

Official prosecutions are provided for by the Merchandise Marks Act of 1891, § 2, namely—

2.—(1) The Board of Trade may, with the concurrence of the Lord Chancellor, make regulations providing that in cases appearing to the Board to affect the general interest of the country, or of a section of the community, or of a trade, the prosecution of offences under the Merchandise Marks Act, 1887, shall be undertaken by the Board of Trade, and prescribing the conditions on which such prosecutions are to be so undertaken. The expenses of prosecutions so undertaken shall be paid out of moneys provided by Parliament.

(2) All regulations made under this section shall be laid before Parliament within three weeks after they are made if Parliament is then sitting, and if Parliament is not then sitting, within three weeks after the beginning of the next session of Parliament, and shall be judicially noticed, and shall have effect as if enacted by this Act, and shall be published under the authority of Her Majesty's Stationery Office.

(3) Nothing in this Act shall affect the power of any person or authority to undertake prosecutions otherwise than under the said regulations.

And by the Merchandise Marks (Prosecutions) Act, 1894:—

1. The powers exercisable by the Board of Trade under the Merchandise Marks Act, 1891, with respect to the prosecution of offences under the Merchandise Marks Act, 1887, may in cases which appear to the Board of Agriculture to relate to agricultural or horticultural produce be exercised by that Board, and in such cases the former Act shall apply as if the Board of Agriculture were referred to therein instead of the Board of Trade.

2. This Act shall not extend to Ireland.

3. This Act may be cited as the Merchandise Marks (Prosecutions) Act, 1894, and shall be read with the Merchandise Marks Acts, 1887 and 1891.

By § 19.—(1) This Act shall not exempt any person from any action, suit, or other proceeding which might, but for the provisions of this Act, be brought against him.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery, or to answer any question or interrogatory in any action, but such discovery or answer shall

not be admissible in evidence against such person in any prosecution for an offence against this Act.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in the United Kingdom who bonâ fide acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master.

Other special offences are created by §§ 8 and 20.

§ 8 will be dealt with in Chapter VIII.; and cases under § 20 have already been alluded to in Chapter II. (*supra*, pp. 67, 68).

Forfeiture.—Besides the provisions as to forfeiture, and compensation out of the proceeds of forfeited goods to innocent parties in § 12, already alluded to, provision is further made in § 16 as to forfeiture in the case of the importation of goods.

If the marks can be entirely obliterated, the court allows this to be done, instead of ordering the goods to be forfeited and destroyed, as in *Slazenger v. Feltham* (*supra*, p. 72), and in *R. v. Attenborough* (*supra*, p. 55); and the Court will not order the destruction of goods unnecessarily, as in *R. v. Burgoyne & Co.* (*supra*, pp. 35-39), and occasionally when an undertaking is given that no more offending marks

will be used, as in *R. v. Egan* (*supra*, p. 119); but in *R. v. Jeffery* (*supra*, p. 121) the goods (gun-barrels) and in *R. v. Levy* (*supra*, p. 111) (loofah sock), and in *R. v. Williamson* (*supra*, p. 96) (watches), were ordered to be forfeited; and in *R. v. Tooth* (*supra*, p. 125) one piano was ordered to be delivered up to the prosecutor, and the other to the rightful owner.

It would have been quite easy to have removed the offending marks in the case of either the gun-barrels or the pianos. A distinction seems to have been made between marks on articles clearly the absolute property of the person charged, and goods which are not his property but which he holds as bailee. The decision as to the fate of the incriminated article is left to the discretion of the court, which must decide each case according to its peculiar circumstances.

Appeal.—Appeals are governed by the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49, § 31). See Stone's Justices Manual.

The application to a magistrate for a summons is a criminal proceeding, and therefore the judgment of the High Court is a judgment in a "criminal cause or matter" within § 47 of the Judicature Act, 1873, and no appeal will lie (*R. v. Tyler*, 1891, 2 Q.B. 588).

If the magistrates refuse to hear and determine a matter in which they have jurisdiction, they may be compelled to do so by mandamus; and an order made

by them or a conviction without jurisdiction may be quashed upon a certiorari.

Evidence—

By § 10, in any prosecution for an offence against this Act—

(1) A defendant, and his wife or her husband, as the case may be, may, if the defendant thinks fit, be called as a witness, and, if called, shall be sworn and examined, and may be cross-examined and re-examined in like manner as any other witnesses.

(2) In the case of imported goods, evidence of the port of shipment shall be *prima facie* evidence of the place or country in which the goods were made or produced.

In *Watson v. Dr. Jaeger's Sanitary Woollen System Co.* (*supra*, Chapter I., p. 59) it was held that evidence whether, according to the custom of the trade, the imposition of an English trade mark, or a trade mark with English words, indicated that the goods on which it was imposed were made in England was admissible; as also were statements made by salesmen at the time of sale.

Whether a customer would be likely to be deceived is not a proper question to put to a witness, for it is for the court, and not for the witness, after inspection

of the exhibits, and having regard to the evidence, to decide whether a customer would be likely to be deceived by the make-up of the goods (*Payton v. Snelling*, 70 L.J. Ch. 644).

Evidence as to the previous transactions between the parties is always admitted where a guilty knowledge is an ingredient in the offence (*Budd v. Lucas*, *supra*, p. 82).

In *R. v. Francis* (L.R. 2 C.C.R. 128), where on the trial of an indictment for endeavouring to obtain an advance from a pawnbroker upon a ring by the false pretence that it was a diamond ring, evidence was admitted that two days before the transaction in question the prisoner had obtained an advance from a pawnbroker upon a chain which he represented to be a gold chain, but it was not so, and endeavoured to obtain from other pawnbrokers advances upon a ring which he represented to be a diamond ring, but which in the opinion of the witnesses was not so, and the ring was not produced, it was held that the evidence was properly admitted.

But in *R. v. Holt* (30 L.J.M.C. 11), where the prisoner, a commercial traveller, who was employed by the prosecutors to take orders, but forbidden to receive moneys, obtained a sum of money from a customer by the false pretence that he had authority to receive it, it was held that evidence was not admissible to show that the prisoner, within a week from the time of the offence charged, obtained another

sum of money from another customer by a like false pretence.

In *Budd v. Lucas* (1891, 1 Q.B. 408) it was held that evidence as to the previous transactions between the parties should have been admitted (*supra*, p. 82).

In *Charnock v. Merchant* (1900, 1 Q.B. 474) the appellant was charged with an offence under the Prevention of Cruelty to Children Act, 1894, and gave evidence on his own behalf, as that Act permits. He was asked in cross-examination whether he had not been previously convicted of a similar offence. The court held that the evidence as to the appellant's previous conviction was not admissible, and quashed the conviction.

In an action for an injunction to restrain the use of a trade mark, if the defendant's goods, on the face of them, and having regard to surrounding circumstances, are calculated to deceive, evidence to prove the intention to deceive is unnecessary; the rule being that a man must be taken to have intended the reasonable and natural consequences of his own acts; but if, on the other hand, a mere comparison of the goods, having regard to surrounding circumstances, is not sufficient, then evidence of intention to deceive is admissible; and this evidence may be supplied by admissions, oral or in writing, or by inference from conduct (*Saxlehner v. Apollinaris Co.* (1897, 1 Ch. 893).

By § 19 (2), nothing in this Act shall entitle any person to refuse to make a complete discovery, or to answer any question or interrogatory in any action, but such discovery or answer shall not be admissible in evidence against such person in any prosecution for an offence against this Act.

Accessories—

By § 11, any person who, being within the United Kingdom, procures, counsels, aids, abets, or is accessory to the commission, without the United Kingdom, of any act, which, if committed in the United Kingdom, would under this Act be a misdemeanour, shall be guilty of that misdemeanour as a principal, and be liable to be indicted, proceeded against, tried, and convicted in any county or place in the United Kingdom in which he may be, as if the misdemeanour had been there committed.

It will be noticed that this section only applies to offences committed without the United Kingdom.

A person should not be charged as a principal as well as an accessory in the same information (*Hamilton v. Walker*, 40 W.R. 476).

Costs—

By § 14, on any prosecution under this Act

the court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

This section is subject to the special provisions of § 6, exempting certain persons employed in the ordinary course of business, where the defence provided by that section is set up.

The section gives the court absolute discretion over the costs, which, of course, must be exercised judicially.

In *Upmann v. Forester* (24 C.D. 231), where immediately on the plaintiff's issuing a writ, and serving the defendant with notice of motion for an injunction to restrain him from selling cigars bearing a spurious brand purporting to be that of the plaintiff's, the defendant stated that he had no intention of selling any of the cigars, and offered all the relief claimed by the writ, and at the trial of the motion agreed to an undertaking in the terms of the writ, it was held that the defendant must pay all the costs of the action. But in *American Tobacco Co. v. Guest* (1892, 1 Ch. 631, App. 101), where a retail trader innocently purchases and deals with a small quantity of goods which turn out to be an infringement of a trade mark, the court said it would not as a matter of course order the defendant to pay the costs of an

action for infringement of a trade mark. The case of *Upmann v. Forester* was distinguished because in that case there was a large consignment of 5000 cigars, whereas in this case there were only 500 cigarettes, worth 17s. 6d.

Under § 12 (3) the court may, out of the proceeds realised by the disposition of any goods forfeited under the section, award to any innocent party any loss he may have innocently sustained in dealing with such goods.

Forms of information, application to state a case, notice of appeal, and indictment will be found in the Appendix.

CHAPTER VII

THE DEFENCE

UNDER § 2 (1) the following various offences are created ; namely—

- (1) Forging a trade mark.
- (2) Falsely applying to goods any trade mark, &c.
- (3) Making any die, block, &c.
- (4) Applying any false trade description to goods, or other indication, direct or indirect—
 - (a) as to the number, quantity, measure, gauge, or weight of any goods :
 - (b) as to the place or country in which any goods were made or produced :
 - (c) as to the mode of manufacturing or producing any goods :
 - (d) as to the material of which any goods are composed :
 - (e) as to any goods being the subject of an existing patent, privilege, or copyright.
- (5) Disposing of or having in possession any die, block, &c.
- (6) Causing any of the above things to be done.

These charges become offences unless the defendant proves that he acted without intent to defraud.

Throughout the Act, whenever a person is charged with any offence under it, the burden is cast upon him to disprove the existence of such intent to defraud.

By § 2 subsec. (2), every person who sells, or exposes for, or has in his possession for, sale, or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark or mark so nearly resembling a trade mark as to be calculated to deceive is falsely applied, as the case may be, shall, unless he proves—

- (a) that having taken all reasonable precautions against committing an offence against this Act, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade mark, mark, or trade description ; and
- (b) that on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things ; or

(c) that otherwise he had acted innocently ;
be guilty of an offence against this Act.

Here, as to the offence of selling, or exposing for sale, or having in possession for sale, etc., a special defence is provided by the clauses (a), (b), and (c).

There has been much discussion as to the meaning and application of the terms "intent to defraud" and "acted innocently," but such a full exposition of them is given in the able judgment of LORD RUSSELL, C.J., in the case of *Coppen v. Moore* (14 T.L.R. 414-416), that that judgment is set out at length :—

The court, having taken time to consider, delivered judgment to-day affirming the conviction.

The LORD CHIEF JUSTICE read the judgment of the Court : "This is a case stated by justices who summarily convicted the appellant of an offence against the Merchandise Marks Act, 1887 (50 & 51 Vict. c. 28). The appellant was charged under § 2, subsec. (2), with having sold goods to which a false trade description was applied. The facts were as follows : On Sept. 4, 1897, the respondent, at the London Supply Stores, 42, George Street, Richmond (one of several places of business of the appellant), asked the salesman at the door of the shop for a small English ham. The salesman pointed to a number of hams on a shelf, and said they were Scotch hams. In fact, they were long-cut American hams. The salesman

stated the price, 8½*d.* per pound, and the respondent said he would take one, which was then produced. The salesman then passed the ham selected through the open window to a shop assistant inside, saying, ‘Weigh up Scotch ham, 8½*d.*’ The respondent, before paying, asked the assistant to make him out an account, and put on it ‘Scotch ham,’ ‘as he had bought it as such.’ The assistant at first handed the respondent an invoice without the word ‘Scotch’ on it. The respondent did not accept it so written, but told the assistant to put in the word ‘Scotch,’ ‘as he had bought it as such.’ The assistant then did so, and handed the invoice to the respondent, who then paid the price, 5*s.* 5½*d.* Upon this being done, the respondent asked the assistant whether he still said it was a Scotch ham, when the assistant admitted it was not, but was an American ham. The salesman, in like manner, was asked, and he at once admitted it was an American ham. On the part of the appellant, evidence was given that he had sent a notice to all his branch places of business, including that in question, in the following terms:—

“ ‘Marsham Street, Feb. 25, 1897.

“ ‘*Most important.*

“ ‘Please instruct your assistants most explicitly that the hams described in the list must not be sold under any specific name of place or origin, that is to say, they must not be described as “Bristol,”

“ Bath,” “ Wiltshire,” or any such title, but simply as breakfast hams.

“ ‘ To Mr. Bedford, Richmond.

“ ‘ Please sign and return.

“ ‘ H. W. COPPEN.”

