refuses to grant such licence upon an adequate compensation.

Persons not residing in the empire can only claim grants of patents in case of the appointment of a representative resident in Germany.

The granting, annulment, and revocation of patents is vested in the Patent Office, which has its seat at Berlin.

The decisions of the Patent Office are subject to appeal.

At the request of the law courts the Patent Office is bound to give opinion in all questions concerning patents.

A register is kept at the Patent Office, in which the subject-matter and the duration of granted patents will be entered, as well as the name and address of the patentees and of the representatives appointed by them on presentation of their applications. The commencement, the termination, the expiration, the decree of annulment, and the revocation of patents must be entered in this register, and simultaneously published in the 'Reichsanzeiger.'

The essential parts of specifications and drawings, so far as their inspection is permitted to the public, will be published by the Patent Office in an official paper.

The application for the grant of a patent for an invention must be made in writing to the Patent Office. For each invention a separate application is required. The application must contain the petition for the grant of a patent, and must point out in a precise manner the subject-matter which is to be patented. It must also be accompanied by

drawings or other representations, models, and samples, where necessary.¹

A fee of 20 marks must be paid on filing the application.

When the invention is approved by the Patent Office, the subject-matter of the application will be provisionally protected in favour of the petitioner, and a notification of the same will be officially published.

If the Patent Office is of opinion that the invention cannot be considered as patentable, the application will be rejected. The applicant can, however, make one appeal from such a decision.

After expiration of eight weeks from the day of publication, the Patent Office has to decide as to granting the patent. Until that date objections against the granting can be lodged with the Patent Office. They must be made in writing and be accompanied by arguments.

Before finally deciding, the Patent Office may summon both parties to attend and be heard; it may also cause the objections to be examined by suitable persons skilled in some branch of technical science, and otherwise institute inquiries for elucidating the matter.

Against a decision by which an application is rejected, the petitioner may appeal within four weeks after its notification, and against the decision concerning the granting of the patent, the petitioner or the opponent may appeal within the same time. On filing the appeal 20 marks must be paid for the cost of the proceeding.

As soon as the granting of a patent has been decided upon, the Patent Office will cause a notice to that effect to be published, and then issue the patent.

If a patent is refused, this will also be publicly notified. Upon the refusal, the provisional protection shall be considered as not having taken effect.

No action will be taken upon applications which are not written in the German language.

The term within which an action may be brought for an

¹ In the case of applications for hand fire-arms, and for spindles for spinning-machines, models are always required; they may be demanded in other cases.

infringement of patent right, is limited to three years with regard to any single case by which such action may be supported.

The question whether damage has been caused, and to what amount, will be decided by the Court after due consideration of all circumstances.

Sentence will be passed for payment of a fine not exceeding 150 marks or imprisonment—

1. On any person placing on articles, or their packing, any designation calculated to cause the erroneous impression that such articles are protected by a patent in accordance with this law.

2. On any person who in public advertisements, on sign-boards, on business cards, or in similar notifications, employs a designation calculated to cause the erroneous impression that the articles thus mentioned are protected by a patent in accordance with this law.

The examination conducted by the German Patent Office is of a most unsatisfactory nature. Patents are frequently refused on most inadequate grounds, and the procedure of the office frequently entails great and unnecessary expense upon the applicant.

GUATEMALA.

A law to regulate the grant of patents for inventions in this republic was passed the 2nd of June, 1864, and this State is a party to the International Convention.

The inventor of an art, manufacture, machine, instrument, preparation of material, or any improvement in them, may attend at the Ministry of the Interior and make a clear description of the invention, accompanying it with drawings, models, &c., and swearing that it is his own new invention, and the Minister of the Interior will appoint experts to examine same, and on its originality being established a patent will be issued for a term not exceeding ten years. The Government fee payable is 50 dollars. The specification and drawings will be kept secret during the existence of the patent.

Exclusive privileges may also be obtained on similar

terms for the introduction of arts, industries, or machines unknown in Guatemala, but their duration cannot exceed eight years.

The patents contain a stipulation that the privilege is to be worked within a given time (which cannot exceed two years, but is added to the period of the grant), in default of which, or if the working when commenced is suspended for more than a year, the patent becomes void.

An infringer, as also a person who obtains a patent surreptitiously, is liable to be punished by fine or imprisonment.

HOLLAND.

Although there are at present no laws for the protection of inventions in Holland, it is believed that a patent law will shortly be passed in this State.

ITALY.

The law which governs the grants of patents for the kingdom of Italy is dated from January 31, 1864, confirming the earlier Sardinian law of October 30, 1859. Italy is a party to the International Convention.

The inventor only, whether a native or a foreigner, or his assign, can obtain a patent of invention.

Inventions are considered patentable which have for their immediate object—(1) An industrial product or result; (2) any instrument, machine, &c., or mechanical arrangement; (3) any process or method of industrial production; (4) a motor, or the industrial application of a force already known; (5) lastly, the technical application of a scientific principle in such a condition that it will produce direct industrial results.

The invention must be novel.

A new invention or industrial discovery patented abroad and not yet imported into Italy, although already published by means of such foreign patent, confers the right to the inventor, or his assign, of obtaining a patent in Italy, provided the application be made before the expiration of the foreign patent, and before the importation or use by another.

A patent of invention takes effect from the date of the application, from the last day of that one of the months of

March, June, September, and December which follows next after the date of the application.

Certificates of addition are granted annexed to the principal patent. Application for certificates of addition made during the first six months by the owner of a patent have precedence over applications made for the same invention by others; but as respects duration, has a commencement.

Certificates of reduction, or disclaimers, may be demanded by a patentee within the first six months of his patent, for the purpose of reducing the patent to one or more parts of the invention forming the object of the description annexed to the original demand; it being necessary to point out clearly the parts to be struck out of the patent.

Patents are granted for various terms from one to fifteen years, at the desire of the petitioner. A patent granted for an invention already patented in another country expires with that patent for which the longest term has been granted, but in no case exceeds the maximum limit of fifteen years.

Certificates of addition expire with the original patent to which they are attached.

Every patent is liable to two taxes: the one proportional consisting of as many times 10 francs as there are years in the term demanded; the other (annual) consisting of 40 francs for each of the first three years of the patent, 65 francs for each of the three following years, 90 francs for the seventh, eighth, and ninth years, 115 francs for the tenth, eleventh, and twelfth years, 140 francs for each of the three last years.

A sum of 20 francs only is required for certificate of addition, to be paid in advance.

All certificates of prolongation necessitate over and above the taxes the payment of a sum of 40 francs.

Each certificate of reduction involves the payment of a tax of 40 francs.

The amount of the proportional tax for the term demanded and the first annuity is to be paid when making the application for the patent. This obligation to pay in advance the total of the proportional tax becomes burdensome if the patent should not be continued. On the other hand, each

demand for prolongation necessitates the payment of a fixed tax; and the patents demanded for more than five years have accorded to them a period of two years within which they are to be put into operation. Hence the usual practice is to demand a patent for six years. The other annuities are paid in advance the first day of each year of the term of the patent, or in advance of the last day of March, June, September, or December respectively, and are subject to triennial augmentation even in the case of prolongation of the patent. Three months' grace is allowed for the payment of the annuities, and if this period lapses the patent is forfeited. For the prolongation three months' grace is not admitted.

Patents demanded for a less term than fifteen years can be prolonged to this term. Each demand for prolongation must be accompanied by the original letters patent, or an authentic copy of same, showing the ownership of the patent, and the receipt for the taxes.

Demands for patents are subjected to no other examination than that in reference to the rules laid down by the authorities, with the exception, however, of patents for drinks and eatables, which are examined by the superior sanitary council.

The records containing the certificates of deposit, changes, additions, cancelling, or assignment of patents are published. Persons requiring extracts from such records must make the application on stamped paper; the extracts are supplied at the expense of the applicant.

The drawings and descriptions are published three months after the grant of the patent; any one can then obtain one or more copies at his own expense.

Every three months a list of the patents granted during the preceding three months is published in the official journal. Every six months the descriptions and drawings of the patents granted during the previous six months are published.

Patents granted for a term not exceeding five years must be put in operation within the first year of the term, and the working must be continued: an interruption for more than one year invalidates the patent.

Patents granted for more than five years have a period of two years allowed for working them; in both cases the owner of the patent should, in case of inaction, show the reason of neglect; but the want of funds is not recognised as a valid excuse.

Every deed of transfer or assignment of a patent is registered upon the grant of the original patent, and published in the official journal; such publication is not valid as regards a third party, excepting from the date of registration.

The application for a patent addressed to the Minister of Agriculture, Industry, and Commerce must contain—(1) The name and surname, place of birth, and residence of the applicant, and of his attorney or agent; (2) a short and precise description, in the form of a title, of the nature and object of the discovery; (3) the length of the term for which the patent is desired.

To the application should be annexed—(1) Three copies of a description of the invention in French or Italian; (2) explanatory drawings or models (also three copies); (3) a receipt proving the payment of the taxes; (4) a list of the documents; (5) power of attorney legalised by the Consul of Italy.

An Italian patent becomes void—(1) If it has reference to any of the inventions prescribed by the law; (2) if the title fraudulently sets forth another object than the true object of the invention or discovery; (3) if the description does not fully and faithfully point out the necessary means of carrying out the invention; (4) if the invention is not new or useful; (5) if the patent has formed the subject of a certificate granted to a third party for modification of an invention within the six months reserved to the author or his assigns; (6) if the tax be not paid within the three months from the date at which it is due; (7) if the patent has not been worked within the prescribed period; (8) if the patent has been granted to any other than the inventor or his agent.

JAPAN.

A law of patents was some years ago established in Japan, but it has not been acted upon, and no machinery exists for the grant of patents in Japan.

LUXEMBURG.

Patents are granted under the law of June 30, 1880, for the term of fifteen years upon payment of an annual tax of 10 francs for the first year; 20 francs for the second year, and so on, progressing at the rate of 10 francs for each year. Patents of addition are also granted expiring with the original patent. No prolongations are granted beyond the original term. Patents are granted without examination and at the risk of the applicants. The invention protected must be put in operation in Luxemburg within three years from the date of the patent. Patents can be assigned; the deed of assignment must be registered. Applicants for patents must present their petitions, accompanied by descriptions of the invention in French or German, and drawings, models, or specimens, when necessary to the comprehension of the invention. Patents expire at the end of their term, by default in payment of the taxes within three months of the time fixed; and if a similar patent is not applied for within three months in the States with which the Grand Duchy is allied by Customs Treaty. The patent will also be void if the invention is not good subject-matter for patent; if the description of the invention lodged is insufficient, or does not give to the best of the inventor's ability the means for carrying out the invention. Infringers of patents are liable to payment of penalties, varying from 100 to 2,000 francs irrespective of damages.

MEXICO.

The law which governs the grant of patents in Mexico is dated November 3, 1865. Every discovery or new invention can be patented in Mexico. Patents are granted to the first introducer of a new invention which has not been practised

in Mexico; and applications for patents by inventors who have already foreign patents for the same objects, are accorded a preference over others, but this preference does not extend to cases where the foreign patent has been public property. Pharmaceutical compositions, plans for working estates, or for financial combinations, and the application of known motors to industrial purposes also known are not patentable.

Patents are granted for five, eight, or twelve years according to the demand of the applicant, the Government duties being from 25 to 100 piastres for five years, from 100 to 200 piastres for eight years, and from 200 to 300 piastres for twelve years. Patents for improvements are granted for the time which remains of the original patent, if such duration exceeds six years; if such duration is less than for six years, patents for importation are only granted for five years.

Every applicant for a patent must address to the Minister of Commerce a petition setting out that the petitioner is either the inventor or is the assignee of the inventor, together with a description of the invention, and such drawings, specimens, or models as may be necessary for the proper comprehension of the invention.

The application must be limited to one principal object, with such accessories as are necessary for carrying out the invention. This description must be written in Spanish, and must be without alterations or corrections. The drawings must be made in ink and to scale, and must be in duplicate. All the documents must be signed by the inventor or by his attorney. The duration of the patent will commence from the date of the grant.

These documents are examined by officials, and the applications are then published in the official and other journals, and oppositions to the grants can be made within two months from such publication. The Government do not by the issue of the patent guarantee its utility, novelty, or validity.

The Government publish every three months the lists of patents granted. The description and drawings of the invention can be modified at any time during the duration of the patent. Patents of addition will be granted for improvements upon the original invention. These patents for improvements

can only be granted to the original inventor or his assigns for the first year of the patent.

Patents can be assigned in whole or in part, and assignments must be registered. Assignees are not, however, entitled to the patents for improvements without assignments of those improvements. The Minister of Commerce is to publish every year a catalogue of the specifications with illustrations of the drawings. Patents granted will be annulled if the alleged discovery is found to be old; if the alleged discovery does not come within the terms of the law for which patents are to be granted; if the alleged discovery is contrary to public policy; if the specification upon which the grant has been made is fraudulently expressed in indicating an object different from the true object of the invention; if the description lodged is insufficient to enable the invention to be put in operation; if the invention is not put into operation within two years from the date of the grant, or if its working is interrupted for two years unless the cause of inaction is satisfactorily accounted for; and also if the patentee introduces into the country the patented articles manufactured abroad. The permission of the Minister can, however, be obtained for the introduction of models. All patented articles must bear the word 'Patented,' must also bear the words 'Sans garantie du Gouvernement.'

