THE

NEW PATENT LAW:

ITS

HISTORY, OBJECTS, AND PROVISIONS:

THE

Protection of Inventions Acts, &c.

14 Vict. c. 8, & 15 Vict. c. 6;

AND

The Patent Law Amendment Act,

15 & 16 Vict. c. 83;

THE

RULES OF THE COMMISSIONERS OF PATENTS,

AS REVISED TO OCTOBER 15, 1852,

AND

PRACTICAL FORMS AND PROCEEDINGS.

SECOND EDITION.

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CORRECTIONS.

In the note at the foot of p. 1, in the first line of the second column, for "the two" read "two of the"

In p. 20, l. 15, after "thereof" insert "given, and"

INTRODUCTION.

THE following pages will, I trust, serve as a useful "Manual for Inventors" in the present transition state of the proceedings connected with Patents for Inventions in the Arts and Manufactures.

The present edition differs from the one issued in September only in the addition of this Introduction and of the Rules of the Commissioners as revised and in force on the 15th of October.

The first set of rules were accompanied by a "Notice," requiring the applicant to leave, on filing his specification, *four* extra copies of the drawings; that notice is withdrawn, and will not be acted on; and the applicant will have to leave only *one* extra copy of the drawings, referred to in any specification deposited or filed under the Act.

The "*Rules and Instructions to be observed in applications respecting patents for inventions, and by persons petitioning for letters patent for inventions, and for liberty to enter disclaimers and alterations according to the statutes,*" issued about the 1st of October, under the sanction of the names of the Attorney and Solicitor-General, have been withdrawn and annulled (see *post* p. 88). Under these circumstances it would have been unnecessary to allude further to such rules and instructions, had they not related to and concluded questions about which differences of opinion exist, and which will require the mature consideration of the Commissioners.

The general intent of some of those rules, namely, the limiting each patent to one substantive invention, instead of allowing several and distinct subject-matters to be protected by one and the same patent, was excellent; and the enforcing

of this rule in practice is essential to the successful working of the new system: but the details of directions attempted would have been so embarrassing, that few inventors could have ventured to proceed without experienced professional assistance—a consequence wholly foreign to the spirit and intent of the Act. Others of the rules would have continued or reintroduced many of the defects of the extinguished system—as, for instance, the allowing the provisional specification to be altered from time to time, except at the instance of the Law Officer, or for the correction of clerical errors or of omissions *per incuriam;* the retaining the *six* sets of caveats at the chambers of the Law Officers of the three kingdoms, in case of disclaimers; both of which rules would have been contrary to the intent of the 8th and 39th sections and the general spirit of the Act.

It was also ordered by those rules that "a copy of the provisional specification should be introduced into the complete specification," a practice entailing unnecessary expense on the applicant, and which would be productive of embarrassment in subsequent legal proceedings, without any corresponding advantage or security to the public, especially as the Act provides (s. 30) for the printing and publishing of the provisional specifications.

One of those rules related to a question advisedly left open by the framers of the act, namely, the propriety of the provisional specification being open to inspection, and in effect declared that such inspection should not be allowed.

The advocates of the provisional specification looked to it as one means of checking the speculative inventors who were fostered under the old system: the sanguine and visionary character of a large number of the patentees was notorious; many persons applied for a patent on a bare idea, so indefinite, valuable, and sacred, that it could not be entrusted to any one; they would furnish so-called heads of invention, or rather objects and fancied results, which being amplified and expanded by skilful professional assistance, would look sufficiently imposing before the Law Officers to secure the granting of the patents, which would be obtained at a cost of

not less than 350*l.*, including professional assistance. In the interval of the six months for preparing the specification, the original idea would turn out to be no invention, and the patent would either go unspecified, or something else would be substituted in the interval; thus, the applicant would lose his money or the system its credit.

The provisional specification was designed to save such victims, by requiring the applicant, prior to any application, to describe in writing the nature of his invention to the satisfaction of the Law Officer; mere heads, objects, and results, such as will be found in many of the paper deposits under the old system, cannot satisfy the above intent; it must be a possible and intelligible invention, such as may be used, tried, and experimented on forthwith for the purpose of ascertaining those details which experience alone can supply. The inventor having complied with this condition, is entitled to use and publish the invention so described and protected in any manner he may please without prejudice to his after-acquired patent. Such privileges conferred on the inventor demand corresponding concessions for the public, and inventors of the greatest experience are of opinion, that such provisional specifications ought to be open to inspection immediately after the provisional protection shall have been advertised as obtained; that the public and inventors have a right to know, at the earliest moment consistent with the security of the inventor, from what they are debarred or in what they may have been anticipated; that secrecy in such matters is impolitic and injurious to the real interests of inventors, who would thereby be encouraged to come with crude or immature schemes. To say that fraudulent persons might take advantage of such a publication, even if true, is no valid objection; for that would be to sacrifice a principle to dishonesty; but so soon as the specifications of the patents granted under the old system shall have been enrolled, or the periods for their enrolment shall have expired, any anticipated mischief may be effectually guarded against by proper regulations of the Commissioners.

Inspection by those of the public who may be interested in the matter, and the objections to which such inspection may

give rise before the Law Officer on the application for the patent to be proceeded with, will be the best security for the *bona fide* character of the provisional specification and for the adequate discharge of the duties of examination of the provisional specification.

It was one of the prominent defects of the old system, that the applicant had no means of obtaining information as to patents for the same subject, either in progress, or actually granted, but the specifications of which were not enrolled; inspection of the provisional as of the complete specification would remove this grievance; the applicant having, but not availing himself of, the means of obtaining information, must not complain of the loss of his time and money.

It has been objected that the obtaining of foreign patents might be prejudiced by the provisional specification being open to inspection, but this would afford additional security against the inventor coming with a bare idea, or before the invention was sufficiently matured to obtain those patents; a sufficient interval from the date of the application, as a fortnight, might be allowed for the purpose of applying for the foreign patents; but the policy of our patent system must not be sacrificed to such an object.

It will be observed, on reference to the second set of rules (*post* 87), and the form of the petition (*post* 92), that any colony or possession abroad, to which the patent is desired to extend, must be specified, and some special reason assigned to the Law Officer and the Lord Chancellor for such extension. It may be inferred from this rule that letters patent will not be granted as heretofore for "all the colonies and plantations abroad;" and it may be expedient for applicants to omit the colonies altogether, except under very special circumstances.

T. W.

2, Pump Court, Temple.
October 22, 1852.

THE NEW PATENT LAW,

&c., &c.

THE patent systems of England, Scotland, and Ireland, about to be superseded by one system for the United Kingdom under "The Patent Law Amendment Act, 1852," have continued to subsist notwithstanding the unqualified condemnation of almost every person of any experience in the subject (*a*). For the last quarter of a century men of science and inventors have laboured for the abolition of a vicious and the establishment of a rational system of obtaining and protecting property in inventions in the arts and manufactures; but the inherent difficulty of the subject, the conflicting opinions of reformers, want of

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(*a*) No language can convey any adequate idea of the general dissatisfaction and distrust which existed in reference to this subject amongst men of science, persons holding or having held the highest judicial situations, law officers, and every class of professional men. It has been represented that patent agents, a class of professional men more immediately engaged in obtaining patents, in preparing specifications, and in advising on inventions generally, were opposed to reform in the patent system. Mr. Wyatt, the editor of the "Repertory," Mr. Newton, the editor of "The London Journal of Arts and Sciences," and Mr. Robertson, the projector and editor of the "Mechanic's Magazine," have written and given evidence against the system during the last quarter of a century. The testimony of Mr. Newton and Mr. Robertson, the two oldest and most successful patent agents now in practice, is supported and added to by almost every other patent agent, who, from actual experience, speak of the system as exhibiting "dodging" (482), "all sorts of manœuvres understood by racing" (884), "giving advantage to an unscrupulous over a scrupulous agent, and presenting a sort of strife degrading to be connected with" (886); as affording no security, and as bad as horse jockeying (211)—(see evidence before Select Committee of House of Lords, 1851, on Patent and Designs Bills). Mr. Moses Poole (officially connected with the passing of patents), in 1829, in conjunction with Mr. Carpmael in 1849 and 1851, are the only patent agents who have given evidence in support and approval of the existing system.

sympathy on the part of the public with the comparatively small class of scientific and ingenious men, the mistaken jealousy of some capitalists, and other causes, gave power and effect to the obstructiveness or opposition of the numerous persons in the three countries directly or indirectly interested in the official fees levied under the existing systems, and many well-intentioned efforts either failed or produced temporary expedients of little value. The history of the growth of the abuses complained of is curious and instructive, counterparts of which may be found in other special branches of our jurisprudence: it presents a striking instance of a system trained and fostered by self-interest, until the accumulation of abuses had paved the way for the extinction of the whole system, by putting an end to property in the productions of ingenuity in the arts and manufactures. The history of the struggles for the reform of that system is equally curious and instructive; but it would be foreign to our present purpose to dwell more on this subject than to present a simple record of the past as introductory to and explanatory of the new system.

Former attempts. A.D. 1829.

In 1829, a Select Committee of the House of Commons was appointed to inquire into the state of the law and practice relative to the granting of Patents for Inventions; numerous witnesses were examined; the committee reported the evidence, and recommended the resumption of the inquiry early in the next session. The inquiry was not resumed; indeed little necessity existed for further inquiry; the witnesses were almost unanimous in condemning the existing system, and were agreed on many material points as to the remedy to be applied.

A.D. 1833.

In 1833 a bill, introduced by the late Mr. Godson, passed the House of Commons; but arriving at the House of Lords at a late period of the Session, its further consideration was postponed until the next

Session; the Marquis of Clanricarde, the Lord Chancellor (Lord Brougham), Lord Wynford, and the Lord Chancellor of Ireland (Lord Plunket), speaking strongly on the necessity and importance of the subject.

In 1835 a bill, introduced by Lord Brougham, passed the House of Lords; the second reading was moved in the House of Commons by Mr. W. Tooke: several members expressed great regret at the measure not being more comprehensive; the Lord Advocate and other members commented on the following evils as untouched by the measure:—1. The amount of fees and expenses. 2. The existence of distinct patents for England, Scotland, and Ireland. 3. The interval between the application and the grant, during which the applicant was without any protection, and subjected to opposition. The measure however passed the House of Commons by a small majority, and became the law of the land. By this act power was given to disclaim part of an invention, and to amend the letters patent and specification; also, the Crown was empowered to confirm existing patents, and to grant new letters patent for an extended term, on the recommendation of the Judicial Committee of the Privy Council, in cases in which adequate remuneration had not been obtained from the invention. This act has been a great boon to inventors, and has, it is conceived, more than realised the anticipations of its noble author (*b*).

A.D. 1835.

5 & 6 W 4, c. 83.

Power to disclaim.

Confirmation and extension of term.

The late Lord Langdale, under the provisions of an act for keeping safely the Public Records, passed in 1838, gave the public, at the cost of one shilling, the privilege of reading and copying any specification at the Rolls Chapel, one of the three offices at which specifications were then enrolled; interests, however,

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(*b*) Some of the provisions of this act have been extended and amended by subsequent acts, viz. 2 & 3 Vic., c. 67; 7 & 8 Vic., c. 69.

existed inimical to the cheapening and facilitating access to these documents, and the result was a great diminution in the proportion of the specifications enrolled at the Rolls Chapel, and a great increase in the proportion enrolled at the other two offices from which the public were practically excluded. In 1848 his lordship introduced a clause, in an act relating to the Court of Chancery, requiring all specifications and disclaimers enrolled after the 1st of January, 1849, to be enrolled in one office, and further concessions were made for the convenience of the public; but fears of a diminution of fees prevented the privilege of copying a single extract being conceded to the public

A.D. 1848. In 1848 a Committee on the signet and privy seal offices—two of the offices through which patents for inventions were required to pass "in order that the clerks thereof might not by any manner of means be defeated of any portion of their fees," (*c*)—inquired into the practice of passing patents, and made several recommendations calculated to improve the system; but a Bill introduced in the session of 1850 into the House of Commons to carry out some of these recommendations was not prosecuted.

A. D. 1850. The preparations for the approaching Great Exhibition of the Industry of all Nations had so effectually aroused attention to the discreditable state of the laws affecting inventions in the arts and manufactures, and to the inadequate protection for the kindred subject of designs, that the public were prepared for a great reform in the laws affecting these two subjects.

Extension of Designs Acts. On the 24th of June, 1850, the Earl Granville introduced into the House of Lords the "Law of Copyright of Designs Amendment Bill;" the object, as stated in the preamble, being, to encourage the exhibition of works of art, by providing that such exhibition

(*c*) See statute 27 H. 8, c. 11; A.D. 1535-6.

(certain conditions being complied with) should not defeat the copyright. The enacting clauses of the Bill extended to manufactures and inventions theretofore the subject of protection by patent, and would have brought that class of inventions under the existing system of registration of designs.

To this many obvious objections existed; the system of registration of designs, but recently established, showed many symptoms of itself requiring reform; the subjects, though kindred, had many distinctive features requiring different regulations; language and technical terms theretofore unknown in connection with property either in designs or manufactures were employed in the clauses: under these circumstances all reference to inventions other than designs theretofore the subject of registration was omitted, and the bill was confined to enabling the subjects of copyright as defined by the preceding Designs Act to be exhibited without prejudice to after acquired copyright; it being distinctly understood on the withdrawal of the other portions of the bill that similar privileges should be extended to inventions the subject of patents at a sufficiently early period in the ensuing session to enable such inventions to be exhibited at the Exhibition without prejudice to letters patent to be afterwards acquired.

Extravagant notions as to inventors.

A laudable enthusiasm in favour of whatever might contribute to the success of the approaching Exhibition had given rise to extravagant notions of the protection to be afforded to property in inventions; the right of an inventor to property in his invention whether a design or a manufacture, and the right to exclude all others from its adoption, were declared to be natural and indefeasible; many crude and unreasonable propositions connected with this subject obtained the sanction and support of names of high authority; and in the autumn of 1850, a "Bill to extend registration to inventions generally," was prepared and

printed as suggestive of the views of the advocates of the so-called indefeasible and natural rights of intellectual labour, its general object being to enable any person to acquire, by a single act of registration, exclusive privileges in respect of whatever he might choose to make the subject of such registration.

These extreme views found little favour among the practical inventors of the country; the working of the Non-ornamental or Utility Designs Act (6 & 7 Vict. c. 65) had indicated some of the probable consequences of such a system (*d*); and public attention was again directed to improving the existing system of patents (*e*).

Suggestions of inventors.

Meetings were held in the autumn of 1850 at various places, which led to the formation of a United Association of Inventors, whose views were embodied in twelve recommendations, which were agreed upon, and suggested as the basis of the proposed new system (*f*).

A Bill prepared in accordance with these recommendations was prepared, printed, and circulated amongst the members of the Association at the close of the year 1850, and formed the model upon which the several Bills introduced in the following session were founded; all the Bills contained the leading and cardinal features of the system sanctioned during the last session.

A.D. 1851. Protection of Inventions Act.

At the commencement of the session of 1851, Lord Granville, in pursuance of the understanding at the close of the preceding session, introduced into the House of Lords a bill to enable inventions to be exhibited at the forthcoming Great Exhibition without prejudice to rights to be acquired after such exhibition. The bill was referred to a

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(*d*) See evidence before Select Committee of House of Lords, Session 1851, on the Designs Extension bill.

(*e*) In November 1850, the author of these pages published "An Outline Scheme and Suggestions" for the amendment of the system; the replies received from more than one hundred inventors and manufacturers showed great unanimity as to what was required and wished for.

(*f*) See evidence of R. H. Wyatt, Hon. Sec. of the United Inventors Association before the Select Committee of the House of Lords.

select committee of the House of Lords, and their lordships after hearing evidence on the probable operation of registration of inventions generally, according to the system for the registration of designs, modified the bill so as to keep distinct from each other the two methods of acquiring and protecting property in designs and inventions. The bill so modified became "The Protection of Inventions Act, 1851." The protection under that act was granted only for a year; but the anticipated new patent system not having been sanctioned in the session of 1851, an act was passed in 1852 extending the protection until February, 1853.

New principles.