“ The ham in question would come within the category of breakfast hams. Evidence was given that the terms of this notice were communicated to the manager and assistants, and the appellant stated that he had no reason to believe that his instructions were not being carried out. It is now necessary to consider the statute in question and its application to the facts proved. Section 2 is the important section. Subsec. (1) deals with the forging of any trade mark and with the false application to goods of any such mark or of any false trade description, and enacts that, subject to the provisions of the Act, an offence shall have been committed by such forging or application unless the party charged proves that he acted without intent to defraud. Subsec. (2) enacts (omitting words immaterial in this case) that every person who sells any goods to which any false trade description is applied shall be guilty of an offence against the Act unless he proves—(a) that having taken all reasonable precautions he had no reason to suspect the genuineness of the trade description; and (b) that on demand duly made he gave all information in his power with respect to the persons from whom

he obtained such goods; or (c) that otherwise he acted innocently. By § 3 it is enacted that 'trade description' shall mean any description, statement, or other indication, direct or indirect, as to (among other things) the place or country in which any goods were made or produced. Later in such section it is enacted that the expression 'false trade description' shall mean a trade description false in any material respect as regards the goods to which it is applied. By § 5, subsec. (1), it is enacted that a person shall be deemed to have applied a trade description to goods who applies it to the goods themselves or uses a trade description in any manner calculated to lead to the belief that the goods in connexion with which it is used are designated or described by that trade description. In *Budd v. Lucas* (1891, 1 Q.B. 408) it was decided that where certain casks of beer were delivered accompanied by an invoice in which the casks were falsely described as 'barrels' (which word had acquired the character of a trade description) it was held that an offence under § 2, subsec. (1), of the Act in question had been committed, although the invoice containing the false trade description was not physically attached to the casks. I think this case was well decided; in other words, I think that it is not necessary to constitute the offence that there shall be any physical connexion between the false trade description and the goods to which it is applied. It was admitted that the

description 'Scotch ham' was a trade description, and it was found that it was applied to the ham sold by the appellant's employes, and it was admittedly false. It was not contended that it was not material. In these circumstances it is clear that an offence against the Act was committed by the salesman and by the assistant of the appellant. But the question which the court is now called upon to decide is whether the appellant also is not personally liable to be convicted. This was the question argued before us. The appellant's contention was that the charge here preferred was a criminal charge, and that the general principle of law applied—'nemo reus est nisi mens sit rea.' There is no doubt that this is the general rule, but it is subject to exceptions, and the question here is whether the present case falls within the rule or within the exception. Apart from statute exceptions have been engrafted upon the rule; for example, in the case of *R. v. Stephens* (L.R. 1 Q.B. 702) the defendant was held liable on indictment for obstructing navigation by throwing rubbish into a river from a quarry owned by the defendant but managed by his son, although it was proved that the men employed at the quarry had been by order prohibited from doing the acts complained of. No doubt in that case the fact that the proceedings were only in form criminal was adverted to by the judges who decided it, but the facts remains that the defendant was criminally indicted. But by far the greater

number of exceptions engrafted upon the general rule are cases in which it has been decided that by various statutes criminal responsibility has been put upon masters for the acts of their servants. Amongst such cases are *Mullins v. Collins* (L.R. 9 Q.B. 292), where a licensed victualler was convicted of an offence under § 16 of the Licensing Act of 1872 for supplying liquor to a constable on duty, although this was done by his servant without the knowledge of his master. Again, in *Bond v. Evans* (21 Q.B.D. 249), where a licensed victualler was convicted of an offence against § 17 of the same Act where gaming had been allowed in the licensed premises by the servant in charge of the premises, although without the knowledge of his master. The decisions in these and in other like cases were based upon the construction of the statutes in question. The court, in fact, came to the conclusion that, having regard to the language, scope, and object of those Acts, the Legislature intended to fix criminal responsibility upon the master for acts done by his servant in the course of his employment, although such acts were not authorised by the master, and may even have been expressly prohibited by him. The question, then, in this case comes to be narrowed to the simple point, whether upon the true construction of the statute here in question the master was intended to be made criminally responsible for acts done by his servant in contravention of the Act, where such acts

were done, as in this case, within the scope or in the course of their employment. In my judgment it was clearly the intention of the Legislature to make the master criminally liable for such acts, unless he was able to rebut the *prima facie* presumption of guilt by one or other of the methods pointed out in the Act. Take the facts here and apply the Act to them. To begin with, it cannot be doubted that the appellant sold the ham in question, although the transaction was carried out by his servants. In other words, he was the seller, although not the actual salesman. It is clear also, as already stated, that the ham was sold with a 'false trade description' which was material. If so, there is evidence establishing a *prima facie* case of an offence against the Act having been committed by the appellant. But it is only a *prima facie* case. The burden of proof is shifted upon the appellant, and he might meet successfully that *prima facie* case if he is able, where the charge is under subsec. 1 of § 1, to prove that he acted without intent to defraud; or, where the charge is under subsec. 2 of § 1, if he is able to prove (a) that he had taken all reasonable precautions against committing an offence against the Act and had no reason to suspect the genuineness of the trade description in question, and (b) that on demand he had given full information, or (c) if he is able to prove that otherwise he acted innocently. It seems clear that clauses (a) and (b) of subsec. 2 apply to cases where goods in question are in the possession

of the accused for sale or are sold with the forged trade mark or false trade description already stamped upon them or otherwise applied to them, and not to a case like the present, where the false trade description is applied upon the occasion and as part of the terms of sale; and in the latter case the accused ~~must~~ rely for his exculpation upon clause (c)—namely, by shewing that he had acted innocently. In the present case there was ample evidence to justify the conclusion of the magistrates that the appellant was *primâ facie* guilty of the offence charged, and that *primâ facie* case has not been met in the manner required by the Act. The magistrates, indeed, have affirmatively found—in the terms of clause (a)—that the appellant had not, in fact, taken all reasonable precautions against committing an offence against the Act, but I have already pointed out that that clause does not directly apply to the facts of this case. This finding is, therefore, not strictly relevant, although it suggests an important element in determining whether the accused is innocent; but what is material to note is that the magistrates do not appear to have been asked to find, and certainly they do not in fact find, that the appellant acted innocently within the meaning of clause (c). There was evidence before them that the American hams in question were dressed so as to deceive the public; and this probably explains the reason of the affirmative finding to which I have adverted and the absence of the finding that the

appellant had acted innocently within the meaning of clause (c). In answer, then, to the question which alone is put to us—namely, whether, upon the facts stated, the decision of the magistrates convicting the appellant was in point of law correct—my answer is that, in my judgment, it was. When the scope and object of the Act are borne in mind, any other conclusion would, to a large extent, render the Act ineffective for its avowed purposes. The circumstances of the present case afford a convenient illustration of this. The appellant, under the style of the 'London Supply Stores,' carries on an extensive business as grocer and provision dealer, having, it appears, six shops or branch establishments, and having also a wholesale warehouse. It is obvious that, if sales with false trade descriptions could be carried out in these establishments with impunity so far as the principal is concerned, the Act would, to a large extent, be nugatory. I conceive the effect of the Act to be to make the master or principal liable criminally (as he is already by law civilly) for the acts of his agents and servants in all cases within the sections with which we are dealing, where the conduct constituting the offence was pursued by such servants and agents within the scope or in the course of their employment, subject to this—that the master or principal may be relieved from criminal responsibility where he can prove that he had acted in good faith and had done all that it was reasonably possible to

do to prevent the commission by his agents and servants of offences against the Act. The result, therefore, is that the conviction will be affirmed, and with costs. I wish to add that the form in which this case is stated is not satisfactory. It does not throughout clearly distinguish between what was merely evidence and what was proved to the satisfaction of the magistrates. It is important that it should be borne in mind that when a case is submitted to the court it ought to state clearly what the facts proved were, and not merely what the evidence was."

We have already alluded to and commented on the special defences provided by § 19 (3), and § 6 (*supra*, Chapter IV., pp. 140, 141). It will be noticed that again in the provisions of § 6 the burden of proving the assent of the proprietor is cast upon the person charged.

In § 4, in any prosecution for forging a trade mark, the burden of proving the assent of the proprietor shall lie on the defendant, and in § 5 (3) in any prosecution for falsely applying a trade mark or mark to goods, the burden of proving the assent of the proprietor shall lie on the defendant.

After all, it would seem as if the proof by the defendant of the special defences, where provided, simply amounts to a proof of the general defence that he acted without intent to defraud, or that he acted innocently.

By § 13 the Act of the session of the twenty-second and twenty-third years of the reign of Her present Majesty, chapter seventeen, intituled “An Act to prevent vexatious indictments for certain misdemeanours,” shall apply to any offence punishable on indictment under this Act, in like manner as if such offence were one of the offences specified in section one of that Act, but this section shall not apply to Scotland.

And by § 15 no prosecution for an offence against this Act shall be commenced after the expiration of three years next after the commission of the offence, or one year next after the first discovery thereof by the prosecutor, whichever expiration first happens.

CHAPTER VIII

WATCHES

§ 7. Where a watch case has thereon any words or marks which constitute, or are by common repute considered as constituting, a description of the country in which the watch was made, and the watch bears no description of the country where it was made, those words or marks shall *primâ facie* be deemed to be a description of that country within the meaning of this Act, and the provisions of this Act with respect to goods to which a false trade description has been applied, and with respect to selling or exposing for or having in possession for sale, or any purpose of trade or manufacture, goods with a false trade description, shall apply accordingly, and for the purposes of this section the expression "watch" means all that portion of a watch which is not the watch case.

§ 8.—(1) Every person who after the date fixed

by Order in Council sends or brings a watch case, whether imported or not, to any assay office in the United Kingdom for the purpose of being assayed, stamped, or marked, shall make a declaration declaring in what country or place the case was made. If it appears by such declaration that the watch case was made in some country or place out of the United Kingdom, the assay office shall place on the case such a mark (differing from the mark placed by the office on a watch case made in the United Kingdom) and in such a mode as may be from time to time directed by Order in Council.

(2) The declaration may be made before an officer of an assay office, appointed in that behalf by the office (which officer is hereby authorised to administer such a declaration), or before a justice of the peace, or a commissioner having power to administer oaths in a Supreme Court of Judicature in England or Ireland, or in the Court of Session in Scotland, and shall be in such form as may be from time to time directed by Order in Council.

(3) Every person who makes a false declaration for the purposes of this section shall be liable, on conviction on indictment, to the penalties of

perjury, and on summary conviction to a fine not exceeding twenty pounds for each offence.

The special provision as to watches contained in § 7 is that any mark on the case is to be deemed to extend to the watch. If, therefore, a watch case is made in this country with any statement or indication of origin such as a British hall-mark, and having been exported, is returned with a foreign movement, then, in the absence of a counter description on the watch itself, the mark on the case will apply to the watch. (See General Order, 15/1900, on p. 203 *et seq.*)

It would seem from the decision in *R. v. Williamson*, the leading case on the subject, which has been extensively referred to previously (pp. 96-99), that by the custom of the watch trade the main-spring, and hair-spring, and certain screws were allowed to be of foreign origin in nearly every watch, properly called English; but that watches which contain foreign parts other than those mentioned, cannot properly be termed English, and that it made no difference if certain foreign parts were imported in the rough and were polished and fitted in this country. The question again seems to resolve itself into one of fact whether the description was false "in a material respect."

The following cases, in addition to *R. v. Williamson*, may be referred to as illustrative of the principles involved:—

R. v. Andrew Campbell (Times, Feb. 9, 1889). The defendant was charged with having unlawfully sold a watch to which had been applied a false trade description as to the place or country in which it was made. The prosecution was instituted by the London Watch Trade Association and they did not impute that the defendant had himself applied the false description. The defendant exhibited in his shop in Cheapside a silver watch, stamped on the face of it "English Lever Watch Company." It was purchased for £1 18s. 6d., and was one of the worst kind of foreign-made watches, worth wholesale 14s. It bore a Swiss hall-mark, and was marked inside "Expressly examined," on another part "Patent lever jewelled," and on the works "Chronometer balance."

The words "patent lever" were well understood in the trade, but this watch was not so: the jewels were worthless imitations, and the "chronometer balance" useless.

The defendant, who pleaded guilty, said that these watches were in stock in 1885, before the passing of the Act. As this was the first case of its kind, the defendant was fined £5, and £20 costs.

R. v. Kendal & Dent (Times, March 9, 1889). The defendants were similarly charged, and pleaded not guilty.

The defendants sold as an English watch an article which as regarded the principal movements, were of

foreign manufacture. The watch was described in the defendants' catalogues as a "Gent's English lever watch," and the price was £3 15s. On the face of the watch were the words "Kendal and Dent, London." The principal portions of the works were of foreign manufacture (probably Swiss), and the case was of Birmingham manufacture.

For the defence it was urged that there were no representations made as to the origin of the watch. The words "Kendal and Dent, London," denoted the names of the vendors, and no one was injured by the transaction.

The defendant Kendal said he bought the watch from the English Watch Co. at Birmingham in March, 1885. It was supplied as an English lever, and cost £2. They gave with it a five-years' warranty to keep it in repair gratis.

The manager of the English Watch Co. deposed that he was in the habit of importing materials from Switzerland, because it ensured uniformity, and not because of the cost. Fined £20, and £5 costs.

R. v. John Allpuss (Times, May 16, 1889). Defendant's traveller induced a purchaser to buy what purported to be an English silver lever watch bearing the Birmingham hall-mark for £4 10s. The watch was worth 35s., and the principal parts were made in Switzerland. It was pleaded that the defendant had no "mens rea," but he was fined 40s., and 2s. costs.

R. v. Hyland (Times, Aug. 15, 1890). The defendant exhibited for sale in his window a foreign silver watch, which bore on its face the defendant's name and address, with the addition of "London." It was labelled "London finished three-quarter plate lever, £2 2s.," and it bore the Birmingham hall-mark.

It was not a lever watch at all; the whole of the works were foreign made, the case and face were Swiss, and the defendant's name and address had been painted in recently. Fined £10, and £5 5s. costs, or a month's imprisonment.

R. v. Bettle & Gent (Times, Feb. 9, 1891). The defendants had in their possession a watch, upon which a man named Richard Gore had been at work. The dial of the watch bore the name "Campbell & Co., Smithfield, Belfast." Gore said that the pivots, movements, pillar cap, and other parts of the internal fittings were of foreign make, and that the name of an English manufacturer upon the dial would stamp, and be accepted as a guarantee, that the whole watch was of English make. Numerous witnesses also testified to the same effect.

The principal result of using a foreign-made movement was that, the works being "soft," the watch would not be of the same value. The foreign movement would cost 12s., and the difference between that and an English watch was about £3.

For the defence it was said that the steel and brass

of movements of the kind were of Swiss manufacture, and known as "Raymond Brothers," and were exported to Switzerland for use.

The prosecution alleged that "R.B." on the movement had been partially erased for the purpose of concealing the foreign origin of the movement, but the defence alleged that the deliteration was caused by stamping a number on the watch.

The learned magistrate, Mr. Horace Smith, said the third section of the Act meant an article substantially made in England, held that there had been an infringement of the Act, and fined the defendant £10, and £5 costs, for having the watch in his possession for sale.

In *R. v. Moss* (Times, Feb. 18, 1904) the defendant was fined £20, and 3 guineas costs, for exposing for sale and having in his possession watches bearing a false trade mark, and further for unlawfully applying the trade description "Waltham" to a watch which was of Swiss and not American manufacture.

See the Orders in Council, 81/1887 and 9/1888, appended to this chapter: and the General Order 15/1900, para. 45, *post*, p. 219.

By the Customs Act, 1876 (39 & 40 Vict. c. 36), § 42, the importation of clocks and watches, or any other article of metal impressed with any mark or stamp representing, or in imitation of, any legal British assay mark or stamp, or purporting by any

mark or appearance to be of the manufacture of the United Kingdom, is prohibited.

§ 42. The goods enumerated and described in the following table of prohibitions and restrictions inwards are hereby prohibited to be imported or brought into the United Kingdom, save as thereby excepted, and if any goods so enumerated and described shall be imported or brought into the United Kingdom, contrary to the prohibitions or restrictions contained herein, such goods shall be forfeited, and may be destroyed or otherwise disposed of as the Commissioners of Customs may direct.

[A TABLE OF PROHIBITIONS AND RESTRICTIONS
INWARDS.]

Goods prohibited to be imported.

Clocks and watches or any other article of metal impressed with any mark or stamp representing or in imitation of any legal British assay mark or stamp, or purporting by any mark or appearance to be of the manufacture of the United Kingdom.

This section has been since variously amended, and can be said to have been replaced by § 16 of the Merchandise Marks Act, 1887.

There is at the present time (August, 1904) a proposed Act of Parliament under consideration in the House of Lords relating to foreign hall-marks, but it is impossible to foretell its fate. It is

something to be grateful for that the attention of the Legislature has been called to so important a subject. The text of the Act, which has become law, will be found on p. 316.

GENERAL ORDER $\frac{81}{1887}$.

CUSTOM HOUSE, LONDON,
October 20, 1887.

SIR,

Herewith you will receive the usual number of copies of the Merchandise Marks Act, 1887 (50 & 51 Vict. cap. 28).

You are carefully to note the meanings given by the Act to the following, viz. :—

“ Goods,” section 3.

“ Applied,” section 5 ; sub-sections 1 and 2.