The Act also gives the modes of proceeding to be adopted in the case of actions for annulment and in actions for infringements.

Patents are now obtained without difficulty in Mexico when the applications are made in proper form, and the inventor is represented by a competent agent. The cost is, however, considerable.

NICARAGUA.

The resolutions of the Spanish Cortes have by decree been declared in force in this republic. By virtue thereof, any person who shall invent, import, or introduce an invention, may, by application to the prefect of the department or the municipality, obtain a certificate granting him an exclusive right to such invention. The duration of the privilege is to

an inventor ten years, to an improver seven years, and to an introducer five years. These terms may be extended by the sovereign power. The invention must be worked within two years, or the privilege will cease.

In practice, however, the rules of the decrees are not closely followed, but an arbitrary power is vested in Congress, which grants a patent or withholds it as it sees fit.

NORWAY.

Patents for inventions are granted under laws of July 15, 1839, and May 9, 1842, for a period not exceeding ten years, and on condition that the inventor, before obtaining the patent, must give in a satisfactory account of when the invention was made and in what it consists, so that others after the end of the patent may put the invention into practical use.

The description furnished by the inventor must be accompanied by drawings in duplicate where the nature of the invention requires them.

Patents become void unless the patentee puts his invention into practical use in this country within a period of two years.

A fee to the State treasury of 10 specie dollars is paid for every patent.

PARAGUAY.

The law of May 20, 1845, enables inventions to be patented in this country.

Patents can be obtained by inventors being citizens or strangers alike, and also by the first introducers of inventions from abroad, and the patents can be assigned in whole or in part.

All new discoveries and improvements are patentable, and no examination is instituted prior to the grant.

Patents of invention, of improvement, and of importation are granted, and date from the day of deposit of the application. The term fixed varies from five to ten years. When there is a previous foreign patent for the same invention the duration of a patent of importation can not exceed six months beyond the termination of the foreign patent. Prolongations

of the original terms can be obtained where the circumstances justify such prolongations.

The invention patented must be worked in Paraguay within two years from the date of the patent.

Patents will be declared void if the specification is insufficient, if the inventor has not stated the best means for carrying out the invention, if the invention has been publicly used prior to the application, if the invention is not worked within two years from the date of the patent, if after having obtained a patent in Paraguay the inventor obtains a patent elsewhere without having first received authority to do so, or if any of the conditions of the patent are not fulfilled.

Legal proceedings can be taken against the persons infringing the patent.

PORTUGAL.

A royal decree, dated December 31, 1852, regulates the law of patents in Portugal, and the International Convention includes this State. Its principal provisions are to the following effect: --

Authors of new inventions, whether national or foreign, are entitled to secure an exclusive right in them by patent; but the patent will be no guarantee of the reality, priority, or merit of the invention. An invention, though in use in foreign countries, is, if new, patentable in Portugal for from one to fifteen years.

The duration of a patent privilege cannot exceed fifteen years; it is at the option of a patentee to obtain it for a less period from one year. To inventors who have already obtained a patent in a foreign country, no longer time will be granted than is sufficient to make up fifteen years from the date of the foreign patent. The importer of an invention (not being the inventor himself) can only obtain a patent for five years.

Prolongations are granted when demanded *within* the time of the first demand.

On applying for a patent, an inventor must deliver to the proper office an exact description under seal of the principles,

means, and processes which constitute the invention, with the necessary plans in duplicate, sections, drawings, and models.

A patent will not be allowed to comprise more than one subject-matter.

Patentees are required to work their patents officially within two years from the date of the concession.

An annual tax of 5,000 reis (about 28s.) is imposed on a patent, and default in payment of this tax renders the patent void.

Patent rights pass by assignment or by will.

A patent becomes void if the invention be not carried into effect within two years, or if the manufacture be adjudged a nuisance by a competent tribunal.

RUSSIA.

The law as to privileges for inventions in Russia was declared by an imperial decree of June 17, 1812. On November 22, 1833, the terms of this decree were altered, and amendments were made:--October 23, 1840; August 15, 1845; July 7, 1852; May 22, 1862; February 16, 1867; April 22, 1868; and March 30, 1870.

The privilege granted for discoveries, inventions, or improvements in arts and manufactures is founded upon the letters patent and a certificate (obtained on presenting a petition to Government, accompanied by a full description of the invention with the drawings belonging to it, and in paying the Government tax), which certificate states that the invention therein mentioned was presented at such a date and hour to the Government, and that the Government tax has been paid. The term of the patent begins from the day of issue of the letters patent, but infringers are liable to be prosecuted from the date of the certificate of application.

Patent applications are subject to an investigation into the novelty, and partly into the merits of the invention.

No patents are granted for munitions of war (as, for instance, guns, projectiles, torpedoes, &c.) unless adapted to other purposes (as, for instance, hand fire-arms, metallic cartridges, &c.), when the grant will be made subject to the

rights of the Government to use the same without compensation.

Russian letters patent cover also Poland.

The Government does not guarantee that the invention belongs to the person who makes the application; it only certifies that for the same invention no privilege has been granted to anybody in Russia before.

The privilege granted by the Government does not prevent the true inventor from proving, in legal form, that the invention does not belong to the person who obtained the patent of invention.

Until the ownership of the invention is contested, the person to whom the privilege was granted has a right—

1. To the absolute property in the invention for the specified time.

2. To use the invention himself, and to sell its results to the public, or to transfer the privilege to another person.

3. To prosecute persons infringing the privilege in the courts of law, and to recover an indemnity for the loss sustained by the infringement.

4. To treat as an infringement the making of articles in a similar manner, even with improvements in them, as long as the essential parts of the first discovery are copied.

The applicant for a patent privilege must deliver to the Government an exact description of his invention, with all essential details, and declare the mode of carrying it into effect; and also furnish the necessary plans and drawings, not keeping back anything requisite to be known to enable the invention to be carried out. The inventor must state what he claims as novel. If the invention relates to hand fire-arms, or surgical instruments, or artificial building materials, a model or specimen must also be furnished.

Inventions made in foreign countries may be patented in Russia when no detailed description has been published, and when the inventions have not been already introduced into the Russian Empire and the foreign patents have not expired.

A patent for an imported invention has the same validity as one granted for an invention made in Russia, until it is shown that the invention had been brought into use before

the grant, or that it had been described in published books or papers in such a way that it could have been carried into effect without the patentee's description.

Patent privileges for original inventions, whether made in Russia or in a foreign country, patented or not patented abroad, are granted to the Russian or foreign inventor, or his assignee for three, five, or ten years (the extreme limit), at the option of the applicant. Patent privileges applied for by the mere importer for inventions still remaining under patent protection abroad are granted for one, two, three, four, five, or six years (the extreme limit), at the option of the applicant, but cannot endure beyond the expiration of the patent taken out abroad by the inventor himself. The Government charges amount on patents of invention for three years to 90 roubles, for five years to 150 roubles, and for ten years to 150 roubles; whilst for patents of importation the Government charges 60 roubles for each year of the duration of the patent. If the application be refused the Government tax is refunded with the exception of from 11 to 15 roubles for the advertisements of the application in the newspapers.

A patent will be void when it is shown to the proper tribunal that the invention has been already practised in Russia, or that, at the time of the presentation of a petition for a patent it had been previously described in books or periodicals published in Russia or elsewhere, so that it might have been carried into effect without further description. It will also be void where it is impossible to arrive at the promised result by following the directions of the patentee, or if the certificate of working will not be filed within the time prescribed.

No power of attorney is required for the person applying for the patent in case of the absence of the inventor or mere importer.

No prolongation of the term originally granted can be obtained. For improvements in a patented invention a new patent must be applied for. An invention for which a patent has been obtained must be carried into effect within one quarter of the space of time for which the patent was granted, and within six months after this a certificate of working from

some local authority must be filed at the Ministry which issued the patent. To prove the working the patented article, when a machine, may be imported, but if the patent is for a process, the manufacture must be carried out in Russia.

FINLAND.

Russian letters patent do not cover the Grand Duchy of Finland. Patents have been granted in Finland since the year 1842; a patent law was passed March 30, and came into operation on June 1, 1876.

Patents are granted for inventions or improvements in arts and manufactures. Medicines and inventions contrary to morals or public safety are not patentable. Patents are granted only to the true inventor, whether native or foreigner.

The Government does not guarantee the novelty or the merits of the invention. As long as the ownership of the invention is not contested, the person to whom the privilege is granted has a right—

1. To the absolute property in the invention for the time specified in the letters patent.
2. To use the invention himself, and to sell its results to the public, or to transfer the patent to another person.
3. To prosecute persons infringing the patent in the courts of law, and to recover an indemnity for the loss sustained by the infringement.
4. To treat as an infringement the making of articles in a similar manner with unessential differences.

The person applying for a patent must deliver to the Government an exact description of his invention, with all essential details, and the mode of carrying it into effect, and also the necessary plans and drawings, and models, if deemed necessary, not keeping back anything requisite to be known. The inventor has also to state in what respects his invention is new, or whether it is an improvement of an invention already used; the novelty of the invention or improvement must be specified in the claims.

Inventions made in foreign countries may be patented in Finland when no detailed description has been published, and when they have not been already introduced into the

Grand Duchy. Where an inventor has a patent for his invention in a foreign country, and has been compelled to publish a specification showing the mode of carrying his invention into effect, such publication does not prejudice the granting of a patent in Finland.

If the invention has been previously patented abroad, an authenticated statement must be given when the patent was issued, and for what term. In such a case the duration of the Finnish patent cannot extend beyond the expiration of the patent taken out abroad by the inventor.

Patent applications are subject to an investigation into the novelty and merits of the invention.

Patents are granted for the terms of from three to twelve years (the extreme limit). The duration of the patent is fixed by the Government in accordance with the state of that part of Finnish industry to which the invention appertains, or with which it is most nearly connected. The Government tax is 20 Finnish marks (1 Finnish mark=1 franc) for each year of the duration of the patent, but there are extra charges of the Finnish Senate to be paid, for registering the application, the issue of the certificate of application, stamps, poor rates, the sealing, &c., amounting to some hundred marks.

The patentee is bound, within two months from the date of issue of the letters patent, to publish the specification of his patented invention in two Finnish newspapers, in the Swedish and Finnish languages.

The time prescribed within which the patented invention must be worked is generally two years, but this time may be reduced to one year, or extended, by application, to a period not exceeding four years. After this proof of the working must be given every year.

The patent will be annulled if the patentee has not published the specification of his patented invention, or proved the working of it within the time prescribed; if it should be proved by verdict of a jury that the same invention or improvement for which a patent has been granted was already in use in Finland or elsewhere, or patented by another person before the application was made; or if it should turn out that the patent is contrary to morals or public safety.

In case of the absence of the inventor, the person applying for the patent must be duly authorised by power of attorney.

No prolongation of the term originally granted can be obtained. For improvements in a patented invention a new patent must be applied for.

SAN SALVADOR (CENTRAL AMERICA).

The constitution gives power to the executive to grant privileges to the authors of useful inventions, but no special law exists for regulating the grant of such privileges. It is customary, however, for the executive in the exercise of its prerogative to follow the practice of civilised governments. This State is also a party to the International Convention.

SPAIN,

INCLUDING THE SPANISH COLONIES OF CUBA, PORTO RICO, AND THE PHILIPPINE ISLANDS.

A greatly improved law with respect to patents for inventions came into operation on August 1, 1878, and Spain is a party to the International Convention.

Under the new law many facilities are afforded for the introduction into Spain of numerous inventions which the restrictions and cost of obtaining patents under the old law precluded. A most valuable feature of the new law is, that one patent includes not only Spain, but the colonies of Cuba, Porto Rico, and the Philippine Islands, for each of which a separate and most costly patent has hitherto been requisite. To render the patent valid in the Spanish colonies it must be placed with the Minister of Ultramar at Madrid.

The rights of foreigners are the same as those of natives, as regards obtainment of patents.

Two classes of patents are granted, one to inventors, and another to those who, without being inventors, introduce or import a new industry into Spain or the colonies.

Patents for *invention* are granted for twenty, ten, or five *years*; those for introductions for five years.

The proprietorship of a patent is hereditary, and can be

sold or negotiated, just as any other property, according to the existing laws in Spain.

Patents are granted to one or more individuals, or to a society or company.

Patents of invention are granted to all who solicit them, without previous examination as to the novelty or usefulness of the invention.

Foreigners must apply for patents in Spain before their inventions are published and made known elsewhere, so that the *invention* may be considered as new in Spain; in such case the patent will be granted for twenty years. But if a foreigner allows *two years* to pass from the time in which his patent was published, or made known in another country, before soliciting the same patent in Spain, he then incurs the risk of any one proving before the Spanish courts that his invention was *published* when he applied for the patent in Spain, in which case the patent will be granted for *ten years only*.

The annual taxes are 10 pesetas (10 francs) for the first year; 20 pesetas (20 francs) the second year; 30 pesetas (30 francs) the third year, and so on successively, each year 10 pesetas (10 francs) more than the previous year.