The Protection of Inventions Act introduced several new principles of the greatest importance to inventors. It enabled the inventor, on obtaining a certificate of the sufficiency of a description of his invention, to exhibit and publish it so as to obtain the assistance and judgment of persons of skill and capital without prejudice to any after acquired patent for such invention; it constituted a distinct legislative recognition of property in inventions in the arts and manufactures; it gave an interest in that property from the date of the application for protection; and it authorised the Lord Chancellor to cause the letters patent to be sealed and bear date as of the day of such provisional registration, thus affording a precedent for the principle that the legal right should date from the day of the application, unless justice to other parties required that it should be post-dated (*g*). These principles, and the operation of that Act, were the subject of evidence before the committee on the Patent Bills, and the New Patent Law embodies such as were applicable to the general system.

The Protection of Inventions Act came into operation immediately on its passing, on the 10th of April

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(*g*) See Act 14 Vict. c. 8.

1851; between that day and the closing of the Exhibition, application for provisional protection was made in 691, and granted in 615 cases; the first certificate being registered on the 22nd of April, and the last on the 16th of October; a very large proportion of those inventions being protected by persons to whom property in their labour and ingenuity would have been denied under the existing patent system.

The injustice of a system of protection for the rich to the exclusion of the ingenious but poor inventor, was much insisted on in the course of the evidence before the Select Committee of the House of Lords on the measure just adverted to (*h*); the defects of the existing patent system generally, and of the system of the registration of designs, and the operation of the act of 1835 (commonly called Lord Brougham's Act), were incidentally discussed in considerable detail. The most favourable opinions were expressed as to the beneficial operation and successful working of that act of 1835, as to the power of disclaiming and extending the term of the patent; and the importance of supplying the omissions referred to in the discussions on that measure when in the House of Commons (*i*) was brought prominently before the committee.

The result of this inquiry, coupled with the general feeling on the part of the public as to the necessity of the revision of the whole patent system, led to the introduction into the House of Lords of two Bills—the one on the 24th day of March by Lord Brougham, the other on the 10th day of April by Earl Granville—both founded on the same general principles, differing only in minor details. The two Bills so introduced, with petitions to the House of Lords praying for the reform of the patent laws, were referred to a select committee, and numerous witnesses,

Two Patent Bills introduced.

(*h*) See evidence of C. May, A. V. Newton, and Professor Woodcroft, before House of Lords, 13th of March, 1851.

(*i*) See *ante* 7.

representing every variety of opinion, and every class in this country and other countries, were examined, and the evidence was directed to the question of the general policy or impolicy of patents, as well as to the details of the specific measures before the committee (*k*). The general effect of the evidence being in favour of some of the provisions of each Bill, and suggestive of provisions not contained in either Bill, a third Bill amalgamating the two, and containing such provisions, was introduced by the Earl Granville on the 23rd day of June, and having passed the House of Lords was sent down to the House of Commons on the 4th day of July.

Proceedings in the House of Commons.

The advocates of the existing system, and opponents of all reform and of patents generally, were not idle during the successive stages of the Bill in the House of Commons; alterations were made in the form of the Bill, and a clause found its way into the altered Bill which would have defeated one of the main provisions of the measure, by letting in opposition before obtaining provisional protection, and thus the beneficial provision of immediate provisional protection, which had been practically tried with the most satisfactory results under the Protection of Inventions Act during the pendency of the Patent Bill in the House of Lords, and which had been the subject of evidence before that committee, would have been virtually defeated. The Bill, as amended by the House of Commons, was returned to the House of Lords only the evening of the day before the close of the session, and it being impossible to reprint the

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(*k*) It may be necessary to warn the unprofessional reader of that evidence not to be misled by the form of questions and answers; many of the witnesses were wholly unaware of the particular views which suggested the questions, and the result has been that several of the witnesses have been surprised on perusing their evidence in print, at the countenance which some of their answers appear to give to the views against the policy of patents which suggested many of the questions. The print of the evidence presents a curious confirmation of the well-known rule of practice before our legal tribunals, that a witness is not to be led or as it were cross-examined by his own counsel.

amendments for the consideration of their lordships, the measure was necessarily postponed.

Appointment to Offices Bill.

Concurrently with the Patent Bills, there was pending in parliament a measure for simplifying the appointment to offices and the manner of passing grants under the Great Seal, introduced in accordance with the recommendation of the Committee of 1848 on the signet and privy seal offices; the subject of patents for inventions was expressly excepted from its operation, but when it appeared that the Patent Bill would be lost for want of time to carry it through the House of Lords, the exception was struck out, and three of the useless stages of the old system were thereby abolished (*l*); but the other inherent defects in the system, which it was the object of the Patent Bill to obviate—as, the want of any protection until the actual sealing of the patent; the inadequate power and tribunal of the law officers; the caveat system; the delay and obstruction by interested opponents to the progress of grants; the triplication of fees for distinct proceedings and patents for the three countries; the impossibility of obtaining information as to the subject of patents in progress or not specified — were wholly unprovided for.

Bills of 1852.

In the session of 1852, the same noble lords introduced two Bills, in form substantially the same as the Bill returned from the House of Commons at the close of the preceding session; but containing or omitting important clauses (*m*) which had been deliberately rejected or adopted by the House of Lords or Commons in the preceding session. The two Bills were referred to a Select Committee; the Bill of Earl Granville was sent down

(*l*) See 14 and 15 Vict. c. 82.

(*m*) The House of Lords was of opinion that the publication or use of an invention in foreign parts should have the same effect on the validity of a patent as prior publication or use in this country; also, that the colonies should not be included in the grant for the United Kingdom. The House of Commons resisted both these alterations in the existing law.

to the House of Commons, and referred to a Select Committee to consider its provisions; some amendments were made in committee; the House of Commons adhered to their former decision, and after a conference between the two Houses, the Bill, as returned from the House of Commons, was agreed to by the House of Lords, and the measure received the royal assent on the last day of the session.

Such is a general outline of the history of Patent Law Reform in this country, and of the circumstances which led to the passing of the Patent Law Amendment Act, a measure which will probably bring to issue the question of the policy of patent privileges; for if the abuses and dissatisfaction existing under the old system are essentially inherent in any system whereby property in inventions in the arts and manufactures is created and protected, it will be difficult hereafter to maintain such property, however great the merit of the invention.

OBJECTS AND PROVISIONS.

The Patent Law Amendment Act does not in terms repeal the existing systems; the preamble affirms the expediency of amending the law; the clauses provide for the establishment of a system which in superseding the existing system will enable pending applications to be prosecuted and completed, otherwise various difficulties might have occurred in the transition to the new system. It must not be supposed that with every precaution such transition can take place without some difficulty; but the objects with which the several clauses were framed being understood, the applicants for patents and administrators of the new system will be enabled to concur in giving effect to its provisions.

The act constitutes the Lord Chancellor, the Master Commissioners, s. 1.

of the Rolls, and six Law Officers of the three countries, with such person or persons as the Crown may think fit to appoint Commissioners of patents for inventions, with general power for the management and regulation of all matters not specially provided for by the act.

Want of conjoint action.

Under the old system no community of action existed; each of the above named Commissioners had an independent and generally a distinct authority and jurisdiction, and the result was that the most obvious reforms were omitted by reason of the want of communication with each other as an authorised Board. The repeated attempts to correct abuses and introduce improvements would furnish many illustrations of this. The Law Officers have struggled repeatedly against the vague and general titles under which applications were made; the Lord Chief Justice (Lord Campbell) when Attorney-General, introduced a rule as to deposits in opposed cases; this led to oppositions taking place as a system, and increased the abuse of caveats; then an open patent, or one which had passed the Law Officers without a deposit, was at a premium, so to speak; and such patents would occasionally lie at the stage prior to the sealing ready to receive any matters within the scope of its title; persons having caveats found patents sealed for invention of which they had received no notice, patents which had passed the Law Officer months or years before; the Master of the Rolls (Sir J. Romilly) when Attorney-General required deposits in all cases; Lord Truro, when Lord Chancellor, made an order that no patent should be sealed without a certificate of the Law Officers that a deposit had been made, but no such rule as to deposits existed in Scotland or Ireland and the spirit of the rule as to deposits was shamefully evaded by the unscrupulous, so that many of the deposits are little better than blank paper; the co-operation of the Master of the Rolls as the keeper

the specifications would be necessary for any efficient comparison between the deposits and the specifications. The late Lord Langdale, after several attempts, found that the system must be dealt with as a whole. The Board of Commissioners now established affords the means of united action and treatment of the system.

Seal of the Commissioners, s. 2.

The Commissioners are empowered to make a seal, of which the impression shall be receivable in evidence, so that any document bearing that seal may be read without further proof. Under the existing system there were no less than six seals which the courts in this country alone might be required to take notice of, and yet there were many original documents and copies incapable of proof in this simple manner, but requiring the production of the original, and the attendance of witnesses. The Commissioners have the power under the Patent Law Amendment Act of so arranging the business, that all documents connected with patents for inventions may be proved by their seal. This will effect a great saving both directly and indirectly in the expense of all proceedings, but it is a benefit which will be chiefly felt in litigated cases.

Annual Report to Parliament.

The Commissioners are to report annually to Parliament. The annual report of the American Commissioners of Patents is a most instructive and useful compendium, showing the progress of invention in the several departments of the arts and manufactures so far as such invention has been the subject of patents; with the names of all patentees; the subject of every patent, in alphabetical and classified lists; the patents that have expired, or been repealed, or altered by disclaimers, or otherwise. No such lists exist in this country (except the lists of private practitioners, which are necessarily imperfect) notwithstanding the enormous amount of moneys levied on inventors in the shape of official fees, and for the engrossing and

enrolling of specifications. This report will make inventors in remote parts of the kingdom acquainted with the general progress of invention and state of property the subject of protection.

One office for the United Kingdom, s. 4 and 5.

The Commissioners have the power to provide one office, and appoint suitable officers for the transaction of all business connected with patents, so that the inventor or his agent, or any one of the public requiring information, need have recourse to one place only for the United Kingdom, instead of to numerous offices in different parts of the metropolis, and to corresponding offices in Edinburgh and Dublin. The Commissioners can make such subdivisions as may be convenient for facilitating the business, but the spirit of the act contemplates that the inventor or his agent will not be required to attend in unopposed or ordinary cases at different offices or places of business. The necessity of attending at so many different offices was one of the greatest practical abuses under the old system, and a great source of expense to inventors and the public.

Application for a patent, s. 6.

The first step previous to applying for a patent is the preparation of the Petition, Declaration, and Provisional Specification. The formal parts of these documents are given in the schedule to the Act; the two former are substantially the same as under the old system, except that they relate to the whole, instead of being distinct documents for each part, of the realm.

The provisional specification.

The provisional specification is a new document; it is to "describe the nature of the invention;" the petition and declaration, as heretofore, set forth the title only of the invention; this new document is to furnish such specific information as will disclose a real *bond fide* invention, and not a mere speculation or collection of ideas. The true character of this document, and the conditions which it must fulfil, will be understood by comparing the above terms with the corres-

ponding language of the condition for the specification, called in the Act the complete specification. In that final document the inventor must "particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed." The term ascertain is usually regarded as having reference to certain precise definitions of the extent of the invention, so that the public may know where the invention commences and where it ends; it is of a limiting nature; a defining precisely that from which the public are to be excluded during the subsistence of the exclusive privileges. The words "in what manner the invention is to be performed" point to details of dimensions, parts, proportions, and minute practical directions, which can only be ascertained by experiments or experience, such as cannot take place with security while the invention is unprotected. With regard to a large—probably the largest—class of inventions, the description of the nature of the invention will really involve the manner in which it is to be performed; but even in these something is to be learned from experience, and considering the rigour with which the law interprets the final or complete specification, it is, in the opinion of many practical men, desirable that time should be given for this purpose.

Objections to the provisional specification.

An opinion was expressed by the Master of the Rolls to the Select Committee of the House of Lords, that the preparation of the provisional specification might be attended with difficulty, but his Honour was speaking from the experience of the outline description under the order of the Law Officers, to which great laxity had been allowed, and in the preparation of which great skill had come to be exercised, for the purpose of disguising and including as much as terms of art and general vagueness would allow, consistent with reasonable apparent intelligibility; but the *bond fide* honest inventor, who is in

possession of any thing capable of being described and reduced to certainty in writing, beyond a bare idea, experiences no such difficulty, and if language be used for the purpose of unfolding and not of concealing ideas little practical difficulty will occur. The encouragement which the old system afforded to obtaining patents for inventions to be made, rather than existing, gave rise to an artificial system of deposits which the new system is calculated to check.

Practical proceedings.

The applicant for letters must leave his petition, declaration, and provisional specification, or complete specification, at the office of the Commissioners.

Proceedings in the office of the Commissioners.

The application for the letters patent will be marked in consecutive numerical order and endorsed on the documents, and a certificate thereof will, when a provisional specification is left, be referred, according to such regulations as the Commissioners may make, to one of the law officers, for a certificate to the effect that he is satisfied the conditions as to the provisional specification have been complied with; which certificate being filed in the office of the Commissioners, the invention will be provisionally protected for six months from the date of the application; that is, it may be published and used by the inventor during that period, without prejudice to the rights to be acquired under letters patent afterwards granted for that invention. Under the Protection of Inventions Act, the invention could be exhibited only; it could not be used commercially, with the consent of the inventor, without invalidating the subsequent patent.

Duties of the Law Officers.

The success or failure of the new patent system will mainly depend upon the way in which this duty of preliminary examination is discharged by the law officer, or the deputy whom he may appoint. One great object of all sincere patent law reformers has been to limit each patent to one substantive invention; that is, not to allow the crowding of several distinct

manufactures into one patent; the excessive cost of patents, and the delicacy of the law officers to enforce rules which might have the effect of multiplying their own fees, permitted the practice of crowding several inventions into one patent to go on to an extent most pernicious to inventors and the maintenance of property in inventions.

Amendment of title, &c.

The act empowers the law officers to require any title or provisional specification to be amended, in case of its being too large or vague; so that there is power to limit each application to one substantive invention, while the smallness of the payment by the inventor at this first stage, and the supervision to which all fees are to be subject, will effectually remove the supposed justification of the practice hitherto permitted under the old system.

Alteration in Bill.

The section (s. 8) defining the duties of the law officer at this stage was altered by the Committee of the House of Commons, in a manner which probably attracted little attention at the time, but which, if not properly guarded against, may in the course of events lead to a mutilation of the new system, and the continuance or revival of abuses intended to have been effectually removed. It is desirable, therefore, that attention should at once be directed to it. The section provides that "the provisional specification shall be referred to the law officer, who shall be at liberty to call to his aid such scientific or other person as he may think fit, and to cause to be paid to such person by the applicant such remuneration as the law officer shall appoint." The latter portion of this clause involves principles not contained in any of the previous bills, and at variance with the general spirit of the measure, and of the evidence upon which the measure was founded. While the inability of the law officers, from the multiplicity of engagements and pressure of business, to find time for the adequate examination

of the provisional specifications was admitted on all hands, the desirability of retaining their authority and assistance in an appellate and judicial capacity, and in cases of difficulty and opposition, was equally admitted: it was proposed therefore in all the Bills, and the plan met with the approbation of almost all the witnesses examined on the point before the Select Committee of the House of Lords both on the Protection of Inventions and on the Patent Bills, to transfer the examination of the sufficiency of the provisional specifications to other persons, with an appeal to the law officer; the fee for such examination being paid out of the first payment of 5*l.*, according to a scale to be adjusted by the Lord Chancellor and the Master of the Rolls; the inventor, however, was to be subjected to no additional charge beyond the 5*l.* at this first stage of his application; the examination was to be provided out of this first payment, in the same way as the advertisement and other general charges. It is essential to the proper administration of the new system that the provisional specifications should be dealt with on one uniform system, that the same mind should be brought to bear on the same classes of invention, and that the person authenticating the sufficiency of the provisional specification should be responsible for the accurate construction of the indexes to the provisional and complete specifications, as a guarantee of their accuracy. Further, as the provisional specifications are to be printed on the expiration of the protection, the manner in which these duties are discharged will be subjected to the test of public opinion. It will also be important that the certificates conferring provisional protection should be issued with regularity, and without unnecessary delay. It was evident that such duties were wholly incompatible with the engagements of the law officers and the changing tenure of their offices, and could not

Clause in original Bills.

all ot be imposed on the law officers, and further, that
rity ne law officers must be relieved of the superinten-
ity, ence of the routine business of the patent system, by
lly ransferring it from the private chambers of the law
lls, fficers of the three kingdoms to the office of the
all Commissioners. The portion of the section now under
ect onsideration throws a responsibility on the law officers
ec- hardly compatible with their other duties and the
fer proper carrying out of the leading features of the
na measure.

aw But the alteration is open to other serious objec- Additional tax on inventors.
ou tions: the imposition on the inventor of any addi-
be tional charge is contrary to the spirit of the act; and
of that additional charge is partial and uncertain. When
ed will the law officer determine whether assistance is to
st be called in, and how will he determine the proper
be remuneration in each case? The law officer, out of a
ay natural anxiety to save the pocket of the inventor,
es will either undertake duties which he cannot ade-
w quately perform, or he will decline them altogether,
be and subject the inventor to an additional tax, which
id would soon grow into a charge, either fixed or vary-
u ng according to the number of words in the provi-
fi sional *specification* and *lines or letters on the draw-*
e ngs. The occasional charge contemplated by the act
e wrong in principle; it is a tax on the author of an
vention, *requiring* superior knowledge for that very
uperiority. It is to be hoped that any such charge
ill be uniform for every application, and that it will
e paid as originally intended out of the first payment
f £5 by the applicant.

e The uncertainty attendant on such a charge would Further duty on inventor.
row an additional duty on the inventor or his agent;
e application having been made, no further act on
he part of the inventor has to be performed until his
otice of intention to proceed with the patent; the
ommissioners have to take all intermediate proceed-
ngs.