“ Falsely applied,” section 5 ; sub-section 3.

“ Trade Mark ”

“ Trade Description ”

“ False Trade Description ”

“ Person ”

“ Manufacturer ”

“ Dealer ” or “ Trader ”

“ Proprietor ”

“ Name ”

“ Name or Initials ”

} Section 3.

You will also especially note, as applying to imported goods, the provisions of section 10, sub-section (2), and section 18 of the Act.

You will observe that by section 5 of the Act the word “ applies ” in connexion with goods is extended to “ applying ” the name or mark to any “ covering, label, reel, or other thing.”

You will understand that, in future, as hitherto, this will not be held to extend to "coverings" or other such things, including boxes, bottles, or the like, imported alone and with the intention of using them as auxiliary means of carrying into the market goods really British or goods (such as wine) incapable of being mistaken as British goods, where the description applied to the coverings or such other things does not relate to *them*, but has reference to the goods which they are to cover to carry into the market.

There is, however, on this point one article to be specially noticed, viz. "Watch cases;" and, as to this, your attention is called to section 7 of the Act, which lays down that, in the absence of a counter-description of the watch itself, the description on the watch *case* shall be always held to describe the watch.

Under section 16 of the Act, regulations have been prepared by the Board which are now under the consideration of the Lords of the Treasury.

As soon as these regulations are finally approved, a copy will be sent to you, together with instructions as to the manner in which you are to carry them into effect.

These regulations will come into force on a date to be fixed under them, but not later than the first day of January next.

It is highly desirable, therefore, that in the meanwhile you should make yourself familiar with the general scope of the Act, and especially with the provisions contained in section 16 as to the importation of goods coming within its powers, and with the points to which your attention is now more particularly directed.

I am, Sir,
Your obedient Servant,
E. GOODWYN.

To the Collector.

GENERAL ORDER $\frac{9}{1888}$.CUSTOM HOUSE, LONDON,
January 18, 1888.

SIR,

In accordance with paragraph 33 of General Order $\frac{99}{1887}$, I now transmit to you the directions of the Board, to enable you to deal with watch cases and watches, under the Merchandise Marks Act; the latter term, watches, meaning as provided by section 7 of the Act, "all that portion of a watch which is not the watch case."

Your attention has already, by G.O. $\frac{81}{1887}$, been called to the position in which watch cases, under this section, stand in relation to watches; and the consequent importance of the assay mark on watch cases, which mark, by virtue of section 3 (1) of the Act, would be deemed a trade description as to place or country of origin.

You will note, in addition, that by section 8 (1) of the Act, provision is made for preventing foreign-made watch cases from obtaining the mark placed on a watch case made in the United Kingdom: and it is enacted that a different mark shall be placed on foreign watch cases of such pattern, and in such mode as directed by Order in Council.

An Order in Council to this effect, dated the 28th of November last, was published in The London Gazette of 9th December last, and a copy of this order, together with sheets 1 and 2 of Appendix to Schedule II. therein referred to, which contain diagrams of the required new marks, are sent to you herewith.

You will carefully study these sheets, and note how the marks apply variously to the different assay offices in the United Kingdom.

The directions to be observed by you in applying this new law will relate to—

- (a) Watch cases with assay marks imported alone.
- (b) Like watch cases imported with the watches, that is to say, watches of foreign manufacture in them.

(a) Watch Cases with Assay Marks imported alone.

If the cases are wholly unmarked, or are duly marked in accordance with the Order in Council, or with a foreign assay mark, and there is not, in addition, any wording on any part of the case proper, or on the dome, indicating make or produce in the United Kingdom, the goods may be delivered. If, on the other hand, there is any such wording, the goods must be detained and the matter referred to the Board.

If the cases are marked with a British hall-mark as placed on watch cases made in the United Kingdom, you will detain the goods unless they are entered as "British goods brought back," in which case they may be admitted under the usual regulations.

(b) Watch Cases imported with the Watches in them.

If the cases are wholly unmarked, or are marked either
 In accordance with the Order in Council, or
 With a foreign assay mark, or

With a British assay mark as placed on a watch case made in the United Kingdom, and with an equally conspicuous statement either above or below the assay mark, that the watch is of foreign make ;

And if there is no wording either as an addition on the case or dome, or upon the watch itself, whether on the dial or the plate, or any part of the works, indicating make

or produce in the United Kingdom, then the goods may be delivered.

If, on the other hand, there is any such wording, the goods must be detained and the matter referred to the Board.

If the cases are marked with a British assay mark as placed on a watch case made in the United Kingdom, and with no statement of foreign make on the cases as required above, you will detain them as a seizure, unless there is upon the dial of each watch and also on the top "plate" (where the watch is of that construction) or on the bottom "plate" (where the watch is of that construction) visibly, between the "bridges," an indelible and definite indication of the place or country in which the watches were made. Such an indication will be considered definite, if it is, or contains only the name of the place or country of origin; if in addition, it contains the name of a place in, or a part of the United Kingdom, as, for instance, "Geneva and London," or if there is anywhere on the watch an indication by figures, words, or otherwise, that the watch might be the make or produce of the United Kingdom, then, in addition to the name of place or country of origin, there must be a distinct statement that the watches were there made.

I am, Sir,
Your obedient Servant,
E. GOODWYN.

The Collector
at

CHAPTER IX

PROHIBITION ON IMPORTATION

§ 16. Whereas it is expedient to make further provision for prohibiting the importation of goods which, if sold, would be liable to forfeiture under this Act ; be it therefore enacted as follows :—

(1) All such goods, and also all goods of foreign manufacture bearing any name or trade mark being or purporting to be the name or trade mark of any manufacturer, dealer, or trader in the United Kingdom, unless such name or trade mark is accompanied by a definite indication of the country in which the goods were made or produced, are hereby prohibited to be imported into the United Kingdom, and, subject to the provisions of this section, shall be included among goods prohibited to be imported as if they were specified in section forty-two of the Customs Consolidation Act, 1876.

(2) Before detaining any such goods, or taking

any further proceedings with a view to the forfeiture thereof under the law relating to the Customs, the Commissioners of Customs may require the regulations under this section, whether as to information, security, conditions, or other matters, to be complied with, and may satisfy themselves in accordance with those regulations that the goods are such as are prohibited by this section to be imported.

(3) The Commissioners of Customs may from time to time make, revoke and vary, regulations, either general or special, respecting the detention and forfeiture of goods the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may by such regulations determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) Where there is on any goods a name which is identical with or a colourable imitation of the name of a place in the United Kingdom, that name, unless accompanied by the name of the country in which such place is situate, shall be treated for the purposes of this section as if

it were the name of a place in the United Kingdom.

(5) Such regulations may apply to all goods the importation of which is prohibited by this section, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(6) The Commissioners of Customs, in making and in administering the regulations, and generally in the administration of this section, whether in the exercise of any discretion or opinion, or otherwise, shall act under the control of the Commissioners of Her Majesty's Treasury.

(7) The regulations may provide for the informant reimbursing the Commissioners of Customs all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(8) All regulations under this section shall be published in the "London Gazette" and in the "Board of Trade Journal."

(9) This section shall have effect as if it were part of the Customs Consolidation Act, 1876, and shall accordingly apply to the Isle of Man as if it were part of the United Kingdom.

(10) Section two of the Revenue Act, 1883, shall be repealed as from a day fixed by regulations under this section, not being later than the first day of January, one thousand eight hundred and eighty-eight, without prejudice to anything done or suffered thereunder.

This important section applies only to goods which actually bear marks which bring them within its terms. Goods imported into the United Kingdom which bear no marks whatever are not subject in any way to the Act; and therefore need not bear any statement or indication of origin such as "Made abroad," or "Made in Germany," &c. The goods liable to forfeiture under this section are those as to which an offence against the Act has been committed. Although the goods might bear a forged trade mark or a false trade description, yet the owners might be able to clear themselves of having committed an offence under subsecs. (1) or (2) of § 2. In such a case the goods, although improperly marked, would not be liable to seizure under this section. It would seem as if the words "or a mark so nearly resembling it as to be calculated to deceive," which occur in § 4 (a) and § 5 (3), are here unintentionally omitted.

What is a "definite indication of the country in which the goods were made or produced" is fully discussed in the General Order, 15/1900, which is set out in full at the end of this chapter.

The terms of the section are not difficult to understand, but they are made more readily intelligible if the General Order appended to this chapter be studied in conjunction with them.

The "definite indication of origin" required by this section is enlarged in § 18, which section must be considered with § 16.

The two sections, however, are more concerned with the procedure of the Custom House officers under the Act than with the law as to merchandise marks, and the General Order, Feb. 26, 1900 (15/1900), forms perhaps a sufficient code of regulations on the subject.

Any proceedings taken against the Custom House authorities or their officers in respect of anything done, or left undone, in the execution of their duties under the Act, fall within the Public Authorities Act of 1893 (56 & 57 Vict. c. 61). Such proceedings, therefore, must be commenced within six months.

The Public Authorities Act provides, § 1 (b), that, "wherever in any such action a judgment is obtained by the defendant, it shall carry costs to be taxed as between solicitor and client," and it was held in *Bostock v. Ramsey Urban District Council* (1900, 1 Q.B. 357) that, where upon the trial of an action brought against a person for an act or default in the execution of a statutory or other public duty, the discretionary power which is given to a judge by Order LXV., r. 1, to deprive the defendant of his

costs is not taken away by § 1 (b) aforesaid : but this provision does not apply to appeals. *Fielden v. Mayor of Morley* (1900, A.C. 133).

In *Jacobson v. Blake* (7 Scott. N.R. 772), where the Custom House officers had taken possession of goods imported by the plaintiff, acting under the bonâ fide belief that the goods were liable to forfeiture ; but, having discovered that they were mistaken, returned the said goods to the plaintiff, without ever having actually seized them ; it was held in an action for trespass by the owner of the goods against the Custom House officers, that such an action would not lie, as the goods had never been actually seized, but had merely been detained for examination.

By § 18, where, at the passing of this Act, a trade description is lawfully and generally applied to goods of a particular class, or manufactured by a particular method, to indicate the particular class or method of manufacture of such goods, the provisions of this Act with respect to false trade descriptions shall not apply to such trade description when so applied : Provided that where such trade description includes the name of a place or country, and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or

produced in that place or country, this section shall not apply unless there is added to the trade description, immediately before or after the name of that place or country, in an equally conspicuous manner, with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there.

This section has already been briefly discussed in Chapter III. (*supra*, pp. 99, 100), and illustrations of its application, or attempted application, have been given in the following cases:—

R. v. Harrod's Stores (*supra*, p. 101).

R. v. Nicholls (*supra*, p. 112).

Gridley v. Swinborne (*supra*, p. 51).

R. v. Downing (*supra*, p. 109).

R. v. Cohen, Weenen & Co. (*supra*, p. 133).

Marshall v. Ross (*supra*, p. 51).

In *R. v. Cam Portland Cement Co.* (Times, March 21, 1901), the defendants were charged with applying a false trade description to certain lime. The question was whether the defendants were entitled to use the term "blue lias" for the hydraulic lime manufactured in Cambridgeshire. It was contended that the "blue lias" formation was not known in Cambridgeshire, but only in the Midlands. The learned magistrate, (Mr. Horace Smith) held that "blue lias" was a

generic term accepted by merchants, architects, and engineers; that there was no fraudulent application of the name of a particular locality to the article sold by the defendants, but if the defendants had called their lime "Warwickshire Hydraulic Lime," a conviction might have followed. The summons was dismissed without costs.

A study of the General Order, 15/1900, appended to this chapter, in addition to the cases cited above, will be sufficient instruction for the thorough appreciation of this section.

The only remaining section requiring notice is § 20, namely—

20. Any person who falsely represents that any goods are made by a person holding a Royal Warrant, or for the service of Her Majesty, or any of the Royal Family, or any Government department, shall be liable, on summary conviction, to a penalty not exceeding twenty pounds.

Which has already been referred to in Chapter II. (*supra*, pp. 67, 68).

GENERAL ORDER $\frac{15}{1900}$.

CUSTOM HOUSE, LONDON,
26th February, 1900.

MERCHANDISE MARKS ACT, 1887. CONSOLIDATED INSTRUCTIONS.

The following consolidation of the General Orders and other instructions on the subject of the Merchandise Marks Act of 1887 is issued for the information and guidance of the Officers.

1. The Regulations made by the Board under section 16 of the Merchandise Marks Act, 1887, will be found on pages 222 *et seq.*

2. Goods imported into the United Kingdom which do not bear any marks whatever, either on the goods themselves or on the coverings containing them, are not subject in any way to the Act, and therefore need not bear any statement or indication, such as "Made abroad," "Made in Germany," &c. Goods without marks.

3. Although the Act draws no special distinction, except as regards the requirement of qualification in certain cases under section 16, between goods prohibited on account of marks suggesting British origin and goods prohibited on other grounds, for the purposes of Customs administration it is convenient to deal with them separately. The goods, therefore, prohibited under the Act to which the attention of Officers is called may be classed under two heads—

(A) Goods with marks which suggest British origin and require, in order to legalize their importation, some counteracting qualification (paragraph 4).

(B) Goods with marks prohibited on other grounds (paragraph 19).

It is to be noted that by section 1 of the Merchandise Marks Act, 1891 (54 Vict. c. 15), the Customs entry relating to imported goods shall for the purposes of the Merchandise Marks Act, 1887, be deemed to be a trade description applied to the goods.

(A) GOODS WITH MARKS SUGGESTING BRITISH ORIGIN.

4. Goods falling under (A) may be again subdivided—

(a) Goods, whether manufactured or raw, having applied to them any description, figures, words, or marks, or arrangement or combination thereof, which by being or including, either expressly or by reference, the name of a place in or a part of the United Kingdom (*e.g.* "Irish" = "of Ireland"), or in any other way, constitute a statement or other indication, direct or indirect, that the goods were made or produced in the United Kingdom.

(b) Goods of foreign manufacture bearing any name or mark which is, or purports to be, the name or trade mark of a manufacturer, dealer, or trader in the United Kingdom.

(c) Goods, whether manufactured or raw, having applied to them a generally used trade description, which in indicating a particular class of goods or method of manufacture, includes expressly the name of a place in, or a part of, the United Kingdom, and is thereby calculated to mislead as to the place

of the manufacture or production of the goods. This class, though in fact only a case of (a), is dealt with specially by the Act (section 18).

5. (A) (b) relates to manufactured goods, and not to entirely raw goods, and the word "purports" is to be understood as referring to any name or names reasonably suggesting a British manufacturer, dealer, or trader, whether the name is or is not known to the Officer; or as referring to a trade mark, not being merely matter of decoration or ornament, which reasonably suggests itself as British by containing English wording, or other representation specially designed to convey, and, in fact, conveying, an impression of British manufacture.

6. As to (c) that the words "trade description which in indicating a particular class of goods or method of manufacture, includes the name of a place in or a part of the United Kingdom, and is thereby calculated to mislead" (*see* 4 (c)) mean such terms as Kidderminster Carpets, "Balbriggan" on hosiery, or "Shetland" on shawls, and the like, which, although they might be held to be merely phrases descriptive of method of manufacture, are yet calculated to mislead as to place of origin. Where, however, such a description has become associated with a particular class of goods in a manner practically to preclude any probability of deception, as "Portland Cement" and "Bath Chaps," the description need not be accompanied by a statement of the country of actual production. This applies also to the case of Colonial names describing, for instance, classes of wool, &c., where although the names are British, the circumstances preclude mistake.