The following documents are needed on application for a patent:—

1st. A power of attorney in Spanish, indicating the name and residence of the person in whose name the patent is to be granted.

2nd. A complete specification, explaining the invention and the points claimed. The patent will be granted on the point or points specified in the claims. The references to weights or measures in the specifications must be made in accordance with the French Metrical System.

3rd. The drawings must be on *tracing cloth*, in black ink, without colours or colouring, on the French Metrical Scale, and in duplicate.

If, on examining the documents and papers in the *Art Conservatorio*, it should be found that they are incomplete, or not presented according to this law, *two months* will be allowed to the applicant to correct the error if the inventor resides in Europe; *four months* if he resides in America;

and *eight months* if he resides in Asia. No secrecy will be observed, as formerly, with regard to the patents granted. The specifications and drawings will be open to the public in the *Art Conservatorio*.

Certificates of Addition are granted. During the whole term of a patent, the owner, his heirs, or the person representing his rights, can obtain protection for improvements on or additions to his original patent. The *Certificates of Addition* will be granted and considered as parts of the original patents. They are solicited in the same manner as the patents, and terminate when it terminates. Instead of soliciting a *Certificate of Addition*, a new patent, independent of the principal one, can be obtained *for improvements*.

The sale, cession, or negotiation of patents can be made before a notary in any country. If the cession is made in Spain, a special power must be sent for it. If the cession is made before a foreign notary, out of Spain, the document or contract must be made directly in Spanish, or must be officially translated in the Spanish Legation or Consulate.

All documents sent to the Patent Office department must be legalised in the Spanish Legations or Consulates of the places from whence they come. In the contracts of sale or cession, a certificate from the *Art Conservatorio* of Spain must be transcribed to prove that the annual taxes on the patent are paid up to the date of the contract, and that the patent is in full force, and that the patentee has not disposed of his interest. The sale or cession of the patents, with all the requisite formalities, must be registered in the Gobierno-Civil at Madrid.

Two years are allowed for the official working of the patent in Spain, but this term can be prorogued by a special law passed in the *Cortes* to that effect.

Patents will be declared void when their owner ceases to pay the annual charges, or when he has not proved officially that he has worked the patent within the two years.

Patents may be annulled at the instance of a third person and by the sentence of a Spanish court in case it is proved the invention was not *new* when applied for, or because the

specification does not sufficiently describe the manner in which the invention is to be worked.

The infringement of a patent is punishable with a fine. All articles wrongfully manufactured under the patent infringed are to be delivered to the rightful owner of the patent, and the patentee has a right, besides, to claim damages. If the infringer is not able to pay the fine, he will be imprisoned for a proportionate length of time.

Counterfeiters of patents will be also punished according to the Spanish Criminal Code.

Governors of the Spanish colonies can no longer grant patents. All patents must be applied for in the Ministry of Fomento, at Madrid, and will be granted for Spain and all her colonies in one patent.

SWEDEN.

By a royal ordinance, bearing date August 19, 1856, the following regulations concerning patents are made :—

Patents are granted—1st, for new inventions, whether they consist in machinery or in some art; 2nd, for improvements on old inventions. They are not granted for medicines, nor for bare principles.

Patents are not granted for a shorter term than three years, nor for a longer term than fifteen years, and the length of time will depend upon the value and importance of the invention. The inventor only can obtain a patent.

Any one who has obtained a patent in a foreign country can obtain one in this kingdom; but the term will never extend beyond the duration of the patent in the foreign country.

A full description of the invention, accompanied when necessary by drawings, must be lodged along with the petition at the Chamber of Commerce.

The patentee is required to furnish, before the expiration of two years, to the Chamber of Commerce, proof that he is in full exercise of the patent—which period may be reduced to one year, or may be, in consequence of a petition to that effect, extended to four years, this being regulated by the

value and importance of the patent in question; and also to furnish annually, during the entire period in which the patent right remains in force, proofs that he continues to exercise the invention.

Patents may be assigned when certain formalities have been complied with.

If a patent has been granted for an invention of the same nature as one previously patented or exercised by some other person residing in the kingdom; or if the holder of a patent has given in an inexact description of the means employed for the working of such invention, so that the real nature of the invention cannot be properly understood; or if the holder has given himself out to be the inventor without being so; or if a patented invention contains anything injurious to the public safety or health, or anything having an immoral tendency, the patent will be declared void.

The specification must be published in the Official Gazette within two months from the grant of the patent.

SWITZERLAND.

Patents are not procurable in the Swiss Confederation, excepting in the Canton of Tessin, where the local government has power to grant, on payment of a sum varying from 2*l.* to 20*l.*, an exclusive privilege within its territory.

It is, however, anticipated that a law of patents will shortly be passed for the whole confederation, as Switzerland is a party to the International Convention.

TURKEY.

The Ottoman Government grant patents to natives or foreigners for five, ten, or fifteen years, subject to an annual tax of two Turkish pounds, but the Turkish patent will expire with the termination of any earlier foreign patent. Pharmaceutical compounds or medicines and financial combinations are not patentable, and the inventions must not have been published in Turkey or abroad. The applicant for a patent must supply a petition, a description and drawings, or

samples to explain the invention. The petition must be limited to a single object with the details which form part of it, and must indicate the term for which the patent is solicited. The term of the patent is reckoned from the date of filing the application. Patents are granted without examination and at the inventor's own risk. Inventions relating to instruments of warfare are submitted to the War Department, and such as are approved by the department are bought by the State. Inventions of this kind which are not favourably reported upon are rejected.

The term of the patent can only be prolonged by special legislation.

Certificates of alteration, addition, or improvement, are granted. The patentee is, however, alone entitled to receive a certificate of addition during the first year of his patent. If such applications are made by others they will be kept secret until the first year of the patent has expired, and will then be granted.

Patents may be assigned in whole or in part by a deed of assignment, which must be registered with the Minister of Commerce; and the specifications, drawings, and models are accessible to the public, and may be copied.

Patents are invalid when the invention is not new, or when they are for mere principles, when the invention is contrary to public morals, when the title of the patent is fraudulently misleading, or when the specification is insufficient. Patents will become void in default of payment of the annuities, when the invention is not worked within two years from the date of the patent, or if the working is thereafter discontinued for two consecutive years, unless the patentee can show cause to justify his inaction, or by the introduction of articles manufactured abroad according to the invention, unless by special authorisation of the Government.

Any interested person may bring an action before the Tribunal of First Instance to rescind the patent, and infringers of patents are liable to a fine of from five to one hundred Turkish pounds.

VENEZUELA.

Patents are procurable under the law of 1878 for a term of not less than six nor more than fifteen years for new discoveries, inventions, or improvements, and for the importation from abroad of manufacturing processes or industrial improvements. The applicant has to address a petition to the Minister of the Interior, accompanied by a declaration stating that he is the true inventor, and by a description of the invention, and a patent will be issued by the President of the Republic. Patents of invention become void if not worked within two years, and imported patents within one year of their date. The term of the exclusive privilege for the selling of the patented articles dates from the commencement of the working of the patent. The factory, plant, &c., of the patentee are subject to an annual government tax not exceeding one per cent. of their cost. Primary materials required for the manufacture are exempt from import duties, but the patented article must be manufactured in the country and not imported from abroad. Patents may be assigned. Infringers are punishable by fine and imprisonment.

PATENT LAWS OF THE BRITISH COLONIES.

Since the Imperial Government has declined to issue any grants of patents for colonies, most of our colonies have themselves established patent laws, principally framed upon the British law. Many of the colonies now grant a large number of patents, but it is obvious that except in special cases patents are not often required in the smaller colonies. The number of patents granted in Canada, India, and the Australian colonies is constantly increasing.

THE AUSTRALIAN COLONIES.

NEW SOUTH WALES.

The Act of the Colonial Legislature relating to patents is dated September 14, 1852.

Every person who, upon claiming to be the author or designer, by his agent or assignee, of any invention, shall be desirous of obtaining a letter of registration, shall deposit with the Colonial Treasurer the sum of 20*l.* sterling, and shall, after such deposit, present a petition to his Excellency the Governor, setting forth that he is the author or designer of such invention, or the agent or assignee of the author or deviser, as the case may be, and specifying the particulars of such invention, and that he has deposited with the Colonial Treasurer the sum of 20*l.*; whereupon the application is referred to a board consisting of two scientific men; and if their report is favourable, the Governor may grant the letters of registration, and such letters of registration, within three days after the granting thereof, are to be registered in the proper office in the Supreme Court. Every grantee of such letter of registration can assign the same to any person or

persons by an instrument in writing under his hand and seal, to be registered in the Supreme Court in the same manner and within the same period after the execution thereof as the original letters of registration.

The letters of registration may be repealed by *scire facias*.

NEW ZEALAND.

The New Zealand Patents Act, 1883, has effected a considerable alteration in the law of patents in New Zealand: inventors can now obtain either letters patent or letters of registration as they think fit. The fee for letters of registration remains at 10*l.*, as it did under the New Zealand Patents Act of 1870. The fee for letters patent is reduced to 2*l.* 10*s.*, and the further duties to 5*l.* at the end of five years. Letters patent which are unopposed will be granted as a matter of course; if opposed, the expense of meeting the opposition may be considerable. Letters patent can only be granted to the inventors themselves, and not to their assignees. Letters of registration will be granted as of course, on proof of the applicant being the actual owner of the foreign patent.

The patented inventions must be worked within two years from the date of the patent; as the new Act has only just come into operation, the actual requirements of the office are not yet well understood.

QUEENSLAND.

No substantive patent law has been enacted in the colony of Queensland since its separation from New South Wales, but the Colonial Act (New South Wales), 16 Victoria, No. xxiv., September 14, 1852, was continued in force in the colony by an Order in Council of November 6, 1859, and a patent can be obtained similar in terms to those granted in New South Wales, and at the same cost. A short Act was passed in 1867 by which inventions can be provisionally protected in this colony, but these protections would appear to be useful only to residents in the colony.

SOUTH AUSTRALIA.

The patent law of this colony is now embodied in two Acts, called respectively 'The Patent Act, 1877' (which was passed December 21, 1877), and 'The Patent Act Amendment Act, 1881' (which was passed September 28, 1881).

Every applicant for letters patent must present a petition and declaration, together with specification and drawings in duplicate. These must be signed by the applicant, who may be either the inventor or his assignee; the declaration being made before any competent authority, and the specifications and drawings attested by two witnesses. The place and date of signature must also be stated in every case. The documents may be signed under power of attorney from the applicant.

The fees are somewhat low, but the Commissioner of Patents always exercises his power of referring applications to examiners at a cost of at least 2*l.* 12*s.* 6*d.* And further, inasmuch as every application is advertised, and the specifications are open to the public at large before the grant of the patent, an undue amount of encouragement is offered to litigious persons to oppose applications.

Fees of 2*l.* 10*s.* each have to be paid at or before the expiration of the third and seventh years respectively.

TASMANIA.

The law of patents in this colony was established by an Act passed November 5, 1858.

The proceedings to obtain patents are very similar to those at home, and the provisions with respect to actions, disclaimers, &c., are also much the same.

The Government fees are about 7*l.* 10*s.* on application, and a stamp duty of 15*l.* is to be paid at the expiration of the third year, and 10*l.* at the expiration of the seventh year of the grant.

VICTORIA.

An Act of the Colonial Legislature, entitled 'An Act to Consolidate the Law concerning Letters Patent for Inventions,'

was passed in May 1865, being Act No. 240 of the session held in the twenty-eighth year of Queen Victoria. The previous Patent Acts were first repealed, and then power was given to the Governor of the colony to issue letters patent, the language of the Act being nearly the same as that of the British statute of James I.

All applications for letters patent for an invention are to be made as follows:—The applicant must deposit a specification, accompanied by drawings when necessary, at the office of the Registrar-General. Provisional protection for six months is thereby obtained. The form of the specification, and the size of parchment, are set forth in the Act. The subsequent proceedings are pretty much the same as those had in obtaining British patents.

The patent will become void unless the sum of 15*l.* is paid before the expiration of the third year, and the sum of 20*l.* before the expiration of the seventh year.

The colonial patent will expire at the same time as the foreign patent, in case any foreign patent should have been previously obtained.

A patentee or his assignee is authorised to file disclaimers or memoranda of alterations.

Patents may be prolonged by taking the proceedings prescribed in the Act; but the patentee or his assignee must make application for this purpose at least six months before the expiration of the original term.

The schedules of the Act contain forms of petitions, notices, letters patent, &c.

WESTERN AUSTRALIA.

The special Colonial Act is dated August 15, 1872.

The *bonâ fide* holders of letters patent in any other country can obtain letters of registration having the force of letters patent, and expiring with the original patents. The Government fee is 25*l.*, and is paid in one sum.

Original letters patent can also be obtained, but are seldom taken out except by residents in the colony. The Government fees on these letters patent are 50*l.* These letters

patent are only granted when application for a patent is made in the colony before being made anywhere else.

BRITISH GUIANA.

The law relating to patents is governed by an ordinance dated July 12, 1861.

Every inventor desirous of obtaining a patent must petition the Governor for the grant. The form of the documents is very similar to those in use in Great Britain, and the proceedings under the petition are also very similar, there being a reference to the Attorney-General, whose duties in respect to patents nearly resemble those of the same officer at home.