Complete specification, s. 9.

The applicant for letters patent may deposit with his petition and declaration, a complete specification in lieu of the provisional specification, and thereby obtain not only provisional protection without the certificate of the Law Officer, but like powers and privileges as might have been conferred under letters patent if granted immediately. This provision, for which the public are indebted to the Master of the Rolls, may be regarded as the first step to requiring the complete specification to be deposited at the time of leaving the petition and declaration, a practice which obtains with some qualification in most countries but our own. Considerable difference of opinion exists, in reference to this and other questions involved in it, amongst inventors; it is extremely desirable that the complete specification should be enrolled as early as possible, and in the case of inventions provisionally protected for six months, it will be a question whether the complete specification should not be required to be enrolled immediately on the granting of the patent. There are, undoubtedly, a class of inventions requiring at least six months' trial and experience in the actual working before the details can be properly and definitively settled. The period within which the specification was required to be enrolled for England was two months; the time became extended to six months by reason of the delay supposed to exist in obtaining the patent for Scotland and Ireland, in order to prevent a publication in one country before the other.

The working of the two systems, the protection by the provisional and complete specification respectively, will require to be carefully watched, and measures must be adopted on the part of the Commissioners to prevent that which is the subject of the provisional specification being included in complete specifications; the rival claims may co-exist during the six months of provisional protection, but

ey must be adjusted on the granting of the patent; d the act expressly provides (s. 10) for the protec- n of the true against the false claimant.

Any protection obtained under the act is to be vertised by the Commissioners in such manner as ey may see fit; thus the public or those interested watching what patents may be in progress, will have ne means of obtaining that information. The adver- isement is substituted for the caveat system, which as condemned in the strongest terms, and un- oubtedly afforded, in fact created, the opportunity for ractices denied by some, but reprobated by every ractitioner. The caveat system was a great source f expense in fees for letters and attendances at the hambers of the Law Officers, of doubtful benefit in ny, and of unquestionable mischief in many cases.

Advertisement, s. 11.

The applicant who shall have used his protection o ascertain the value of his invention, or to obtain he means of prosecuting it, may give notice at the ffice of the Commissioners of his intention to pro- eed with his patent; the Commissioners will cause his application to be advertised, and any person aving occasion for supposing that the invention ught to be patented has been borrowed from mself, may oppose the grant of such letters patent leaving particulars in writing of his objections, d the whole subject will be heard before the Law fficer, who has power to compel either party to pay ch costs to the other as he may think fit.

Second stage.

The requiring an opponent to deposit particulars writing of the grounds of his opposition, and apowering the Law Officer to make the party, hether applicant or opponent, who may be in the rong pay costs to the party who is in the right, e most wholesome provisions; they will check all ndency to the practices, for which the old system esented temptation but no check, of opposing on eculation, and without any just or *bond fide*

ground; this might be of little consequence to the rich, but it was frequently ruin or exclusion to the poor man.

Ground of opposition.

The Commissioners are empowered to make regulations as to the particulars of objections, and this part of the system will require some consideration. Hitherto the practice of the same and successive Law Officers has presented much discrepancy, dependent as they have been in great measure, on first entering office, on information communicated from their predecessor, or more frequently from the practitioner who might first have occasion to appear before them, and who was not unfrequently obliged to elect between the immediate interests of his client and his duty as *amicus curiæ*; in the conflict, however, of such *ex parte* representations the Law Officers would in time arrive at some definite conclusion as to the practice.

Differences of practice.

Considerable differences of opinion and of practice have existed amongst the Law Officers as to the nature of the grounds for refusing a patent; bare knowledge on the part of the opponent of the invention of the applicant, without inquiry as to how that knowledge was obtained, or even when it was admitted that the knowledge had been improperly obtained, has induced some Law Officers to refuse the grant, unless some arrangement were come to between the parties. This apparent injustice might be justified by the inability of the Law Officer to protect the party in whose favour he should decide against the consequences of an immediate publication, by the party against whom he should decide, of the invention, inasmuch as under the old system no protection existed until the patent was actually sealed, and no patent could be sealed of a day earlier than the warrant for the patent, which was several stages after the hearing before the Law Officer. But the proceeding was also justified on the ground that the Law Office

ad no means of deciding between the rival claim-
nts, and that the possession of the invention by
ore than one person, or by two rival claimants,
fforded a guarantee for its publication and preser-
ation for the public, which it is one object of the
atent laws to secure.

More recent practice.

Recently, however, the Law Officers have relaxed
he above rule, and have examined into priority of
laims, and received affidavits and declarations on the
ubject, but they were without any adequate power
administer justice efficiently by mulcting in costs
he parties in the wrong. In cases of opposition
efore the Lord Chancellor referred back to the Law
fficers costs have been obtained by an order of
e court, but these have been very few in number.

Security of new system.

The protection by means of the provisional or
mplete specification, the requiring the particulars
opposition to be stated in writing, and the power
give costs, will enable the Law Officers to reform
e whole system; to dispense with the *ex parte*
arings in private—a fruitful source of dissatisfac-
n—to ask questions of the parties in the presence
each other without fear of disclosing the secrets
either party, and to conduct these proceedings
nly and in the presence of all parties interested in
decision.

The Law Officers and all persons professionally
cerned in the hearings before them will gain
dit with the public by such a change, and by the
truction of a system which had thrown this species
business so exclusively into the hands of a few
ent agents, that it was no uncommon thing for the
e agent to appear in the person of himself or
clerk for the applicant in support of the patent,
for the opponent against the patent, at the same
ring before the same Law Officer.

General classes of objections.

t will be for the Commissioners to consider what
ht is to be given to priority of invention, to

priority of possession in case of an imported invention, to similarity of invention, and to priority of application, respectively, as representing the general classes of objections which will be brought before the Law Officers.

Reservation of power of Lord Chancellor.

The power of the Lord Chancellor to review the decision of the law officer in granting a patent is expressly reserved by the act (s. 15), so that any party aggrieved by the granting of a patent in favour of another, and to his exclusion, may have the decision of the law officer reviewed.

Third payment and Warrant.

The application for the patent having been advertised, and the opposition (if any) disposed of, the law officer will direct the warrant to be prepared for the sealing of the patent. The warrant is to be sealed with the seal of the Commissioners, and to bear a stamp of £5, which will probably be required to be paid in advance, on giving the notice of the intention of proceeding with the application, and returned in case the warrant should not be granted.

Issuing of Patent.

The warrant having been sealed, the Commissioners, when required by the applicant, will cause letters patent to be prepared and passed under the Great Seal of the United Kingdom, extending to the whole United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, and the Colonies and Plantations abroad, or such of them as may be expressed therein, and will bear date as of the day of the application, except the law officer or Lord Chancellor shall otherwise order.

Hitherto letters patent have borne date the day of sealing, or a day not earlier than the delivery of the privy seal bill or warrant into Chancery for the making of the patent, and the term of fourteen years, the longest which could be granted under the statute of James, began from that day inclusive. Now, however, the term will be reckoned from the day of the application inclusive. Inventors, therefore, who may

pplication for a patent before their invention is adeuately matured for working, will have the term of urteen years practically shortened by so much of e six months as is employed in perfecting the inention.

Filing of the Specification.

The last act of the patentee is the preparation of e complete specification, and filing the same in such ffice of the Court of Chancery as the Lord Chancellor hall direct, accompanied by an extra copy of any rawings referred to in the specification, and £5 as further and the final payment.

The Commissioners will probably issue some regulations as to the specifications, and the size of the ccompanying sheets of drawings, but there will be o acknowledgment or enrolment fees or stamp duties equiring the number of the words and letters on the rawings to be counted.

Under the old system the patentee had to provide pay for two copies of the drawings, the one annexed his specification, the other for annexation to the ll on which his specification was transcribed, in a nd scarcely legible by the public. The extra copy the drawings now required to be furnished with the ecification is intended to be used by the public consultation or for the purpose of publication, a per copy of the written part of the specification ng made in the office of the Commissioners for the e purpose, so that the signed and sealed specifican will be preserved as an original record, and never sulted except on special occasions, under the order the Commissioners or their officers.

Specifications to be printed.

All specifications are to be printed, published, and d at reasonable prices; the money paid by inventors the engrossing and enrolment of their specifications England, Scotland, and Ireland, would have paid their publication many times over. The drawings y be done on stone, in black, or with as many urs as may be necessary to indicate different parts,

and if some arrangement could be made, where all drawings should be of a uniform size and sty and executed at once on stone or zinc, so that the might be one expense to the inventor and the publi the filed and deposited and published copies mig come from the same original, and the specificati might be published and issued without any delay.

Copies of Specifications for the public.

The Commissioners are to cause true copies of a specifications to be open to the inspection of the publi at the office of the Commissioners, and at an office Edinburgh and Dublin. According to the origin intention of the clause, it was conceived that t copies so open to the public would be the print copies; it has recently been urged that printed copi would not be *true* copies; that the scale and colouri of the drawings would not be preserved in the e graved or published copies. The arrangement su gested above as to filing impressions from stone metal, printed in colours, will at once obviate th difficulty; but whatever effect may be given to quibble about terms, it will not be tolerated that t spirit of the act should be violated to such an exte as to impose upon inventors the tax of providing tw distinct copies of drawings for the benefit of th public in Edinburgh and Dublin, when print copies are so much more convenient, and will affo all the information that the public can reasonab require.

Payments at end of 3rd and 7th years.

The letters patent, when granted, will expire at t expiration of three and seven years respectively, u less there be paid before the expiration of the sa three and seven years the sums of £50 and £1 (including the stamp duties) respectively, and inve tors must bear in mind, that in reckoning the terme a patent or other grant as against the public, the d on which the grant commences, that is, the day the application for the grant, is reckoned inclusively, that a patent applied for on and sealed as of the 1st

October, 1852, will expire on the 30th of September, 1855, unless the £50 be paid on or before that day; or on the 30th September, 1859, unless the £100 be paid on or before that day; or on the 30th of September, 1866, by the natural effluxion of the term, unless extended on the recommendation of the Judicial Committee of the Privy Council.

Periodical payment.

This periodical payment is new; and does not, it believed, exist in any country; small annual payents exist in some countries, but their continual currence is objectionable. The period of six months protection at a cost of £5 will enable the inventor make inquiries as to the novelty and utility of his vention; the periods of three and seven years reectively will have afforded the opportunity for investgation and experience decisive of the merits of most ventions; if the invention be profitable, or if the pital embarked in carrying out the invention be rge, the further payments will be a reasonable ntribution to the public purse for the continued bsistence of the exclusive privileges under the tent; and the further payments will operate in cases as an inducement to allow the patent to pse, and thereby leave the invention to be adopted *improved upon by the public.*

Effect of periodical payments.

The existence of patents for inventions of no pracal utility, with a considerable portion of their term expired, is one of the difficulties to be contended th; such inventions remain in abeyance until some rther improvement has rendered the original invenn useful and commercially profitable, and then the rson to whose skill and capital the public are really debted for a successful invention is frequently subted to legal proceedings under the patent which he s made profitable. The periodical payment will erate to prevent much of this species of litigation, asmuch as few patents will be kept alive which are t yielding some return, and each improver upon

such expired patents will only have to take care to limit his claim to the precise improvement which he has made.

Justice of such payments.

The system of periodical payments seems well adapted to the justice and peculiar circumstances of the case. The cost of the patent under the new system was fixed at what appeared to be necessary for the general expenses of the requisite establishment and the printing of the specifications; thus the inventor would pay no more for the patent than its cost; the subsequent payments are optional, and may be regarded as a tax on a successful adventure.

Effect of indexes.

The act provides (s. 32) for the making and maintaining of proper indexes, both of names and subjects; this will be essential to the new system, and will if properly executed, present a history of the progress of invention in the arts and manufactures. Such indexes will materially assist the inventor in ascertaining what has been done before, and thereby enable him to confine his claim to the precise feature contributing to the success of the invention; they are to extend back to all specifications.

Register of patents and proprietors.

The act also provides (s. 34) for registers of patents and specifications, disclaimers and memoranda of alterations, and for a register of proprietors, that is, of persons and others interested in the patents or in licenses, so that means will exist for ascertaining the grants and persons interested under them, a matter frequently of considerable importance to persons having made improvements upon the subject of existing patents.

Caveat at Office of Commissioners.

The power of entering a disclaimer or memorandum of alteration in a patent or specification has been referred to; under the existing practice a person interested in opposing such an entry must have entered a caveat at the chambers of each of the six Law Officers of the three kingdoms; under the new system (s. 39) one caveat entered at the office of the Commissioners will be sufficient.

Extension of term of patents.

The beneficial results of the extension of the term of patents, upon the recommendation of the Judicial Committee of the Privy Council, has been already noticed incidentally; but private interests in fees had materially detracted from the pecuniary value of that benefit, inasmuch as the applicant, after having obtained the Order in Council, was obliged to go through the same routine of applying for the new letters patent as had been done originally for the old patent, and to pay fees which had been gradually increasing, until in one case they amounted to the sum of £800. This has been remedied by enacting (s. 40) that her Majesty's Order in Council shall be a sufficient authority for sealing new letters patent, and the only fee upon such new letters patent will be the fee of £5 upon the sealing of the patent.

Amended legal proceedings.

In addition to the amendment in the proceedings for obtaining property in an invention, the means of protecting that property when obtained are also improved. In case of proceedings by *scire facias* to repeal the letters patent, the patentee who, according to the form of the proceedings, appears as the defendant, is entitled to begin and explain his own invention, instead of having it misrepresented and frittered away by the testimony of adverse witnesses and speeches for the prosecution; also particulars of the objections to the patent will have to be stated with sufficient certainty as to time and place of user and publication, to enable the patentee to ascertain their effect, and not be taken by surprise at the trial. The defendant, also, is entitled to be informed with precision as to the nature of the infringement with which he is charged. But the most important provision for the protection of property under letters patent, is the power now conferred (s. 42) on the courts and judges of common law of granting injunctions, and an account, in cases of infringement, in the same manner as heretofore was done by the judges in equity only. None

Injunctions from common law courts.

but those who have had actual experience of th delay, uncertainty, and expense, attending the ol system, can adequately appreciate the importance o this change. A court of equity would rarely interfe until the right had been established at law; afte which, the proceedings at law were not unfrequentl the subject of discussion in equity, and sometimes second trial at law became necessary before adequat protection could be obtained from the Court of Equit and if, as is usually the case, any question shoul arise at the trial and be reserved for the court, or if rule for a new trial should be obtained, the patente must await the decision of the court before makin any application to the Court of Equity. During a this time, not unfrequently extending over a twelv month, and sometimes two years or more, the infringe ments would go on with impunity, and should th patentee be ultimately successful, he would ofte find no effects upon which to levy even the taxe costs of his litigation. In addition to this, the ex pense of such long-continued and varied litigatio was sufficient to deter a poor man from attempting t maintain his property against a rich infringer. Thi state of things is entirely altered, and the applicatio to the law courts for an injunction will probably, i the majority of cases, practically decide the que tions at issue, and terminate the litigation. Th preceding with other beneficial enactments as to th costs to be paid to the successful party, will great improve the condition of the person having occasio to resort to such measures for the protection of h property.

Fees on patents in progress.

In cases in which letters patent have been alread granted for one of the three countries, or are in pr gress, the act provides (s. 53) for a reduction of th fees, and for assimilating the payments as near a may be to those under the new system.

