THE

NEW PATENT LAW:

ITS

HISTORY, OBJECTS, AND PROVISIONS:

THE

Protection of Inventions Acts,

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

AND

The Patent Law Amendment Acts,

15 & 16 Vict. c. 83; 16 Vict. c. 5; & 16 & 17 Vict. c. 115;

THE

RULES OF THE COMMISSIONERS OF PATENTS,

AS REVISED TO JANUARY, 1854,

AND

PRACTICAL FORMS AND PROCEEDINGS.

FOURTH EDITION.

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CONTENTS.

	PAGE
INTRODUCTION	v
History of the Act	1–14
The Objects and Provisions of the Act	15–36
Omitted Objects	41–47
Act of 1853	48
The Statutes	49–97
The Protection of Inventions Acts	49
The Patent Law Amendment Acts	54
Rules, &c., of the Commissioners	99–106*d*
Practical Directions for obtaining Letters Patent	107–108
Practical Forms and Proceedings	109–119
I. Petition	109
II. Declaration	112
III. Provisional Specification	114
IV. Complete Specification	115
V. Reference	115
VI. Notice of Proceeding for Patent	116
VII. Particulars of Objections	117
VIII. The Warrant	117
IX. Opposition to the Sealing	118
X. The Letters Patent	118
XI. The Specification	118

INTRODUCTION.

THE following pages are designed as a Manual for Inventors desirous of availing themselves of the provisions of the new Patent Law; they will also serve as a guide in the further reform of our patent system.

The Statutes, portions of which relate to patents for inventions, are sixteen in number; most of these are superseded or affected by "The Patent Law Amendment Act, 1852," which may consequently be regarded as the first step towards the consolidation of the Law and Practice of Patents for Inventions.

The provisional specifications have hitherto been treated as secret documents until after the filing of the complete specification; and inventors are advised by some professional persons to place no reliance on the provisional protection, but to proceed at once for the patent. Inventors adopting such advice abandon the benefit to be derived from the use and publication of the invention during the period of provisional protection, and incur at once and without trial the whole expenses of the patent and specification.

The inadequacy of the provisional specifications is alleged as one reason for advice so contrary to the whole spirit of the new system; and the practice under the old system, whereby the mere possession and knowledge of the invention by an opponent was allowed to prevail in opposition to a prior applicant, is assumed still to prevail, in utter disregard of the principle of the new system, that credit is to be given to the first applicant, except in cases of fraud; and to which principle full effect has been given by the Lord Chancellor and the Law Officers in the cases of opposition which have occurred.

By the Act of last Session (16 & 17 Vic. c. 115, s. 2, *post* 97), the doubt supposed to exist under the Patent Law Amendment Act is removed, and the Commissioners are em-

powered to order the provisional specifications to be open to the inspection of the public at such times, after the date of the record thereof respectively, as they may direct.

If the intentions of the legislature as to the provisional specification were fully carried out, and the provisional specifications were open to inspection after their sufficiency had been certified, inventors would have the means not only of protecting themselves against the conflict which is constantly occurring between subsequent and preceding patents relating to inventions substantially the same, but also of avoiding expensive future litigation; and the "secret tribunals," so strongly condemned by the reformers of the Patent Law and by the Attorney General (*post* 42) on moving the second reading of the Bill of 1851 in the House of Commons, would be rendered unnecessary.

The Commissioners have now the power of carrying out substantially all the objects contemplated by the Bills of 1851; the further reforms which were advisedly omitted from the Bills of 1851 relate to the following objects:—

1. The administration of the law so as to render property in patents more secure.

2. The law and practice as to disclaimers and memorandum of alterations, confirmations and extensions.

3. The remunerating the authors of meritorious and beneficial inventions by money compensation, in lieu of confirmation or extension of their patents.

Also, the reform of the laws relating to Copyright, now presenting many anomalies, and the assimilating in some respects the law and practice of Designs to that of inventions in the Arts and Manufactures, have claims on the early consideration of the legislature.

The rules and regulations of the Commissioners now in force will be found in the following pages.

2, *Pump Court, Temple*,
Jan, 1854.

T. W.

THE NEW PATENT LAW,

&c., &c.

Three distinct systems.

LETTERS patent for inventions, prior to the commencement of the new law, were granted according to three distinct systems; each of the three countries, England, Scotland, and Ireland, having its own peculiar practice for the creation of such exclusive privileges within that part of the United Kingdom; the Channel Islands, Colonies and Plantations abroad were usually included in the patent for England, though sometimes the subject of a distinct grant made according to the practice for that country. These three distinct systems of England, Scotland, and Ireland, now superseded by one system for the United Kingdom under "The Patent Law Amendment Act, 1852," have continued to subsist notwithstanding the unqualified condemnation of every disinterested person of any experience in the subject (*a*). For the last quarter of a century men of science, inventors, and professional men more peculiarly engaged in patent business, have laboured for the abolition of a vicious and the establishment of a rational system of creating and protecting property in inventions in the arts and manufactures; but the inherent difficulty of the subject, the conflicting opinions of reformers, a want

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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, and other professional men more immediately engaged in obtaining patents, in preparing specifications, or in litigation thereon, and in advising on inventions generally, were opposed to reform in the patent system; such, however, is not the fact; Mr. Wyatt, the editor of the "Repertory," Mr. Newton, the editor of

Failure of attempts at reform.

of 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 abuses in the patent system is curious and instructive, counterparts of which may be found in other branches of our jurisprudence: it presents a striking instance of a system trained and fostered by private interests, until the accumulation of abuses had paved the way for the extinction of the whole system, and induced many persons well affected towards inventors to doubt the policy of maintaining 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