The conditions of the patents granted are nearly, if not precisely, similar to those of the British grants, and there is a duty of 100 dollars payable in the seventh year of the term. The patent is granted for 14 years, and the Governor has power to prolong the patent for a term not exceeding 7 years.

The ordinance also contains provisions as to disclaimers similar to those in operation at home.

BRITISH HONDURAS.

Patents are now granted for this colony, under the Act for amending the law for granting patents for inventions, dated September 10, 1862.

The provisions of this Act bear a general resemblance to those in the 'Patent Law Amendment Act' of 1852. Commissioners of patents for inventions are appointed, who have power to make rules regulating grants. Every applicant must petition the commissioners, and the petition and accompanying specification are referred to the Attorney General for the colony. The applicant can lodge either a provisional or a complete specification in the first instance. The Attorney General grants a certificate of allowance, which certificate is filed in the office of the Colonial Secretary, whereupon the invention is protected for six months. This protection is advertised, and the applicant is at liberty to

give notice to proceed; and on the expiration of the time allowed for oppositions, letters patent are granted for fourteen years. The letters patent are void unless duties are paid at the expiration of three and seven years from the grant. The letters patent expire on the determination of any earlier patent granted for the invention in Great Britain, or in any foreign country or British colony. This Act also provides for a 'Register of Patents' and a 'Register of Proprietors' being kept. Patentees may also enter disclaimers or memoranda of alteration. The Commissioners of Patents are authorised to grant prolongations of the original term not exceeding seven years. Actions for infringements must be brought in the Supreme Court of the Colony.

The Government fees on sealing—

Letters patent amount to	\$30
Third year's duty	50
Seventh year's duty	100

CANADA.

The law of patents for the Dominion of Canada, which includes the provinces of Ontario, Quebec, Nova Scotia, New Brunswick, Prince Edward's Island, Manitoba and British Columbia, and the North-West Territories, is regulated by the 'Patent Acts, 1872 to 1875,' and by the subsequent amendment of 1883.

Patents may be obtained by inventors or their assignees for all inventions not being in public use, or on sale in Canada, for more than one year before the application for the patent. Inventors are not entitled to patents on their inventions if patents therefor have been in existence in any other country more than twelve months prior to the application in Canada. Where a foreign patent exists, the Canadian patent expires at the earliest date at which any foreign patent for the same invention expires. Two or more separate inventions cannot be included in one patent.

An inventor applying for a patent has to make oath that he is the inventor, and must elect a domicile in Canada.

The specification is required to be in a peculiar form, in

duplicate, and must concisely state the claims: it must be illustrated when practicable by drawings in duplicate, while an additional drawing showing the most important parts; and a working model not exceeding twelve inches in length is also requisite, or if the invention be for a composition of matter, specimens of the ingredients.

The term for which patents are granted is fifteen years, but only one-third or two-thirds of the fees for that period need be paid to obtain the patent, which will in such cases become void at the end of five or ten years respectively unless the balance, or another third of the fees, is paid during its pendency.

A patentee may file a disclaimer of any portion of the specification claiming matter found not to be novel; and an original patent insufficiently covering the invention may be surrendered, and a new patent with amended specification and claims be issued in its stead. It must be shown that the matter of the re-issue might have been embraced in the original patent. No new matter can be introduced.

The Government of Canada reserves the right to use patents, paying such compensation for so doing as the Commissioner of Patents reports to be reasonable.

Patents are assignable in whole or in part. Assignments require registration in the Patent Office.

Actions for infringements may be brought in any court of record, having jurisdiction to the amount of the damages asked for, and having its sittings in the province where the infringement has taken place.

Patents are void if any material allegation in the petition or declaration be untrue, or if the specification contain more or less than is necessary, if such omission or addition is wilfully made for the purpose of misleading; but if the court is satisfied that such omission or addition is an involuntary error, and the patentee is proved to be entitled to the remainder of his patent *pro tanto*, the patent is to be held valid for such part of the invention.

Patents become null and void at the end of two years from their date unless the patentee shall have commenced, and shall after such commencement continuously carry on, in

Canada, the construction of the invention; and shall be void if, after the expiration of twelve months from the date of the patent, the patentee shall import into Canada the invention. In case of any dispute as to whether a patent is or is not void, such dispute is settled by the Minister of Agriculture or his deputy.

A patentee may, on good reason being shown, obtain an extension of the time allowed for putting the patent into operation, and for importation of the patented article.

The Government fee payable on a patent is—

For five years	\$20
„ ten „	40
„ fifteen „	60
Extension from five to ten years	20
„ „ ten to fifteen years	20

Inventors not having perfected their inventions may have their inventions protected by caveats.

The commissioner may object to grant patents when he is of opinion the invention is not patentable in law; when the invention is already in the possession of the public; when there is no novelty in the invention; when the invention has been previously described in a printed book, and when the invention has already been patented in Canada or elsewhere more than one year before the Canadian application. In such case the amount of the Government fees filed, less ten dollars, will be returned to the unsuccessful applicant.

Every patentee is compelled to stamp on each patented article sold by him, or on the package enclosing such articles, the year of the date of his patent, and the word 'patented,' or any abbreviation of the same.

All applications for patents must be proceeded with and perfected within two years after application.

CAPE OF GOOD HOPE.

This Colonial Legislature has adopted a system very similar to that of the mother country, governed by an Act passed in 1860.

The applicant for a patent must deposit at the office of

the Colonial Secretary a specification of his invention, which is referred to the Attorney General, who reports upon it, and the Attorney General issues a warrant for the grant.

A writ of *scire facias* may be sued out for the repeal of the patent.

The letters patent are void unless a stamp duty of 10*l.* is paid at the expiration of the third year, and of 20*l.* at the expiration of the seventh year of the grant.

Letters patent for foreign inventions expire with the foreign grant.

The regulations as to disclaimers, prolongations, and confirmations, are similar to those of the home patents.

A register of patents and of proprietors is kept.

There is a penalty of 100*l.* for the unauthorised use of the word 'patent.'

Particulars of breaches and of objections are to be given in patent actions.

CEYLON.

The Inventions Ordinance 1859 governs the law of patents in this country.

The inventor of any new manufacture may petition the Governor for leave to file a specification thereof; such petition must be in writing, and signed by the petitioner or his agent, and must state the name, condition, and place of residence of the petitioner, and the nature of the invention, upon which the Governor may order the petitioner to file a specification.

The specification must be filed within six months from the date of the order, upon which the Governor may grant to the inventor the sole and exclusive privilege of making, selling, and using the said invention in Ceylon for the term of fourteen years from the time of filing such specification; and for a further term not exceeding fourteen years, upon petition to be presented by such inventor, not more than one year and not less than six months before the expiration of the exclusive privilege thereby granted.

The specification must be in writing, and signed by the petitioner, and must particularly describe and define the nature of the invention, and the manner in which the same is to be carried out.

No specification can be filed until the petitioner has paid all fees. The fee on filing a specification is 10*l*.

HONG KONG.

The ordinance for this colony is No. 14 of 1862, by which all British patents can be extended to Hong Kong. A petition, specification, and declaration are to be filed in the office of the Colonial Secretary, and notice thereof and of the intention to apply for letters patent and of the time of the sitting of the Executive Council, before whom the matter of the petition will come for discussion, together with such other particulars as the Governor shall require, must be inserted twice in the 'Hong Kong Government Gazette.' The Governor, by the advice of the Executive Council, will either grant or refuse the patent. The letters patent, when granted, are directed to be in the form prescribed by the Patent Law Amendment Act, 1852, for British letters patent, and the letters patent, if granted, confer privileges similar to those granted by British letters patent.

The petitioner must, in all cases, be either the patentee or the owner by assignment of the patent in Great Britain.

INDIA.

The Act relating to patents for inventions is dated May 17, 1859.

Exclusive privileges may be obtained for protecting the invention or improvement of any art, or process, or manner of producing, preparing, or making an article, and also the invention or improvement of any article prepared or produced by manufacture. It is required that the invention be useful, and that it be new; and an invention is to be considered new if it have not, at the time the exclusive privilege is applied for, been publicly used in India or in any part of

the United Kingdom, or been made publicly known in any part of India or of the United Kingdom by means of any written or printed publication. If, however, the knowledge of an invention has been obtained surreptitiously, or has been communicated to the public in breach of confidence, the public use or knowledge is in that case to be no bar to the acquisition of the exclusive privilege, if the inventor have not acquiesced in it, and if he make his application within six months after the public use has commenced; nor is the use of an invention by an inventor, or his agent, or any person with its licence, for a period not exceeding one year before the exclusive privilege is applied for, to be deemed a public use within the meaning of the Act. The provisions of the Act are available, not merely for actual inventors, but also for the personal representatives and the assignees of actual inventors; and they extend also to foreigners, whether resident abroad or not. The importer of a new invention into India is, however, expressly excluded from the benefits of the Act, unless he be also the actual inventor, or his personal representative or assignee.

The exclusive privilege is acquired by merely filing a specification of the invention, upon which, without any further process, the applicant becomes at once entitled to the exclusive right of using and selling the invention in India, and authorising others to do so, for the term of fourteen years from the date of filing the specification. Leave to file the specification must, however, be previously obtained; and for this purpose a petition must be presented to the Governor General in Council, who is empowered to refer it to any person or persons for inquiry, and, in the event of an order authorising the specification to be filed being granted, to annex any conditions he deems proper to the order. The fees attending the inquiry are paid by the petitioner, and no specification is to be filed until all the fees have been paid. Every specification must be filed within six months after obtaining the Governor General's order.

The specification must be confined to one invention only; it must be in writing, signed by the petitioner, and must par-

ticularly describe the invention, and how it is to be performed. The petition and specification are each accompanied by a declaration, signed by the petitioner, or by his agent if he be absent from India, stating that he is in possession of the invention, which he believes will be of public utility, and that to the best of his belief it is not known or used in India, or in any part of the United Kingdom, and that it is truly described in the petition and specification. Persons making false statements in these declarations are to be considered guilty of perjury; and wilful misstatements in the petition or specification will render the exclusive privilege liable to be declared void. The specifications filed under this Act are registered in a book, kept in the office of the Secretary to the Government Home Department, open to the public on payment of a small fee. If the patent has been taken out in England by an agent as a communication it must be assigned to the inventor, and the assignment must accompany the specification for India.

Any part of an invention may be disclaimed, should it appear at a future time to the petitioner that he ought not to have included it in his petition or specification; and in case of any defect or insufficiency in the latter, leave may be obtained to file an amended specification, which, however, is not to extend the exclusive privilege before acquired. In both these cases, moreover, it must be shown that no fraud has been intended. The term of an exclusive privilege may be extended for a term not exceeding fourteen years from the expiration of the first fourteen years, upon taking certain proceedings not more than one year, nor less than six months prior to the expiration of the original term.

Every exclusive privilege granted is to cease, if the Governor General in Council shall declare the same, or the mode in which it is exercised, to be mischievous to the State or prejudicial to the public. Further, if satisfactory proof be afforded to the courts of law that any condition, upon which leave to file a specification was granted, has been broken, power is given to the Governor General in Council to declare that the exclusive privilege thereby obtained shall cease.

Any inventor who has obtained letters patent for the exclusive use of an invention in the United Kingdom may, by taking proper proceedings within six months from the date of filing his complete specification in England, obtain protection in India for his invention, which is to be deemed new there if it was not publicly used or known in India before the date of the petition for letters patent; but no such exclusive privilege is to extend beyond the term of the letters patent, unless they are renewed, in which case the exclusive privilege may also be extended for a like term.

If any person, not being the actual inventor, or the representative or assignee of an actual inventor, has fraudulently obtained any exclusive privilege for protecting an invention, he may be compelled, upon proof of the fraud, to assign the exclusive privilege to the actual inventor, or his representative or assignee, and to account to him for the profits.

The Act contains provisions allowing persons to apply to the courts of law for a declaration that any alleged exclusive privilege has not been acquired, in consequence of non-compliance with the requirements of the Act; and there are also regulations respecting the conduct of proceedings to restrain infringements, &c.; but as these relate mainly to the practice of the Indian Courts it is unnecessary further to refer to them here.

The Indian Government in granting patents reserve to themselves the right to use the invention without compensation to the patentee.

JAMAICA.

The law of patents in this island is governed by an Act passed in the year 1857, the 21st Victoria, chap. 30.

Every inventor desirous of obtaining a patent must petition the Governor; the petition, accompanied by a declaration as to the invention, and a specification fully describing the same, is then referred to the Attorney General, who gives a certificate of his allowance, upon which the Governor issues letters patent.

Drawings are to be furnished in duplicate.

The patent must be brought into operation within two years from the date of the patent.

The term of the grant is for fourteen years, and may be extended for a further period of seven years.

The patentee is at liberty to assign all or any part of his rights, and patents may be issued to assignees of any persons who have obtained patents in other countries.

The Act also makes provision as to disclaimers, and provides that a patentee may add a specification or description of any improvement upon the original invention, and have the same annexed to the original specification.

The Act also contains provisions as to pleadings and costs in actions, as to the writ of *scire facias*, and as to the appointment of commissioners.