Places
indicating
method of
manufac-
ture.

7. All such goods as above specified are to be detained and reported to the Board unless they are qualified as follows :—

As to (a), by a definite indication of make or production out of the United Kingdom.

As to (b), by a definite indication of the country in which the goods were made.

As to (c), by the name of the country in which the goods were actually made or produced, with a statement that they were made or produced there.

When
"made
in" not
required.

8. With regard to (a), "Made abroad" will be generally sufficient. With regard to (b), the name of the country is a sufficient indication, without the words "made in," if the name or trade mark only appears. Where there is an address, as "John Smith, Sheffield," then the qualification must be "Made in Germany," or similar wording; "Germany" alone would not counteract "Sheffield." (c) requires the full statement "Made in Germany."

Actual
place of
origin.

9. Officers are not expected to decide whether goods were actually made or produced in the country from which in the qualification they are stated to come; the name of *some* foreign country, or of some place in a foreign country is sufficient.

Place-
name alike
in United
Kingdom
and
abroad.

10. If the goods bear the name of a place identical with, or a colourable imitation of, the name of a place in the United Kingdom, the name should be accompanied by the name of the country in which the place is situated. Thus Boston, in Massachusetts, should be accompanied by the name "United States," or by the initials "U.S.A.," or even by the abridgment Mass.

English
language
on goods.

11. The use of the English language applied as a description to goods imported from non-English speaking countries is not, simply *as* language and where not involving the name of any place in, or part of, the United Kingdom, a "direct," and, as a rule, is not to be regarded as an "indirect," indication of British origin. Where, however, there is good ground for considering

that the use of the language was specially designed to convey, and does in fact convey, an impression of such origin, then the language will be a description within (a) of paragraph 4.

Initials.

12. "Initials" under the Act, though not treated as Initials. names generally, are to be so treated in certain cases, of which the following are all to which the Officers need take cognizance :—

(i.) Where the initials are followed by affixes distinctly suggesting a British firm as "& Co." from countries where that affix is not used, which includes all the Continental countries except Germany, and "Brothers" or "Bros." or the like, which applies to all non-English speaking countries. This holds as to all goods whether manufactured or raw ; but in respect of baskets and the like, holding raw fruit, eggs, &c., and sent to and from the Continent, the rule, when the baskets, &c., will not meet the eyes of retail buyers, is not strictly applied.

(ii.) Where, in respect of manufactured goods, the name or mark of a manufacturer, dealer, or trader in the United Kingdom is prohibited, on foreign goods, even his own property, without a definite qualification, the initials will fall within the prohibition if they are easily recognisable as those of persons or firms so well-known as to make the initials practically equivalent to the name itself ; and also, where they are the initials of known consignees of the goods who will bring them into consumption in the same "coverings."

Where the consignees are not known, and no special fact calls attention to the goods, they may, as regards initials, be passed.

Packing Cases and Coverings.

Cases and coverings.

13. Goods will not be liable to detention when the name of a port or place of destination is applied to mere packing cases or outer wrappers in which goods are clearly not intended to be sold or exposed for sale, or if exposed for sale, then in an expert market. Address marks, when they are merely and manifestly such, for purposes of carriage only, are not marks within the Act.

14. "Coverings" such as boxes, capsules, bottles, &c., are to be judged with discrimination as to whether the marks, if any, on them, refer to them, or to the goods they are to cover. If the mark on them refer, as is rarely the case, distinctly to the coverings, the case should be reserved for the Board. If the marks, such as Royal Arms, or the like, refer to the goods to be covered, and it is shown to the satisfaction of the Officer that they will be British goods, or goods as to which British marks are not objectionable, and do not refer to the coverings themselves, then the coverings may be regarded as not contrary to the Act.

15. This principle will apply to coverings (such as ornamental boxes for tobacco, tea, or confectionery), with names on them of firms who have ordered the coverings for their own goods, or where such firms, though not having actually ordered the coverings themselves, consent in writing to their importation for such goods.

Grain Sacks.

Grain sacks.

16. The name and address of a merchant in this country upon grain sacks are to be regarded as an

indication that the grain is of British origin, and will require the addition of a statement of the country of production. In the case of grain imported in bulk and transferred *after due entry and clearance* into sacks on board the importing ship, such marking of the sacks need not be qualified with a statement of the foreign origin of the grain.

Samples, &c.

17. Samples or patterns, readily distinguished as such, Samples. and valueless in themselves, are not to be treated as under the Act so far as British origin is concerned.

Goods not produced in United Kingdom.

18. Goods not produced in the United Kingdom, such Non-pro- as wine, tea, and other produce not grown in this country, ducts of such as linseed, rapeseed, &c., are also treated as not United under the Act, so far as British origin is concerned. Kingdom. This is applied further to some special forms of manufacture which, by shape, make, or colour, cannot be mistaken for the manufacture here of the same article, as, for instance, Dutch cheese of the kind well-known to be made in Holland, bearing the initials of British dealers.

(B) GOODS PROHIBITED ON OTHER GROUNDS.

19. Goods prohibited on grounds other than marking suggestive of British origin are those which, whether manufactured or raw, have applied to them a false trade description—

- (a) as to the place or country in which they were made or produced ;
- (b) as to trade marks or names so as to constitute forgery ;

(c) as to number, quantity, measure, gauge or weight, and mode of manufacture or material ;

(d) as to being the subject of any existing patent, privilege, or copyright.

Marks as between foreign countries.

20. As to (a), this relates, of course (British origin having been dealt with above), to questions between two foreign countries ; that is to say, to goods with marks indicating make or production in a place or country which is not that in which the goods were made or produced. The Act does not specify particularly what is to be the qualification here ; but if the mark indicates, expressly, or by reference, a place or country not that, in reality, of the make or production of the goods, there must be a definite qualification, to the effect that the goods were not made or produced in the place or country indicated ; *or*, a definite indication of the place or country in which the goods were made or produced.

Mark including place-name.

21. A mark which, though not naming, *includes* the name of a place or country, is to be held as naming such place or country. For instance, a wine, the produce of Germany, and described as "Port" or "Sherry" (which words include the names of the places Oporto and Xeres), should have that description accompanied by the statement "produced in Germany," or should be described as "German Port" or "Australian Sherry," &c. Such a mark as "Lancashire Swedish" on Swedish iron, where the qualifying word follows the misleading name, may be admitted. As in marks suggesting British origin, exception to this rule is made in cases where the name of a place in a trade description is indicative merely of the character of the goods, and is not calculated to mislead as to the country of origin. The description "Brussels Carpet" is an exception of this kind.

Port of shipment

22. For judging between two foreign countries the

Act provides that, in the absence of proof to the contrary, ^{evidence of origin.} the port of shipment of goods shall be *prima facie* evidence of the place or country in which the goods were made or produced; and this rule the Officers can, generally, act upon. Where, however, the port of shipment is merely an ordinary trading route from some inland country, as Rotterdam or Antwerp with respect to Germany, or Hamburg with respect to Austria, the Officers may, if they have no reason to doubt the good faith of the importer, accept the statement that the goods are the make or produce of the inland country.

23. The use of language of one foreign country on goods of another must not be viewed more strictly than ^{Foreign language not of country of origin.} its use in cases indicating British origin, dealt with in paragraph 11. The use of a certain language is allowed freely to *all* countries when, by custom, that language is usually applied to such goods; *e.g.*, Spanish on tobacco and cigars, when the recognised words are applied only to colour, shape, size, and the like; or French on sardines, when confined to the words "Sardines à l'huile," without any additional French description.

24. The forging of a trade mark (paragraph 19 (b)) is ^{Forging trade mark.} the application to goods of any figure, words, or marks, or arrangement or combination thereof, reasonably calculated to lead persons to believe that the goods are the manufacture or the merchandise of some person other than the person whose manufacture or merchandise they really are; and this includes the name or initials of a person. The figures, words, or marks applied need not be an actual trade mark, or actual name or initials, provided they are a colourable imitation of the mark, name, or initials of a person carrying on business in connexion with goods of the same description, and are used without his authority.

REGISTRATION.

Registra-
tion.

25. As to goods under all the three heads, (*b*), (*c*), and (*d*), of paragraph 19, the difficulty of detection by Officers, without special information, and more particular examination than is ordinarily bestowed for revenue purposes, is greater than in the case of goods falling under (*a*), but as regards the forging of trade marks (*b*), as above explained, while it would not be possible for Officers to enter into the examination of all names and marks so as to detect fraud of this kind, the Board have, nevertheless, felt that a manufacturer, dealer, or trader who has reason to believe that his name or trade mark is one not unlikely to be imitated, so as to constitute a forgery, is entitled to ask that, without the requirement of information beforehand, goods so marked shall be stopped; and to meet this the Board have established the following system.

Detention
on account
of registra-
tion.

26. They have established a system of registration of name or marks so that a manufacturer, dealer, or trader may register his name or mark at such port or ports as he desires. In respect of names or marks so registered, it will be the duty of the Officers, at the particular port or ports, to prevent the delivery of goods to which such names or marks or imitations of them as above explained may be applied, unless the delivery is authorised by the registered proprietor.

27. When goods are thus detained on account of names or marks which have been registered in this Department, care is to be taken in every case that, in addition to the usual notice of seizure required under section 207 of the Customs Consolidation Act, information of the detention, and of the cause of such detention, shall be at once given in writing to the person who has so registered his name or mark, or to the representative

appointed by him to authorise delivery of the goods, who is to be informed that unless immediate attention is given to the matter the goods will be released. If, at the end of forty-eight hours, the Collector (or other Principal Officer concerned) does not receive a reply he will release the goods; but Collectors will observe that the limit to the time of detention here laid down does not apply in cases where the marks are such as to render the goods liable to detention irrespective of the question of registration. In any case of detention under this system of registration the Board, if they see fit, may order security to be given if prolongation of the detention is requested, and the matter is, at all, one of doubt.

28. Any manufacturer, dealer, or trader, whether British or Foreign, may register his name or mark; but Officers may refuse registration to any name or mark which they consider to be of a character too indefinite or indistinct to recognise, referring to the Board in any case of doubt. An applicant for registration must prove his proprietorship of the name or mark by declaration (see Form C. in the Appendix); and if, in order to avoid delay, he desires to do so, he may appoint an agent to give authority for delivery of his goods.

Registering foreign marks; and agency.

29. It must, however, be distinctly understood that the use by any manufacturer, dealer, or trader in the United Kingdom of even his *own* name on foreign goods, and the use by any manufacturer, dealer, or trader, on like goods, of words, figures, or marks of any kind stating or indicating, directly or indirectly, make or production in the United Kingdom, are prohibited unless such goods are properly qualified by the required definite indication of origin. It must, therefore, be clearly explained to every person registering a name or mark which involves any such statement or indication, as will probably often be the case, that, while the name or mark

Registered marks on goods imported by owner.

will be guarded by such registration, it will not be rendered admissible unless duly qualified, as the law may require, in every case.

Release
when
qualified.

30. Goods bearing a mark registered in this Department may be delivered by the Officers without reference to the Board on receipt by them of the authority of the proprietor of the mark, or of his duly appointed agent, provided the mark be properly qualified, as in this Order shown.

GENERAL.

British Returned Goods.

British
returned
goods.

31. British goods returned bearing the name, brand, or mark of any British manufacturer may be admitted upon proof of their origin being furnished. This may be done by Bill of Store; or by a declaration by the importer that the goods are, to his knowledge, British goods returned, and were originally manufactured in this country; or by and with the consent in writing of the proprietor of such name, brand, or mark, or his legal representative (42 & 43 Vict. c. 21, s. 6).

32. The declaration by the importer as to the British origin of the goods may be in the usual form as an ordinary Customs document, but if the Officer sees reason to doubt it, he should refer the papers to the Board; and he should, in no case, require a statutory declaration, under the Act as to such declarations, without the Board's order.

33. On any other point British goods returned will not be dealt with except on information.

Goods for Private Use.

Private
use.

34. *Dutiable.*—Tobacco, including cigars, not exceeding 20 lbs., wine not exceeding twelve gallons, and spirits

not exceeding one-half that quantity, in any one consignment, may be admitted free of the Act, on the Officer being satisfied that the goods are for private use.

35. *Non-dutiable.*—Such goods sent as presents, or for personal use, and not in any process of sale or purchase, are similarly free of the Act, and this especially includes articles not new, and which are manifestly private property, such as clothing, or other personal effects, and old, used, and damaged articles sent for repairs, imported by, or consigned to, persons whose names are on them. This applies also to presents to corporate bodies or public institutions.

Goods in Transit.

36. Under the Transshipment Regulations, transshipment and transit goods are not to be specially examined for the purpose of scrutinising marks *in the absence of information* (General Order $\frac{45}{1898}$); nor are such goods to be detained under the Merchandise Marks Act unless they infringe its provisions in one or other of the following ways:—

Transshipment goods.

- (a) By reason of their bearing marks which raise a clear and direct claim to British origin; or
- (b) By reason of their bearing the name or trade mark of a manufacturer, dealer, or trader in the United Kingdom, without qualification; or
- (c) By reason of their bearing a trade mark specially registered at the Customs.

When the mark on a package, or on goods found therein, contravene the Merchandise Marks Act, all the packages of the same mark on the entry are to be examined, the packages with other marks being treated as if on a separate entry.

This direction also applies to goods entered for home consumption, but intended to be forthwith re-shipped for exportation, on production of satisfactory evidence (such as bills of lading, invoices, &c.) of the final destination abroad of the goods; but they are subject to examination under General Order $\frac{41}{1898}$, as laid down in General Order $\frac{41}{1899}$, paragraph (8).

Marks not Descriptions but Part of the Goods.

Marks
where part
of goods.

37. Wording or marking, whatever may be its character, if it is not a description "applied" to goods, but part of the goods themselves, as, for instance, the regulating words on a thermometer, the titles of books, christian names on handkerchiefs, such words as "a present from Margate" on china, and the like, are not amenable to the Act.

Goods imported for advertising purposes only, and not for sale, although bearing the name, or name and address of a British trader, provided he is not a maker of, or dealer in, such articles, may be delivered upon a written statement to that effect from the person whose name is on the goods.

Reports of Detention.

Detained
goods to be
reported
at once;
monthly
and
quarterly.

38. Report (on Form 294) is to be made immediately of all cases of detention of goods, stating briefly the number of packages detained, the port from which they come, the marks and numbers of the packages, the description and value of the goods, and the objectionable marking, whether by means of labels or on the goods themselves, on account of which they are detained. Reference should be made to any previous cases of the

importation of illegally marked goods consigned to the same merchants or coming from the same consignor.

A monthly return is to continue to be made to the Board, being forwarded to the solicitor on Forms 401 and 402.

A quarterly return is to be made to the Board (Division IV.) on Form No. 398, for which purposes the present form of record at the various stations is to be maintained.