English

Two other clauses remain to be noticed; the on

s. 25) relating to the terms of patents for imported inventions which are or have been the subject of patents in foreign countries; the other (s. 26) relating to the use in foreign ships of inventions which may be the subject of patents here. patents to expire with foreign.

In the Bills as passed by the House of Lords in both sessions a clause was inserted declaring that the use or publication of an invention in a foreign country before the grant of the patent here should have the same effect on such patent as use and publication in this country; this, however, was not acceded to by the House of Commons; the right of the foreigner is recognised in this country during the subsistence of his exclusive right in the foreign country, but no longer. Also foreign ships resorting to British ports may use for the purpose of navigation an invention the subject of patent in this country subject to certain conditions. Use of patented inventions in foreign ships.

Such is a general outline of the objects and provisions of "The Patent Law Amendment Act, 1852," most material for consideration in reference to the new system about to come into operation, and which whatever may be its effects on the progress of invention affords to inventors a simple means of creating property in their inventions, and recognises the policy and justice of such property, and of the protection to be afforded to it. Hitherto patents for inventions have been regarded as emanations from the prerogative whereby fees might be provided for individuals and the state; henceforth they will be looked upon as the legal means of creating property in the successful application of mind to the arts and manufactures under the sanction of Acts of Parliament. Effects on progress of invention.

It may be conceded to the opponents of such property that it has not been generally beneficial to the inventor himself; that in the majority of cases the inventor runs a great risk, and will be barely remunerated for his time, labour, and outlay; the

same may be said of the majority of other persons wh devote themselves to professional or intellectual pur suits; how many recover the capital embarked i their education and subsistence until their occupa tion becomes remunerative? but the public reap th benefit of such expenditure and pursuits, and th improvement to which they conduce, however litt the author may benefit thereby, is part of the pro gress of civilised life.

Great discoveries in sciences, art, or manufacture such as will revolutionise existing systems, are o rare occurrence, and within the reach of few; bu steady and progressive improvement in different de partments of our industrial arts is within the read of a large proportion of the more intelligent of th minds engaged therein, and it may be doubte whether industrial education can be carried out su cessfully unless the persons so educated can acqui such a property and protection in the products their ingenuity and industry as will enable them maintain their independence against the overwhelm ing influence of capital.

STATUTES.

14 Vict. c. 8.

An Act to extend the Provisions of the Designs Act, 1850, and to give Protection from Piracy to Persons exhibiting new Inventions in the Exhibition of the Works of Industry of all Nations in one thousand eight hundred and fifty-one.

[11 April, 1851.]

Whereas it is expedient that such protection as hereinafter mentioned should be afforded to persons desirous of exhibiting new Inventions in the Exhibition of the Works of Industry of all Nations in one thousand eight hundred and fifty-one: Be it therefore 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:

Proprietors of new inventions to be allowed to exhibit them without prejudice to letters patent to be thereafter granted.

I. Any new invention for which letters patent might lawfully be granted, may at any time during the year one thousand eight hundred and fifty-one, but not afterwards, be publicly exhibited in any place previously certified by the Lords of the Committee of Privy Council for Trade and Foreign Plantations to be a place of exhibition within the meaning of the Designs Act, 1850, without prejudice to the validity of any letters patent to be thereafter, during the term of the provisional registration herein-after mentioned, granted for such invention to the true and first in-

14 Vict. c. 8.

Invention to be provisionally registered, and not to be used before granting of the letters patent.

ventor thereof: Provided always, that such invention have previously to such public exhibition thereof been provisionally registered in manner herein-after mentioned; and provided also, that the same be not otherwise publicly exhibited or used by or with the consent of the inventor prior to the granting of any such letters patent as aforesaid, except as herein-after mentioned: Provided also, that no sale or transfer or contract for sale or transfer, of the right to or benefit of any invention so provisionally registered or of the rights acquired under this act, or to be acquired under any letters patent to be granted for such invention, shall be deemed a use of such invention, and the publication of any account or description of such invention in any catalogue, paper, newspaper, periodical, or otherwise, shall not affect the validity of any letters patent to be during such term granted as aforesaid.

Public trial of agricultural or horticultural implements under the direction of the commissioners, not to prejudice letters patent.

II. The public trial or exhibition of any such invention as aforesaid (being an invention for purposes of agriculture or horticulture), which shall be certified by the Lords of the said Committee to have taken place under the direction of the Commissioners for the Exhibition of 1851 for purposes connected with the exhibition thereof, in such place of public exhibition as aforesaid, whether such trial or exhibition take place before or after the passing of this act, shall not prevent the provisional registration of such invention under this act, nor prejudice or affect the validity of any letters patent to be granted for such invention during such term as aforesaid.

Certificate of invention to be granted for provisional registration.

III. Her Majesty's Attorney-General, or such person or persons as he may from time to time appoint to issue certificates under this act, on being furnished with a description in writing, signed by or on behalf of the person claiming to be the true and first inventor within this realm of any new invention intended to be exhibited in such place of public ex-

ibition as aforesaid, and on being satisfied that such nvention is proper to be so exhibited, and that the escription in writing so furnished describes the naure of the said invention so intended to be exhibited, nd in what manner the same is to be performed, hall give a certificate in writing, under the hand or ands of such Attorney-General or the person or ersons appointed as aforesaid, for the provisional egistration of such invention. 14 Vict. c. 8.

IV. The Registrar of Designs acting under the Designs Act, 1850, upon receiving such certificate, nd being furnished with the name and place of adress of the person by or on whose behalf the registration is desired, shall register such certificate, ame, and place of address, and the invention to which any certificate so registered relates shall be deemed to be provisionally registered, and the registration thereof shall continue in force for the term of one year from the time of the same being so registered, and the Registrar shall certify, under his hand nd seal, that such invention has been provisionally egistered, and the date of such registration, and the ame and place of address of the person by or on whose behalf the registration was effected: Provided lways, that if any invention so provisionally registered be not actually exhibited in such place of public exhibition as aforesaid, or if the same invention be in se by others at the time of the said registration, or f the person by or on whose behalf the said registration has been effected be not the first and true inventor thereof, such registration shall be absolutely oid. Certificate of invention to be registered.

V. The description in writing of any invention so provisionally registered shall be preserved in such manner and subject to such regulations as the Attorney-General shall direct, and any invention so provisionally registered, and exhibited at such place of public exhibition as aforesaid, shall have the words Description to be preserved, and invention to be marked with the words "provisionally registered."

14 Vict. c. 8.

"provisionally registered" marked thereon or at[tached] thereto, with the date of the said registration a[nd]

Provisional registration to confer same benefits as under the Designs Act, 1850.

VI. Such provisional registration as aforesaid shall during the term thereof confer on the inventor of [such] such invention, with respect thereto, all the protection against piracy and other benefits which by the Designs Act, 1850, are conferred upon the proprietors of designs provisionally registered thereunder with respect to such designs; and so long as such provisional registration continues in force the penalties and provisions of the Designs Act, 1842, for preventing the piracy of designs shall extend to the acts, matters, and things next herein-after mentioned as fully and effectually as if those penalties and provisions had been re-enacted in this act, and expressly extended to such acts, matters, and things; that is to say, to the making, using, exercising, or vending the invention so provisionally registered, to the practising the same or any part thereof, to the counterfeiting, imitating, or resembling the same, to the making additions thereto or subtraction from the same, without the consent in writing of the person by or on whose behalf the said invention was so provisionally registered.

Letters patent thereafter granted to be as valid as if inventions were not registered or exhibited

VII. All letters patent to be during the term of any such provisional registration granted in respect of any invention so provisionally registered shall, notwithstanding the registration thereof, and notwithstanding the exhibition thereof in such place of public exhibition or otherwise as aforesaid, be of the same validity as if such invention had not been so registered or exhibited; and it shall be lawful for the Lord High Chancellor, if he think fit, on the grant of any letters patent to any inventor in respect of any invention provisionally registered under this act, to cause such letters patent to be sealed as of the day of such provisional registration, and to bear date the day of such provisional registration, the act of the

eighteenth year of King *Henry* the Sixth or any other act notwithstanding. 14 Vict. c. 8.

VIII. Notwithstanding anything contained in the Designs Act, 1850, and the two acts therein referred to, and called the Designs Act, 1842, and the Designs Act, 1843, the protection intended to be by those acts extended to the proprietors of new and original designs shall be extended to the proprietors of all new and original designs which shall be provisionally registered and exhibited in such place of public exhibition as aforesaid, notwithstanding that such designs may have been previously published or applied elsewhere than in the United Kingdom of *Great Britain* and *Ireland*; provided that such design or any article to which the same has been applied have not been publicly sold or exposed for sale previously to such exhibition thereof as aforesaid. Proprietors of new and original designs exhibited to be entitled to benefits of Designs Acts, although designs have been previously published elsewhere than in United Kingdom, if not previously publicly sold or used.

IX. All the provisions of the Designs Act, 1850, and the provisions incorporated therewith, relating or applicable to the designs to be provisionally registered thereunder, or to the proprietors of such designs, except the provision for extending the term of any such provisional registration, shall, so far as the same are not repugnant to or inconsistent with the provisions of this act, apply to the inventions to be provisionally registered under this act, and to the inventors thereof; and the said Designs Act and this Act shall be construed together as one act. The Designs Act, 1850, and this act to be construed as one act.

X. This act may be cited as The Protection of Inventions Act, 1851. Short title.

15 Vict. c. 6.

15 Vict. c. 6.

An Act for extending the Term of the provisional Registration of Inventions under "The Protection of Inventions Act, 1851." [20th April, 1852

Whereas by "The Protection of Inventions Act, 1851," it was provided, that the provisional registration of any new invention registered thereunder should continue in force for the term of one year from the time of the same being so registered: and whereas it is expedient that the said term should be extended: Be it therefore 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:

Provisional registration under the recited act to continue in force till 1st Feb., 1853.

I. The registration of every invention provisionally registered under the said act shall continue in force until the first day of February one thousand eight hundred and fifty-three, in like manner, and with the like effect and consequences, as if every such registration had been continued in force till that day by the said act, instead of for the term of one year from the time of the invention being registered therein mentioned.

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15 & 16 Vict. cap. 83.

An Act for amending the Law for granting Patents for Inventions. [1st July, 185

Whereas it is expedient to amend the law concerning letters patent for inventions: 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:

15 & 16 Vict. c. 83.

Certain persons constituted commissioners of patents for inventions, three of whom may act, the Chancellor or Master of the Rolls being one.

I. The Lord Chancellor, the Master of the Rolls, her Majesty's Attorney General for England, her Majesty's Solicitor General for England, the Lord Advocate, her Majesty's Solicitor General for Scotland, her Majesty's Attorney General for Ireland, and her Majesty's Solicitor General for Ireland, for the time being respectively, together with such other person or persons as may be from time to time appointed by her Majesty, as hereinafter mentioned, shall be commissioners of patents for inventions; and it shall be lawful for her Majesty from time to time, by warrant under her royal sign manual, to appoint such other person or persons as she may think fit to be a commissioner or commissioners as aforesaid; and every person so appointed shall continue such commissioner during her Majesty's pleasure; and all the powers hereby vested in the commissioners may be exercised by any three or more of them, the Lord Chancellor or Master of the Rolls being one.

Seal of the commissioners.

II. It shall be lawful for the commissioners to cause a seal to be made for the purposes of this act, and from time to time to vary such seal, and to cause to be sealed therewith all the warrants for letters patent under this act, and all instruments and copies proceeding from the office of the commissioners, and all courts, judges, and other persons whomsoever shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the Great Seal are received in evidence, and shall also take notice of and receive in evidence, without further proof or production of the originals, all copies or extracts, certified under the seal of the said office, of or from documents deposited in such office.

Power to commissioners to make rules and regula-

III. It shall be lawful for the commissioners from time to time to make such rules and regulations (not inconsistent with the provisions of this act) respect-

15 & 16 Vict. c. 83.

ing the business of their office, and all matters and things which under the provisions herein contained are to be under their control and direction, as may appear to them necessary and expedient for the purposes of this act; and all such rules shall be laid before both houses of parliament within fourteen days after the making thereof, if parliament be sitting, and if parliament be not sitting, then within fourteen days after the next meeting of parliament; and the commissioners shall cause a report to be laid annually before parliament of all the proceedings under and in pursuance of this act.

tions, which shall be laid before parliament.

Commissioners to report annually to parliament.

Treasury to provide offices.

IV. It shall be lawful for the commissioners of her Majesty's treasury to provide and appoint from time to time proper places or buildings for an office or offices for the purposes of this act.

Commissioners, with consent of the Treasury, to appoint clerks, &c.

V. It shall be lawful for the commissioners, with the consent of the commissioners of the treasury from time to time to appoint for the purposes of this act such clerks and officers as the commissioners may think proper; and it shall be lawful for the commissioners from time to time to remove any of the clerks and officers so appointed.

Petition and declaration to be accompanied with a provisional specification.

VI. Every petition for the grant of letters patent for an invention, and the declaration required to accompany such petition, shall be left at the office of the commissioners, and there shall be left therewith a statement in writing, hereinafter called the provisional specification, signed by or on behalf of the applicant for letters patent, describing the nature of the said invention; and the day of the delivery of every such petition, declaration, and provisional specification, shall be recorded at the said office, and endorsed on such petition, declaration, and provisional specification, and a certificate thereof given to such applicant or his agent; and all such petitions, declarations, and provisional specifications, shall be preserved in such manner as the commissioners may

irect, and a registry thereof and of all proceedings hereon kept at the office of the commissioners. 15 & 16 Vict. c. 83.

VII. Every application for letters patent made nder this act shall be referred by the commissioners, ccording to such regulations as they may think fit o make, to one of the law officers. Every application to be referred to one of the law officers.

VIII. The provisional specification shall be referred o the law officer, who shall be at liberty to call to is aid such scientific or other person as he may think t, and to cause to be paid to such person by the pplicant such remuneration as the law officer shall ppoint; and if such law officer be satisfied that the rovisional specification describes the nature of the vention, he shall allow the same, and give a certifi- ate of his allowance, and such certificate shall be led in the office of the commissioners, and thereupon he invention therein referred to may, during the erm of six months from the date of the application or letters patent for the said invention, be used and ublished without prejudice to any letters patent to e granted for the same, and such protection from he consequences of use and publication is herein- fter referred to as provisional protection: Provided always, that in case the title of the invention or the rovisional specification be too large or insufficient, shall be lawful for the law officer to whom the same referred to allow or require the same to be amended. The provisional specification to be referred to the law officer, who, if satisfied, may give a certificate of his allowance, which shall be filed.

IX. The applicant for letters patent for an inven- on, instead of leaving with the petition and declara- on a provisional specification as aforesaid, may, if e think fit, file with the said petition and declaration instrument in writing under his hand and seal hereinafter called a complete specification), particu- rly describing and ascertaining the nature of the id invention, and in what manner the same is to be performed, which complete specification shall be entioned in such declaration, and the day of the delivery of every such petition, declaration, and com- Inventor may deposit, in lieu of a provisional specification, a complete specification, such deposit to confer for a limited time the like rights as letters patent.

15 & 16 Vict. c. 83.

plete specification shall be recorded at the office of the commissioners, and endorsed on such petition, declaration, and specification, and a certificate thereof given to such applicant or his agent, and thereupon, subject and without prejudice to the provisions hereinafter contained, the invention shall be protected under this act for the term of six months from the date of the application, and the applicant shall have during such term of six months the like powers, rights, and privileges, as might have been conferred upon him by letters patent for such invention, issued under this act, and duly sealed as of the day of the date of such application; and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any letters patent to be granted for the same; and where letters patent are granted in respect of such invention, then in lieu of a condition for making void such letters patent in case such invention be not described and ascertained by a subsequent specification, such letters patent shall be conditioned to become void if such complete specification, filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed; and a copy of every such complete specification shall be open to the inspection of the public, as hereinafter provided, from the time of depositing the same, subject to such regulation as the commissioners may make.

Letters patent granted to the first inventor not to be invalidated by protection obtained in fraud of the first inventor.

X. In case of any application for letters patent for any invention, and the obtaining upon such application of provisional protection for such invention, or of protection for the same, by reason of the deposit of a complete specification as aforesaid in fraud of the true and first inventor, any letters patent granted to the true and first inventor of such invention shall not be invalidated by reason of such application, or of such provisional or other protection as aforesaid,

or of any use or publication of the invention subsequent to such application, and before the expiration of the term of such provisional or other protection. 15 & 16 Vict. c. 83.