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"The London Journal of Arts and Sciences," Mr. Robertson, the projector and editor of the "Mechanic's Magazine," and Mr. Barlow in the "Patent Journal," and others, have written and given evidence against the system during the last quarter of a century. The testimony of Mr. Newton and of the late Mr. Robertson, two of the oldest and most successful patent agents, is supported by almost every other patent agent and professional person examined before any of the Committees of 1829, 1848, or 1851. The Select Committee of the House of Commons in 1829 examined twenty-four witnesses—persons of the greatest experience in the practical and applied sciences and in patents, as Davies Gilbert, M.P., John Taylor, Mark Isambard Brunel, Arthur Aikin, Samuel Clegg, Isaac Hawkins, J. Millington, and A. H. Holdsworth, M.P.; also, persons professionally connected with patents, as B. Rotch, Charles Few, W. H. Wyatt, J. Farey, and W. Newton—all of whom condemned the existing system. The Committee on the Signet and Privy Seal Offices, in 1848, received evidence from C. Barlow, F. W Campin, W. Newton, J. C. Robertson, W Spence, and B. Woodcroft, all professional persons of experience, in exposition and condemnation of the abuses necessarily incident to the existing system; several of the same witnesses, with many others of great attainments and experience, gave evidence to the same effect before the two Select Committees of the House of Lords on the Designs and Patent Bills in 1851. On those last occasions the system was described 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). These witnesses differed as to the nature and extent of the remedy to be applied, but were of accord as to the existence and character of the disease.

it would be foreign to our present purpose to dwell more on this part of the subject than to present a simple record of the past as introductory to and explanatory of the new system.

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 remedies to be applied; the leading features of which were the same as of the system now superseded. Former attempts. A.D. 1829.

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. A.D. 1833.

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 A.D. 1835.

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 there had been a limited prior user unknown to the patentee, and 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*).

5 & 6 W. 4, c. 83. Power to disclaim. Confirmation and extension of term.

The late Lord Langdale, under the provisions of an Act (*c*) 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, 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 (*d*) 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, and at the present day the public are not permitted to make an extract even in pencil

Access to specifications.

(*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. See Webster's Law and Practice of Patents, 3rd edit., p. 166.

(*c*) 1 & 2 Vic., c. 94. See Law and Practice of Patents, 3rd edit., p. 173.

(*d*) See 11 & 12 Vic., c. 94; 12 & 13 Vic., c. 109; Law and Pr., 184.

from any specification either at the Petty Bag or at the Enrolment Offices.

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," (*e*)—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. 1848. Signet Committee.

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. A. D. 1850.

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 (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. Extension of Designs Acts.

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 connec-

(*e*) See statute 27 H. 8, c. 11; A.D. 1535-6; Law and Pr., 121.

tion with property either in designs or manufactures were employed in the clauses: these objections having been pointed out, 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 Great 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. The general scope of that Bill was to enable any person to acquire, by a simple act of registration, exclusive privileges in respect of whatever he might choose to make the subject of such registration, a system which would lead to a large amount of useless invention and of profitless expense and litigation; a system pronounced on high authority as proper to be tried in order to put an end to patents altogether (*f*).

(*f*) See evidence of Mr. Brunel (1836) before Select Committee of the House of Lords, session 1851, on the Patent Bills.

These extreme views found little favour with 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 (*g*); and public attention was again directed to improving the existing system of patents (*h*). 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 (*i*). Suggestions of inventors.

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, the Earl 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 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

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

(*h*) 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, and formed the basis of the Bills introduced in the session of 1851.

(*i*) See evidence of R. H. Wyatt, Hon. Sec. of the United Inventors Association before the Select Committee of the House of Lords, 12th May, 1851.

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 (*k*). 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 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

(*k*) See *post*, Act 14 Vict., c. 8.

inventions being protected by persons to whom property in their labour and ingenuity would have been denied under the existing patent system.

Working of Protection Act.

In the administration of that Act frequent opportunities were afforded of suggesting to applicants for provisional protection that the supposed invention possessed no feature either of novelty or of utility, and was not worth further prosecution; in no less than 77 cases out of 691 applications such suggestions were acquiesced in; thus affording conclusive evidence of the importance of and of the benefit to be conferred by protecting inventors against their own ignorance. The majority of the persons acquiescing in such suggestions were not of the poorest class; they were persons who had taken up some scheme foreign to their education or business, and who could have found money for a patent which would have been either invalid or utterly worthless, but which when once obtained they might in many cases have been tempted to maintain even by litigation (*l*).

Injustice of 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 (*m*); 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

Proceedings in the

(*l*) The temptation afforded under the old system to advise the taking out patents without regard to the novelty or utility of the invention, was one of the crying evils of that system. If some agents should decline to solicit such a patent others would be found to encourage it. These evils can only be effectually checked by a system analogous to that pursued under the Protection of Inventions Act; cases will occur in which an inventor will not take advice, but this is not usually the case.

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

House of Lords.

that act of 1835, as to the power of disclaiming and of 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 (*n*) was brought prominently before the committee.

Two Patent Bills introduced.

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, representing various interests, and almost every class in this country and in 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 (*o*). 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.

The advocates of the existing system, and oppo-

(*n*) See *ante* 3.

(*o*) 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.

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

Proceedings in House of Commons.

Concurrent 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 (*p*); 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

Appointment to Offices Bill.

(*p*) See 14 and 15 Vict., c. 82; Law and Practice of Patents, p. 211.

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.