39. Immediate reports of detentions of goods may be dispensed with when such detentions are made in consequence of the absence of evidence that the marks on the goods are correct, provided that the Officers have reason to believe that such evidence will be forthcoming within a reasonable time. On production of the evidence, the Officers, if satisfied therewith, will deliver the goods. This direction will include British returned goods bearing marks which would be open to objection on goods of foreign origin; also goods bearing marks indicative of origin in some country other than that from which the goods are imported, when such marks are believed to be authentic.

When report dispensed with.

40. The whole of the marks found on the detained goods should be reported, including the marks on cartons, cases, &c., containing the goods and not merely the actual mark for which the detention has been made.

All marks to be reported.

Qualifying Words to be conspicuous, &c.

41. The Officers are to take care that, in all cases where the Board allow qualifying words to be added before the delivery of goods, such words are applied in characters clear, conspicuous, and as indelible as the marks requiring qualification, and in close proximity to those marks.

Qualification to be conspicuous.

Seizures and Unclaimed Goods.

Seizures.
Full ex-
amination.

42. In all cases in which goods are ordered to be retained as seizures, a *full examination* of the contents of all the packages should be made as soon as the order for seizure is given, and any discrepancy between the marks originally reported and those found on the goods should be communicated to the Board forthwith.

But if an importer should express a wish not to have *all* his packages opened, Officers may forego this upon a consent in writing from him, or his agents, that the whole consignment shall be taken as having marks applied to them similar to those on the goods in the packages already opened.

Goods in
London
not
claimed
within two
months.

43. Goods which have been placed under detention on account of illegal marks, and in respect of which no applications have been made by the importers for, or no steps taken to carry out the conditions imposed by the Board on their release, are to be removed to the Queen's warehouse, within two months from the date of the Board's order for their detention, without special directions in each case, if the Officers see no circumstances which call for exceptional treatment. They are to be entered in the monthly seizure account.

Patent or Copyright on Goods.

Goods for
sale:
patent or
copyright.

44. In order that there may be no risk of goods protected by patent or copyright in the United Kingdom being offered for sale by this Department, in submitting accounts of seizures under the Act, particular attention should be called in column 8 to any goods included for disposal marked "patent," or "copyright," or which the Officers have any reason to suppose are patented, or the subject of copyright, in this country.

Watch Cases and Watches.

45. A special provision as to watch cases and watches is made by section 7 of the Act. It provides that, as regards watches, any mark on the case is to be deemed to extend to the watch. If, therefore, a watch case is made in this country, with any statement or indication of origin such as, for instance, a British hall-mark, and, having been exported, is returned with a foreign movement, then, in the absence of a counter description on the watch itself, the mark on the case will apply to the watch. Watch cases and watches.

General Order ⁹/₁₈₈₈, which goes fully into this subject, is not affected by this Consolidating Order.

PROCEDURE ON INFORMATION.

46. It must be borne in mind that information, in itself, even though given, is not a mandate to the Crown to detain; and no detention should on account of it be made where it is clear that the law would be against it. Officers may sometimes see at once that a consignment to which the information points does not infringe the law, and they will then not detain the goods. But they are authorised to make, when necessary, a fuller examination than ordinarily takes place. Detentions on information.

47. In any other case the Officer will detain the goods, and require (if it is not already given) immediate security, as in Regulation 4 (p. 227). The sufficiency of the sureties named in the notice of information must be tested in the usual way. Regulation 7 (p. 228) shows when the security will be delivered up. Deposit or bond.

Whenever security is not duly given, there will be no further detention. No security, no detention.

Informa-
tion as to
origin.

48. Information will not generally touch the point of origin. Whenever it does do so, and affects the interests of "British possession" or "foreign states," if the name complained of is found to be applied to the goods, and is the name of a country, or of a place in a country, not the country of the port of shipment, the Officer may, in the absence of proof of make or produce at the place or in the country named on them, be satisfied that the alleged infringement clearly exists. This is in accordance with the principle in paragraph 22.

Forged
marks in
certain
states and
British
posses-
sions.

49. Wherever an information relates to a forged trade mark alleged to be one recognised in a British possession or foreign state, information will not be good unless it relates to a possession or state to which section 103 of the Patents, Designs, and Trade Marks Act, 1883, has been applied by Orders in Council, viz. :—

BRITISH POSSESSIONS.

New Zealand.	Tasmania.
Queensland.	Western Australia.

FOREIGN STATES IN EUROPE.

Belgium.	Portugal, including Azores and Madeira.
Denmark, including Faïøe Islands.	Roumania.
France.	Servia.
Greece.	Spain.
Italy.	Sweden.
The Netherlands.	Switzerland.
Norway.	

IN N. AND S. AMERICA AND THE W. INDIES.

Brazil.	San Domingo.
Ecuador.	Surinam and Curaçoa.
Mexico.	The United States of America.
Paraguay.	Uruguay.

IN AFRICA.

Tunis.

IN ASIA.

Japan.	Colonies.
Netherlands East India	

Definitions.

50. The Officers will note the meanings given by the Definitions Act to the following expressions, viz. :—

SECTION 3, AND *54 VICT. C. 15, s. 1.

“Goods”	“Manufacturer”
“Trade mark”	“Dealer” or “trader”
“Trade description”	“Proprietor”
“False trade description”	“Name”
“Person”	“Name or initials”

SECTION 5, (1), (2), AND (3).

“Applied”	“Coverings”
“Falsely applied”	

51. The following General Orders are hereby cancelled :—

Nos. 81 and 99 of 1887.	Nos. 50 and 68 of 1893.
Nos. 10, 14, 26, 33, 39, 44, 121, 122, 125 and 147 of 1888.	No. 4 of 1894.
No. 7 of 1889.	Nos. 4, 28, 34, and 82 of 1895.
Nos. 1 and 8 of 1890.	Nos. 4 and 9 of 1896.
	No. 63 of 1897.

The following Circular Letters are also cancelled :—

Nos. 1, 4, 5, 8, 33 and 36 of 1889.	Nos. 9 and 20 of 1891.
No. 6 of 1890.	No. 13 of 1892.

The following London Port Orders are also cancelled :—

Nos. 9, 18, 21, 61, 70, 72, 74 and 76 of 1888.	Nos. 12 and 58 of 1893.
Nos. 23, 48 and 52 of 1889.	No. 19 of 1894.
Nos. 2 and 6 of 1890.	No. 13 of 1895.
	No. 4 of 1898.

The following General Orders on the subject are not affected, viz. :—

$\frac{9}{1888}$, $\frac{36}{1888}$ (with directions as to examining, London Port Order No. $\frac{73}{1888}$), and $\frac{43}{1891}$.

By Order of the Board,

JOHN COURROUX.

REGULATIONS MADE BY THE COMMISSIONERS OF CUSTOMS UNDER SECTION 16 OF THE MERCHANDISE MARKS ACT, 1887.

WHEREAS by the Merchandise Marks Act, 1887 (hereinafter called "the Act"),

After various provisions against the sale, or exposure for sale, or possession for sale, trade, or manufacture, of goods with forged trade marks or false trade descriptions, or trade marks falsely applied to them ;

And after defining (amongst other things) the expression "trade mark" in manner therein set forth, with reference to "The Patents, Designs, and Trade Marks Acts, 1883," and the law of indicated British possessions and foreign states.

And after defining the expression "trade description" as any description, statement, or other indication, direct or indirect, as to number, quantity, measure, gauge, or weight, of goods, as to place or country in which any goods were made or produced, as to the mode of manufacturing or producing any goods, or as to the material of which any goods are composed, or as to any goods being the subject of any existing patent, privilege, or copyright ;

And after defining the expressions "false trade description," and "goods," "apply," and "falsely apply" ;

It is provided by section 16 that—

- (i.) All such goods as above mentioned, and
- (ii.) All goods of foreign manufacture, bearing any name or trade mark, being or purporting to be the name or trade mark of any

manufacturer, dealer, or trader in the United Kingdom, unless such name or mark be accompanied by definite indication of the country in which such goods were made or produced,

shall be prohibited to be imported, and, subject to the provisions of the said section, shall be included among goods prohibited to be imported, as if they were specified in section 42 of "The Customs Consolidation Act, 1876."

And whereas by section 18 of the Act, after authorising the continued use of trade descriptions lawfully and generally applied to goods of the particular class, or manufactured by a particular method, to indicate such class or method, it is provided that, where such trade description includes the name of a place or country calculated to mislead as to where the goods were actually made or produced, such goods not having been actually made or produced there, the said reciting section should not apply (and, consequently, goods so marked would be prohibited), unless there be added to the trade description, immediately before or after the name of the place or country, in an equally conspicuous manner with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there.

And whereas it is also provided by the said section 16 that the Commissioners of Customs (hereinafter called "the Commissioners") may from time to time make, revoke, and vary regulations, either general or special, respecting the detention and forfeiture of goods the importation of which is prohibited as hereinbefore mentioned, and the

conditions, if any, to be fulfilled before such detention and forfeiture, and may by such Regulations determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of the said section, and the mode of verification of such evidence.

And it is further provided by the said last-mentioned section—

That before detaining goods or taking proceedings with a view to the forfeiture thereof under the law relating to the Customs, the Commissioners may require that such Regulations as aforesaid shall be complied with, and satisfy themselves as to the liability of the goods to forfeiture.

That such Regulations may apply to all goods the importation of which is prohibited by the said section, or different Regulations may be made respecting different classes of such goods.

And also that the Regulations may provide for the informant reimbursing the Commissioners all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

And it is also provided, by the said section, that section 2 of the Revenue Act, 1883, shall be repealed from a day to be fixed by regulations under the said reciting section, such day not being later than the 1st day of January, 1888, without prejudice to anything done or suffered thereunder.

And whereas section 2 of the Revenue Act, 1883, is the law under, and by virtue of which, goods of foreign manufacture infringing the proprietary rights of British subjects in names, addresses, and trade marks, or bearing or having upon them,

under certain conditions, the name of a place in or a part of the United Kingdom, are, at the present time, detected and stopped by Officers of Customs acting on their own observation and responsibility, under directions laid down by the Commissioners, and without the requirement of previous information, security, or other conditions.

Now, therefore, the Commissioners under and by virtue of the hereinbefore recited power in that behalf, hereby make and require to be complied with the following Regulations, viz. :—

1. Goods prohibited to be imported as hereinbefore recited, having applied to them forged trade marks, false trade descriptions, or marks, names, or descriptions otherwise illegal, which upon examination are detected by the Officers of Customs, are to be detained by them without the requirement of previous information.

2. In giving information with a view to detention an informant must fulfil the following conditions, viz. :—

(i.) He must give to the Collector or Superintendent, or the Chief Officer of Customs of the Port (or Sub-port) of expected importation, notice in writing, stating—

the number of packages expected, as far as he is able to state the same :

the description of the goods by marks or other particulars sufficient for their identification ;

the name or other sufficient indication of the importing ship ;

the manner in which the goods infringe the Act ;

the expected day of the arrival of the ship.

(ii.) He must deposit with the Collector or other

Officer as aforesaid a sum sufficient, in the opinion of that Officer, to cover any additional expense which may be incurred in the examination required by reason of his notice.

3. If, upon arrival and examination of the goods, the Officer of Customs is satisfied that there is no ground for their detention, they will be delivered. If he is not so satisfied, he will decide either to detain the goods, as in a case of detention upon ordinary examination, or to require security from the informant for reimbursing the Commissioners or their officers all expenses and damages incurred in respect of the detention made on his information and of any proceedings consequent thereon.

4. The security thus required must be an immediate ad valorem deposit of ten pounds per cent. on the value of the goods, as fixed by the officer from the quantities or value shown by the entry; and, also, subsequently a bond to be completed within four days in double the value of the goods, with two approved sureties. The ad valorem deposit will be returned upon completion of the bond, and will not be required if, as an alternative where time permits, the informant prefers to give a like bond before examination upon estimated value of the goods declared to by him under statutory declaration. If the security is not duly given as above required, there will be no further detention of the goods.

5. In the above regulations the words "Officer of Customs" mean an officer acting under general or special direction of the Commissioners, and the words "value of the goods" mean value irrespective of duty.

6. The "Notice" and "Bond" required as above shall be in the forms contained in the schedule to these Regulations, or in such other forms as the Commissioners may from to time order and direct.

7. The security taken under these Regulations will be given up at the times following, that is to say :—

Where given before examination, and if no detention, forthwith.

Where given on detention :

If the forfeiture is completed, either by lapse of time or ultimate condemnation by a Court of Justice, then on such completion of forfeiture.

If the forfeiture is not completed, then—

If the goods are released by the Commissioners, and no action or suit has been commenced against them, or any of their officers, in respect of the detention, then at the expiration of three months from the time of detention ; or, if the goods are released for failure of proceedings taken for the forfeiture and condemnation thereof upon information under section 207 of “The Customs Consolidation Act, 1876,” and no action or suit has been commenced against the Commissioners, or any of their officers, in respect of the detention, then at the expiration of three months from the trial of such information.

If within such periods as aforesaid any such action or suit as aforesaid has been commenced, then upon the ultimate conclusion of such action or suit, and the fulfilment of the purpose for which the security was given.

8. These Regulations apply to transshipment and transit goods as well as to goods landed to be warehoused, or for home consumption.

9. The 1st day of January, 1888, is, by these “Regulations,” fixed as the day from which section 2 of the “Revenue Act, 1883,” shall be repealed, subject to the

terms of the recited Act ; and these Regulations will take effect from the date of such appeal.

CHARLES DU CANE H. MURRAY HORACE SEYMOUR	}	Commissioners of H.M. Customs.
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Custom House, London,
 December 1, 1887.

A.

SCHEDULE.

(Notice.)

THE MERCHANDISE MARKS ACT, 1887.

To the Collector, Superintendent,
 or Chief Officer of Customs at
 the *Port of

* Or Sub-port. \

I hereby give you notice that the under-mentioned goods, that is to say,¹

¹ Describe the goods, number of packages, marks used, and any other particulars necessary for their identification.

are about to be imported into your port on or about the day of next in the ²
 from

² Describe the ship, and give name or indication.

That such goods are liable to detention and forfeiture, being ³

³ State how the goods infringe the Act, and if the infringement is one as to a forged trade mark protected in a British Possession or Foreign State, state the Possession or State, or if

That
 Mr.

of

and Mr. _____ of _____
 are prepared to become my sureties in such bond
 as may be required upon detention of the goods.

the infringement is
 one as to place or
 country of origin,
 state the name of
 the place or country
 falsely used.

And I request that the said goods may be
 detained and dealt with accordingly.

Dated this _____ day of _____, 188 .

A.B.

(or Agent for)

NOTE.—Mr. _____ refers to _____ his
 Bankers (or) Solicitors, and Mr. _____ to _____
 his Bankers (or) Solicitors, as to his sufficiency for the
 penalty of the Bond.

B.

(Bond.)

THE MERCHANDISE MARKS ACT, 1887.

KNOW ALL MEN BY THESE PRESENTS, THAT WE

A.B. _____ and _____

are held and firmly bound unto our Sovereign
 Lady Victoria, by the Grace of God, of the United
 Kingdom of Great Britain and Ireland, Queen,
 Defender of the Faith, in the sum of

Pounds to be paid to our said Lady
 the Queen, her heirs or successors. For which
 payment well and truly to be made we bind our-
 selves, jointly and severally, our heirs, executors,
 and administrators, firmly by these presents.