All applications for a patent must be accompanied by a power of attorney, bearing the English stamp duty; proved as required by the local statute, 27th Victoria, chap. 17.

The letters patent bear a stamp duty of *6l. 10s.*

The fee for reference to the Attorney-General is *5l.*

LEEWARD ISLANDS.

The Leeward Islands consist of Antigua, Montserrat, St. Christopher, Nevis, Dominica, and the Virgin Islands. The law of patents is contained in the Acts No. 12 of 1876 and No. 16 of 1878. The Attorney General, the Auditor General, and the Treasurer of the Presidency of Antigua, with such other persons as may be appointed by the Governor, are the Commissioners of Patents. Patents are granted for the term of fourteen years on applications, including a petition, declaration, and specification. The proceedings in applications for patents are very similar to the proceedings under the British Patent Law Amendment Act of 1852. The patent becomes void with the expiration or determination of any earlier patent elsewhere for the same invention, and no patent granted in the colony after the determination of any earlier patent elsewhere is valid. The Acts provide for the printing of all specifications, registers of patents, and registers of proprietors. Actions for infringements are regulated by the Code

of Civil Procedure. The payments amount to 28*l.* in the case of every unopposed patent. A duty of 10*l.* is payable at the termination of three years, and a duty of 20*l.* is payable at the end of seven years. The stamp duty on a disclaimer is 3*l.*, and a fee of 2*l.* is also payable to the Attorney General in respect of each disclaimer.

MAURITIUS:

The law of patents for this colony is regulated by an ordinance of the Governor of Mauritius dated May 22, 1875. The Governor, with the consent of the Council of Government, is empowered to grant patents for inventions for a period not exceeding fourteen years, and for such further term not exceeding fourteen years as the Governor in Council may think fit. The patent may be applied for either by the inventor or by his executors, administrators, or assigns.

The application must be in the form of a petition and declaration, and must be accompanied by a specification and drawings. These papers are referred to the Procureur General; and if he approves of them, he is authorised to issue a certificate to that effect, and the inventor is thereby provisionally protected. A payment of 10*l.* is to be made to the Procureur General upon the issue of his certificate. After the issue of the certificate the application is advertised in the Gazette, and any opposition thereto must be entered within one month from the advertisement. If there is no opposition the patent is sealed upon payment of 2*l.* to the Receiver General, and upon deposit, in the office of the Colonial Secretary, of a printed copy of the petition and specification.

The patentee has power to amend his specification upon petition to the Governor. No patent is to be granted for an invention in respect of which a patent has been granted out of the colony and has expired. The importer into Mauritius of a new invention is not deemed an inventor unless he is the actual inventor. The use of an invention in public by the inventor, or by his servants or agents, or by any other person with his licence, for a period not exceeding one year prior to

the date of the petition, is not deemed a public use within the meaning of the ordinance.

An inventor having obtained British letters patent may obtain a patent in Mauritius provided the application be made within twelve months from the date of the letters patent, although previously known or used in Mauritius, provided that such knowledge or use in Mauritius was not prior to the date of the British patent.

The ordinance also regulates the proceedings in cases of infringement of letters patent.

NATAL.

The law of patents for this colony is governed by the Colonial Act No. 4 of 1870, 'To provide for the granting in this colony of patents for inventions,' and is based on the provisions of the Patent Law Amendment Act of 1852.

The power of granting letters patent for fourteen years is vested in the Lieutenant Governor. Applicants are required to deposit in the office of the Attorney General a description of the invention or provisional specification; a certificate of such deposit is given to the applicant, whereupon the invention is protected for six months. In lieu of the provisional specification the applicant may, if he thinks fit, deposit a complete specification with the Attorney General. The applicant may give notice to proceed immediately after the deposit of his specification. This notice to proceed is advertised in the Government Gazette. After the expiry of the period allowed for oppositions, the Attorney General grants his warrant, upon which letters patent are sealed. The letters patent are void unless certain duties are paid at the expiration of three and of seven years. The letters patent also expire with the determination of any British or foreign patent of an earlier date. Patentees are at liberty, with leave of the Attorney General, to enter disclaimers or memoranda of alteration. The Lieutenant Governor is empowered to grant prolongations of the original term not exceeding fourteen years. The law provides that a 'Register of Patents' and a 'Register of Proprietors' shall be kept.

All actions for infringements are to be brought in the Supreme Court.

The fees for sealing the letters patent are	£1 10s.
Third year's duty	5
Seventh year's duty	10

NEWFOUNDLAND.

The law of patents for this colony is now based upon an Act passed May 12, 1856.

Inventors desirous of obtaining patents in Newfoundland must present a petition to the Governor for the grant, and must deliver into the office of the Colonial Secretary a specification of the invention, and, in case of a machine, a model also. The patent is granted upon this petition, after a reference to the Attorney General.

The patent is granted for fourteen years, but may be extended for a further term of seven years.

ST. HELENA.

Under Ordinance No. 8 of 1872, British letters patent may be extended to this island. The patent right is only granted to a British inventor, his executors, administrators, or assigns. The duration of the patent is limited to that of the British patent, and the applicant must deposit certified copies of the British patent and specification in the registry of the Supreme Court of the island.

STRAITS SETTLEMENTS.

The ordinance for granting exclusive privileges to inventors is No. 12 of 1871, dated November 15, 1871.

Exclusive privileges may be obtained by actual inventors or first importers of inventions not publicly used or known in the colony. An invention shall be deemed new if it shall not, prior to the time of applying for leave to file a specification, have been publicly used by other than the inventor in the United Kingdom or the colony.

Exclusive privileges are obtained by inventors petitioning the Governor in Council for leave to file a specification, whereupon the Governor may make an order authorising the petitioner to file a specification. If the specification be filed within six months after the date of the Governor's order, the Governor may grant the petitioner an exclusive right to use the invention in the colony for the term of fourteen years, and for such further term, not exceeding the term of fourteen years, as the Governor may direct upon petition presented to him at any period not more than one year and not less than six months before the expiration of the original term of the exclusive privilege. Errors, defects, or insufficiency in specifications may be corrected by disclaimers or by filing amended specifications.

Inventors having obtained British or British-colonial patents, may obtain exclusive privileges during the remainder of the term for which such British or British-colonial patents may have been granted.

Actions for infringement of the exclusive privileges may be maintained in the Supreme Court of the colony; and the rules regulating such proceedings appear to be greatly in favour of the holders of exclusive privileges. Appeals from the Supreme Court may be made to her Majesty in Privy Council.

The stamp on a petition for the grant of an exclusive privilege is \$50.

TRINIDAD.

The ordinance for granting exclusive privileges to inventors is No. 25, dated September 2, 1867.

On application to the Registrar General of the island, and on delivery to him of a declaration, accompanied by a specification, he will issue a certificate, which must be advertised in the Official Gazette. The specification may be delivered open or in a sealed envelope. In the latter case the Registrar General will, at the end of six calendar months from the date of the certificate, or at an earlier day at the request of the patentee, break the seal of the envelope and register the specification.

The certificate vests in the applicant the exclusive right to the invention within the island for fourteen years; but if at any time during that term it shall be made to appear that the invention is not new as to the public use and exercise thereof in the island, or that the invention is prejudicial or inconvenient to the public, then the applicant's exclusive privileges will become void.

The fees payable to the Registrar General on leaving the declaration and specification, and for publication of same in Gazette, amount to £10 10s.

PART III.

INTERNATIONAL CONVENTION.

ARTICLE I.

The Governments of Belgium, Brazil, Spain, Franco, Guatemala, Italy, Holland, Portugal, Salvador, Servia, and Switzerland constitute themselves into a Union for the protection of industrial property.⁽¹⁾

ARTICLE II.

The subjects or citizens of each of the contracting states shall, in all other states of the Union, as regards patents . . . enjoy the advantages that their respective laws now grant, or shall hereafter grant, to their own subjects or citizens.

Consequently, they shall have the same protection as the latter, and the same legal recourse on any infringement of their rights, provided they observe the formalities and conditions imposed on subjects or citizens by the internal legislation of each state.⁽²⁾

ARTICLE III.

Subjects or citizens of states not forming part of the Union, who are domiciled or have industrial or commercial establishments on the territory of any of the states of the Union, shall be assimilated to the subjects or citizens of the contracting states.

ARTICLE IV.

Any person who has duly registered an application for a patent . . . in one of the contracting states, shall enjoy, as regards registration in the other states, and reserving the

¹ *Vide* paragraph 1 of Protocol.

² *Vide* paragraph 3 of Protocol.

rights of third parties, a right of priority during the periods hereinafter stated.

Consequently, subsequent registration in any of the other states of the Union before expiry of these periods shall not be invalidated through any acts accomplished in the interval, either, for instance, by registration, by publication of the invention, or the working of it by a third party . . .

The above-mentioned terms of priority shall be six months for patents and three months for designs, models, and trade-marks. A month longer is allowed for countries beyond sea.

ARTICLE V.

The introduction by the patentee into the country where the patent has been granted of objects manufactured in any of the states of the Union shall not entail forfeiture.

Nevertheless, the patentee shall remain bound to work (*exploiter*) his patent in conformity with the laws of the country into which he introduces the patented objects (*où il introduit les objets brevetés.*)

[Articles VI.–X. relate exclusively to designs and trade marks.]

ARTICLE XI.

The high contracting parties agree to grant temporary protection to patentable inventions, . . . for articles appearing at official or officially-recognized International Exhibitions.

ARTICLE XII.

Each of the high contracting parties agrees to establish a special government department for industrial property, and a central office for communication to the public of patents. . .

ARTICLE XIII.

An international office shall be organised under the name of 'Bureau International de l'Union pour la Protection de la Propriété Industrielle.' (International Office of the Union for the Protection of Industrial Property.)

This office, the expense of which shall be defrayed by the Governments of all the contracting states, shall be placed

under the high authority of the Central Administration of the Swiss Confederation, and shall work under its supervision. Its functions shall be determined by agreement between the states of the Union.

ARTICLE XIV.

The present Convention shall be submitted to periodical revisions, with a view to introducing improvements calculated to perfect the system of the Union.

To this end conferences shall be successively held in each of the contracting states by delegates of the said states. The next meeting shall take place, in 1885, at Rome.

ARTICLE XV.

It is agreed that the high contracting parties respectively reserve to themselves the right to make separately, as between themselves, special arrangements for the protection of industrial property, in so far as such arrangements do not contravene the provisions of the present Convention.

ARTICLE XVI.

States which have not taken part in the present Convention shall be permitted to adhere to it at their request.

This adhesion shall be notified diplomatically to the Government of the Swiss Confederation, and by the latter to all the others. It shall imply, *de jure*, accession to all the clauses, and admission to all the advantages stipulated by the present Convention.

ARTICLE XVII.

The carrying out of the reciprocal engagements contained in the present Convention is subordinated, in so far as necessary, to the observance of the formalities and rules established by the constitutional laws of those of the high contracting parties who are obliged to elicit their application, which they engage to do as early as possible.

ARTICLE XVIII.

The present Convention shall come into operation within one month after exchange of ratifications, and shall remain in

force for an unlimited time, till the expiry of one year from the date of its denunciation. This denunciation shall be addressed to the Government commissioned to receive adhesions. It shall only affect the state which shall have denounced the Convention—the Convention remaining intact for the other contracting parties.

ARTICLE XIX.

The present Convention shall be ratified, and the ratifications of it exchanged in Paris, within one year at the latest.

In witness whereof the respective Plenipotentiaries have signed it, and thereto affixed their seals.

Done at Paris the 20th of March, 1883.

PROTOCOL.

The plenipotentiaries of the contracting states, when signing the accompanying Convention, at the same time signed an explanatory Protocol, the substance of which is as follows:—

1. The words 'industrial property' are to be understood in their broadest sense; they are not to apply simply to industrial products properly so-called, but also to agricultural products (wines, corn, fruits, cattle, &c.), and to mineral products employed in commerce (mineral waters, &c.).

2. Under the word 'patents' are comprised the various kinds of industrial patents recognised by the legislation of the contracting states, such as improvement patents, &c.

3. The last paragraph of Article II. does not affect the legislation of the contracting states, relating to legal procedure, jurisdiction, &c.

4. Paragraph 1 of Article VI. is to be understood as meaning that no trade mark shall be excluded from protection in any state of the Union, because it does not satisfy, in regard to the signs composing it, the conditions of the legislation of that state, provided that on this point it comply with the legal requirements of the country of origin, and that it had been properly registered in said country of origin. With this exception, which relates only to the form of the mark, and otherwise reserving the clauses of the other articles of the

Convention, the internal legislation of each state remains in force.

To avoid misconception, it is agreed that the use of public armorial bearings and decorations may be taken to be contrary to public order in the sense of last paragraph of Article VI.

5. Each country of the Union shall publish, if practicable, an official newspaper, in connection with the special government department mentioned in Article XII.

6. This paragraph relates to the working of the International Office at Berne, the expense of which is to be divided in a given proportion amongst the several states forming the Union.

7. The present Protocol, which shall be ratified along with the Convention, shall have the same force, validity, and duration as the Convention itself.

INDEX.