The small modicum of reform effected by the above Act was represented by the opponents of the comprehensive scheme of reform which had been lost under the circumstances just stated, as sufficient, coupled with the general jurisdiction of the law officers in the three countries, to effect all that was necessary, and various propositions were made and rules suggested with this view; but the law officers were not thus diverted from prosecuting the comprehensive measure which had been so fully explained and strongly recommended by the Attorney-General, Sir A. E. Cockburn, on moving in the House of Commons the second reading of the Bill (*r*).

Bills of 1852.

In the session of 1852, Lord Brougham, on the 13th of February, and Lord Colchester, on the 30th of March, introduced a Bill, in form substantially the same as the Bill returned from the House of Commons at the close of the preceding session; with the exception of two important clauses (*s*) 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 Lord Colchester was sent down 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

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(*r*) On the 25th July, 1851. See 118 Hansard, p. 1534, and *post*.

(*s*) 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 and practice.

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 and existence of such privileges in this country; for if abuses and dissatisfaction, such as existed 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.

SECTION II.

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 enabled 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.

Commissioners, s. 1.

The Act constitutes the Lord Chancellor, the Master 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

Attempts at reform.

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 inventions 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 Officer 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 of 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.

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.

Seal of the Commissioners, s. 2.

The Commissioners are empowered to make such rules and regulations as may be expedient. The successful working of the new system will mainly depend upon these rules and their administration. Persons conversant with the old system are well aware how many of its defects and real or imaginary abuses might have been obviated by a few judicious rules and regulations capable of being modified from time to time, had there been any unity of action amongst the persons entrusted with its administration. The Commissioners have issued rules and regulations (*t*) affording practical directions and instructions for the working of the new system.

Commissioners to make rules, &c. s. 3.

The Commissioners are to report annually to Parliament. The annual report of the American Commissioners of Patents is a most instructive and useful

Annual Report to Parliament, s. 3.

(*t*) See *post*.

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 (*u*). 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, ss. 4 and 5.

The Commissioners have the power to provide one office, and to appoint competent 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 Pro-

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(*u*) The lists of private individuals are not only imperfect but are without authority. The most complete lists known to exist were those of Mr. Bennett Woodcroft, which have been purchased for the public, under the authority of an Act of this Session (21st February, 1853). See *post* 92.

visional 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 (*x*).

The provisional specification.

The provisional specification is a new document; it is to "describe the nature of the invention;" and "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" (*y*). The petition and declaration, as heretofore, set forth the title only of the invention; and 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 corresponding 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

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(*x*) See forms of petition, &c., *post*; and Law and Pr. of Patents, 3rd edition. They are to be written on paper of a certain size. See "Rules of the Commissioners," *post* 102.

(*y*) See "Rules of the Commissioners," *post* 115.

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.

Rule of Commissioners as to provisional specification.

The rule of the Commissioners as to the requisites of the provisional specification is directed to check the strong disposition to lodge documents of the most vague and general character; in fact, mere general principles without any specific means or practical arrangements deserving the name of invention. The

Certificate of Law Officers.

Law Officer must be satisfied that such means exist; his supervision and certificate will be a protection and guarantee to the inventor and the public against the abuses of the former system of deposits.

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, as to which great laxity had been allowed, and in the preparation of which great skill was constantly exercised, for the purpose of disguise and of including as much as terms of art and general vagueness would cover, consistent with reasonable or apparent intelligibility; but the *bonâ 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 for 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 (*z*), 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, recorded, and a certificate thereof given, and 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 his certificate; 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

(*z*) See as to the complete specification, *post* 23.

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.

Rule as to one substantive invention.

By a rule of the Commissioners "no warrant is to be granted for the sealing of any letters patent which contain two or more distinct substantive inventions," so that if the Law Officer should have inadvertently given his certificate for a provisional specification containing more than one substantive invention, the inventor may be stopped at a later stage by the refusal of the warrant. It is greatly for the interest of the inventor to confine each patent to one invention; difficulties may occasionally arise in the administration of this rule, but if the provisional or complete specification be a proper document, the dependence or independence of the several matters will be at once apparent.

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 insufficient; so that there is power to limit each application to one substantive invention, and to carry out the wholesome rule of the Commissioners as to the specification. 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.

Rule as to amendment of provisional specification.

The Commissioners have issued a rule that "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*." Such a rule, when the whole scope and object of the provisional specification is considered, may appear wholly unnecessary, and probably never

would have been made but for the circumstance that in a body of Rules and Instructions, issued about the 1st of October, the day on which the new law came into operation, under the sanction of the names of the Attorney and Solicitor-General, was contained a rule allowing the provisional specification to be altered from time to time at the instance of the applicant, a practice subversive of the new system. These rules and instructions were forthwith recalled and annulled, and the above rule issued; this rule should be a warning to inventors to have this first document, which will be the foundation of all future legal rights, carefully and considerately prepared.

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

Clause in original Bills.

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.

Construction of indexes.

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, in consequence of another alteration made probably inadvertently, the provisional specifications are to be printed on the expiration of the protection, the documents so certified will have great influence on and 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 ought not to be imposed on the law officers, and further, that the law officers must be relieved of the superintendence of the routine business of the patent system, by transferring it from the private chambers of the law

officers of the three kingdoms to the office of the Commissioners. The portion of the section now under consideration throws a responsibility on the law officers hardly compatible with their other duties and the proper carrying out of the leading features of the measure.

Additional tax on inventors.