Commissioners to cause protections to be advertised.

XI. Where any invention is provisionally protected under this act, or protected by reason of the deposit of such complete specification as aforesaid, the commissioners shall cause such provisional protection or such other protection as aforesaid to be advertised in such manner as they may see fit.

Application for letters patent to be advertised, and also oppositions to the same.

XII. The applicant for letters patent, so soon as he may think fit after the invention shall have been provisionally protected under this act, or where a complete specification has been deposited with his petition and declaration, then so soon as he may think fit after such deposit, may give notice at the office of the commissioners of his intention of proceeding with his application for letters patent for the said invention, and thereupon the said commissioners shall cause his said application to be advertised in such manner as they may see fit; and any persons having an interest in opposing the grant of letters patent for the said invention shall be at liberty to leave particulars in writing of their objections to the said application at such place and within such time and subject to such regulations as the commissioners may direct.

Specification and objections to be referred to law officer.

XIII. So soon as the time for the delivery of such objections shall have expired, the provisional specification or complete specification (as the case may be) and particulars of objection (if any) shall be referred to the law officer to whom the application has been referred.

Power to law officer to order by or to whom costs shall be paid.

XIV. It shall be lawful for the law officer to whom any application for such letters patent is referred, if he see fit, by certificate under his hand, to order by or to whom the costs of any hearing or inquiry upon any objection, or otherwise in relation to the grant of such letters patent, or in relation to the provisional (or other) protection acquired by the applicant under

15 & 16 Vict. c. 83.

this act, shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid be not paid within four days after the amount thereof shall be so ascertained it shall be lawful for such law officer to make an order for the payment of the same, and every such order may be made a rule of one of her Majesty's superior courts at Westminster or Dublin, and may be recorded in the books of council and session in Scotland, to the effect that execution may pass thereupon in common form.

Power to law officer to cause a warrant to be made for sealing of letters patent.

XV. It shall be lawful for such law officer, after such hearing, if any, as he may think fit, to cause a warrant to be made for the sealing of letters patent for the said invention, and such warrant shall be sealed with the seal of the commissioners, and shall set forth the tenor and effect of the letters patent thereby authorised to be granted, and such law officer shall direct the insertion in such letters patent of all such restrictions, conditions, and provisoes as he may deem usual and expedient in such grants, or necessary in pursuance of the provisions of this act; and the said warrant shall be the warrant for the making and sealing of letters patent under this act according to the tenor of the said warrant: Provided always, that the Lord Chancellor shall and may have and exercise such powers, authority, and discretion in respect to the said warrant, and the letters patent therein directed to be made under this act, as he now has and might now exercise with respect to the warrant for the issue under the Great Seal of letters patent for any invention, and with respect to the making and issuing of such letters patent; and the writ of *scire facias* shall lie for the repeal of any letters patent issued under this act, in the like cases as the same would lie for the repeal of letters patent which may now be issued under the Great Seal.

Chancellor to have same powers in respect to warrant, &c. as he now has.

Writ of *scire facias*.

Nothing to

XVI. Provided also, That nothing herein contained

shall extend to abridge or affect the prerogative of the Crown in relation to the granting or withholding the grant of any letters patent; and it shall be lawful for her Majesty, by warrant under her royal sign manual, to direct such law officer to withhold such warrant as aforesaid, or that any letters patent for the issuing whereof he may have issued a warrant as aforesaid shall not issue, or to direct the insertion in any letters patent to be issued in manner herein provided of any restrictions, conditions, or provisoes which her Majesty may think fit in addition to or in substitution for any restrictions, conditions, or provisoes which would otherwise be inserted therein under this act; and it shall also be lawful for her Majesty, by like warrant, to direct any complete specification which may have been filed under the provision herein-before contained, and in respect of the invention described in which no letters patent may have been granted, to be cancelled, and thereupon the protection obtained by the filing of such complete specification shall cease.

15 & 16 Vict. c. 83. affect the prerogative of the Crown in granting or withholding grant of letters patent.

XVII. All letters patent for inventions granted under the provisions herein-before contained shall be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine, at the expiration of three years and seven years respectively from the date thereof, unless there be paid, before the expiration of the said three and seven years respectively, the sum or sums of money and stamp duties in the schedule to this act annexed; and the payment of the said sums of money and stamp duties respectively shall be endorsed on the warrant for the said letters patent; and such officer of the commissioners as may be appointed for this purpose shall issue under the seal of the commissioners a certificate of such payment, and shall endorse a receipt for the same on any letters patent issued under the authority of the

Letters patent to be made subject to avoidance on non-fulfilment of certain conditions.

15 & 16 Vict. c. 83.

said warrant; and such certificate, duly stamped, shall be evidence of the payment of the several sums respectively.

Letters patent issued under the Great Seal to be valid for the whole of the United Kingdom, the Channel Islands, and the Isle of Man.

XVIII. The commissioners, so soon after the sealing of the said warrant as required by the applicant for the letters patent, shall cause to be prepared letters patent for the invention, according to the tenor of the said warrant, and it shall be lawful for the Lord Chancellor to cause such letters patent to be sealed with the Great Seal of the United Kingdom, and such letters patent so sealed shall extend to the whole of the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man; and in case such warrant so direct, such letters patent shall be made applicable to her Majesty's colonies and plantations abroad, or such of them as may be mentioned in such warrant; and such letters patent shall be valid and effectual as to the whole of such United Kingdom, and the said islands and isle, and the said colonies or plantations, or such of them as aforesaid, and shall confer the like powers, rights, and privileges as might, in case this act had not been passed, have been conferred by several letters patent of the like purport and effect passed under the Great Seal of the United Kingdom, under the seal appointed to be used instead of the Great Seal of Scotland, and under the Great Seal of Ireland respectively, and made applicable to England, the dominion of Wales, the town of Berwick-upon-Tweed, the Channel Islands, and Isle of Man, and the said colonies and plantations, or such of them as aforesaid, to Scotland, and to Ireland respectively, save as herein otherwise provided: Provided always, that nothing in this act contained shall be deemed or taken to give any effect or operation to any letters patent to be granted under the authority of this act in any colony in which such or the like letters patent would be invalid by the law

Nothing to give effect to any letters patent granted in any colony.

in force in the same colony for the time being: Provided always, that a transcript of such letters shall, so soon after the sealing of the same and in such manner as the commissioners shall direct, be transmitted to the director of Chancery in Scotland, and be recorded in the records of Chancery in Scotland, upon payment of such fees as the commissioners shall appoint, in the same manner and to the same effect in all respects as letters patent passing under the seal appointed by the treaty of union to be used in place of the Great Seal of Scotland have heretofore been recorded, and extracts from the said records shall be furnished to all parties requiring the same, on payment of such fees as the commissioners shall direct, and shall be received in evidence in all courts in Scotland to the like effect as the letters patent themselves. 15 & 16 Vict. c. 83.

XIX. Provided always, that no letters patent, save as hereinafter mentioned in the case of letters patent destroyed or lost, shall issue on any warrant granted as aforesaid, unless application be made to seal such letters patent within three months after the date of the said warrant. No letters patent to be issued after 3 months from date of warrant.

XX. Provided also, that no letters patent (save letters patent issued in lieu of others destroyed or lost) shall be issued or be of any force or effect unless the same be granted during the continuance of the provisional protection under this act, or, where a complete specification has been deposited under this act, then unless such letters patent be granted during the continuance of the protection conferred under this act by reason of such deposit, save that where the application to seal such letters patent has been made during the continuance of such provisional or other protection as aforesaid, and the sealing of such letters patent has been delayed by reason of a caveat or an application to the Lord Chancellor against or No letters patent (except in lieu of those lost, &c.) to be issued after expiration of protection given by this act.

15 & 16 Vict. c. 83.

in relation to the sealing of such letters patent, then such letters patent may be sealed at such time as the Lord Chancellor shall direct.

Letters patent may be granted to personal representatives of the applicant during the term of protection, or within 3 months after applicant's decease.

XXI. Provided also, that where the applicant for such letters patent dies during the continuance of the provisional protection, or the protection by reason of the deposit of a complete specification, (as the case may be,) such letters patent may be granted to the executors or administrators of such applicant during the continuance of such provisional or other protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such provisional or other protection, and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such provisional or other protection.

If letters patent be destroyed or lost, other letters patent may be issued.

XXII. Provided also, that in case any such letters patent shall be destroyed or lost, other letters patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the commissioners may direct, be issued under the authority of the warrant in pursuance of which the original letters patent were issued.

Letters patent may be dated as of the day of the application.

XXIII. It shall be lawful (the act of the eighteenth year of king Henry the Sixth, chapter one, or any other act, to the contrary notwithstanding,) to cause any letters patent to be issued in pursuance of this act to be sealed and bear date as of the day of the application for the same, and in case of such letters patent for any invention provisionally registered under the "Protection of Inventions Act, 1851," as of the day of such provisional registration, or, where the law officer to whom the application was referred, or the Lord Chancellor, thinks fit and directs, any such letters patent as aforesaid may be sealed and bear date as of the day of the sealing of such letters patent, or of any other day between the

day of such application or provisional registration and the day of such sealing. 15 & 16 Vict. c. 83.

Letters patent where antedated to be of the same validity as if sealed on the day of the date.

XXIV. Any letters patent issued under this act sealed and bearing date as of any day prior to the day of the actual sealing thereof shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date: Provided always, that save where such letters patent are granted for any invention, in respect whereof a complete specification has been deposited upon the application for the same under this act, no proceeding at law or in equity shall be had upon such letters patent in respect of any infringement committed before the same were actually granted.

Letters patent obtained in United Kingdom for patented foreign inventions not to continue in force after the expiration of the foreign patent.

XXV. Where, upon any application made after the passing of this act, letters patent are granted in the United Kingdom for or in respect of any invention first invented in any foreign country or by the subject of any foreign power or state, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any foreign country is there obtained before the grant of such letters patent in the United Kingdom, all rights and privileges under such letters patent shall (notwithstanding any term in such letters patent limited) cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such foreign country shall continue in force, or where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges: Provided always, that no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained in any foreign country, and which shall be granted in the said

15 & 16 Vict. c. 83.

United Kingdom after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

Letters patent not to prevent the use of inventions in foreign ships resorting to British ports;

except ships of foreign states in whose ports British ships are prevented from using foreign inventions.

XXVI. No letters patent for any invention (granted after the passing of this act) shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel, which may be in any port of her Majesty's dominions, or in any of the waters within the jurisdiction of any of her Majesty's courts, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from her Majesty's dominions: Provided always, that this enactment shall not extend to the ships or 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 ships or vessels, or in or about the navigation of British ships or 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 of goods or commodities to be vended within or exported from the territories of such foreign state.

Specifications to be filed instead of being enrolled.

XXVII. All letters patent to be granted under this act (save only letters patent granted after the filing of a complete specification) shall require the specification thereunder to be filed in the High Court of Chancery, instead of requiring the same to be enrolled, and no enrolment shall be requisite.

Specifications, &c. to be filed in such office as Lord Chancellor shall direct.

XXVIII. Every specification to be filed in pursuance of the condition of any letters patent shall be filed in such office of the Court of Chancery as the Lord Chancellor shall from time to time appoint, and every provisional specification and complete specification left or filed at the office of the commis-

sioners on the application for any letters patent, shall forthwith after the grant of the letters patent, or if no letters patent be granted then immediately on the expiration of six months from the time of such application, be transferred to and kept in the said office appointed for filing specifications in Chancery; and in case reference is made to drawings in any specification deposited or filed under this act, an extra copy of such drawings shall be left with such specification. 15 & 16 Vict. c. 83. As to filing extra copies of drawings.

XXIX. The commissioners shall cause true copies of all specifications (other than provisional specifications), disclaimers, and memoranda of alterations, filed under or in pursuance of this act, and of all provisional specifications after the term of the provisional protection of the invention has expired, to be open to the inspection of the public at the office of the commissioners, and at an office in Edinburgh and Dublin respectively, at all reasonable times, subject to such regulations as the commissioners may direct; and the commissioners shall cause a transcript of the said letters patent to be transmitted for enrolment in the Court of Chancery, Dublin, and shall cause the same to be enrolled therein, and the transcript or exemplification thenceforward shall have the like effect to all intents and purposes as if the original letters patent had been enrolled in the Court of Chancery in Dublin, and all parties shall have all their remedies by *scire facias* or otherwise, as if the letters patent had been granted to extend to Ireland only. Copies of specifications to be open to inspection at office of commissioners, and at Edinburgh and Dublin.

XXX. The commissioners shall cause to be printed, published, and sold, at such prices and in such manner as they may think fit, all specifications, disclaimers, and memoranda of alterations, deposited or filed under this act, and such specifications (not being provisional specifications), disclaimers, and memoranda respectively, shall be so printed and pub- Specifications and other documents to be printed and published.

15 & 16 Vict. c. 83

lished as soon as conveniently may be after the filing thereof respectively, and all such provisional specifications shall be so printed and published as soon as conveniently may be after the expiration of the provisional protection obtained in respect thereof; and it shall be lawful for the commissioners to present copies of all such publications to such public libraries and museums as they may think fit, and to allow the person depositing or filing any such specification, disclaimer, or memorandum of alteration to have such number, not exceeding twenty-five, of the copies thereof so printed and published, without any payment for the same, as they may think fit.

As to presenting copies of publications to public libraries, &c.

Enrolments, &c. may be removed to the office for specifications.

XXXI. It shall be lawful for the Lord Chancellor and the Master of the Rolls to direct the enrolment of specifications, disclaimers, and memoranda of alterations heretofore or hereafter enrolled or deposited at the Rolls Chapel Office, or at the Petty Bag Office, or at the Enrolment Office of the Court of Chancery, or in the custody of the Master of the Rolls as keeper of the Public Records, to be transferred to and kept in the office appointed for filing specifications in Chancery under this act.

Commissioners to cause indexes to be made to old specifications, &c.; such specifications, &c. may be printed and published.

XXXII. The commissioners shall cause indexes to all specifications, disclaimers, and memoranda of alterations heretofore or to be hereafter enrolled or deposited as last aforesaid to be prepared in such form as they may think fit, and such indexes shall be open to the inspection of the public at such place or places as the commissioners shall appoint, and subject to the regulations to be made by the commissioners, and the commissioners may cause all or any of such indexes, specifications, disclaimers, and memoranda of alterations to be printed, published, and sold in such manner and at such prices as the commissioners may think fit.

XXXIII. Copies, printed by the printers to the Queen's Majesty, of specifications, disclaimers, and memoranda of alterations, shall be admissible in evidence, and deemed and taken to be *primâ facie* evidence of the existence and contents of the documents to which they purport to relate in all courts and in all proceedings relating to letters patent. 15 & 16 Vict. c. 83. Copies of specifications, &c. as printed by Queen's printers to be evidence.

XXXIV. There shall be kept at the office appointed for filing specifications in Chancery under this act a book or books, to be called "The Register of Patents," wherein shall be entered and recorded in chronological order all letters patent granted under this act, the deposit or filing of specifications, disclaimers, and memoranda of alterations, filed in respect of such letters patent, all amendments in such letters patent and specifications, all confirmations and extensions of such letters patent, the expiry, vacating, or cancelling such letters patent, with the dates thereof respectively, and all other matters and things affecting the validity of such letters patent as the commissioners may direct, and such register, or a copy thereof, shall be open at all convenient times to the inspection of the public, subject to such regulations as the commissioners may make. Register of Patents to be kept.

XXXV. There shall be kept at the office appointed for filing specifications in Chancery under this act a book or books, entitled "The Register of Proprietors," wherein shall be entered, in such manner as the commissioners shall direct, the assignment of any letters patent, or of any share or interest therein, any licence under letters patent, and the district to which such licence relates, with the name or names of any person having any share or interest in such letters patent or licence, the date of his or their acquiring such letters patent, share, and interest, and any other matter or thing relating to or affecting A Register of Proprietors to be kept at the office for filing specifications.