Sealed with our Seals. Dated this _____ day
 of _____, in the year of our Lord, one
 thousand eight hundred and _____

WHEREAS the above-named A.B.
 has by a notice dated the day of , in-
 formed the Collector of Customs at that
 the undermentioned goods, that is to say,

were about to be imported into the port of
 contrary to section 16 of The Merchandise Marks Act,
 1887, and requested that the said goods should be
 detained and dealt with accordingly. And whereas the
 said goods duly arrived in the said port on the day
 of last, and are now detained pursuant to the
 said notice. Now the condition of this obligation is such
 that if the said A.B.

his executors or administrators, shall well and effectually
 indemnify, save harmless, and keep indemnified Her
 Majesty, her heirs and successors, and all her and their
 officers of Customs, and their executors or administrators,
 from and against all loss or damage, payment or pay-
 ments, and all costs and expenses which Her said Majesty,
 her heirs or successors, and her and their officers of
 Customs, their executors or administrators, shall or may
 sustain or incur by reason or on account of any detention
 of the said goods following upon the information con-
 tained in such notice and any proceedings consequent
 upon such detention, then this obligation shall be void,
 or otherwise shall be and remain in full force and virtue.

Signed, sealed, and }
 delivered. }

C

MERCHANDISE MARKS ACT, 1887.

(50 & 51 Vict. c. 28.)

DECLARATION ON REGISTRATION UNDER PARA.
28 OF GENERAL ORDER

Port of

I¹

hereby declare that²

³ the Proprietor, of⁴

viz.

which⁵ expect to be applied to goods imported, from time to time, at this port; and that⁶ have appointed Mr.⁷ of to be⁸ agent, to give authority for the delivery of such goods.

I make this solemn declaration conscientiously believing the same to be true, and by virtue of the Statutory Declaration Act, 1835.

Signed

Declared this day of , 188 .

At
Before me

A Commissioner to Administer Oaths, &c.

¹ Full name and address of declarant.

² "I" or "I and my partners, trading as Messrs." or "such and such a company, of which I am the representative official," or "so and so of such and such a place abroad whom I represent in this country."

³ "is" or "are."

⁴ "the following name as a trade description" or "the following trade mark," or "the following name as a trade description and trade mark."

⁵ "I" or "we."

⁶ "I" or "we."

⁷ This portion as to appointment of agent may be erased, where such appointment is not desired.

⁸ "my" or "our."

N.B.—Registration in pursuance of this declaration is subject to the provisions of the Act which forbid the importation, by a registered proprietor, even of his own goods which bear, in name or mark, any statement or indication, direct or indirect, of make or produce in the United Kingdom unless qualified as the Act requires.

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APPENDIX

FORM OF INFORMATION FOR AN OFFENCE AGAINST THE MER- CHANDISE MARKS ACT, 1887.

In the county of _____, Petty Sessional Division
of _____.

The information of C.D. (address and description),
taken this _____ day of _____, 190 _____, who, upon
oath, states that A.B. (address and description) on the
_____ day of _____ did (here state the offence).

Taken before me, _____, J.P., Justice
of the Peace for the county of _____, aforesaid.

NOTE.—The information must be for one offence only.
Summary Jurisdiction Act, 1848, § 10.

FORM OF NOTICE OF DEFENCE UNDER SECTION 6.

In the matter of the Merchandise Marks Acts, 1887
and 1891, and in the matter of a certain charge being
one of those enumerated in section 6 of the said Act and
made against A.B.,

Take notice, that on the hearing of the said charge in
which you are the prosecutor, I intend to rely on, and to
prove as a defence thereto, the following facts, that is to
say :—

1. That in the ordinary course of my business I am

employed on behalf of other persons to make dies, blocks, machines, or other instruments for making, or being used in making, trade marks (*or, if the case so be, to apply marks or description to goods*), and that in the case which is the subject of the charge, I was so employed by C.D., a person resident in the United Kingdom, and I was not interested in the goods by way of profit or commission dependent on the sale of such goods; and

2. That I took reasonable precautions against committing the offence charged; and

3. That I had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade mark (mark or trade description, *as the case may be*); and

4. That I gave to the prosecutor all the information in my power with respect to the persons on whose behalf the trade mark (mark or trade description, *as the case may be*) was applied.

(Signed) A.B.,
of
Dated day of , 189 .

To
Of
The Prosecutor.

**FORM OF APPLICATION TO JUSTICES TO
STATE A CASE.**

20 & 21 Vict. c. 43, s. 2.

(THE FOLLOWING NOTICE MUST BE GIVEN WITHIN
THREE DAYS OF THE DECISION.)

In the matter of an information and complaint wherein A.B. was the prosecutor and C.D. the defendant, heard

and determined by you at _____ on the _____ day
of _____, 189 .

I, the undersigned, being (the said prosecutor or defendant, as the case may be) dissatisfied with your said determination upon the hearing of the said information and complaint as being erroneous in point of law, do hereby apply, pursuant to section 2 of the 20 & 21 Vict. c. 43, to you to state and sign a case setting forth the facts and the grounds of your said determination for the opinion thereon of the Queen's Bench Division of the High Court of Justice.

Dated _____ day of _____, 189 .

(Signed)

_____ of (address and description)

To _____ and _____
Esquires, [two] of Her Majesty's Justices of the Peace
for the (state the jurisdiction).

**FORM OF APPLICATION TO JUSTICES TO
STATE A CASE BY "A PERSON AG-
GRIEVED."**

Under 42 & 43 Vict. c. 39, s. 33 (1).

(THE FOLLOWING APPLICATION SHOULD BE MADE AND
A COPY LEFT WITH THE CLERK OF THE COURT
WITHIN SEVEN DAYS OF THE PROCEEDING QUES-
TIONED.)

In the matter of an information and complaint wherein
A.B. was the prosecutor and C.D. the defendant, heard
and determined by you at _____ on the _____ day
of _____, 189 .

I, the undersigned, being a person aggrieved by the
said determination and desirous of questioning the said

determination on the ground that it is erroneous in point of law [and on the ground that it is in excess of jurisdiction], do hereby apply, pursuant to section 33 of 42 & 43 Vict. c. 49, to you to state a special case setting forth the facts of the case, and the grounds on which the proceeding is questioned, for the opinion thereon of the Queen's Bench Division of the High Court of Justice.

Dated day of , 189 .

(Signed)

of (address and description)

To and Esquires,
Justices of the Peace for the

FORM OF NOTICE OF APPEAL TO QUARTER SESSIONS.

(TO BE SERVED ON "OTHER PARTY" AND ON THE CLERK OF THE COURT OF SUMMARY JURISDICTION.)

42 & 43 Vict. c. 49, s. 31.

NOTICE OF APPEAL.

¹ TO WIT } Take notice that I, the undersigned
 } (Christian and surname), of (address of
 } appellant) (description) being a person
who feels aggrieved by a certain hereinafter mentioned conviction made by a Court of Summary Jurisdiction, do intend at the next² practicable Court of Quarter Sessions of the Peace to be holden at , and having jurisdiction in the said (¹), in and for the said (¹), to appeal against a certain conviction bearing date on or about the day of , 189 , and made by (set out names of the Magistrate or Justices who adjudicated) Esquire [one] of Her Majesty's Justices of the Peace for the said (¹) whereby (I or one

A.B.) was convicted of having as therein and thereby alleged [on the day of , &c., stating the offence following the conviction]; and further, take notice that the grounds of the said appeal are first that [I am or the said A.B.] is not guilty of the said offence, and that [add any other grounds there may be] of all which premises you and each and every one of you are hereby desired to take notice.

Dated day of , 189 .

To (the other party, 42 & 43 Vict. c. 49, s. 31 ;² as to who that other party is where the appeal is by a person aggrieved, see *Price v. James*, 61 L.J. M.C. 203).

And to (Justices or Clerk of Court of Summary Jurisdiction, *ib.* s. 31,² and *R. v. Essex Justices*, 56 J.P. 375, and 61 L.J.M.C. 120).

¹ Insert county, city, borough, or other jurisdiction.

² This must be not less than fifteen days after the day of the decision, 42 & 43 Vict. c. 49, s. 31.

FORMS OF OFFENCES

In the various cases cited throughout this work, examples are often given of the charge made.

The following, however, may be of use :—

At _____, in the county of _____

(1) Unlawfully, and with intent to defraud, did apply to certain goods, to wit, [describing them], on the day of _____, sold by the said A.B. to _____, a false trade description as to [the number, or quantity, or measure, or gauge, or weight of which such goods were composed ; or, the place or country in which such goods were made or produced ; or the mode of manufacturing or producing such goods ; or the material of which such goods were composed ;] by which description the said goods were falsely indicated to be _____ contrary to the provisions of the Merchandise Marks Act, 1887.

(2) Unlawfully, and with intent to defraud, did apply a false trade description to certain goods, to wit [describing them], whereby the said goods were falsely described to be subject to an existing patent, contrary, &c.

(3) Unlawfully, and with intent to defraud, did sell [or expose for sale] certain goods, to wit [describing them], on the _____ day of _____, sold by the said A.B. to _____, to which had been applied a false trade description as to [as in (1)], whereby the said goods were falsely indicated to be _____, contrary, &c.

(4) Unlawfully, and with intent to defraud, did apply (or cause to be applied) a false trade description, to wit [describing it], to certain goods [describing them], contrary, &c.

(5) Unlawfully did sell (or expose for sale) certain goods, to wit [describing them], to which a false trade description had been applied, contrary, &c.

(6) Unlawfully, and with intent to defraud, did forge a certain trade mark duly registered in the United Kingdom in the register kept under the Patent, Designs, and Trade Marks Act, 1883, and therein numbered _____, of which trade mark C.D. was then proprietor, within the meaning of the Merchandise Marks Act, 1887, and contrary to the provisions of the said Act.

(7) Unlawfully, and with intent to defraud, did falsely apply to certain goods, to wit [describing them], a certain trade mark duly registered [&c. as in (6)], of which said trade mark C.D. was then proprietor [&c. as in (6)].

FORMS OF INDICTMENT

The following forms of the material parts of an indictment are taken from "Saunders on Indictments."

(1) *Forging a trade mark.*

For that he, the said A.B., on the day of ,
at the parish of in the said county, with intent
to defraud [or to enable one E.F. to defraud] C.D., un-
lawfully did forge [or counterfeit] [or cause or procure
to be forged or counterfeited] a certain trade mark, to
wit, , contrary to the statute.

(2) *Falsely applying forged or other trade mark to articles.*

 did apply (or cause or procure to be applied)
a certain [forged or counterfeited] trade mark, to wit,
 , of one E.F., to a certain chattel (or article), to
wit, a , not being the manufacture, workman-
ship, production, or merchandise of the said E.F., denoted
or intended to be denoted by the said [forged or counter-
feited] trade mark ;
[or, not being the particular or peculiar description of
manufacture, workmanship, production, or merchandise
denoted or intended to be denoted by the said [forged or
counterfeited] trade mark, contrary to the statute.

(3) *Applying forged trade mark to case, wrapper, &c., on article.*

 did apply (or cause or procure to be applied)
a certain (forged or counterfeited) trade mark to a certain

cask (or bottle, or stopper, or vessel, or case, or cover, or wrapper, or band, or reel, or ticket, or label, or _____), in (or "on," or "with") which a certain chattel (or article), to wit, a _____, was intended to be sold ;

[or, was then sold, or uttered or exposed for sale, or intended for the purpose of trade or manufacture]

[or did enclose or place, or cause or procure a certain chattel or article, to wit, a _____, to be enclosed or placed, in or upon, or under, or with a certain cask or bottle, &c., to which a certain trade mark has been falsely applied, or to which a certain forged or counterfeited trade mark had been applied]

[or did apply, or attach, or cause or procure to be applied or attached, to a certain chattel or article, to wit, _____, a certain case, or cover, or reel, or ticket, or label, or _____, to which a certain trade mark had been falsely applied, or to which a certain forged or counterfeited trade mark had been applied]

[or did enclose, or place, or attach a certain chattel or article, to wit, _____, or cause or procure a certain chattel or article, to wit, _____, to be enclosed, or placed, or attached in, or upon, or under, or with, or to any cask or bottle, &c., having thereon the trade mark of another person, to wit of E.F.] _____ contrary to the statute, &c.

(4) *Aiding commission of offences in forms supra.*

For that he, the said A.B., on _____, &c., at _____, &c., unlawfully did aid, abet, counsel, and procure the commission of a certain offence which is by the Merchandise Marks Act, 1862, made a misdemeanour, that is to say [here describe the offence], contrary to the statute, &c.

MERCHANDISE MARKS ACT, 1891.

CHAPTER XV.

An Act to amend the Merchandise Marks Act, 1887.

[11th May, 1891.]

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 :—

Customs
entry to be
trade de-
scription.
50 & 51
Vict. c. 28.
Official
prosecu-
tions.

1. The customs entry relating to imported goods shall, for the purposes of the Merchandise Marks Act, 1887, be deemed to be a trade description applied to the goods.

2.—(1) The Board of Trade may, with the concurrence of the Lord Chancellor, make regulations providing that in cases appearing to the Board to affect the general interests of the country, or of a section of the community, or of a trade, the prosecution of offences under the Merchandise Marks Act, 1887, shall be undertaken by the Board of Trade, and prescribing the conditions on which such prosecutions are to be so undertaken. The expenses of prosecutions so undertaken shall be paid out of moneys provided by Parliament.

(2) All regulations made under this section shall be laid before Parliament within three weeks after they are made if Parliament is then sitting, and if Parliament is not then sitting, within three weeks after the beginning

of the next session of Parliament, and shall be judicially noticed, and shall have effect as if enacted by this Act, and shall be published under the authority of her Majesty's Stationery Office.

(3) Nothing in this Act shall affect the power of any person or authority to undertake prosecutions otherwise than under the said regulations.

3. This Act may be cited as the *Merchandise Marks Act, 1891*, and the *Merchandise Marks Act, 1887*, and this Act may be cited together as the *Merchandise Marks Acts, 1887 and 1891* Short title.

MERCHANDISE MARKS (PROSECUTIONS) ACT, 1894.

CHAPTER XIX.

An Act for enabling the Board of Agriculture to undertake prosecutions in certain cases under the Merchandise Marks Act, 1887. [20th July, 1894.]

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 :—

Power of Board of Agriculture to prosecute in certain cases.

54 & 55
Vict. c. 15.
50 & 51
Vict. c. 28.

Extent of Act.

Short title.

1. The powers exercisable by the Board of Trade under the Merchandise Marks Act, 1891, with respect to the prosecution of offences under the Merchandise Marks Act, 1887, may in cases which appear to the Board of Agriculture to relate to agricultural or horticultural produce be exercised by that Board, and in such cases the former Act shall apply as if the Board of Agriculture were referred to therein instead of the Board of Trade.

2. This Act shall not extend to Ireland.

3. This Act may be cited as the Merchandise Marks (Prosecutions) Act, 1894, and shall be read with the Merchandise Marks Acts, 1887 and 1891.

PATENTS, DESIGNS, AND TRADE MARKS ACT, 1883.

(46 & 47 Vict. c. 57.)

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2. Divisions of Act into parts.
3. Commencement of Act.

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PATENTS.