But the alteration is open to other serious objections: the imposition on the inventor of any additional charge is contrary to the spirit of the act; and that additional charge is partial and uncertain. When will the law officer determine whether assistance is to be called in, and how will he determine the proper remuneration in each case? The law officer, out of a natural anxiety to save the pocket of the inventor, will either undertake duties which he cannot adequately perform, or he will decline them altogether, and subject the inventor to an additional tax, which would soon grow into a charge, either fixed or varying according to the number of words in the provisional specification and lines or letters on the drawings. The occasional charge contemplated by the act is wrong in principle; it is a tax on the author of an invention requiring superior knowledge, for that very superiority. It is to be hoped that any such charge will be uniform for every application, and that it will be paid as originally intended out of the first payment of £5 by the applicant.

Wrong in principle

Further duty on inventor.

The uncertainty attendant on such a charge would throw an additional duty on the inventor or his agent; the application having been made, no further act on the part of the inventor has to be performed until his notice of intention to proceed with the patent; the Commissioners have to take all intermediate proceedings.

Complete specification, s. 9.

In lieu of the provisional specification, the applicant for letters patent may deposit with his petition and declaration a complete 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 exists, with some qualifications, in most countries but our own. Considerable differences of opinion exist, 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 (*a*). 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 patents for Scotland and Ireland, in order to prevent a publication in one country before the other.

Two systems.

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 a provisional specification being included in a complete specification; the rival claims may co-exist during the six months of provisional protection, but they ought to be adjusted on the granting of the patent;

(*a*) By a Rule of the Commissioners the final specification must be filed within six months from the date of the application for the patent. *Post* 104.

and the act expressly provides (s. 10) for the protection of the true against the false claimant.

The day of the application is the time to which every thing is referred under the new system; the rights when granted relate back to that date (except otherwise specially ordered); under the old system all rights dated from the sealing of the patent, so that there was an interval varying from three to six weeks or of greater length, at the option of the applicant, during which the invention was without protection, and the use or publication of the invention would invalidate the patent. It is important that this feature of the new system should be kept prominently in view, for several of the objections urged against the system result from this feature being disregarded.

The date of the application the dividing time.

Any protection obtained under the act is advertised by the Commissioners; thus the public or those interested in watching what patents may be in progress, have the means of obtaining that information. The advertisement is substituted for the caveat system, which was condemned in the strongest terms, and undoubtedly afforded, in fact created, the opportunity for discreditable practices. The caveat system was a great source of expense in fees for letters and attendances at the chambers of the Law Officers, of doubtful benefit in any, and of unquestionable mischief in many, cases.

Advertisement, s. 11.

The applicant who shall have used his protection to ascertain the value of his invention, or to obtain the means of prosecuting it, may give notice at the office of the Commissioners of his intention to proceed with his patent; the Commissioners will cause this application to be advertised, and any person having occasion for supposing that the invention sought to be patented has been borrowed from himself, may oppose the grant of such letters patent

Second stage.

by leaving particulars in writing of his objections, and the whole subject will be heard before the Law Officer, who has power to compel either party to pay such costs to the other as he may think fit.

The requiring an opponent to deposit particulars in writing of the grounds of his opposition, and the empowering the Law Officer to make the party, whether applicant or opponent, who may be in the wrong, pay costs to the party who is in the right, are most wholesome provisions; they will check the tendency to the practice, to which the old system presented great temptation but no check, of opposing on speculation, 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 practical injustice was excused 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 practice was also excused on the ground that the Law Officer had no means of deciding between the rival claimants, and that the possession of the invention by more than one person, or by two rival claimants, afforded a guarantee for its publication and preservation for the public, which it is one object of the patent laws to secure.

More recent practice.

Recently, however, the Law Officers have modified this practice, and have examined into priority of claims, and received affidavits and declarations on the subject, but they were without any adequate power to administer justice efficiently by mulcting in costs the parties in the wrong. In cases of opposition before the Lord Chancellor referred back to the Law Officers costs have been obtained by an order of the court, but these have been very few in number.

Security of new system.

The protection by means of the provisional or complete specification, the requiring the particulars of opposition to be stated in writing, and the power to give costs, will enable the Law Officers to reform the whole system; to dispense with the *ex parte* hearings in private—a fruitful source of dissatisfaction—to ask questions of the parties in the presence of each other without fear of disclosing the secrets of either party, and to conduct these proceedings

Open instead of secret tribunals.

openly and in the presence of all parties interested in his decision (*b*).

The Law Officers and all persons professionally concerned in the hearings before them will gain credit with the public by such a change, and by the destruction of a system which had thrown this species of business so exclusively into the hands of a few patent agents, that it was no uncommon thing for the same agent to appear in the person of himself or his clerk for the applicant in support of the patent, and for the opponent against the patent, at the same hearing before the same Law Officer (*c*).

Objections allowed.

It will be for the Commissioners to consider what weight 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 endeavoured to be brought before the Law Officers.

Objections to be stated in writing.

But such objections are to be stated in writing and left at the office of the Commissioners. This is a very great improvement on the old system; it affords a safeguard to the real inventor against unjust rival claims, inasmuch as, such claims, as made in the objections and as supported by affidavits or depositions or the *viva voce* examination of witnesses, seldom present the consistency of a true story; it will also check the practice which had become so prevalent under the old caveat system of opposing on speculation. Persons having standing caveats in respect of certain classes of inventions, would receive notice of

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(*b*) The defects of the secret tribunal have been felt equally by Law Officers, professional men, and inventors. Sir A. E. Cockburn, A.G., on moving the second reading of the Bill in the House of Commons, 25th July, 1851, spoke very strongly on the mischief of a secret, and the importance of an open, tribunal. 118 Hansard, p. 1534. *Post* 42.