15 & 16 Vict. c. 83.

the proprietorship in such letters patent or licence; and a copy of any entry in such book, certified under such seal as may have been appointed or as may be directed by the Lord Chancellor to be used in the said office, shall be given to any person requiring the same, on payment of the fees hereinafter provided; and such copies so certified shall be received in evidence in all courts and in all proceedings, and shall be *primâ facie* proof of the assignment of such letters patent, or share or interest therein, or of the licence or proprietorship, as therein expressed: Provided always, that until such entry shall have been made the grantee or grantees of the letters patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such letters patent, and of all the licences and privileges thereby given and granted; that certified duplicates of all entries made in the said Register of Proprietors shall forthwith be transmitted to the office of the commissioners in Edinburgh and Dublin, where the same shall also be open to the inspection of the public; and any writ of *scire facias* to repeal such letters patent may be issued to the sheriff of the county or counties in which the grantee or grantees resided at the time when the said letters patent were granted; and in case such grantee or grantees do not reside in the United Kingdom it shall be sufficient to file such writ in the Petty Bag Office, and serve notice thereof in writing at the last known residence or place of business of such grantee or grantees; and such register or a copy shall be open to the inspection of the public at the office of the commissioners, subject to such regulations as the commissioners may make: Provided always, that in any proceeding in Scotland to repeal any letters patent service of all writs and summonses shall be made according to the existing forms and practice; provided also, that the

grantee or grantees of letters patent to be hereafter granted may assign the letters patent for England, Scotland, or Ireland respectively as effectually as if the letters patent had been originally granted to extend to England or Scotland or Ireland only, and the assignee or assignees shall have the same rights of action and remedies, and shall be subject to the like actions and suits as he or they should and would have had and been subject to upon the assignment of letters patent granted to England, Ireland, or Scotland, before the passing of this act. 15 & 16 Vict. c. 83.

Power for more than twelve persons to have a legal interest in letters patent.

XXXVI. Notwithstanding any proviso that may exist in former letters patent, it shall be lawful for a larger number than twelve persons hereafter to have a legal and beneficial interest in such letters patent.

Falsification or forgery of entries a misdemeanour.

XXXVII. If any person shall wilfully make or cause to be made any false entry in the said Register of Proprietors, or shall wilfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in the said book, or shall produce or tender, or cause to be produced or tendered, in evidence any such writing, knowing the same to be false or forged, he shall be guilty of a misdemeanour, and shall be punished by fine and imprisonment accordingly.

Entries may be expunged.

XXXVIII. If any person shall deem himself aggrieved by any entry made under colour of this act in the said Register of Proprietors, it shall be lawful for such person to apply, by motion, to the Master of the Rolls, or to any of the courts of common law at Westminster, in term time, or by summons to a judge of any of the said courts in vacation, for an order that such entry may be expunged, vacated, or varied; and upon any such application the Master of the Rolls, or such court or judge respectively, may make such order for expunging, vacating, or varying such entry, and as to the costs of such application,

15 & 16 Vict. c. 83.

as to the said Master of the Rolls or to such court or judge may seem fit; and the officer having the care and custody of such register, on the production to him of any such order for expunging, vacating, or varying any such entry, shall expunge, vacate, or vary the same, according to the requisitions of such order.

Provisions of 5 & 6 W. 4, c. 83, and of 7 & 8 Vict. c. 69, as to disclaimers and memoranda of alterations to apply to patents under this act.

XXXIX. All the provisions of the acts of the session holden in the fifth and sixth years of King William the Fourth, chapter eighty-three, and of the session holden in the seventh and eighth years of her Majesty, chapter sixty-nine, respectively, relating to disclaimers and memoranda of alterations in letters patent and specifications, except as hereinafter provided, shall be applicable and apply to any letters patent granted, and to any specification filed, under the provisions of this act: Provided always, that all applications for leave to enter a disclaimer or memorandum of alteration shall be made, and all caveats relating thereto shall be lodged at the office of the commissioners, and shall be referred to the respective law officers in the said first-recited act mentioned: Provided also, that every such disclaimer or memorandum of alteration shall be filed in the office appointed for filing specifications in Chancery under this act, with the specification to which the same relates, in lieu of being entered or filed and enrolled as required, by the said first-recited act, or by the act of the session holden in the twelfth and thirteenth years of her Majesty, chapter one hundred and nine, and the said acts shall be construed accordingly: Provided also, that such filing of any disclaimer or memorandum of alteration, in pursuance of the leave of the law officer in the first recited act mentioned, certified as therein mentioned, shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under the said

Applications for disclaimers and caveats to be at office of commissioners.

acts and this act; and no objection shall be allowed to be made in any proceeding upon or touching such letters patent, specification, disclaimer, or memorandum of alteration, on the ground that the party entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf: Provided also, that no action shall be brought upon any letters patent in which or on the specification of which any disclaimer or memorandum of alteration shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the law officer shall certify in his fiat that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration. 15 & 16 Vict. c. 83.

Provisions of 5 & 6 W. 4, c. 83, 2 & 3 Vict. c. 67, and 7 & 8 Vict. c. 69, as to confirmation and prolongation, to apply to patents under this act.

XL. All the provisions of the said act of the fifth and sixth years of King William the Fourth, for the confirmation of any letters patent, and the grant of new letters patent, and all the provisions of the said act, and of the acts of the session holden in the second and third years of her Majesty, chapter sixty-seven, and of the session holden in the seventh and eighth years of her Majesty, chapter sixty-nine, respectively, relating to the prolongation of the term of letters patent, and to the grant of new letters patent for a further term, shall extend and apply to any letters patent granted under the provisions of this act, and it shall be lawful for her Majesty to grant any new letters patent, as in the said acts mentioned; and in the granting of any such new letters patent her Majesty's order in council shall be a sufficient warrant and authority for the sealing of any new letters patent, and for the insertion in such new letters patent of any restrictions, conditions, and provisions, in the said order mentioned; and the Lord Chancellor on the receipt of the said order in council, shall cause letters patent, according to the tenor and effect of such order, to be made and sealed

15 & 16 Vict. c. 83.

in the manner herein directed for letters patent issued under the warrant of the law officer: Provided always, that such new letters patent shall extend to and be available in and for such places as the original letters patent extended to and were available in: Provided also, that such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the original letters patent which may first expire.

In actions for infringement of letters patent, particulars to be delivered, and no evidence allowed not mentioned therein.

XLI. In any action in any of her Majesty's superior courts of record at Westminster or in Dublin for the infringement of letters patent the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action, and the defendant, on pleading thereto, shall deliver with his pleas, and the prosecutor in any proceedings by *scire facias* to repeal letters patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in the said action or of the suggestions of the said declaration in the proceedings by *scire facias* respectively; and at the trial of such action or proceeding by *scire facias* no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such letters patent which shall not be contained in the particulars delivered as aforesaid: Provided always, that the place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars: Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid, upon such terms as to such judge shall seem fit: Provided also, that at the trial of any proceeding by *scire facias* to repeal letters patent the defendant shall be entitled to begin and to give evidence in support

of such letters patent, and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such letters patent, the defendant shall be entitled to the reply. 15 & 16 Vict. c. 83.

Courts of common law may grant injunction in case of infringement.

XLII. In any action in any of her Majesty's superior courts of record at Westminster and in Dublin for the infringement of letters patent, it shall be lawful for the court in which such action is pending, if the court be then sitting, or if the court be not sitting then for a judge of such court, on the application of the plaintiff or defendant respectivcly, to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such court or judge may seem fit.

Particulars to be regarded in taxation of costs.

XLIII. In taxing the costs in any action in any of her Majesty's superior courts at Westminster or in Dublin, commenced after the passing of this act for infringing letters patent, regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular unless certified by the judge before whom the trial was had to have been proved by such plaintiff or defendant respectively, without regard to the general costs of the cause; and it shall be lawful for the judge before whom any such action shall be tried to certify on the record that the validity of the letters patent in the declaration mentioned came in question; and the record, with such certificate, being given in evidence in any suit or action for infringing the said letters patent, or in any proceeding by *scire facias* to repeal the letters patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by *scire facias* on obtaining a decrce, decretal order, or final judgment, to his full costs, charges, and expenses, taxed as between attorney and

15 & 16 Vict. c. 83.

client, unless the judge making such decree or order, or the judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs: Provided always, that nothing herein contained shall affect the jurisdiction and forms of process of the courts in Scotland in any action for the infringement of letters patent or in any action or proceeding respecting letters patent hitherto competent to the said courts: Provided also, that when any proceedings shall require to be taken in Scotland, to repeal any letters patent, such proceedings shall be taken in the form of an action of reduction at the instance of her Majesty's advocate, or at the instance of any other party having interest with concurrence of her Majesty's advocate, which concurrence her Majesty's advocate is authorised and empowered to give upon just cause shown only.

Payments and stamp duties on letters patent to be as in schedule.

XLIV. There shall be paid in respect of letters patent applied for or issued as herein mentioned, the filing of specifications, and disclaimers, certificates, entries, and searches, and other matters and things mentioned in the schedule to this act, such fees as are mentioned in the said schedule; and there shall be paid unto and for the use of her Majesty, her heirs and successors, for or in respect of the warrants and certificates mentioned in the said schedule, or the vellum, parchment, or paper on which the same respectively are written, the stamp duties mentioned in the said schedule; and no other stamp duties shall be levied, or fees, except as hereinafter mentioned, taken in respect to such letters patent and specifications, and the matters and things in such schedule mentioned.

Duties to be under management of commissioners of

XLV. The stamp duties hereby granted shall be under the care and management of the commissioners of inland revenue; and the several rules, regulations, provisions, penalties, clauses, and matters con-

tained in any act now or hereafter to be in force with reference to stamp duties shall be applicable thereto. 15 & 16 Vict. c. 83. inland revenue.

XLVI. The fees to be paid as aforesaid shall from time to time be paid into the receipt of the exchequer, and be carried to and made part of the consolidated fund of the United Kingdom. All moneys received to be paid to the consolidated fund.

XLVII. Provided always, that nothing herein contained shall prevent the payment as heretofore to the law officers in cases of opposition to the granting of letters patent, and in cases of disclaimers and memoranda of alterations, of such fees as may be appointed by the Lord Chancellor and Master of the Rolls as the fee, to be paid on the hearing of such oppositions, and in the case of disclaimers and memoranda of alterations respectively, or of such reasonable sums for office or other copies of documents in the office of the commissioners, as the commissioners may from time to time appoint to be paid for such copies, and the Lord Chancellor and Master of the Rolls, and the commissioners, are hereby respectively authorised and empowered to appoint the fees to be so paid in respect of such oppositions, disclaimers, and memoranda of alterations respectively, and for such office or other copies. Not to prevent payment of fees to law officers in cases of opposition, &c.

XLVIII. It shall be lawful for the commissioners of her Majesty's treasury from time to time to allow such fees to the law officers and their clerks (for duties under this act in respect of which fees may not be payable to them under the provisions lastly hereinbefore contained) as the Lord Chancellor and Master of the Rolls may from time to time appoint, and to allow such salaries and payments to any clerks and officers to be appointed under this act, and such additional salaries and payments to any other clerks and officers in respect of any additional duties imposed on them by this act, as the said commissioners of the treasury may think fit. Fees and salaries of officers.

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Sums for defraying salaries and expenses under this Act to be paid out of moneys to be provided by parliament.

XLIX. It shall be lawful for the commissioners of her Majesty's treasury to allow from time to time the necessary sums for providing offices under this act, and for the fees, salaries, and payments allowed by them as aforesaid, and for defraying the current and incidental expenses of such office or offices; and the sums to be so allowed shall be paid out of such moneys as may be provided by parliament for that purpose.

Power to Treasury to grant compensation to persons affected by this Act.

L. And whereas divers persons by virtue of their offices or appointments are entitled to fees or charges payable in respect of letters patent as heretofore granted within the United Kingdom of Great Britain and Ireland, or have and derive in respect of such letters patent, or the procedure for the granting thereof, fees or other emoluments or advantages:

It shall be lawful for the said commissioners of the treasury to grant to any such persons who may sustain any loss of fees, emoluments, or advantages by reason of the passing of this act, such compensation as, having regard to the tenure and nature of their respective offices and appointments, such commissioners deem just and proper to be awarded; and all such compensations shall be paid out of such moneys as may be provided by parliament for that purpose:

Provided always, that in case any person to whom any yearly sum by way of compensation shall be awarded and paid shall, after the passing of this act, be appointed to any office or place of emolument under the provisions of this act, or in the public service, then and in every such case the amount of such yearly sum shall in every year be diminished by so much as the emoluments of such person for such year from such office or place shall amount to, and provision in that behalf shall be made in the award to him of such yearly sum.

Account of salaries,

LI. An account of all salaries, fees, allowances,

sums, and compensations, to be appointed, allowed, or granted under this act shall, within fourteen days next after the same shall be so appointed, allowed, or granted respectively, be laid before both houses of parliament, if parliament be then sitting, or if parliament be not then sitting, then within fourteen days after the next meeting of parliament.

15 & 16 Vict. c. 83. fees, and compensation allowances to be laid before parliament.

LII. Letters patent may be granted in respect of applications made before the commencement of this act, in like manner and subject to the same provisions as if this act had not been passed.

Not to extend to patents applied for before commencement of act.

LIII. Where letters patent for England or Scotland or Ireland have been granted before the commencement of this act, or are in respect of any application made before the commencement of this act hereafter granted for any invention, letters patent for England or Scotland or Ireland may be granted for such invention in like manner as if this act had not been passed: Provided always, that in lieu of all the fees or payments and stamp duties now payable in respect of such letters patent, or in or about obtaining a grant thereof, there shall be paid in respect of such letters patent for England or Scotland or Ireland on the sealing of such respective letters patent a sum equal to one third part of the fees and stamp duties which would be payable according to the schedule to this act in respect of letters patent issued for the United Kingdom under this act, on or previously to the sealing of such letters patent; and at or before the expiration of the third year and the seventh year respectively of the term granted by such letters patent for England or Scotland or Ireland, sums equal to one third part of the fees and stamp duties payable at the expiration of the third year and the seventh year respectively of the term granted by letters patent issued for the United Kingdom under this act; and the condition of such letters patent for England

As to letters patent granted before the commencement of this act for England, Scotland, or Ireland.

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or Scotland or Ireland shall be varied accordingly; and such fees shall be paid to such persons as the commissioners of her Majesty's treasury shall appoint, and shall be carried to and form part of the said consolidated fund.

Forms in schedule may be used.

LIV. The several forms in the schedule to this act may be used for and in respect of the several matters therein mentioned, and the commissioners may, where they think fit, vary such forms as occasion may require, and cause to be printed and circulated such other forms as they may think fit to be used for the purposes of this act.

Interpretation of terms.

LV. In the construction of this act the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context; (that is to say,)

The expression "Lord Chancellor" shall mean the Lord Chancellor, or Lord Keeper of the Great Seal, or Lords Commissioners of the Great Seal:

The expression "the commissioners" shall mean the commissioners for the time being acting in execution of this act:

The expression "law officer" shall mean her Majesty's Attorney General or Solicitor General for the time being for England, or the Lord Advocate or her Majesty's Solicitor General for the time being for Scotland, or her Majesty's Attorney General or Solicitor General for the time being for Ireland:

The expression "invention" shall mean any manner of new manufacture the subject of letters patent and grant of privilege within the meaning of the act of the twenty-first year of the reign of king James the First, chapter three:

The expressions "petition," "declaration," "provisional specification," "warrant," and "letters patent" respectively, shall mean instruments in the form and to the effect in the schedule hereto

annexed, subject to such alterations as may from time to time be made therein under the powers and provisions of this act. 15 & 16 Vict. c. 83.

LVI. In citing this act in other acts of parliament, instruments, and proceedings, it shall be sufficient to use the expression "The Patent Law Amendment Act, 1852." Short title.

LVII. This act shall commence and take effect from the first day of October one thousand eight hundred and fifty-two. Commencement of Act.

THE SCHEDULE
TO WHICH THIS ACT REFERS.

FEES TO BE PAID.

	£	s.	d.
On leaving Petition for Grant of Letters Patent	5	0	0
On Notice of Intention to proceed with the Application	5	0	0
On sealing of Letters Patent . . .	5	0	0
On filing Specification . . .	5	0	0
At or before the Expiration of the Third Year	40	0	0
At or before the Expiration of the Seventh Year	80	0	0
On leaving Notice of Objections . .	2	0	0
Every Search and Inspection . . .	0	1	0
Entry of Assignment or Licence . .	0	5	0
Certificate of Assignment or Licence . .	0	5	0
Filing Application for Disclaimer . .	5	0	0
Caveat against Disclaimer . . .	2	0	0

Stamp Duties to be paid.

On Warrant of Law Officer for Letters Patent	5	0	0
On Certificate of Payment of the Fee payable at or before the Expiration of the Third Year	10	0	0
On Certificate of Payment of the Fee payable at or before the Expiration of the Seventh Year	20	0	0

15 & 16 Vict. c. 83.