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4. Persons entitled to apply for patent.
5. Application and specification.
6. Reference of application to examiner.
7. Power for comptroller to refuse application or require amendment.
8. Time for leaving complete specification.
9. Comparison of provisional and complete specification.
10. Advertisement on acceptance of complete specification.

Section.

11. Opposition to grant of patent.
12. Sealing of patent.
13. Date of patent.

Provisional Protection.

14. Provisional protection.

Protection by Complete Specification.

15. Effect of acceptance of complete specification.

Patent.

16. Extent of patent.
17. Term of patent.

Amendment of Specification.

18. Amendment of specification.
19. Power to disclaim part of invention during action,
&c.
20. Restriction on recovery of damages.
21. Advertisement of amendment.

Compulsory Licences.

22. Power for Board to order grant of licences.

Register of Patents.

23. Register of patents.

Fees.

24. Fees in Schedule.

Extension of Term of Patent.

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

Revocation.

Section.

26. Revocation of patent.

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27. Patent to bind Crown.

Legal Proceedings.

28. Hearing with assessor.

29. Delivery of particulars.

30. Order for inspection, &c., in action.

31. Certificate of validity questioned, and costs thereon.

32. Remedy in case of groundless threats of legal proceedings.

Miscellaneous.

33. Patent for one invention only.

34. Patent on application of representative of deceased inventor.

35. Patent to first inventor not invalidated by application in fraud of him.

36. Assignment for particular places.

37. Loss or destruction of patent.

38. Proceedings and costs before law officer.

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

40. Publication of illustrated journal, indexes, &c.

41. Patent Museum.

42. Power to require models on payment.

43. Foreign vessels in British waters.

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Section.

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46. Definitions of patent, patentee, and invention.

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- 48. Drawings, &c., to be furnished on application.
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- 50. Copyright on registration.
- 51. Marking registered designs.
- 52. Inspection of registered designs.
- 53. Information as to existence of copyright.
- 54. Cesser of copyright in certain events.

Register of Designs.

55. Register of designs.

Fees.

56. Fees on registration, &c.

Industrial and International Exhibitions.

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

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- 58. Penalty on piracy of registered design.
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- 60. Definition of "design," "copyright."
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- 63. Limit of time for proceeding with application.
- 64. Conditions of registration of trade mark.
- 65. Connexion of trade mark with goods.
- 66. Registration of a series of marks.
- 67. Trade marks may be registered in any colour.
- 68. Advertisement of application.
- 69. Opposition to registration.
- 70. Assignment and transmission of trade mark.
- 71. Conflicting claims to registration.
- 72. Restrictions on registration.
- 73. Further restriction on registration.
- 74. Saving for power to provide for entry on register of common marks as additions to trade marks.

Effect of Registration.

- 75. Registration equivalent to public use.
- 76. Right of first proprietor to exclusive use of trade mark.

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

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78. Register of trade marks.
79. Removal of trade mark after fourteen years unless fee paid.

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81. Registration by Cutlers Company of Sheffield marks.

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95. Power of comptroller to take directions of law officers.
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105. Penalty on falsely representing articles to be patented.
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CHAPTER LVII.

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

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

PART I.

PRELIMINARY.

- Shorttitle. 1. This Act may be cited as the Patents, Designs, and Trade Marks Act, 1883.

2. This Act is divided into parts, as follows :—

Division of
Act into
parts.

Part I.—PRELIMINARY.

Part II.—PATENTS.

Part III.—DESIGNS.

Part IV.—TRADE MARKS.

Part V.—GENERAL.

3. This Act, except where it is otherwise expressed, shall commence from and immediately after the thirty-first day of December one thousand eight hundred and eighty-three.

Com-
mence-
ment of
Act.

PART II.

PATENTS.

Application for and Grant of Patent.

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

Persons
entitled to
apply for
patent.

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

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.

Applica-
tion and
specifica-
tion.

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

(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 applica-
tion 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
comp-
troller to
refuse
applica-
tion or
require
amend-
ment.

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. Time for leaving complete specification.

(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. Comparison of provisional and complete 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.

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

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

Advertisement on acceptance of complete specification.

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

Opposition to grant of patent.

11. (1) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification give notice at the patent office of opposition to the grant of the patent on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative, or on the ground that the invention has been patented in this country on an application of prior date, or on the ground of an examiner having reported to the comptroller that the specification appears to him to comprise the same invention as is comprised in a specification bearing the same or a similar title and accompanying a previous application, but on no other ground.

(2) Where such notice is given the comptroller shall give notice of the opposition to the applicant, and shall, on the expiration of those two months, after

hearing the applicant and the person so giving notice, if desirous of being heard, decide on the case, but subject to appeal to the law officer.

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

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

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

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

(3) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, except in the cases 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.

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.

Provi-
sional
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 com-
plete spe-
cification.

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

Patent.

Extent of
patent.

16. Every patent when sealed shall have effect throughout the United Kingdom and 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.

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

(2) The request and the nature of such proposed amendment shall be advertised in the prescribed manner,

and at any time within one month from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

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

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

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

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

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

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

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

(10) 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.

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

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

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.

Restriction on recovery of damages.

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

Advertisement of amendment.

Compulsory 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—

Power for Board to order grant of licences.

- (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 controller in the prescribed manner for filing in the patent office.

Fees.

Fee 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.

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

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

(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.

Revoca-
tion of
patent.

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.

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. Patent to bind Crown.

(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 parti-
culars.

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.

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.

Order for inspection, &c., in action.

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 for 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.

Certificate of validity questioned and costs thereon.

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

Remedy in case of groundless threats of legal proceedings.

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.

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 that place or part only. Assignment for particular places.

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

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

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

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

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

Publica-
tion 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 connexion 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.

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), 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.

Assign-
ment to
Secretary
for War of
certain in-
ventions.

(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 controller his opinion that, in the interest of the public

service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

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

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

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

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

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

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in

relation to which the Secretary of State has certified as aforesaid.

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

(11) The Secretary of State may, at any time, by writing under his hand, waive the benefit of this section with respect to any particular invention, and the specifications, documents, and drawings shall be thenceforth kept and dealt with in the ordinary way.

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

Existing Patents.

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

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

Defini-
tions of
patent,
patentee,
and in-
vention.

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.”

PART III.

DESIGNS.

Registration of Designs.

Applica-
tion for
registra-
tion of
designs.

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

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

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

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

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

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

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

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

Drawings, &c., to be furnished on application.

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

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

Certificate of registration.

(2) The comptroller may, in case of loss of the original

certificate, or in any other case in which he deems it expedient, grant a copy or copies of the certificate.

Copyright in registered Designs.

Copyright
on regis-
tration.

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

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

Marking
registered
designs.

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

Inspection
of regis-
tered
designs.

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

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

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

Information as to existence of copyright.

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

Cesser of copyright in certain events.

Register of Designs.

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

Register designs.

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

Fees.

56. There shall be paid in respect of applications and registration and other matters under this part of this Act such fees as may be from time to time, with the sanction

Fees on registration, &c.

of the Treasury, prescribed by the Board of Trade ; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the Treasury shall from time to time direct.

Industrial and International Exhibitions.

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

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

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

Legal Proceedings.

Penalty on piracy of registered design.

58. During the existence of copyright in any design—

- (a) It shall not be lawful for any person without the licence or written consent of the registered proprietor to apply such design or any fraudulent or obvious imitation thereof, in the class or classes of goods in which such design is registered, for purposes of sale to any article of manufacture or to any substance artificial

or natural or partly artificial and partly natural; and

(b) It shall not be lawful for any person to publish or expose for sale any article of manufacture or any substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, knowing that the same has been so applied without the consent of the registered proprietor:

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

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

Action for damages.

Definitions.

60. In and for the purposes of this Act—

“Design” means any design applicable to any article of manufacture, or to any substance artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more

Definition of “design,” “copyright.”

of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined, not being a design for a sculpture, or other thing within the protection of the Sculpture Copyright Act of the year 1814 (fifty-fourth George the Third, chapter fifty-six).

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

Definition
of pro-
priator.

61. The author of any new and original design shall be considered the proprietor thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case such person shall be considered the proprietor, and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person or otherwise, and also every person on whom the property in such design or such right to the application thereof shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise.

PART IV.

TRADE MARKS.

Registration of Trade Marks.

Applica-
tion for
registra-
tion.

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

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

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

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

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

63. Where registration of a trade mark has not been or shall not be completed within twelve months from the date of the application, by reason of default on the part of the applicant, the application shall be deemed to be abandoned. Limit of time for proceeding with application.

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

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

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

(c) A distinctive device, mark, brand, heading, label,

ticket, or fancy word or words not in common use.

(2) There may be added to any one or more of these particulars any letters, words, or figures, or combination of letters, words, or figures, or of any of them.

(3) Provided that any special and distinctive word or words letter, figure, or combination of letters or figures or of letters and figures used as a trade mark before the thirteenth day of August one thousand eight hundred and seventy-five may be registered as a trade mark under this part of this Act.

Connexion
of trade
mark with
goods.

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

Registra-
tion of a
series of
marks.

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

Trade
marks
may be
registered
in any
colour.

67. A trade mark may be registered in any colour, and such registration shall (subject to the provisions of this Act) confer on the registered owner the exclusive right to use the same in that or any other colour.

Advertise-
ment of
applica-
tion.

68. Every application for registration of a trade mark under this part of this Act shall as soon as may be after its receipt be advertised by the comptroller.

Opposi-
tion to
registra-
tion.

69. (1) Any person may within two months of the first advertisement of the application, give notice in duplicate at the Patent Office of opposition to registration

of the trade mark, and the comptroller shall send one copy of such notice to the applicant.

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

(3) If the applicant sends such counter statement, the comptroller shall furnish a copy thereof to the person who gave notice of opposition, and shall require him to give security in such manner and to such amount as the comptroller may require for such costs as may be awarded in respect of such opposition; and if such security is not given within fourteen days after such requirement was made or such further time as the comptroller may allow, the opposition shall be deemed to be withdrawn.

(4) If the person who gave notice of opposition duly gives such security as aforesaid, the comptroller shall inform the applicant thereof in writing, and thereupon the case shall be deemed to stand for the determination of the court.

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

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

72. (1) Except where the court has decided that two or more persons are entitled to be registered as Restric-
tions

on regis-
tration.

proprietors of the same trade mark, the comptroller shall not register in respect of the same goods or description of goods a trade mark identical with one already on the register with respect to such goods or description of goods.

(2) The comptroller shall not register with respect to the same goods or description of goods a trade mark so nearly resembling a trade mark already on the register with respect to such goods or description of goods as to be calculated to deceive.

Further
restriction
on regis-
tration.

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

Saving for
power to
provide
for entry
on register
of common
marks as
additions
to trade
marks.

74. (1) Nothing in this Act shall be construed to prevent the comptroller entering on the register, in the prescribed manner, and subject to the prescribed conditions, as an addition to any trade mark—

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

Any distinctive device, mark, brand, heading, label, ticket, letter, word, or figure, or combination of letters, words, or figures, though the same is common to the trade in the goods with respect to which the application is made ;

(b) In the case of an application for registration of a trade mark not used before the thirteenth day of August one thousand eight hundred and seventy-five—

Any distinctive word or combination of

words, though the same is common to the trade in the goods with respect to which the application is made.

(2) The applicant for entry of any such common particular or particulars must, however, disclaim in his application any right to the exclusive use of the same, and a copy of the disclaimer shall be entered on the register.

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

Effect of Registration.

75. Registration of a trade mark shall be deemed to be equivalent to public use of the trade mark.

Registration equivalent to public use.
Right of first proprietor to exclusive use of trade mark.

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

77. A person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of a trade mark unless, in the case of a trade mark capable of being registered under this Act, it has been registered in pursuance of this Act, or of an enactment repealed by this Act, or, in the case of any other trade mark in use before the thirteenth day

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

of August one thousand eight hundred and seventy-five, registration thereof under this part of this Act, or of an enactment repealed by this Act, has been refused. The comptroller may, on request, and on payment of the prescribed fee, grant a certificate that such registration has been refused.

Register of Trade Marks.

Register
of trade
marks.

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

Removal
of trade
mark after
fourteen
years
unless fee
paid.

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

(2) If such fee be not paid before the expiration of such fourteen years the comptroller may after the end of three months from the expiration of such fourteen years remove the mark from the register, and so from time to time at the expiration of every period of fourteen years.

(3) If before the expiration of the said three months the registered proprietor pays the said fee together with the additional prescribed fee, the comptroller may without

removing such trade mark from the register accept the said fee as if it had been paid before the expiration of the said fourteen years.

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

(5) Where a trade mark has been removed from the register for nonpayment of the fee or otherwise, such trade mark shall nevertheless for the purpose of any application for registration during the five years next after the date of such removal, be deemed to be a trade mark which is already registered.

Fees.

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

Fees for registration, &c.

Sheffield Marks.

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

Registration by Cutlers' Company of Sheffield marks.

(1) The Cutlers' Company shall establish and keep

at Sheffield a new register of trade marks (in this Act called the Sheffield register) :

- (2) The Cutlers' Company shall enter in the Sheffield register, in respect of cutlery, edge tools, or raw steel and the goods mentioned in the next subsection all the trade marks entered before the commencement of this Act in respect of cutlery, edge tools, or raw steel and such goods in the register established under the Trade Marks Registration Act, 1875, belonging to persons carrying on business in Hallamshire, or within six miles thereof, and shall also enter in such register, in respect of the same goods, all the trade marks which shall have been assigned by the Cutlers' Company and actually used before the commencement of this Act, but which have not been entered in the register established under the Trade Marks Registration Act, 1875 :
- (3) An application for registration of a trade mark used on cutlery, edge tools, or on raw steel, or on goods made of steel, or of steel and iron combined, whether with or without a cutting edge, shall, if made after the commencement of this Act by a person carrying on business in Hallamshire, or within six miles thereof, be made to the Cutlers' Company :
- (4) Every application so made to the Cutlers' Company shall be notified to the comptroller in the prescribed manner, and unless the comptroller within the prescribed time gives notice to the Cutlers' Company that he objects to the acceptance of the application, it shall be

proceeded with by the Cutlers' Company in the prescribed manner :

- (5) If the comptroller gives notice of objection as aforesaid, the application shall not be proceeded with by the Cutlers' Company, but any person aggrieved may appeal to the court :
- (6) Upon the registration of a trade mark in the Sheffield register the Cutlers' Company shall give notice thereof to the comptroller, who shall thereupon enter the mark in the register of trade marks ; and such registration shall bear date as of the day of application to the Cutlers' Company, and have the same effect as if the application had been made to the comptroller on that day :
- (7) The provisions of this Act, and of any general rules made under this Act, with respect to application for registration in the register of trade marks, the effect of such registration, and the assignment and transmission of rights in a registered trade mark shall apply in the case of applications and registration in the Sheffield register ; and notice of every entry made in the Sheffield register must be given to the comptroller by the Cutlers' Company, save and except that the provisions of this subsection shall not prejudice or affect any life, estate, and interest of a widow of the holder of any Sheffield mark which may be in force in respect of such mark at the time when it shall be placed upon the Sheffield register :
- (8) Where the comptroller receives from any person not carrying on business in Hallamshire or

within six miles thereof an application for registration of a trade mark used on cutlery, edge tools, or on raw steel, or on goods made of steel, or of steel and iron combined, whether with or without a cutting edge, he shall in the prescribed manner notify the application and proceedings thereon to the Cutlers' Company :

- (9) At the expiration of five years from the commencement of this Act the Cutlers' Company shall close the Cutlers' register of corporate trade marks, and thereupon all marks entered therein shall, unless entered in the Sheffield register, be deemed to have been abandoned :
- (10) A person may (notwithstanding anything in any Act relating to the Cutlers' Company) be registered in the Sheffield register as proprietor of two or more trade marks :
- (11) A body of persons, corporate or not corporate, may (notwithstanding anything in any Act relating to the Cutlers' Company) be registered in the Sheffield register as proprietor of a trade mark or trade marks :
- (12) Any person aggrieved by a decision of the Cutlers' Company in respect of anything done or omitted under this Act may, in the prescribed manner, appeal to the comptroller, who shall have power to confirm, reverse, or modify the decision, but the decision of the comptroller shall be subject to a further appeal to the court :
- (13) So much of the Cutlers' Company's Acts as applies to the summary punishment of persons counterfeiting Sheffield corporate marks, that is to say, the fifth section of the Cutlers'

Company's Act of 1814, and the provisions in relation to the recovery and application of the penalty imposed by such last-mentioned section contained in the Cutlers' Company's Act of 1791, shall apply to any mark entered in the Sheffield register.