ACCOUNT OF PROFITS

in action for infringement, 291

ACCOUNTS

what, necessary in application for extension, 204

ACTIONS

for infringements, 279

may be brought in any division of High Court of Justice, 279

cannot be brought before publication of complete specification,
280

plaintiff cannot have both damages and account of profits in,
291

ADVERTISEMENT

required on application for amendment, 188

required on application for extension, 201, 395

of acceptance of complete specification, 115, 328, 364

of amendments, 190, 332

AFFIDAVITS,

how to be made, 363

AGENTS

may act for applicants, 96

but not sign applications, 361

for infringers liable for infringements, 271

AMENDMENT OF SPECIFICATION, 188, 326, 327, 331, 363

patentee may seek leave to amend by way of correction, disclaimer, or explanation, 188, 194, 331, 368

not allowed to make invention substantially larger or different from invention claimed, 189, 331

cases under earlier Act, 193, 194

leave to amend conclusive as to right of party to make, 189

to be advertised, and may be opposed within one month from date of first advertisement, 331, 369

application for leave to amend, to be left at Patent Office, 188

if leave to make refused by comptroller, applicant may appeal to law officer, 189

comptroller to give notice of and hear and decide application subject to appeal, 331

law officer to hear same if required, 331

to be deemed part of specification, 332

power to disclaim part of invention during action for infringement, 332

restriction of recovery of damages after, 332

AMENDMENT OF SPECIFICATION--*continued.*

form of application for, 384

general power to amend documents given to comptroller, 312

AMERICA, UNITED STATES,

patent laws of, 402

APPEAL

from comptroller to law officer, 170, 374

none from law officer on appeal to him from comptroller on question of amendment of specification, 100

none from Board of Trade in case of compulsory licences, 228

rules on appeals to law officers, 374

form of notice of, 394

APPLICATIONS,

patents for, 42

not favoured by law, 42

cases as to, 42-50. *See* RIVAL APPLICATIONS

APPLICATION FOR PATENT,

who may make, 95-98

joint applications, 95, 325

on death of applicant patent may be granted to legal representatives, 97, 329, 364

may be opposed, 169

any person may apply for patent, 325

form of, 326, 379

form of, on communication from abroad, 380

to contain declaration and be accompanied by provisional or complete specification, 326

when comptroller requires amendment, applicant may appeal from decision to law officer, 326

must be signed by applicant and contain statement of address, 361

order of recording, 364

ARGENTINE REPUBLIC,

patent laws of, 406

ASSIGNMENTS,

of letters patent, 224

registry of, 224, 227, 344

ought to be by deed, 224

proper covenants in, 224

no implied warranty of the patent on contract for, 225

purchaser should on, have search made as to novelty of patent, 225

assignee of part may bring separate action for infringement, 225

co-owner of patent may sue alone for recovery of profits, 225

survivor of two assignees may sue for an infringement committed during life of the other, 226

body corporate may take, and be registered as proprietor in corporate name, 227

by executors good, though probate registered after assignment, 238

to Secretary of War for certain inventions, 340

assignee may disclaim, 196

cases on, 225-234

- AUSTRALIAN COLONIES,
patent laws of, 443-446
- AUSTRIA,
patent laws of, 407
- BELGIUM,
patent laws of, 409
- BOARD OF TRADE,
power to order Patentees to grant licences, 227
power to make rules for classification, &c., 313, 314, 318
- BRAZIL,
patent laws of, 410
- BRITISH GUIANA,
patent laws of, 447
- BRITISH HONDURAS,
patent laws of, 447
- CANADA,
patent laws of, 448
- CAPE OF GOOD HOPE,
patent laws of, 450
- CASES,
principles, 7-13
processes, 13-18
amount of invention required to support patent, 26-34
second patents, 34
patents for novelty and utility, 35-94
applications, 42
inventor, true and first, 51-61
publication in printed books, 61-64
publication in specification under prior patent, 64-70
public user, 70-83
prior user by inventor, 83-89
experiments, 89-93
patentee, who may be, 95-98
the title, 99-104
specifications provisional, 107-110, 119, 120
" complete, 115-168
drawings, 117, 118
oppositions, 171-179
amendments of specifications, 188-197
extension, 201-223
assignments and licences, 225-234
registration, 236-239
infringement, 241-299
- CAVEAT
against extension of patent, 200, 334
as to grants of patents and amendments, 317
- CERTIFICATES
when given by judge to entitle plaintiff to full costs in future
actions, 298
of payment or renewal, 367
form of application for, 388
form of, 388

- Ceylon,**
patent laws of, 451
- Channel Islands,**
not now included in patent, 181
- CHEMICAL PROCESSES,**
when patentable, 25, 260
and products, cases as to infringement of patents for, 260-273
- CHILI,**
patent laws of, 411
- CLAIMS,**
complete specification must contain, 113, 156
must not be wide and speculative, 149
suggestions as to preparing, 145, 156
intended to ascertain extent of what is claimed as new, 158
cases as to, 156, 161
- CLASSIFICATION OF PATENTABLE INVENTIONS, 18**
new contrivances applied to new objects or purposes, 18
a new contrivance employed to effect old object, 18
a combination of known parts, 20
new methods of applying an old thing, 21
chemical processes usually but not always in combination with
mechanical contrivances, 25
cases on, 18-25
- CLERICAL ERRORS**
amendment of, in letters patent, 185, 197
in specifications, &c., 116, 197, 312
- COLOMBIA,**
patent laws of, 412
- COLONIAL ARRANGEMENTS, 309, 319**
- COLONIES (BRITISH),**
patent laws of, 443
- COLOURABLE ALTERATION**
of patented invention actionable, 242
- COMBINATIONS. See INFRINGEMENT,**
of known parts are patentable, 20, 21, 250
how to be treated in specifications, 139
cases as to infringement of patents for, 250-260
if patent is solely for, nothing can be infringed but the use
the entire combination, 250
to protect subordinate parts and minor, it is necessary to claim
them, 256
minor, must be new, useful, and patentable per se, 257
the taking of subordinate part or parts of, may be an infringement
of patent, 258-259
- COMPLETE SPECIFICATION. See SPECIFICATION**
- COMMUNICATION FROM ABROAD,**
patent for invention which is, may be granted to alien friend, 96
or to British subject, 96
applicant for must be resident, 317
rule as to, 365
form of application for, 380

COMPTROLLER-GENERAL OF PATENTS,

- duties of, 311
- may require amendment of provisional specification, 106
- must refer application to examiners, 106
- appeal to law officer from, 170, 180, 328, 374
- may require statement in writing from applicant, 362
- can authorise amendment of specification, 180, 360
- may refuse patent if contrary to law or morality, 344
- may correct clerical errors in applications, 185, 197
- discretionary power of, not to be exercised adversely to applicants without previously seeing them personally, 313, 362
- decisions of, to be notified to parties, 362
- general powers of amendment by, 312, 363
- power to dispense with evidence by, 373
- may take law officer's direction, 346
- certificate of, to be evidence, 346
- to make annual report, 349
- definition of, 354

COMPULSORY LICENCES, 332. See LICENCES**CONVENTION, INTERNATIONAL, 462****COPIES OF SPECIFICATIONS, ETC.**

- when receivable in evidence, 314, 345
- sent to Scotland, Ireland, and the Isle of Man, 315, 347
- certified, rule as to, 373

CORPORATION,

- may be registered as proprietor by its name, 372

COSTS,

- on oppositions to patents, 179
- comptroller no authority to award, but law officers have power, 179
- on amendments of specifications, 198
- law officer may order in proceedings before him, 198
- on application for extension of patent, 215
- in actions for infringement, 298
- directors of limited company infringing, may be ordered to pay personally, 299
- patentee having obtained certificate of judge that validity of patent was contested, entitled to full costs in subsequent actions, 299
- and this though patent not contested in subsequent suit, 299

CROWN, THE,

- power of, to grant patent, 1
- does not guarantee the validity of letters patent, 5
- letters patent obtained under Patent Act 1883 of same effect against, as against subject, 185, 273
- may use invention where patent issued or applied for before commencement of Patent Act 1883, 185, 273
- if agreement cannot be effected as to user by, Treasury to settle terms, 185
- officers of departments in service of, may use invention on terms, 274

CROWN, THE— continued

- saving for prerogative of, 353
- patents to bind Crown, 336
- if misled as to extent of invention, patent void, 35

CUBA. See SPAIN, 436**DAMAGES**

- for infringement, 279
- restriction on recovery of, after disclaimer, 293, 332
- cannot be granted in addition to account of profits, 291
- inquiry as to, 292

DATE OF LETTERS PATENT, 180, 329**DEATH**

- in case of applicant's, before sealing patent, it may be issued to his legal representatives, 181
- in case of applicant's, before leaving complete specification, 115

DECLARATIONS,

- how to be made, 99
- when left at Patent Office on applications for patents must be accompanied by provisional or complete specification, 99
- evidence taken by, in oppositions, 170
- evidence taken by, in compulsory licences, 370
- forms of, on applications, 379, 380

DEFINITIONS,

- patent, 343
- patentee, 343
- invention, 343
- injunction in Scotland means interdict, 343
- person, 353
- court, 353
- law officer, 354
- prescribed, 354
- comptroller, 354
- British possession, 354
- legislation, 354
- summary conviction, Ireland, 354
- applicant, 362

DENMARK,

- patent laws of, 413

DESTRUCTION

- of articles made in infringement of patent may be ordered in action, 294
- practice as to, when patent is for combination, 294

DISCLAIMER. See AMENDMENT OF SPECIFICATION

- in progress of action for infringement and proceeding for revocation of patent, 190
- patentee at liberty to apply to Court or judge for leave to amend by way of, 190
- conditions required by law officer as to prior infringements, 191, 192
- not allowed, which attempts to make specification cover invention different from that originally specified, 194

- DISCLAIMER**- *continued*
 must not attempt to turn an impracticable generality into a specific process, 105
 entry of, prevents enforcement of injunction against previous infringer, 107
- DISCOVERY**,
 when several concurrent actions, actions not consolidated till all defendants have given, 287
- DOCUMENTS**,
 size & no. of, 361
 amendment of, 312, 363
 may be sent to Patent Office by post, 99, 363
 certified copies of, 373
- DRAWINGS**
 to accompany, if required, both provisional and complete specifications, 105, 117
 reference to extent of making and effect of, 117, 118
 amendment of, 106, 188
 rules as to size and copies of, 365
- DUPLICATE OF PATENT**
 if original lost or destroyed, may be granted, 338
 form of application for, 391
- DURATION OF PATENT**, 181
 may be extended by petition to Queen in Council, 199. *See*
 EXTENSION OF LETTERS PATENT
- ENACTMENTS REPEALED**, 358, 359
- ENLARGEMENT**
 of time for paying fees, 368
 form of application for, 389
- ERRORS**,
 correction of, 345
 form of request for correction of, 392
- EVIDENCE**,
 in oppositions, 170, 366, 367
 on applications for compulsory licences, 228, 370
 on applications for extensions, 203
 on amendments, 369
 manufacture of, discouraged on trials, 287
 official documentary, 314
- EXAMINERS**,
 reports of, 116
 duties of, 367
- EXHIBITION, PUBLIC**,
 procedure on exhibiting unpatented invention, 94, 339, 362
 form of notice of intended, of unpatented invention, 392
- EXISTING PATENTS**
 not affected by provisions of new act binding Crown, or as to compulsory licences, 342

EXPERIMENTS, 89-93

- secret of invention disclosed during, does not nullify patent rights, 89
- cases on, 89-93
- made to procure evidence for trial distrusted by Court, 287
- Court may direct to be made for its guidance, 290

EXTENSION OF LETTERS PATENT, 199

- may be obtained by petition to Queen in Council, 200
- any person may enter caveat against, 200
- assignee may obtain, 200
 - but is not favoured unless he has assisted patentee, 200
- procedure on application for, 201
- petition must set forth all material facts, 201
- hearing of, 203
- accounts must be clear, unreserved, and properly kept, 204
- profit year by year must be shown, 205
- absence of accounts must be explained, 205
- profit made by patentee as such must be shown, 205
- profit derived from foreign patents must be shown, 223
- delay of inventor in attempting to bring invention into use,
 - good reason for refusing, 207
- patentee may charge for loss of time and personal expenses, 206
 - and law expenses unless action compromised, 206
- evidence as to want of novelty or utility, or imperfection of patent, may be given in opposition to, 207
- improvements on invention by other persons do not afford ground of opposition to, 208
 - nor that manner of working has been varied since filing specification, 208
- patent assumed to be valid on application for, 208
 - unless invalidity is clear, 209
- if original patent found invalid new patent shares its fate, 209
- grant of, considered as grant of new letters patent on same conditions, 209
- matter of favour not of right, 210
- question to be considered in granting, is what the patent has gained or ought to have gained with proper management, 210
- amount of inventive power and time and trouble expended in making experiments to be considered, 210
- smallness of step involved in patented invention is to be taken into consideration in determining length of, 212
- for invention communicated from abroad, 212
- Crown may at any time before sealing new letters patent countermand warrant for sealing, 213
- may be granted as to one head only of invention, 213
- new patent bears date the day after expiration of original term, 213
- use of invention in interval does not render liable for infringement, 213
- condition sometimes inserted in new patent, making it void unless fixed annual sum or share of profits paid to patentee, 214
- other conditions sometimes inserted in new patent, 214
- once granted jurisdiction exhausted, 215