FORMS.

No. PETITION.

To the Queen's most excellent Majesty.

The humble petition of [*here insert name and address of petitioner*] for, &c.

Sheweth,

That your petitioner is in possession of an invention for

[*the title of the invention,*]

which invention he believes will be of great public utility; that he is the true and first inventor thereof; and that the same is not in use by any other person or persons, to the best of his knowledge and belief.

Your petitioner therefore humbly prays, that your Majesty will be pleased to grant unto him, his executors, administrators, and assigns, your royal letters patent for the United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, [*Colonies to be mentioned, if any,*] for the term of fourteen years, pursuant to the statutes in that case made and provided.

And your petitioner will ever pray, &c.

No. DECLARATION.

I of in the county of do solemnly and sincerely declare, That I am in possession of an invention for, &c.

[*the title as in petition,*]

which invention I believe will be of great public utility; 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; [*where a complete specification is to be filed with the petition and declaration, insert these words:*—"and

that the instrument in writing under my hand and seal, hereunto annexed, particularly describes and ascertains the nature of the said invention and the manner in which the same is to be performed;] and I make this declaration conscientiously believing the same to be true, and by virtue of the provisions of an act made and passed in the session of parliament held in the fifth and sixth years of the reign of his late Majesty king William the Fourth, intituled "An Act to repeal an Act of the present session of parliament, intituled 'An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the state, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits,' and to make other provisions for the abolition of unnecessary oaths." 15 & 16 Vict. c. 83.

A. B.

Declared at this day of
A.D. before me,

A Master in Chancery,
or
Justice of the Peace.

Provisional Specification.

No.

I do hereby declare the nature of the said invention for

[*insert title as in petition,*]

to be as follows:

[*here insert description.*]

Dated this day of A.D.

(*To be signed by applicant or his agent.*)

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Reference.

(To be endorsed on the petition.)

Her Majesty is pleased to refer this petition to to consider what may be properly done therein.

Clerk of the Commissioners.

Warrant.

In humble obedience to her Majesty's command referring to me the petition of of , to consider what may be properly done therein, I do hereby certify as follows; That the said petition sets forth that the petitioner

(Allegations of the petition.)

And the petitioner most humbly prays,

[*Prayer of the petition.*]

That in support of the allegations contained in the said petition the declaration of the petitioner has been laid before me, whereby he solemnly declares, that

[*Allegations of the declaration.*]

That there has also been laid before me [a provisional specification signed , and also a certificate ,] *or* [a complete specification, and a certificate of the filing thereof,] whereby it appears that the said invention was provisionally protected [*or* protected] from the day of A.D. in pursuance of the statute:

That it appears that the said application was duly advertised:

Upon consideration of all the matters aforesaid,

and as it is entirely at the hazard of the said petitioner whether the said invention is new or will have the desired success, and as it may be reasonable for her Majesty to encourage all arts and inventions which may be for the public good, I am of opinion, that her Majesty may grant her royal letters patent unto the petitioner, his executors, administrators, and assigns, for his said invention within the United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man [*Colonies to be mentioned, if any,*] for the term of fourteen years, according to the statute in that case made and provided, if her Majesty shall be graciously pleased so to do, to the tenor and effect following: 15 & 16 Vict. c. 83.

[*See next Form.*]

Given under my hand, this day of

A.D.

Seal of the Commissioners.

Letters 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 hath by his petition humbly represented unto us that he is in possession of an invention for which the petitioner conceives will be of great public utility; that he is the true and first inventor thereof; and that the same is not in use by any other person or persons, to the best of his knowledge and belief: The petitioner therefore most humbly prayed that we would be graciously pleased to grant unto him, his executors, administrators and assigns, our royal let-

15 & 16 Vict. c. 83.

ters patent for the sole use, benefit, and advantage of his said invention within our United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, [*Colonies to be mentioned, if any*] for the term of fourteen years, pursuant to the statutes in that case made and provided:

[And whereas the said hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed, by an instrument in writing under his hand and seal, and has caused the same to be duly filed in :]

And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioner's request: Know ye, therefore, that we, of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said his executors, administrators, and assigns, our especial licence, full power, sole privilege, and authority, that he the said his executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as he the said his executors, administrators, or assigns, shall at any time agree with, and no others, from time to time and at all times hereafter during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within our United Kingdom of Great Britain and Ireland, the Channel Islands and Isle of Man, in such manner as to him the said , his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet; and that he the said , his executors, administrators, and assigns, shall and lawfully may

have and enjoy the whole profit, benefit, commodity, and advantage from time to time coming, growing, accruing, and arising by reason of the said invention, for and during the term of years herein mentioned; to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages, hereinbefore granted or mentioned to be granted unto the said his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years from the day of A.D. next and immediately ensuing, according to the statute in such case made and provided; and to the end that he the said , his executors, administrators, and assigns, and every of them, may have and the full benefit and the sole use and exercise of the said invention, according to our gracious intention hereinbefore declared, we do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within our United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, [*Colonies to be mentioned, if any,*] that neither they nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, licence, or agreement of the said , his executors, administrators, or assigns, in writing

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under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as *can or may be justly inflicted on such offenders* for their contempt of this our royal command, and further to be answerable to the said , his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned: and moreover we do by these presents, for us, our heirs and successors, will and command all and singular the justices of the peace, mayors, sheriffs, bailiffs, constables, headboroughs, and all other officers and ministers whatsoever of us, our heirs and successors, for the time being, that they or any of them do not nor shall at any time during the said term hereby granted in anywise molest, trouble, or hinder the said , his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall be made appear to us, our heirs or successors, or any six or more of our or their 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, or that the said is not *the true and first inventor thereof within this realm* as aforesaid, these our letters patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided also, that these our letters patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said , his executors, administrators,

or assigns, or any of them, to use or imitate any invention or work whatsoever, which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use, exercise, and benefit thereof: It being our will and pleasure that the said , his executors, administrators, and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practise their several inventions by them invented and found out, according to the true intent and meaning of the same respective letters patent and of these presents: Provided likewise nevertheless, and these our letters patent are upon this express condition, [that if the said shall not particularly describe and ascertain the nature of his said invention, and in what manner the same is to be performed, by an instrument in writing under his hand and seal, and cause the same to be filed in within calendar months next and immediately after the date of these our letters patent;] [and also if the said instrument in writing filed as aforesaid does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed;] and also if the said , his executors, administrators, or assigns, shall not pay or cause to be paid at the office of our commissioners of patents for inventions the sums following, that is to say, the sum of pounds on or before the day of A.D. and the stamp duty payable in respect of the certificate of such payment, and the sum of pounds on or before the day of A.D. and the stamp duty payable in respect of the certificate of such pay-

15 & 16 Vict. c. 83.

15 & 16 Vict. c. 83.

ment; and also if the said , his executors, administrators, or assigns, shall not supply or cause to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same; that then and in any of the said cases these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided 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 , his executors, administrators, and assigns, that these our letters patent, or the filing thereof, shall be in and by all things good, firm, valid, sufficient, and effectual in the law according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favourable and beneficial sense for the best advantage of the said , his executors, administrators, and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors, in our United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man [*Colonies to be mentioned, if any,*] and amongst all and every the subjects of us, our heirs and successors, whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or

quality of the said invention, or of the materials thereunto conducing and belonging. In witness whereof we have caused these our letters to be made patent, this day of A.D. and to be sealed and bear date as of the said day of A.D. in the year of our reign.

15 & 16 Vict. c. 83.

Specification.

To all to whom these presents shall come;

I of send greeting:

Whereas her most excellent Majesty Queen Victoria, by her letters patent bearing date the day of A.D. , in the year of her reign, did for herself, her heirs and successors, give and grant unto me the said her special licence that I the said , my executors, administrators, and assigns, or such others as I the said , my executors, administrators, and assigns, should at any time agree with, and no others from time to time, and at all times thereafter during the term therein expressed, should and lawfully might make, use, exercise, and vend, within the United Kingdom of Great Britain and Ireland, the Channel Islands and Isle of Man, [*Colonies to be mentioned, if any,*] an invention for

[*insert title as in letters patent*]

upon the condition (amongst others) that I the said by any instrument in writing under my hand and seal, particularly describe and ascertain the nature of the said invention, and in what manner the same was to be performed, and

15 & 16 Vict. c. 83.

cause the same to be filed in within calendar months next and immediately after the date of the said letters patent: Now know ye, that I the said do hereby declare the nature of my said invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement; (that is to say,)

[*describe the invention.*]

In witness whereof I the said *A. B.* have hereto set my hand and seal, this day of A.D.

A. B.

PATENT LAW AMENDMENT ACT, 1852.

FIRST SET OF

RULES AND REGULATIONS

Under the Act 15 & 16 VICT. c. 83,

FOR THE PASSING OF

LETTERS PATENT FOR INVENTIONS.

I.

By the Right Honourable Edward Burtenshaw Lord St. Leonards Lord High Chancellor of Great Britain, the Right Honourable Sir John Romilly Master of the Rolls, Sir Frederic Thesiger Her Majesty's Attorney General, and Sir FitzRoy Kelly Her Majesty's Solicitor General, being four of the Commissioners of Patents for Inventions under the said Act.

WHEREAS a commodious office is forthwith intended to be provided by the Crown as the Great Seal Patent Office; and the Commissioners of her Majesty's Treasury have, under the powers of the said act, appointed such office as the office also for the purposes of the said act.

All petitions for the grant of letters patent, and all declarations and provisional specifications, shall be left at the said Commissioners' office, and shall be respectively written upon sheets of paper of twelve inches in length by eight inches and a half in breadth, leaving a margin of one inch and a half on each side

of each page, in order that they may be bound in the books to be kept in the said office.

Every provisional protection of an invention allowed by the law officer shall be forthwith advertised in the "London Gazette," and the advertisement shall set forth the name and address of the petitioner, the title of his invention, and the date of the application.

Every invention protected by reason of the deposit of a complete specification shall be forthwith advertised in the "London Gazette," and the advertisement shall set forth the name and address of the petitioner, the title of the invention, the date of the application, and that a complete specification has been deposited.

Where a petitioner applying for letters patent after provisional protection, or after deposit of a complete specification, shall give notice in writing at the office of the Commissioners of his intention to proceed with his application for letters patent, the same shall forthwith be advertised in the "London Gazette," and the advertisement shall set forth the name and address of the petitioner and the title of his invention; and that any persons having an interest in opposing such application are to be at liberty to leave particulars in writing of their objections to the said application at the office of the Commissioners within twenty-one days after the date of the "Gazette" in which such notice is issued.

The Lord Chancellor having appointed the Great Seal Patent Office to be the office of the Court of Chancery, for the filing of specifications, the said Great Seal Patent Office and the office of the Commissioners shall be combined; and the clerk of the patents for the time being shall be the clerk of the Commissioners for the purposes of the act.

The office shall be open to the public every day, Christmas Day and Good Friday excepted, from ten to four o'clock.

The charge for office or other copies of documents in the office of the Commissioners shall be at the rate of twopence for every ninety words.

(Signed) ST. LEONARDS, C.
JOHN ROMILLY, M.R.
FRED. THESIGER, A.G.
FITZROY KELLY, S.G.

Dated 1st Oct. 1852.

II.

By the Right Honourable Edward Burtenshaw Lord St. Leonards Lord High Chancellor of Great Britain, and the Right Honourable Sir John Romilly Master of the Rolls.

Ordered, That there shall be paid to the Law Officers and to their clerks the following fees:

By the person opposing a grant of letters patent.

	£	s.	d.
To the Law Officer . . .	2	12	6
To his clerk	0	12	6
To his clerk for summons . .	0	5	0

By the Petitioner on the hearing of the case of opposition.

To the Law Officer . . .	2	12	6
To his clerk	0	12	6
To his clerk for summons . .	0	5	0

By the Petitioner for the hearing, previous to the fiat of the Law Officer allowing a disclaimer or memorandum of alteration in letters patent and specification.

To the Law Officer . . .	2	12	6
To his clerk	0	12	6
	1	2	

By the person opposing the allowance of such disclaimer or memorandum of alteration, on the hearing of the case of opposition.

	£	s.	d.
To the Law Officer . . .	2	12	6
To his clerk	0	12	6

By the Petitioner for the fiat of the Law Officer allowing a disclaimer or memorandum of alteration in letters patent and specification.

To the Law Officer . . .	3	3	0
To his clerk	0	12	6

(Signed) ST. LEONARDS, C.
JOHN ROMILLY, M.R.

Dated 1st Oct. 1852.

III.

Ordered by the Right Honourable Edward Burtenshaw Lord St. Leonards Lord High Chancellor of Great Britain.

All specifications in pursuance of the conditions of letters patent, and all complete specifications accompanying petitions and declarations before grant of letters patent, shall be filed in the Great Seal Patent Office.

All such specifications shall be respectively written upon both sides of a sheet or sheets of parchment, each page being of the size of eighteen inches in length by twelve inches in breadth, leaving a margin of one inch and a half on each side of each page, in order that they may be bound in the books to be kept in the said office; but the drawings accompanying such specifications, if any, may be made upon larger sheets of parchment than of the size of eighteen inches by twelve inches, leaving a margin of one and a half inches, as aforesaid.

The charge for office or other copies of documents in the Great Seal Patent Office shall be at the rate of twopence for every ninety words.

(Signed) ST. LEONARDS, C.

Dated 1st Oct. 1852.

IV.

SECOND SET OF

RULES AND REGULATIONS

Under the Act 15 & 16 VICT. c. 83,

FOR THE PASSING OF

LETTERS PATENT FOR INVENTIONS.

By the Right Honourable Edward Burtenshaw Lord St. Leonards Lord High Chancellor of Great Britain, the Right Honourable Sir John Romilly Master of the Rolls, Sir Frederic Thesiger Her Majesty's Attorney General, and Sir FitzRoy Kelly Her Majesty's Solicitor General, being four of the Commissioners of Patents for Inventions under the said Act.

THE office of the Director of Chancery in Scotland, being the office appointed by the act for the recording of transcripts of letters patent, shall be the office of the Commissioners in Edinburgh for the filing of copies of specifications, disclaimers, memoranda of alterations, provisional specifications, and certified duplicates of the register of proprietors.

All such transcripts, copies, and certified duplicates shall be bound in books, and properly indexed; and shall be open to the inspection of the public at the said office, every day from 10 to 3 o'clock.

The charge for office copies of such transcripts, copies, and certified duplicates, recorded and filed in the said office, shall be at the rate of twopence for every ninety words.

The enrolment office of the Court of Chancery in Dublin, being the office appointed by the act for the enrolment of transcripts of letters patent, shall be the office of the Commissioners in Dublin for the filing of copies of specifications, disclaimers, memoranda of alterations, provisional specifications, and certified duplicates of the register of proprietors.

All such transcripts, copies, and certified duplicates shall be bound in books, and properly indexed, and shall be open to the inspection of the public at the said enrolment office, every day, Christmas day and Good Friday excepted, from 10 to 3 o'clock.

The charge for office copies of such transcripts, copies, and certified duplicates, enrolled and filed as aforesaid, shall be at the rate of twopence for every ninety words.

No warrant is to be granted for the sealing of any letters patent which contains two or more distinct substantive inventions.

A provision is to be inserted in all letters patent in respect whereof a provisional and not a complete specification shall be left on the application for the same, requiring the specification to be filed within six months from the date of the application.

No amendment or alteration, at the instance of the applicant, will be allowed in a provisional specification after the same has been recorded, except for the correction of clerical errors or of omissions made *per incuriam*.

The provisional specification must state distinctly and intelligibly the whole nature of the invention, so

that the law officer may be apprised of the improvement, and of the means by which it is to be carried into effect.

The fee to be paid for every duplicate of such letters patent as may have been destroyed or lost shall be one pound.

Where the applicant desires his letters patent to extend to any of the colonies, he must specify in his petition for the same, the particular colony or colonies to which he desires it to extend; and when the applicant shall give notice of his intention to proceed with his application for letters patent, the law officer, to whom such application is referred, shall hear him or his agent upon such extension; and the said law officer shall make his report to the Lord Chancellor thereon. And no warrant for letters patent containing such extension shall be made unless the Lord Chancellor shall allow the same.

(Signed) ST. LEONARDS, C.
JOHN ROMILLY, M. R.
FRED. THESIGER, A. G.
FITZROY KELLY, S. G.