(*c*) The beneficial operation of the new system was very clearly shown in a case which occurred before Sir F. Thesiger.

any application for patents relating to such classes, and oppose, if they thought there might be an interference, although they themselves had no invention whatever in contemplation (*d*).

First applicant presumed to be the inventor except in cases of fraud, s. 10.

The spirit of the Act is to give credit to priority of application, but the real inventor is protected (s. 10) against any prior application in fraud of him and the consequences thereof; the short interval which elapses between the application and the first advertisement may be of value to the inventor, who may be exposed to the risk of having his invention stolen and claimed by other persons.

Persons having an interest may oppose, s. 12.

The Act (s. 12) allows "any person having an interest in opposing" the grant of letters patent for the invention to be heard; two classes of persons may be regarded as having such an interest. 1. The real inventor, who has been anticipated in the application by a person having obtained a knowledge of his invention. 2. The owner of a subsisting patent which may be infringed by the invention for which a patent is sought. Opposition on this latter ground is comparatively of modern origin, having been created by the development of the old caveat system; and such questions, except so far as may be necessary for the protection of the applicant, had better be left to the tribunals for trying patent cases.

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. Should the law officer refuse to grant the patent, his decision is final, and

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(*d*) See evidence of P. R. Hodge (482), J. Duncan (815—820), W. Spence (884—886), R. Roberts (1239—1247), B. Fothergill (1455), on Patent Bills 1851, and of B. Woodcroft on Designs Bill 1851, before the Select Committee of the House of Lords.

there is no appeal. This was the case under the old system, and experience has not shown any practical inconvenience or injustice.

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.

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, which will bear date as of the day of the application, except the law officer or Lord Chancellor shall otherwise order.

Patent dated from day of application.

The permitting letters patent to bear date from the day of the application is one of the leading features of the new system; that day becomes the commencement of right under the patent, and no publication or use of the invention subsequent to that day will have prejudiced the grant.

Under the old system, letters patent bore 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 make application for a patent before their invention is adequately matured for working, will have the term of fourteen years practically shortened by so much of the six months as is employed in perfecting the invention.

Filing the Specification within

The last act of the patentee is the preparation of the complete specification, and the filing the same in

such office of the Court of Chancery as the Lord Chancellor shall direct, accompanied by an extra copy of any drawings referred to in the specification, and a stamp of £5 as a further and the final payment. By a rule of the Commissioners the complete specification must be filed within six months of the application for a patent. six months.

The Commissioners have issued some regulations as to the size of the paper or parchment in which the specifications are to be written, and as to the size of the accompanying sheets of drawings (*e*), but there are no acknowledgment or enrolment fees or stamp duties requiring the number of the words and letters on the drawings to be counted, as formerly. Size of drawings.

Under the old system the patentee had to provide or pay for two copies of the drawings, the one annexed to his specification, the other to be annexed to the roll on which his specification was transcribed, in a hand scarcely legible by the public. The extra copy of the drawings now required to be furnished with the specification was intended to be used for the purpose of publication, or for consultation by the public, a paper copy of the written part of the specification being made in the office of the Commissioners for the same purposes, so that the signed and sealed specification would be preserved as an original record, and never consulted except on special occasions, under the order of the Commissioners or their officers. Extra copy of drawings.

The Lord Chancellor has directed the Great Seal Patent Office to be the office for the filing of specifications, and to be combined with the Office of the Commissioners, so that there is now but one office for all matters connected with patents, specifications, and disclaimers. One Patent Office.

All specifications are to be printed, published, and sold at reasonable prices; the money heretofore paid Specifications to be printed. s. 30.

(*e*) See Rules of Commissioners, *post* 102.

by inventors for the engrossing and enrolment of their specifications in England, Scotland, and Ireland, would have paid for their publication many times over. The act provides for the printing of the provisional as well as of the complete specifications; in this respect it differs from the Bill of 1851, and will occasion a great and unnecessary expense, and one not contemplated when the Schedule of Fees was settled in the preceding session. If proper regulations were made, requiring all drawings to be on sheets of certain sizes, and executed at once on stone or zinc, so that there might be one expense to the inventor and the public, the filed and deposited and published copies might come from the same original, and the specifications might be published and issued without any delay.

Copies of Specifications for the public, s. 29.

The Commissioners are to cause true copies of all specifications to be open to the inspection of the public, at the office of the Commissioners, and at an office in Edinburgh and Dublin. According to the original intention of the clause, it was conceived that the copies so open to the public would be the printed copies; it has recently been urged that printed copies would not be *true* copies; that the scale and colouring of the drawings would not be preserved in the engraved or published copies. The arrangement suggested above as to filing impressions from stone or metal, printed in colours, will at once obviate this difficulty; but whatever effect may be given to a quibble about terms, it will not be tolerated that the spirit of the act should be violated to such an extent as to impose upon inventors the tax of providing two distinct copies of drawings for the benefit of the public in Edinburgh and Dublin, when printed copies are so much more convenient, and will afford all the information that the public can reasonably require.

Payments at end of

The letters patent, when granted, will expire at the

expiration of three and seven years respectively, unless before the expiration of the said three and seven years stamps of the value of £50 and £100 respectively be affixed to the letters patent, and inventors must bear in mind, that in reckoning the term of a patent or other grant as against the public, the day on which the grant commences, that is, the day of the application for the grant, is reckoned inclusively, so that a patent applied for on and sealed as of the 1st of October, 1852, will expire on the 30th of September, 1855, unless the £50 stamp be affixed on or before that day; or on the 30th September, 1859, unless the £100 stamp be affixed on or before that day; or on the 30th of September, 1866, by the natural efflux of the term, unless extended on the recommendation of the Judicial Committee of the Privy Council. 3rd and 7th years, s. 19.