EXTENSION OF LETTERS PATENT—continued

- office copy order for, to be left at Patent Office for registration, 215
- costs in relation to, in discretion of judicial committee, 215
- Privy Council rules, 305
- cases on extension, 201--223

EXTENT OF PATENT, 181

- does not include Channel Islands, 181

FEEs, 333, 376

- how payable, 183, 184
- enlargement of time for payment, 184, 368
- payment of, for continuance of patent, 318, 367, 368
- schedule of, 376, 377
- seventh year's may be paid by instalments, 318

FINLAND,

- patent laws of, 434

FOREIGN PATENTS,

- laws of foreign states, 401
- right of priority of foreign patentee under International Convention, 97, 308
- international arrangements as to, 306
- International Convention, 462

FOREIGN VESSELS,

- use of invention on board of, in British waters not infringement, 274, 310

FORMS

- issued by the Patent Office, 378--394

FRANCE,

- patent laws of, 414

GERMANY,

- patent laws of, 417

GUATEMALA,

- patent laws of, 421

GUIANA (BRITISH),

- patent laws of, 447

HEARINGS BEFORE COMPTROLLER,

- notice of, 362, 367
- form of application for, 383

HOLLAND,

- patent laws of, 422

HONDURAS (BRITISH),

- patent laws of, 447

HONG KONG,

- patent laws of, 452

ILLUSTRATED JOURNAL OF PATENTS, 312, 339, 366

- additional drawing to be furnished for, 366
- concise explanatory statement for not required, 316

- IMPORTER OF INVENTION.** *See* INVENTION, COMMUNICATION FROM ABROAD
 entitled to a patent, 96
 may obtain extension, 212
- IMPROVEMENTS**
 on existing patents, 34. *See* SECOND PATENTS
 quantum of, not material, 38
- INCORPORATED COMPANY**
 and inventor cannot apply jointly for patent, 95
- INDEXES,**
 alphabetical, of specifications, 316
 of patents, chronological and reference, 310
- INDIA,**
 patent laws of, 452
- INDUSTRIAL OR INTERNATIONAL EXHIBITIONS,**
 protection of inventions at, 94, 362
- INFANT**
 may be grantee of patent, 97
- INFRINGEMENT, 240**
 applicant cannot institute proceedings for, until complete specification published, 115
 assignee of part may bring separate action for, 225
 survivor of two assignees may sue for, 226
 action for, may be brought by person in his own name where patent registered in name of trustees, 239
 substantive law of, 240-279
 colourable alteration is, 241
 patent cannot be evaded by taking steps of an invention in different order, 245
 in cases of interfering patents, 248
 of any one head of an invention actionable, 250
 of patents for combinations, 250-260
 if substance of combination is borrowed there will be, 258
 cases as to chemical processes and products, 260-268
 by dealing in articles made by infringing patent, 268
 liability of agents, 271
 both employer and agent liable for, by dealing in articles made by infringing patent, 271
 user of patented article made abroad is, 271
 as to liability even when user is passive, 271
 by the Crown, 273
 user by foreign vessels in British waters not, 274
 construction as an amusement or model not an, 274
 cases of non-infringement, 274-277
 use of a new and material part of an arrangement to a purpose different from that to which it is applied in patented combination not, 275
 neither is the application of a natural mineral substance an infringement of a patent for the application of an artificial substance of same chemical constitution, 276
 patent for United Kingdom not infringed by acts done on board a British vessel at Malta or on high seas, 277

INFRINGEMENT—continued

- intention of infringer not material, 277-279
- practice in cases of, 279-297
- patentee may sue for, committed after publication of specification, but not those committed previously, 280
- several actions for, by one plaintiff may be consolidated, 287
 - but not until each defendant has given full discovery, 287
- on an action for, Court may call in aid of assessor, 290
- plaintiff in a patent action cannot have both damages and account of profits, 291
- question of, one of mixed law and fact, 294
- of patent, in Scotland, 296
- of patent, in Ireland, 297
- of patent, in Isle of Man, 297
- costs on, 298, 299
- as to damages for, in case of failure to make payments within prescribed time, and before enlargement thereof, 330

INJUNCTION

- granted to restrain sale after patent expired, of articles made before, 288
- exclusive licensees entitled to, 231
- interlocutory,
 - rules as to, 281
 - granted if patent established in other actions, even though fresh facts against patent brought forward, 282
- in Scotland means interdict, 343
- plaintiff entitled to perpetual, when validity of patent has been established and infringement proved, 293
- cannot be enforced against infringer, if patentee afterwards enters disclaimer, 197
- cases on, 281

INSPECTION IN PATENT ACTIONS

- ordered by the Court, 279, 288
- practice as to, 288
- includes analysis, 288

INTENTION

- of infringer immaterial, 277

INTERNATIONAL ARRANGEMENTS, 306 (462 convention), 349**INTERPRETATION**

- of specifications, matter for judge, 161

INVENTION,

- what is patentable, 18
- classification of patentable inventions, 18-25
- amount of, required to support patent, 25-34
- chief incidents attending, 35
- by two persons, patent must be taken out in both names, 58
- if several heads included in one patent, one useless or old invalidates the whole patent, 35
- effect of publication of, in books, 61-64
- effect of publication of, in specification of prior patent, 64-70
- effect of disclosing secret of, during experiments, 89
- importer of, to this country from abroad can apply for patent, 95

INVENTION *continued*

- should be disclosed in general terms in title, 100
- in certain cases may include subject matter of unexpired patent, 69
- patent to include one, only, 338
- if Crown misled as to extent of, patent void, 35
- relating to munitions of war, 186
- definition of, 343
- science and art department may require models of, for Patent Museum, on payment, 340
- cases on, 26-34

INVENTOR,

- true and first inventor, 51
- he who first produces in commercial quantities, substances only previously produced in small quantities, 51
- assistance of, or suggestions by workmen, 58
- patentee must be more than mere employer, 61
- as to verbal information received from another person, 61
- as to user of patented invention by patentee before date of grant, 83
- importer of new foreign invention is legal inventor, 95. *See* **COMMUNICATION FROM ABROAD**
- does not lose his right to patent by keeping invention to himself provided he makes no profitable use of it, 83
- two independent inventors--first patentee held to be true and first, 52
- patent granted in joint names, 53
- or to one as trustee for both, 173
- joint patentees may each work invention independently of the other, 110
- inventor dying during continuance of provisional protection, patent may issue to his legal personal representative, 97
- executor of deceased, can obtain patent, 97
- patent to true, not invalidated by application in fraud of him, 186
- cases as to, 51-61

IRELAND, 297, 351**ISLE OF MAN,** 297, 352**ISSUES**

- of fact may be granted in actions, 284
- not granted as a matter of course, 284
- usual, 284

ITALY,

- patent laws of, 422

JAMAICA,

- patent laws of, 455

JAPAN,

- patent laws of, 426

JOINT INVENTION, 58, 95, 173. *See* **INVENTOR****JUDICIAL COMMITTEE,**

- rules, 395. *See* **EXTENSION**

LAW OFFICERS,

- rules, 371
- appeals to, from comptroller, 170, 190
- proceedings before, 170, 190, 339
- may examine witnesses on oath, 339
- costs before, 339
- definition of, 354

LEEWARD ISLANDS,

- patent laws of, 156

LEGAL PROCEEDINGS,

- not to be taken before publication of complete specification, 329
- plaintiff need not apply to defendant before commencing, 280
- nor rely on promise not to offend again, 280
- Court may call in assessor in actions for infringement or revocation, 336
- actions to be tried without jury unless directed by Court, 336
- statement of claim must contain particulars of breaches complained of, 336
- statement of defence must contain particulars of objections, 337
- amendment of particulars, 337
- order for inspection, 337
- certificate of validity questioned and costs thereon, 337
- amendment of specification may be made during progress of, 190
- reports of, to be published by comptroller, 312
- for revocations, 300
- remedy in case of groundless threats of, 296-337

LETTERS PATENT,

- are obtained at risk of patentee, 6
- bare principle not subject matter of, 7
- may be obtained for
 - processes, 13
 - new contrivances applied to new objects, 18
 - new contrivances applied to old objects or purposes, 19
 - new combinations of old parts, 19
 - new methods of applying an old thing, 19
 - chemical processes, 25
 - but not for mere application of known articles or processes unless there is invention, 42
 - nor for uniting two things instead of three in a manner well known for a similar purpose, 32
 - second patent in hands of first patentee not void as being contrary to public policy, 32
 - obstructive patents not permitted, 36
- second patents, when valid, 34
 - for applications, 42
- may be granted to legal personal representative of person who has obtained provisional protection, 97
- and to executor as communication from deceased inventor, 97
- similarity of objects in two patents not a ground of objection to the later, 54

LETTERS PATENT—*continued.*

- nor that some one else had invented the same thing, unless he had made it public, 52
- nor that a previous useless machine with the same object had been made, 57
- nor that the invention includes subject matter of previous patent, 69
- the title, 99
 - cases on, 99-101
- joint grantees of, may each work invention independently of the other, 110
- will not extend to Channel Islands, 181
- may be refused to invention contrary to law or morality, 181
- date of, 180, 329
- extent of, 181
- duration of, 181
- form of, 182, 333, 355
- grant of, made void in certain cases, 183
- in case of loss of, comptroller may issue duplicate, 185
- benefit of, passes to personal representative, 187
- assignment of. *See* ASSIGNMENT
- new, in extension of original term, 199
- oppositions to grant of, 169, 328. *See* OPPOSITIONS.
- where rival applications, practice, 173
- prolongation of, 199, 333. *See* EXTENSION.
- infringements of, 210
- sealing of, 329
- valid against Crown, 185
- not to extend to foreign vessels in British waters, 274
- to cease if prescribed payments not made, 183, 330
 - except default arises from accident, mistake, or inadvertence, 183, 330
- time for payments not to be enlarged for more than three months, 330
- extension of term, 199, 333
- special Act of Parliament will restore validity of, when renewal fees have not been paid by inadvertence, 181
- Revocation of, 300, 334. *See* REVOCATION.
- action of *scire facias* for repeal of, abolished, 300
- to bind the Crown, 336
- comptroller may refuse, if contrary to law or morality, 312
- comptroller may correct clerical errors in, 312
- legal proceedings, 336. *See* LEGAL PROCEEDINGS
- to be granted for one invention only, 338
- representatives of deceased inventor may obtain, 97, 338
- not invalidated by application in fraud of inventor, 338
- assignment of, for particular places, 224, 338
- form of application for duplicate, 391
- provisions respecting existing, 342
- definition of, 343
- fees on, 376, 377
- foreign laws of, 401

LIBRARY, PUBLIC, AT PATENT OFFICE, 317

LICENCES, 221-227

- Board of Trade may order patentee to grant, 227
- exception as to patents granted before commencement of act, 228
- order of Board of Trade final, 228
- various forms of, 228
- exclusive licence, what, 228
- usual consideration for, 228
- proper covenants in, 229
- effect of recitals by way of estoppel, 229
- not assignable to third person in the absence of express or implied power, 230
- money paid for, not recoverable if patent void, 231
- to be in writing and under seal, 233
- stamp on, 233
- patentee not allowed to publish advertisements calculated to deter public from dealing with his licensee, 233
- procedure on registration of, 234
- entry of, 316
- cases as to, 228-234

LICENCES, COMPULSORY, 227

- order of Board of Trade for, absolute and final, 228
- petition for, and procedure, &c., 370
- form of application for, 385
- form of petition for, 386
- form of opposition to, 387

LICENSEE

- during the licence estopped from denying validity of patent 231
 - but not after licence determined, 233
- must pay royalties, although patent found invalid in suit against other parties, 232
- has a right to have the patentee's invention defined, 232
- exclusive, may sue for injunction, 233

LOST PATENT,

- replacement of, 185, 338

LUXEMBURG,

- patent laws of, 426

MANUFACTURES,

- interpretation of the legal term, 15

MAURITIUS,

- patent laws of, 457

MEXICO,

- patent laws of, 426

MISREPRESENTATION

- in specification renders patent void, 153

MISTAKES

- in specification, how dealt with, 116, 155

MODELS,

- power of science and art department to require, 340

- MONOPOLIES,**
 statute of James I. against, 2, 321
- MUNITIONS OF WAR,**
 patents for, 185
- MUSEUM, PATENT,** 317, 340
- NATAL,**
 patent laws of, 458
- NEWFOUNDLAND,**
 patent laws of, 459
- NEW SOUTH WALES,**
 patent laws of, 443
- NEW ZEALAND,**
 patent laws of, 444
- NICARAGUA,**
 patent laws of, 428
- NON-INFRINGEMENT,**
 cases of, 274
- NORWAY,**
 patent laws of, 429
- NOTICE**
 of hearing by comptroller, 362-367
 by applicant of his intention to be heard, 362
 of acceptance of application, 364
 of application for extension, 201
- NOVELTY**
 as an element of patentable invention, 35
 invention may include subject matter of unexpired patent, 69
 a previous useless machine will not vitiate a patent for a useful
 machine for same purpose, 69
 if material part of discovery not novel, patent is void, 35
 existence of patent for certain application of old things will
 not vitiate a patent for another distinct application of same
 thing, 70
 of combination will support a patent, 19
 inventor may avail himself of the assistance of others in carry-
 ing out his ideas without invalidating his patent, 58
- NOVELTY OF INVENTIONS,** 41
 true and first inventor, 51-61
 previous publication in printed books, 61-64
 previous publication in the specification of a prior patent, 64-70
 public user, 71-83
 prior use by inventor, 83-89
 experiments will not destroy, 89
 cases on, 89-93
- OBJECTION,**
 notices of, in patent action, 285. *See PARTICULARS*
 to grant of patent must be by notice, 169
- OFFENCES AND PENALTIES,** 303, 350
- OFFICIAL REFEREE,**
 issues of fact may be tried by, 290