Dated 15th Oct. 1852.

V.

PATENT LAW AMENDMENT ACT, 1852,

15 & 16 Vict. c. 83.

Ordered by the Right Honourable Edward Burtenshaw Lord St. Leonards Lord High Chancellor of Great Britain.

Every application to the Lord Chancellor against or in relation to the sealing of letters patent shall be

by notice, and such notice shall be left at the Commissioners' office, and shall contain particulars in writing of the objections to the sealing of such letters patent.

(Signed) ST. LEONARDS, C.

Dated 15th Oct. 1852.

VI.

PATENT LAW AMENDMENT ACT, 1852.

15 & 16 Vict. c. 83.

The rules and instructions issued by Her Majesty's law officers, preparatory to the coming into operation of the act on the 1st of October instant, are hereby recalled and annulled.

(Signed) FRED. THESIGER, A. G.
FITZROY KELLY, S.G.

Dated 15th Oct. 1852.

PRACTICAL FORMS

AND

PROCEEDINGS

UNDER

THE PATENT LAW AMENDMENT ACT, 1852.

I.

PETITION.

No.

To the Queen's most Excellent Majesty.

The humble petition of of, &c.

Sheweth,

That your petitioner is in possession (*a*) of an invention of

(*The title of the invention*) (*b*).

(*a*) This form, in lieu of the words "true and first inventor within this realm," or "in consequence of a communication from abroad, is in possession of an invention for," adopts words not inconsistent with the statute of James, and which will meet the case of an imported invention.

The words "after much trouble and expense," hitherto usually inserted in the petition, are unnecessary; the law cannot notice the amount so expended; nor does that form any part of the consideration. *Crane* v. *Price*, 1 *Pat. C.* 411. The invention may be the result of a lucky hit or accident. In case of a foreign invention communicated from abroad, the importer or person receiving the communication is in law the true and first inventor within the realm. *Edgebury* v. *Stevens*, 1 *Pat. C.* 35. *Beard* v. *Egerton*, 3 C. B. 97; it is for the party impeaching the patent to displace the title of true and first inventor, by showing the information to have been derived from some source within this country. *Nickels* v. *Ross*, in the C. P.

The invention must be new within the realm, under the statute of James. *Brown* v. *Anandale*, 1 *Pat. C.* 433.

(*b*) In settling the title of the invention, important considerations, both of a legal and of a practical nature, present themselves. The title must express, correctly and concisely, the subject-matter of the invention. If this be not expressed correctly, as if the title be too narrow to include the whole invention, the patentee will fail in securing the exclusive privilege to the full extent to

which invention he believes will be of great public

which he is entitled, and moreover the letters patent themselves may be void, unless amended under the statute (5 & 6 W. 4, c. 83); and if the title be too wide or extensive, that is, including more than the patentee has invented, the letters patent will be void, unless amended. Also the title must not be too particular, minute, and descriptive, or the petitioner may expose himself to opposition from those who are engaged in similar pursuits; but it is not the province of the title to afford information of the nature of the invention.

The grant being made on the consideration of the petitioner having invented that which his title expresses, will be void for false suggestion, and on the ground of the Crown being deceived, if he has not really invented that which by his petition he represents himself to have invented.

Bailey, J.: "If a patent be taken out for several things, the entire discovery of all these things is the consideration upon which the King is induced to make the grant. That consideration is entire, and if it fails in any part, it fails *in toto*. It may be considered by the persons who are to advise the Crown as to the propriety of the grant, that the discovery of the three things together may form the proper subject of a patent, though each *per se* would not induce them to recommend the grant." *Brunton* v. *Hawkes*, 4 B. & A. 541. See *Campion* v. *Benyon*, 3 B. & B. 5.

The invention, as described briefly in the title, is to be reduced to certainty by the specification, and the specification will be looked at for this purpose, but the title controls the specification, and the patentee cannot cover any thing by the specification which is not covered by the title, or draw from the specification any construction whereby to comprehend in the title any thing which would not be comprehended without recurrence to the specification.

Letters patent for a whole watch, the specification disclosing the invention of a particular movement only, were held void, on the ground of the title being more extensive than the invention. *Jessop's* case.

Letters patent for "an improved method of lighting cities, towns, and villages," and the specification disclosing an improvement of the old street-lamp, of parts known before, by a new combination, the plaintiff was nonsuited. Per *Le Blanc*, J. *Cochrane* v. *Smethurst*; 1 Stark. 205.

Letters patent for "a tapered head or hair-brush," the specification describing the improvements as consisting in making the brush with the centre bristles of each cluster projecting out beyond the others around the same cluster, were repealed by *scire facias*. *R.* v. *Metcalf*; 2 Stark. 249.

The two preceding are cases of misdescription, rather than of false suggestion, and if properly explained by the specification would not now be held to vitiate the grant. The inaccurate use of words if the sense be clear will not vitiate the specification. *Derosne* v. *Fairie*; 1 *Pat. C.* 109.

Letters patent for "a new and improved method of drying and preparing malt," the specification describing an invention which consisted in submitting malt, prepared by the ordinary process, to a high degree of temperature, and thus producing a colouring material for beer, and not the substance from which beer was to be made, were repealed by *scire facias*. *R.* v. *Wheeler*, 2 B. & Ald. 349.

Letters patent being for "a machine for sharpening knives, scissors, and razors," and the specification disclosing a method applicable to knives only, the plaintiff was nonsuited. *Felton* v. *Greaves*, 3 C. & P. 351.

Letters patent were granted for "certain improvements in steam-engines and in machinery for propelling vessels," and one of the inventions as described in the specification not being an improvement, the grant was held bad for false suggestion. *Morgan* v. *Seaward*, 1 *Pat. C.* 192.

Parke, B.: "This brings me to the question whether this patent, which suggests that certain inventions are improvements, is avoided, if there be one which is not so. And upon the authorities we feel obliged to hold that the patent is

utility; that he is the true and first inventor

void, upon the ground of fraud on the Crown, without entering into the question whether the utility of each and every part of the invention is essential to a patent, where such utility is not suggested in the patent itself as the ground of the grant. In the case of *Lewis* v. *Marling*, 1 *Pat. C.* 495, this view of the case, that the patent was void for a false suggestion, does not appear by the report to have been pressed on the attention of the court, or been considered by it. The decision went upon the ground that the brush was not an essential part of the machine, and that want of utility did not vitiate the patent, and besides, the improvement by the introduction of [the brush is not recited in the patent itself as one of the subjects of it which may make a difference. It is a satisfaction to know that this objection will not, necessarily, in the present state of the law, destroy the patent, as the objection is one which will probably be removed by the Attorney-General, under the 5 & 6 W. 4, c. 83." *Ibid.*

But a partial failure of utility, as the invention failing in some cases only, will not vitiate the patent. *Haworth* v. *Hardcastle*, 1 *Pat. C.* 484.

But generality in the title, if not inconsistent with the invention as described in the specification, will not vitiate the letters patent.

Clegg's patent was "for an improved gas apparatus," and the specification described several distinct inventions applicable to the making and measuring of gas. An objection founded on the discrepancy was overruled at Nisi Prius by Lord Tenterden, and not moved afterwards. *Crossley* v. *Beverley*, 1 *Pat. C.* 106.

So where the letters patent were "for certain improvements in copper and other plate printing," and the specification described improvements in preparing the surface of the cards used for this purpose, whereby the lines became more clear and distinct, Lord Lyndhurst said, "The description in the patent (i. e. the title) must unquestionably form some idea, and, so far as it goes, a true idea of the alleged invention, though the specification may be brought in aid to explain it. The title in this case is for certain improvements in copper and other plate printing. Copper-plate printing consists of processes involving a great variety of circumstances. The paper must be of a particular description; before it is used it must be damped; it must remain damp a certain time, and must be placed in a certain temperature; the plate must be duly prepared and duly applied; and various processes must be gone through before the impression is drawn off, and brought to a finished state. An improvement in any one of these circumstances, in the preparation of the paper for instance, or in the damping of it, &c., may be truly called an improvement in copper-plate printing. In this case the principal part of the improvement relates to the preparation of the paper. It is material to the perfection of copper-plate printing, that the lines should be as distinct as possible; and if by adding any thing to the surface of the paper more clearness is given to the lines, that is an improvement in copper-plate printing."

So a title "for improvements in extracting sugar or syrup from cane juice, and in refining sugar and syrups," is supported, if there be an improvement in any part of the process. *Derosne* v. *Fairie*, 1 *Pat. C.* 162. See *post*, Pr. F. XIV. n. *a*.

A title for "certain improvements in carriages," the invention being applicable to one particular description of carriage, is sufficient. *Cook* v. *Pearce* (in the Ex. C.). 8 Q. B., 1054.

It would appear from these cases that a title for improvements in an ultimate result, would be supported by an improvement in any part of the processes producing that result; and that an improvement in a class of objects is supported by an improvement in one of them.

The terms "any other substance," will be interpreted according to the state of knowledge at the time of granting the letters patent.

In Clegg's patent for "an improved gas apparatus," the specification described an apparatus for extracting inflammable gas by heat from pit-coal, tar, or any

thereof [within the realm (*c*)], and that the same is not in use [therein] by any other person or persons to the best of his knowledge and belief.

Prayer of the petition.

Your petitioner therefore humbly prays that your Majesty will be pleased to grant unto him, his executors, administrators, and assigns, your royal letters patent for the United Kingdom of Great Britain and Ireland, the Channel Islands and Isle of Man [and in of your Majesty's Colonies and plantations abroad (*d*)], for the term of fourteen years, pursuant to the statutes in that case made and provided.

And your petitioner will ever pray, &c.

II.

DECLARATION.

No.

I of

in the county of do solemnly and sincerely declare that I am in possession of an

---

other substance, from which gas and gases capable of being employed for illumination can be extracted by heat." The invention, as described in the specification, failed in making gas from oil, the use of which, for this purpose, was not at the time of the patent generally known. An objection being taken to the validity of the patent on these grounds, Lord *Tenterden*, C. J., ruled, that the words "other substances" must mean substances of *ejusdem generis*, and such as were known and used at the time of the patent. *Crossley* v. *Beverley*; 1 *Pat. C.* 107.

The Patent Law Amendment Act makes no alteration in the law affecting the title; the law officer has power under the act (*ante*, s. 8) to require a title to be amended; the recent rule of the Commissioners (*ante* 86) will it is hoped have the effect of limiting each patent to one substantive invention.

(*c*) The parts within brackets are only to be used in the case of imported inventions; the petition must also be in all respects consistent with the declaration, or the law officer will order one to be amended.

(*d*) By the rule (*ante* 87) the petition must state for which of the colonies the grant is desired.

invention for, &c.

[*The title as in petition.*]

which invention I believe will be of great public utility; that I am the true and first inventor thereof [within the realm (*e*)], and that the same is not in use by any other person or persons [therein] to the best of my knowledge and belief; [And that the instrument in writing under my hand and seal hereunto annexed, particularly describes and ascertains the nature of the said invention, and in what manner the same is to be performed (*f*);] and I make this declaration conscientiously believing the same to be true, and by virtue of the provisions of an act made and passed in the session of parliament held the fifth and sixth years of the reign of his late Majesty King William the Fourth, intituled (*g*) "An act to repeal an act of the present session of parliament, intituled, An act for the more effectual abolition of oaths and affirmations taken and made in various departments of the state, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits, and to make other provisions for the abolition of unnecessary oaths."

A. B.

Declared at
this day of A.D.
Before me,

A Master in Chancery
or
Justice of the Peace.

(*e*) The words in brackets may be used in case of imported inventions; the unqualified assertion of novelty may reasonably be objected to, although the law would understand it as limited to the realm.

(*f*) These words are to be inserted when a complete specification is to be filed with the petition. In other cases, that is, when a provisional specification is to be filed, these words are to be omitted.

(*g*) 5 and 6 W. 4, c. 62, s. 11.

III.

PROVISIONAL SPECIFICATION.

No.

I, of, &c.
do hereby declare the nature of the said invention of

[*Insert title as in petition and declaration.*]

to be as follows :—

[*Insert description and annex drawings if any* (*h*)].

Dated this day of A.D.

(*To be signed by the applicant, or his agent.*)

IV.

COMPLETE SPECIFICATION.

No.

To all to whom these presents shall come;

I, of, &c.
do hereby declare the nature of my said invention of

[*Insert title as in petition and declaration.*]

and in what manner the same is to be performed, to

(*h*) The provisional specification must "describe the nature of the said invention," that is, the invention as expressed by the title in the petition and declaration. It will be the duty of the law officer, either to reject any application, of which the petition, declaration, and provisional specification, show any inconsistency, vagueness, or want of distinctness and precision to disclose a *bonâ fide* invention, or to require the documents to be amended.

By the recent rule of the Commissioners (*ante* 86) the description must be sufficient to afford distinct information as to the means intended to be employed.

be particularly described and ascertained in and by the following statement (that is to say)

[*Describe the invention, and annex drawings if any* (*i*)].

In witness whereof I the said
have hereunto set my hand and seal this
day of A.D.

A. B.

[*The petition, declaration, and provisional specification or complete specification* (*as the case may be*), *and an extra copy of the drawings* (*if any*), *are to be left at the Office of the Commissioners in Quality Court* (*about to be removed to the Rolls Yard*), *Chancery Lane, with the sum of* £5 *if a provisional specification, and* £10 *if a complete specification be left.*

It will be referred to one of the Law Officers, according to such regulations as the Commissioners may make, with the following reference endorsed.]

V.

REFERENCE

Her Majesty is pleased to refer this petition to
to consider thereof what may be properly done therein.

Clerk of the Commissioners.

[*The application will be submitted to one of the Law Officers according to such regulations as the Com-*

(*i*) The rules of law as to the sufficiency of the specification are in no respect altered by the Patent Law Amendment Act, and that final document will be construed in the same manner and with the same strictness as specifications have hitherto been. See observations on the specification in my "Subject-matter of Letters Patent for Inventions."

missioners may make, and his certificate being given, will be filed in the Office of the Commissioners and advertised, and the invention may then be used or published without prejudice to after-acquired letters patent.

If a complete specification be left instead of a provisional specification, no certificate of the Law Officer is required, but the invention becomes provisionally protected from the day of the application, and will be advertised.]

VI.

NOTICE OF INTENTION TO PROCEED WITH APPLICATION FOR LETTERS PATENT.

No.

TO THE COMMISSIONERS OF PATENTS.

I of

hereby give notice of my intention to proceed with the application for letters patent for an invention of

[*Insert title.*]

numbered as above, and recorded on the day of , in the office of the Commissioners.

Dated this day of A.D.

A. B.

[*This notice being left at the Office of the Commissioners, the invention will be advertised.*

If no objections are delivered within the time limited, the warrant and letters patent will issue in due course.

It may be convenient that the remaining £15 *should be paid at this stage,* £10 *thereof being returned if the warrant does not issue, and* £5 *if the patent does not issue.*]

VII.

PARTICULARS OF OBJECTIONS.

No.

I of

hereby give the following particulars of objections to the application of A. B. of

for the grant of letters patent for an invention of

[*Insert title as in advertisement.*]

that is to say—

Dated this day of A.D.

C. D.

[*The particulars of objections must be left at the Office of the Commissioners, and* £2 *paid; they will be referred to the Law Officer to whom the original application was referred, and the hearing of the applicant and opponents will take place according to such regulations as the Commissioners may make.*]

VIII.

THE WARRANT.

[*The form of this is given in the schedule to the act;*

the lithographed or printed forms will be filled up and sealed with the seal of the Commissioners, and preserved in the office of the Commissioners, and the subsequent payments endorsed thereon. The warrant will bear a £5 stamp.]

IX.

THE LETTERS PATENT.

[*The form is given in the schedule to the act; lithographed or printed forms will be filled up in the office of the Commissioners, sealed with the Great Seal, and delivered out to the party on the payment of £5.*]

X.

THE SPECIFICATION.

[*The formal part is given in the schedule to the act.*

See form IV. ante, *for observations on the descriptive part.*

It is to be written on parchment of a certain size, &c. See Rules, &c., III.

The payment on filing it is £5, whatever its length.

If drawings are annexed or referred to, an extra copy is to be left.]

LONDON:
PRINTED BY A. SWEETING, BARTLETT'S BUILDINGS, HOLBORN.

By the same Author,

THE SUBJECT-MATTER

OF

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AND

REGISTRATION OF DESIGNS,

THE TITLE AND SPECIFICATION,

&c. &c.

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