This periodical payment is new; and does not, it is believed, exist in any country; small annual payments exist in some countries, but their continual recurrence is objectionable. The period of six months of protection at a cost of £5 will enable the inventor to make inquiries as to the novelty and utility of his invention; the periods of three and seven years respectively will have afforded the opportunity for investigation and experience decisive of the merits of most inventions; if the invention be profitable, or if the capital embarked in carrying out the invention be large, the further payments will be a reasonable contribution to the public purse for the continued subsistence of the exclusive privileges under the patent; and the further payments will operate in all cases as an inducement to allow the patent to lapse, and thereby leave the invention to be adopted or improved upon by the public. Periodical payment.

The existence of patents for inventions of no practical utility, with a considerable portion of their term unexpired, is one of the difficulties to be contended Effect of periodical payments.

with; such inventions remain in abeyance until some further improvement has rendered the original invention useful and commercially profitable, and then the person to whose skill and capital the public are really indebted for a successful invention is frequently subjected to legal proceedings under the patent which he has made profitable. The periodical payment will operate to prevent much of this species of litigation, inasmuch as few patents will be kept alive which are not 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.

Indexes, &c. s. 32.

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, s. 34.

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, s. 39.

The power of entering a disclaimer or memorandum of alteration in a patent or specification has been referred to; under the former 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, and will entitle the party to notice of any application for leave to enter a disclaimer or memorandum of alteration.

Extension of term of patents, s. 40.

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, s. 40.

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 but those who have had actual experience of the delay, uncertainty, and expense, attending the old system, can adequately appreciate the importance of this change. A court of equity would rarely interfere until the right had been established at law; after which, the proceedings at law were not unfrequently the subject of discussion in equity, and sometimes a second trial at law became necessary before adequate protection could be obtained from the Court of Equity; and if, as is usually the case, any question should arise at the trial and be reserved for the court, or if a rule for a new trial should be obtained, the patentee must await the decision of the court before making any application to the Court of Equity. During all this time, not unfrequently extending over a twelvemonth, and sometimes two years or more, the infringements would go on with impunity, and should the patentee be ultimately successful, he would often find no effects upon which to levy even the taxed costs of his litigation. In addition to this, the expense of such long-continued and varied litigation was sufficient to deter a poor man from attempting to maintain his property against a rich infringer. This state of things is entirely altered, and the application to the law courts for an injunction will probably, in

Injunctions by common law courts, s. 42.

the majority of cases, practically decide the questions at issue, and terminate the litigation. The preceding, with other beneficial enactments as to the costs to be paid to the successful party, will greatly improve the condition of the person having occasion to resort to such measures for the protection of his property.

Fees on patents in progress, s. 53.

In cases in which letters patent had been already granted for one of the three countries, or were in progress, the act provides (s. 53) for a reduction of the fees, and for assimilating the payments as near as may be to those under the new system.

Patents for the Colonies, s. 18.

The Act provides for the letters patent under the Great Seal of the United Kingdom being available in her Majesty's Colonies and Plantations abroad, or such of them as shall be named therein. Several questions of difficulty had arisen in respect of grants of patents for the Colonies: the Bills of 1851 and 1852, as they left the House of Lords, were silent as to the Colonies, which in this respect were placed on the same footing as foreign countries; and the term "realm," in connexion with this subject, was in the bill of 1851 defined to mean or include the United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, but not to include her Majesty's Colonies and Plantations abroad, or any of them. The House of Commons, however, in both sessions, added the Colonies and Plantations abroad, with a proviso that such letters patent should be of no effect in any Colony in which such or the like letters patent would be invalid by the law of the Colony, pointing probably to the case of Colonies having (like Canada, for instance) a patent law of their own.

By a rule of the Commissioners, the applicant is required to specify the particular colony or colonies to which the patent is desired to extend; and a special report is to be made thereon to the Chan-

cellor (*f*). Applicants, as a compliance with this rule, inserted in their petitions a list of all the colonies and plantations abroad, and the consequence was the suspension of all proceedings on such patents unless the colonies were struck out; the subject of granting patents including the colonies is now under consideration.

Patent to executor or administrator.

Provision is made (s. 21) for granting letters patent to the personal representative of a deceased applicant, during the continuance of the provisional protection, or at any time within three months after its expiration. Patents had been granted under the old practice, in a few cases, to an executor or to a near connexion of the deceased, as a communication from such deceased; but no legislative sanction existed for the practice, or for the validity of such grants.

English patents to expire with foreign.

Two other clauses require to be noticed; the one (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.

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.

Use of patented inventions in foreign ships.

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.

(*f*) See Rules of Commissioners, *post* 105.

This clause was introduced in consequence of litigation arising under some of the patents for the screw propeller with the owners of foreign ships, entering into British waters, having machinery made abroad in a foreign country where there was no patent, which if made in this country would have been an infringement of subsisting letters patent.

Other clauses.

The Act contains various other clauses relating to the enjoyment of the patent, as permitting more than twelve persons to have an interest in the letters patent (s. 36), and protection against false entries in the register of proprietors (s. 38); and to other regulations, as sending transcripts to Edinburgh and Dublin, and the fees, and salaries, and application of the moneys—which, however, do not require any special comment.

Patents may be held by or for any number of persons, s. 36.