PART V.

GENERAL.

Patent Office and Proceedings thereat.

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

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

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

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

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

designations and duties as the Board of Trade think fit, 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
assign-
ments and
transmis-
sions in
registers.

87. Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, or to the copyright in a registered design, or to a registered trade mark, the comptroller shall on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, copyright in the design, or trade mark, in the register of patents, designs, or trade marks, as the case may be. The person for the time being entered in the register of patents, designs, or trade marks as proprietor of a patent, copyright in a design or trade mark as the case may be, shall, subject to 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,

design, or trade mark 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.

Inspection
of and
extracts
from
registers.

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.

Sealed
copies to
be received
in evi-
dence.

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.

Rectifica-
tion of
registers
by court.

(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.

Power for
comptroller to
correct
clerical
errors.

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

- (a) Correct any clerical error in or in connexion with an application for a patent, or for registration of a design or trade mark ; or
- (b) Correct any clerical error in the name, style, or address of the registered proprietor of a patent, design, or trade mark.
- (c) Cancel the entry or part of the entry of a trade mark on the register: Provided that the applicant accompanies his request by a statutory declaration made by himself, stating his name, address, and calling, and that he is the person whose name appears on the register as the proprietor of the said trade mark.

Alteration
of regis-
tered
mark.

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

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

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

Falsifica-
tion 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.

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

Exercise of discretionary power by comptroller.

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.

Power of comptroller to take directions of law officers.

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.

Certificate of comptroller to be evidence.

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

Applications and notices by post.

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

Provision as to days for leaving documents at office.

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.

Declara-
tion by
infant,
lunatic,
&c.

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.

Transmis-
sion of
certified
printed
copies of
specifica-
tions, &c.

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

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—

Power for Board of Trade to make general rules for classifying goods and regulating business of patent office.

- (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, amendments, 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 controller, or of the Board of Trade.

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

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

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

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

Annual
reports of
comp-
troller.

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.

Inter-
national
arrange-
ments for
protection

103. (1) If Her Majesty is pleased to make any arrangement with the government or governments of any foreign state or states for mutual protection of inventions, designs, and trade marks, or any of them, then any person

who has applied for protection for any invention, design, or trade mark in any such state shall be entitled to a patent for his invention or to registration of his design or trade mark (as the case may be) under this Act, in priority to other applicants; and such patent or registration shall have the same date as the date of the protection obtained in such foreign state.

of inven-
tions,
designs,
and trade
marks.

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

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

(2) The publication in the United Kingdom, or the Isle of Man during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design, or the publication therein during such periods of a description or representation of the design, or the use therein during such periods of the trade mark, shall not invalidate the patent which may be granted for the invention, or the registration of the design or trade mark.

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

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

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, designs, and trade marks, patented or registered in this country, it shall be lawful for Her Majesty from time to time, by Order in Council, to apply the provisions of the last preceding section, with such variations or additions, if any, as to Her Majesty in Council may seem fit, to such British possession.

(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
represent-
ing 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, or describes any design or trade mark applied to any article sold by him as registered which is not so, shall be liable for every offence on summary conviction to a fine not exceeding five pounds.

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

engraved, or impressed on, or otherwise applied to the article.

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

Penalty on unauthorised assumption of Royal arms.

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.

Saving for courts in Scotland.

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.

Summary proceedings in Scotland.

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

Proceedings for revocation of patent in Scotland.

Reserva-
tion of
remedies
in Ireland.

General
saving for
jurisdic-
tion of
courts.

(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, 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—

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

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

- (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.

114. (1) The registers of patents and of proprietors kept under any enactment repealed by this Act shall

Former registers to

be deemed respectively be deemed parts of the same book as the continued. register of patents kept under this Act.

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

Saving for existing rules.

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

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. (1) 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 herein-after defined, are deemed to be one British possession for the purposes of this Act :

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

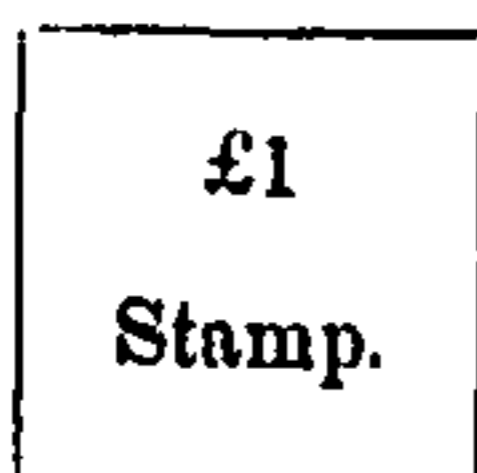
In the application of this Act to Ireland, “summary conviction” means a conviction under the Summary Jurisdiction Acts, that is to say, with reference to the Dublin Metropolitan Police District the Acts regulating the duties of justices of the peace and of the police for such district, and elsewhere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

SCHEDULES.

THE FIRST SCHEDULE.

Forms of Application, &c.

Section 5.

**FORM A.**

FORM OF APPLICATION FOR PATENT

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

(b) Here insert title of invention.

(c) Signature of inventor.

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

I, (a) *John Smith*, of *29, Perry Street, Birmingham*, in the county of *Warwick*, *Engineer*, do solemnly and sincerely declare that I am in possession of an invention for (b) "*Improvements in Sewing Machines*;" that I am the true and first inventor thereof; and that the same is not in use 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.

(c) *John Smith*.

Declared at *Birmingham*, in the county of *Warwick*,
this day of 18 .

Before me,

(d) *James Adams*,
Justice of the Peace.

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.

FORM B.

FORM OF PROVISIONAL SPECIFICATION.

Improvements in Sewing Machines. (a)

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

* * * * *

(d) *John Smith.*

Dated this day of 18 .

NOTE.—No stamp is required on this document.

(a) Here insert title as in declaration.
 (b) Here insert name, address, and calling of inventor as in declaration.
 (c) Here insert short description of invention.
 (d) Signature of inventor.

FORM C.

FORM OF COMPLETE SPECIFICATION.

Improvements in Sewing Machines. (a)

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

* * * * *

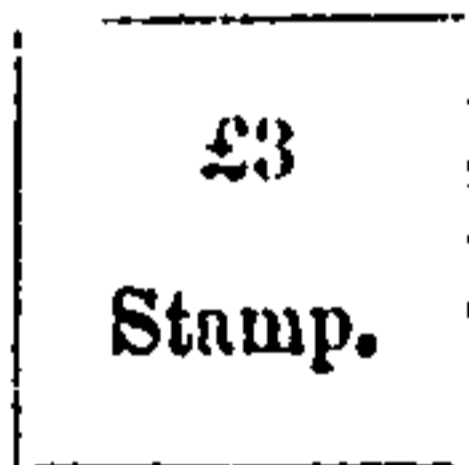
Having now particularly described and ascertained the nature of my said invention and in what manner the same is to be performed, I declare that what I claim is (d).

- 1.
- 2.
3. &c.

(e) *John Smith.*

Dated this day of 18

(a) Here insert title, as in declaration.
 (b) Here insert name, address, and calling of inventor, as in declaration.
 (c) Here insert full description of invention.
 (d) Here state distinctly the features of novelty claimed.
 (e) Signature of inventor.



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

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

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

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

Know ye, therefore, that We, of our especial grace, certain knowledge, and mere motion do by these presents, for us, our heirs and successors, give and grant unto the said patentee our especial 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 herein-before contained: Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect 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 hereby granted shall determine and become void notwithstanding anything herein-before 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



FORM E.

Section 47.

FORM OF APPLICATION FOR REGISTRATION OF DESIGN.

_____ day of _____ 18 .

You are hereby requested to register the accompanying _____ Design, in Class _____

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

in the name of (a) _____
 of _____
 who claims to be the Proprietor thereof, and to return the same to _____

Statement of nature of Design _____

Registration Fees enclosed £ ,, s.

To the Comptroller,

Patent Office, 25, Southampton Buildings, Chancery Lane, W.C.

(Signed) _____

FORM F.

Section 62.

FORM OF APPLICATION FOR REGISTRATION OF TRADE MARK.

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

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

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

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

Registration Fees enclosed £ „ s.

To the Comptroller,

Patent Office, 25, *Southampton Buildings, Chancery Lane, W.C.*

(Signed) _____

NOTE.—If the trade mark has been in use before August 13, 1875, state length of user.

Section 24.

THE SECOND SCHEDULE.

*Fees on instruments for obtaining Patents, and Renewal.**(a) Up to sealing.*

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

or

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

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

On certificate of renewal				50	0	0
				<hr/>		

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

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

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

Before the expiration of the fourth year from the date of the patent	10	0	0
Before the expiration of the fifth year from the date of the patent	10	0	0
Before the expiration of the sixth year from the date of the patent	10	0	0
Before the expiration of the seventh year from the date of the patent	10	0	0

	£	s.	d.
Before the expiration of the eighth year from the date of the patent	15	0	0
Before the expiration of the ninth year from the date of the patent	15	0	0
Before the expiration of the tenth year from the date of the patent	20	0	0
Before the expiration of the eleventh year from the date of the patent	20	0	0
Before the expiration of the twelfth year from the date of the patent	20	0	0
Before the expiration of the thirteenth year from the date of the patent	20	0	0

THE THIRD SCHEDULE.

Section
113.

Enactments repealed.

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

7 & 8 Vict. c. 69 (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.
13 & 14 Vict. c. 104. [1850.]	An Act to extend and amend the Acts relating to the copyright of designs.
15 & 16 Vict. c. 83. [1852.]	The Patent Law Amendment Act, 1852.
16 & 17 Vict. c. 5. [1853.]	An Act to substitute stamp duties for fees on passing letters patent for inventions, and to provide for the purchase for the public use of certain indexes of specifications.
16 & 17 Vict. c. 115. [1853.]	An Act to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of letters patent and specifications to certain offices in Edinburgh and Dublin, and otherwise to amend the said Act.
21 & 22 Vict. c. 70. [1858.]	An Act to amend the Act of the fifth and sixth years of Her present Majesty, to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
22 Vict. c. 13. [1859.]	An Act to amend the Law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war.
24 & 25 Vict. c. 73. [1861.]	An Act to amend the law relating to the copyright of designs.
28 & 29 Vict. c. 3. [1865.]	The Industrial Exhibitions Act, 1865.
33 & 34 Vict. c. 27. [1870.]	The Protection of Inventions Act, 1870.

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

33 & 34 Vict. c. 97. [1870.]	The Stamp Act, 1870. In part; namely,— Section sixty-five, and in the Schedule the words and figures: “Certificate of the registration of a design, £5. And see section 65.”
38 & 39 Vict. c. 91. [1875.]	The Trade Marks Registration Act, 1875.
38 & 39 Vict. c. 93. [1875.]	The Copyright of Designs Act, 1875.
39 & 40 Vict. c. 33. [1876.]	The Trade Marks Registration Amend- ment Act, 1876.
40 & 41 Vict. c. 37. [1877.]	The Trade Marks Registration Extension Act, 1877.
43 & 44 Vict. c. 10. [1880.]	The Great Seal Act, 1880. In part; namely,— Section five.
45 & 46 Vict. c. 72. [1882]	The Revenue, Friendly Societies, and National Debt Act, 1882. In part; namely,— Section sixteen.

HALL-MARKING OF FOREIGN PLATE ACT, 1904.

CHAPTER VI.

An Act to amend the Law with respect to the Hall-marking of Foreign Plate. [22nd July, 1904.]

BE it enacted by the King'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 :

Marks to
be placed
on foreign
plate.

5 & 6 Vict.
c. 47.

46 & 47
Vict. c. 55.

1.—(1) Where, for the purpose of complying with sections fifty-nine and sixty of the Customs Act, 1842, or section ten of the Revenue Act, 1883, any plate has to be assayed, stamped, and marked, or where for any other purpose any plate or article imported from a foreign part is brought to an assay office in the United Kingdom to be assayed, stamped, or marked, the plate or article shall be marked in such manner as His Majesty may determine by Order in Council so as readily to distinguish whether the plate or other article was wrought or made in England, Scotland, or Ireland, or was imported from foreign parts, and such mark or marks shall be deemed to be a compliance with the said Acts.

(2) Any person, who, after a date fixed by His Majesty by Order in Council, brings or causes to be brought any plate or other article to be assayed, stamped, and marked

at an assay office, shall state in writing, in manner provided by His Majesty by Order in Council, whether the plate or article was wrought or made in England, Scotland, or Ireland, or was imported from foreign parts, but it shall not be necessary to make such statement in writing where any plate or other article is brought to an assay office in charge of an officer of customs under the provisions of the Revenue Act, 1883, for the purpose of being assayed, stamped, or marked as having been imported from foreign parts.

(3) Where any person, who, after the date fixed as aforesaid, brings or causes to be brought any plate or other article to be assayed, stamped, and marked at an assay office, does not know, and is not able to state, whether the plate or other article was wrought or made in England, Scotland, or Ireland, or was imported from foreign parts, such person shall make a statement in writing to that effect in the manner prescribed in this section, and the plate or other article referred to in the said statement shall be stamped and marked as if it were imported from foreign parts.

(4) If any person knowingly makes a false statement under this section he shall be liable, on summary conviction, under the Summary Jurisdiction Acts, to a fine not exceeding five pounds for every article in respect of which the false statement is made.

(5) The Customs Act, 1842, shall apply as if a reference to the mode of marking required under this Act were substituted for a reference to the mode of marking under that Act.

(6) His Majesty may, by Order in Council, revoke, vary, or add to any Order in Council made under this Act.

2. In Scotland all offences which are punishable under this Act on summary conviction shall be prosecuted Application to Scotland.

before the sheriff in manner provided by the Summary Jurisdiction (Scotland) Acts.

Com-
mence-
ment of
Act.

3. This Act shall come into force on the first day of November, one thousand nine hundred and four.

Short title
and repeal.

4.—(1) Section two of the Customs Tariff Act, 1876. is hereby repealed.

(2) This Act may be cited as the Hall-marking of Foreign Plate Act, 1904.

39 & 40
Vict. c. 35.

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