OFFICIAL DOCUMENTARY EVIDENCE, 314**OPPOSITIONS**

- to grants of patents, 169, 366
- time for giving notice of, 169
- three grounds of only--1, that applicant had obtained invention from opponent; 2, that application had been previously patented; 3, that examiner had reported specification was comprised in specification accompanying a previous application, 169, 328
- evidence to be in form of statutory declaration, 170
- hearing before comptroller, 170
- hearing before law officers, 170
- Lord Chancellor's jurisdiction taken away, 171
- cross hearings, 171
- how parties may appear at hearing, 171
- onus of proof lies with opponent, 171
- provisional specification not accessible to opponent until complete specification has been advertised, 172
- in doubtful cases law officers will allow patent to proceed, 172, 173
- right to inspect examiner's report, 172
- costs of, 179
- any person may give notice of, within two months of date of advertisement of acceptance of complete specification, 328
- comptroller to give notice to applicant and decide case subject to appeal to law officer, 328
- law officer if required, to hear parties, 328
- law officer may obtain assistance of expert, 328
- evidence in, 366, 367, 369
- disallowance of, in certain cases, 367
- notification of decision, 367, 369
- form of notice of, to grants, 383
 - to amendments, form of, 384
 - to extensions, 202
- cases on, 171-179

PARAGUAY,

- patent laws of, 429

PARTICULARS OF BREACHES AND NOTICES OF OBJECTION

- required in action for infringement, 284, 286
- insufficient, better may be required, 285
- cases as to, 285

PATENTABLE INVENTION. See INVENTION, LETTERS PATENT, PRINCIPLE.**PATENT. See LETTERS PATENT**

- penalty for describing goods as patented when no patent has been granted for same, 303

PATENT ACT, 1852

- effect of repeal of, 186, 187

PATENT OFFICE, 311, 343

- the comptroller-general, powers and duties of, 311, 313
- general rules, 313
- the Patent Office seal, 314, 344

- PATENT OFFICE**—*continued.*
 official documentary evidence of, 314
 registers, 315
 trust not to be entered in, 344
 publications and indexes of, 316
 public library of, 317
- PATENT MUSEUM**, 317, 360
- PATENTS, DESIGNS, AND TRADE MARKS ACT, 1883**, 323
- PATENTEE**
 who may be, 95
 British subject or alien, 96
 of two or more, one must be inventor, 95
 definition of, 343
 death of, patent vests in personal representative, 187
- PENALTIES**, 303
 for sale of article as patented when not patented, 303
 for use of royal arms without special authority, 304
 may be sued for in Sheriff's court in Scotland, 304
 person making false entry in register guilty of a misdemeanor,
 304
- PHILIPPINE ISLANDS, PATENT LAWS OF.** *See SPAIN*, 436
- PORTO RICO, PATENT LAWS OF.** *See SPAIN*, 436
- PORTUGAL**,
 patent laws of, 430
- POST**,
 applications, notices, &c., may be sent by, 346, 363
- PRINCIPLES.**
 bare principles not patentable, 7-13
 protection for a new, can only be obtained by detailing some
 specific mode of its operation, 8
 but inventor having discovered one mode of carrying a new
 principle into effect, is protected against all other modes
 of carrying the same principle into effect, 245
 when the principle is not new, a patent should be confined to
 the particular mode of carrying it into effect, 247
 cases on, 7-13
- PRINTED BOOK.** *See PUBLICATION*
- PRIOR USER.** *See USER*
- PRIVY COUNCIL.** *See EXTENSION*
 orders of, to be entered in Register of Patents, 372
 rules, 395
- PROCESSES**
 are patentable, 13-18
 cases on, 13-18
- PROPRIETORS**,
 register of, 316
- PROTECTION BY COMPLETE SPECIFICATION**, 380
- PROVISIONAL PROTECTION**, 329
 how obtained, 105, 109, 329

PROVISIONAL PROTECTION—continued

- may be abandoned, and new protection obtained within original term of, 109
- gives no rights against public, 109
- examiner to inquire into current applications, &c., 108
- death of applicant during, 181

PROVISIONAL SPECIFICATION. See SPECIFICATION, PROVISIONAL PUBLICATION. See USER

- of invention in printed book, 61
 - will vitiate patent, though patentee did not derive his knowledge from book, 63
 - foreign book in British Museum, 63
 - circulated in England, 62
- prior use by inventor not necessarily, 83
 - but inventor must not have made pecuniary profit by such prior use, 83
- an invention may be safely deposited in a room open to public for testing its qualities, 88
- prior use of invention in colony is not, 88
- extent to which experiments may be made without, 89

PUBLIC EXHIBITIONS, 94, 339

- Exhibition at, not to prejudice rights, 339

PUBLIC USER. See USER**QUEENSLAND,**

- patent laws of, 144

REFUSAL

- to grant patent when contrary to law or morality, 314

REGISTER

- of patents and of proprietors, 235, 315, 316
- rectification of, 236, 345
- alteration of, by Master of the Rolls, 238
- notice of trusts not to be entered in, 236
- comptroller may correct clerical errors in, 237
- certified copies of, may be obtained on payment, 237
- form of request to enter name in, 390
- form of notification of licence, 391
- form of notice for alteration of address, 393
- form of application for entry of order of Privy Council, 394
- inspection of, 237, 345
- sealed copies of, received in evidence, 237, 345
- falsification of entries in, to be a misdemeanor, 237, 346

REGISTRATION OF PATENTS, 235

- of proprietors, 236
- fee payable on, 236, 377
- relates back to date of assignment, 238
- Court has power to expunge entries on register, 238
- jurisdiction of Court as to, subject to appeal, 239
- cases on, 236-239

RENEWAL,

- certificate of, 367

REPEAL OF FORMER ACTS, 352, 358

- REVOCATION OF PATENTS, 300**
 proceedings for, 300, 302
 proceedings by *scire facias* abolished, 300, 33
 revocation obtained on petition, 300, 335
 by whom petition may be presented, 300, 335
 plaintiff to deliver particulars of objection which may from time
 to time be amended, 301, 335
 assessor may be called in, 301, 336
 Scotch proceedings for, 302, 335
 patentee at liberty to apply to amend his specification during
 proceedings, 302, 332
 when patent revoked on ground of fraud, new patent may be
 granted to true inventor, 302, 335
 cases on, 301, 302
- RIVAL APPLICATIONS**
 for patent, 173, 174. *See* OPPOSITION
- ROYAL ARMS,**
 penalty on unauthorised assumption of, 304, 351
- RULES, GENERAL, 313, 360**
 law officers', 374
 patent rules 1883, 316, 360
 on appeals to law officers, 374
 before judicial committee, 395
- RUSSIA,**
 patent laws of, 431
- ST. HELENA,**
 patent laws of, 459
- SAN SALVADOR,**
 patent laws of, 436
- SEAL OF PATENT OFFICE, 314**
 patent to be sealed within fifteen months from application, 180
 excepting when delayed by appeal, 180
 or death of applicant, 180
 on death of applicant for, legal representatives may obtain, 181
- SECOND PATENTS, 34, 69**
- SCIENTIFIC INVESTIGATION,**
 cases requiring, may be sent for trial before an official referee,
 290
- SCIRE FACIAS,**
 action of abolished, 300
- SCOTLAND,**
 transmission of specifications to, 315, 347
 legal proceedings in, 296, 304
 revocation of patent to be by action of reduction in, 302
 comptroller to act under order of Courts in, in rectification of
 registers, 352
- SIZE**
 of documents, 361
- SOUTH AUSTRALIA,**
 patent laws of, 415

SPAIN,

patent laws of, 486

SPECIFICATION, COMPLETE,

statutory requirements and regulations as to, 111, 113

reference to examiner, 113, 114

amendment of, on order of comptroller, 113

when to be left, 114

acceptance of, and notification, 115

clerical errors in, how amended, 116

effect of death of applicant before leaving, 115

relation to provisional specification, 118

patentee may drop some features of provisional specification in complete specification, 119

material addition to provisional specification will not be permitted, 119

if part of invention as described in, exceed title, patent will be invalid, 120

applicant cannot read provisional specification to supply defect in complete, 120

rules to be observed in preparation of specifications, 120-161

good faith must be observed, and full disclosure of invention made, 120

definition of invention to be accurate, that reader may understand of what it consists, 121

when for improvements in earlier patent, must distinguish the later improvements, 121

description must set forth how invention carried into effect, 122

description must not be vague or general, 123

must mention everything essential, 123-126

must precisely describe all materials and ingredients, 126-130

must communicate the latest information, 130

must describe the method of operating, 131-133

need not set forth every application, 133-134

must be intelligible to workmen of ordinary skill, 134-139

how combinations ought to be treated, 139

must not claim too much, 145-149

must not make large speculative claims, 149-151

ambiguity to be eschewed, 151, 152

must not describe two methods when only one is effective, 152

must not contain misdirections or misrepresentations, 153-155

simple mistakes in, will not avoid patent, 155

claim to be set out, 156-161

interpretation of, 161-168

amendments of, 188-198, 331

to be advertised, 190

no appeal from law officer, on appeal to him from comptroller, on question of, 190

must particularly describe and ascertain nature of invention, and in what manner it is to be performed, and be accompanied by drawings if required, 113, 326

SPECIFICATION, COMPLETE — *continued*

must commence with title and end with distinct statement of invention claimed, 113, 326

if not left with application, may be left within nine months from date of application, otherwise application deemed to be abandoned, 114, 327

unless accepted within twelve months from date of application (having in case of appeal against refusal to accept), application to become void, 115, 328

advertisement of acceptance, 115, 328

drawings, size and copies of, 365, 366

form of, 382

cases on, 111-168

amendments of. *See* AMENDMENTS

SPECIFICATION, PROVISIONAL,

must describe nature of invention, 105, 326

must be accompanied by drawings if required, 105, 326

must begin with title, 105, 326

ought not to comprise more than one invention, 105

examiner to report on, 105, 106

comptroller may require amendment of, 106

acceptance of, how notified, 106

general description of invention enough for, 106

requisites of, 106, 107

may be abandoned and another lodged, 109

its relation to complete specification, 118

form of, 381

cases on, 107-110, 119, 120

ST. HELENA,

patent laws of, 459

STATUTES,

21 Jac. I. c. 3 (1623), 321

46 & 47 Vic. c. 57, 325

STRAITS SETTLEMENTS,

patent laws of, 459

SWEDEN,

patent laws of, 439

SWITZERLAND,

patent laws of, 440

TASMANIA,

patent laws of, 445

TERM OF PATENT, 330**THREATS OF LEGAL PROCEEDINGS**

may be restrained if action not brought, 296

TITLE OF PATENT,

specification (whether provisional or complete) must begin with, 99

to be reported on by examiners, 99

what it is, 100

directions as to and illustrations of, 101-104

specification must fall within, 120

cases on, 99-104

- TREASURY,**
to settle terms of user of patent by Crown in case agreement
not come to, 185
- TRINIDAD,**
patent laws of, 460
- TRUE AND FIRST INVENTOR,**
cases on, 51-61
- TRUSTS,**
not to be entered in registers, 236, 344
- TURKEY,**
patent laws of, 440
- UNITED STATES OF AMERICA,**
patent laws of, 402
- USER, PUBLIC,**
what constitutes, 70-83
prior to application by inventor, 83-89
in colony does not affect patent subsequently obtained for same
invention in United Kingdom, 88
cases on, 71-89
- UTILITY,**
necessary incident of patentable invention, 35
patent for useless invention void, 35, 37
also if a material part is useless, 36
but uselessness of part will not vitiate the patent unless that
part is described as essential, 39
small degree of invention only necessary when invention very
useful, 28
a question for a jury, 37
must be in invention, not merely in the thing produced, 38
improvement in trade, in consequence of invention, a good test
40
public use of invention, a test of, 40
the quantity of, is not important, 38
cases on, 35-51
- VENEZUELA,**
patent laws of, 442
- VESSELS, FOREIGN,**
use of invention in, in British waters not infringement, 340
- VICTORIA,**
patent laws of, 445
- WAR, SECRETARY OF,**
empowered to purchase inventions for munitions in war, 185, 340
- WESTERN AUSTRALIA,**
patent laws of, 446
- WORKMEN,**
suggestions and assistance of, will not invalidate a patent, 58

LONDON: PRINTED BY
SPOTTISWOODE AND CO., NEW-STREET SQUARE
AND PARLIAMENT STREET