All patents were made subject to a proviso making the same void if more than a limited number of persons (five in the earlier patents, and twelve in the patents granted during about the last twenty years) should hold shares in the patent, as partners dividing, or entitled to divide, the benefits or profits of the patent. The Committee of the House of Commons introduced a clause (s. 36) annulling this condition of all existing patents, so that an unlimited number of persons may now be interested in these patents or subscribe capital for carrying them out.

Fees of fixed amount.

A schedule of fees (commuted to stamps by an Act of the present (*g*) session) is annexed to the Act, and it is provided, s. 45, that no other fees should be taken except such fees to the Law Officers, in cases of opposition to the granting of letters patent and of disclaimers, as the Lord Chancellor and Master of the Rolls should direct. These fees have been fixed (*h*), so that the parties know what they have to pay, and the exaction of any other fees would be illegal. This also is a great boon to inventors; a practice had

(*g*) See 16 Vict. c. 5, *post* 93. (*h*) See Rules, &c., *post* 101.

grown up of charging expedition and other extra fees in certain cases, and if the applicant should happen to appear by counsel before the law officers double fees were exacted. The growth of such extra fees is curious; they would commence as a species of gratuity, or for some additional service or duties *bonâ fide* rendered or performed; their repetition would become gradually more frequent, until the charge became regular and so permanently established, that each successor in office felt himself bound by the practice of his predecessors and the interests of his successors. The recent Act has put an end to all such charges; the fees to be taken are settled and published.

Effects on progress of invention.

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 recently 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, and as sources of fees and of revenue 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.

Inventor rarely benefitted.

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 who devote themselves to professional or intellectual pursuits; very few recover the capital embarked in their education and subsistence until their occupa-

tions become remunerative; but the public reap the benefit of such expenditure and pursuits, and the improvement to which they conduce, however little the individual may benefit thereby, is part of the progress of civilised life.

Great discoveries in sciences, art, or manufactures, such as will revolutionise existing systems, are of rare occurrence, and within the reach of few; but steady and progressive improvement in different departments of our industrial arts is within the reach of a large proportion of the more intelligent of the minds engaged therein, and it may be doubted whether industrial education can be carried out successfully unless the persons so educated can acquire such a property and protection in the products of their ingenuity and industry as will enable them to maintain their independence against the overwhelming influence of capital. Industrial education.

SECTION III.

OBJECTS OMITTED.

The system established by the Patent Law Amendment Act must be regarded as the foundation whereof the superstructure has yet to be raised under the sanction of further legislation. The Act has swept away the foundation and sources of great abuses, and established a system having the following cardinal features. 1. Protection from the day of application. 2. One patent for the United Kingdom. 3. Moderate cost and periodical payment. 4. Printing and publication of specifications. 5. One office of patents and specifications. The Committee of the House of Commons introduced alterations, which, although not destroying the leading features of the new system, have materially impaired its efficiency, and which will occasion unnecessary trouble and expense and further legislation. New system

Some of these alterations, so far as they interfere with the beneficial operation of the system established by the Act, have been already noticed; but other alterations of a more important character affecting the ultimate success and credit of the new system remain to be noticed. These may be regarded as omitted objects, and which must form the subject of further legislation. Some of these objects were prominently brought forward by Sir A. E. Cockburn, A. G., in moving the second reading of the Bill in the House of Commons in the Session of 1851, so that no doubt can be entertained as to the views of its promoters.

Sir A. E. Cockburn, A.G. (*i*):

Expenses and delay.

"Complaints had been made as to the delay, the uncertainty, and the expense attendant upon the granting of patents, and it was impossible to deny that these complaints had considerable foundation.

Inquiry on granting patents.

"Some persons had lately started the notion that there should be no inquiry as to whether a man should have a patent or not. It was said they should allow a man to claim an invention as novel, and that on registering that invention, he should without inquiry be entitled to patent rights, and to maintain them against all mankind. It seemed to him that they ought to pursue a different course; they ought to guard the public against the assumption of rights to which the individual was not entitled in case his invention was neither new nor useful; they should guard other inventors that had preceded him, and protect them by a cheap process, without driving them into expensive litigation for the protection of their rights.

Tribunals.

"The great consideration was with respect to the tribunal which was to determine whether a party was entitled to a patent or not. Hitherto that question had rested entirely with the Law Officers of the Crown. Two great objections had been taken to the existing tribunal, and he thought those objections well founded, constituted as that tribunal was at present. It was said in the first place that the tribunal was a secret one.

Secret tribunals.

That was a great objection, but the secresy did not arise from the will or inclination of the Law Officers, but from the necessity of the case. It arose in this way—the rights which were ac-

(*i*) 118 Hansard, 1534—25 July, 1851.

quired under a patent dated from the period when the patent was granted. The report of the Law Officers on the merits of the invention was made at an early stage of the proceeding. It was the object therefore of the inventor, that until his patent was sealed, no one but himself should know what was the nature of the invention. On the other hand, a party opposing the invention on the ground of want of novelty, or that he had a prior claim to its discovery, had a right to appear before the Law Officers and state his case. The unavoidable result was that the Law Officers were obliged to hear each of the parties separately with closed doors, lest in the event of the inventions turning out to be dissimilar, the principle of each man's invention might be discovered to the other, or to the world. Nothing could exceed the anxiety shown by the rival applicants on these occasions lest the tribunal should disclose, by the questions put, their respective inventions. To remedy this state of things, the Bill proposed to require a man at the same time that he applied for a patent to lodge in the office of the Commissioners, to be appointed under its provisions, a provisional specification, which was to state the precise nature and the general features of the invention. As soon as he had deposited that provisional specification it was proposed to give him protection for six months, or in certain cases for nine months. He would then have liberty to use his invention before the public during that time. It was also proposed to require a man objecting to a patent to lodge his objections with the Commissioners before hand. There would likewise be an open tribunal, and the parties would be heard before one another, by which arrangement all secresy would be done away with.

Sir A. E. Cockburn, A. G., 25th July, 1851.

"There was another objection to the existing tribunal, the incompetency, the almost unavoidable incompetency, of the Law Officers to decide questions involving intricate and nice points in mechanics, chemistry, and general science. It appeared to the Government that the best mode of proceeding would be to constitute a Board of Examiners, consisting of persons having a reputation for scientific knowledge, to whom in the first place the provisional specification should be referred, and who would be required to report as to its propriety and on the question of conflicting rights, in cases where such should arise, to the Law Officers. He was happy to say on that point that the expenses would not be increased. The Law Officers of the Crown were perfectly willing to make a personal sacrifice in that respect in order that the public might obtain the full benefit of the proposed arrangement.

Board of Examiners.

"With regard to the provisional specification, the six or nine months' protection which would be afforded to the patentee, would enable him to take his invention into the market with a

view to obtain the assistance of capitalists in carrying it into practical operation—a benefit which, under the present system, was wholly impossible.

Register of Inventions.

"The Bill also provides for the proper classification of all patents, for the transcription and publication of all specifications, and for a register of patents and of proprietors which might be consulted from time to time. At present it often happened that when a man had devoted his time, his patience, and his money, to an invention, and imagined that he was on the eve of reaping the fruits of his labours, he found that some one else had anticipated him, that a patent was already in force for the particular invention he had made, and that therefore all his labours and expense went for nought."

Bill of 1851.

Such were the terms in which the Bill of 1851, as sent from the House of Lords, was introduced to and received with acclamation by the House of Commons; the Bill of 1852, as sent from the House of Lords, with provisions for effecting the same objects, was referred to a Committee of the House of Commons; during the progress of the Bill in that Committee, the clauses for referring the provisional specification to examiners were struck out, and clauses referring the provisional specification to the law officers substituted; other apparently trifling alterations were made; the combined effect of which, however, was to retain and import into the new system most of the defects so strongly pointed out by Sir A. E. Cockburn as connected with the tribunal of the law officers (*k*).

Upon the subject of the examination under the proposed system, considerable misconception existed in the minds of many members of the Committee; but the imminent danger which impended of the Bill being again defeated by want of time, rendered it inexpedient that anything should be done which might occasion delay. No opposition therefore was prose-

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(*k*) A change had taken place in the Government shortly after the commencement of the Session of 1852; new law officers had been appointed, some of whom were members of the Committee of the House of Commons. Neither Sir J. Romilly, M.R., nor Sir A. E. Cockburn, nor Sir W. Page Wood, was a member of the Committee of 1852.

cuted to such alterations; the members of the Committee, who were thoroughly acquainted with the wants and wishes of inventors and manufacturers, thankfully accepted any portion of the measure as a first and great instalment of reform; and regard being had to interests in the three countries which were pressed upon the Committee, and to the conflicting nature of the views suggested by the opponents of reform, the public are greatly indebted to the Committee collectively, for having saved so much of the original measure.

Objects of provisional specification.

The provisional specification and preliminary examination were intended to afford protection to the inventors and to the public. The visionary nature of many of the projects, and the visionary character of their authors, are notorious; the provisional specification and its examination by competent persons, are calculated to check the mere speculative inventor, whose supposed invention in the majority of cases will not admit of being expressed in distinct and intelligible language. Such an examination would check the majority of applications at the first stage, and save further expenditure to the inventor, and the creation of privileges of no use but to invite and encourage litigation. The provisional specification and preliminary examination were approved of by almost every witness examined before the Select Committee of the House of Lords on the Bill of 1851, as affording a guarantee of the kind required. The opponents of patent law reform assigned much more extensive duties to the examiners than either the promoters of the measure, or the witnesses who gave evidence on the subject. The duties assigned were the satisfying themselves that the description was clear and intelligible, and that the invention was sufficiently defined, and many of the witnesses referred in support of these views to the beneficial operation of such examination under "The Protection of Inventions Act, 1851." It is true that some of

the witnesses spoke in favour of the opinion, that such a board ought to or might judge conclusively on the question of novelty, but few concurred in that opinion.

Duties of Law Officers.

This duty of preliminary examination spoken to by almost every witness as of paramount importance, and as requiring time, knowledge, and attention, which the varied occupations and frequent changes of the law officers precluded the possibility of being adequately discharged by them, however great their scientific as well as legal acquirements, the Committee of the House of Commons thought fit to impose upon the law officers, with whom now rests the responsibility, of certifying the sufficiency of the provisional specification, and that it states distinctly and intelligibly the whole nature of the invention so as to apprise the law officers of the improvement, and of the means by which it is to be carried out (*l*).

Time will show the result of this alteration in a fundamental principle of the measure, not only without any evidence to guide the Committee, but in direct opposition to the most positive evidence on the subject. If inventors, relying on the certificates which have been given, should be grievously disappointed in the result, it must not be laid to the new system, but to those who deprived that system of this great safeguard and of the means of correcting evils and of relinquishing duties which the experience of all law officers had led them to wish to entrust to other persons.

Reduction of cost.

The reduction of the cost of patents has in this as in other countries acted as a great stimulus to invention, having placed the means of obtaining protection for and creating property in inventions within the reach of classes formerly excluded; but the corrective to such stimulus as applied in every other country is wanting, and no practical check upon the applications

(*l*) See Rules of Commissioners, *post* 104.

at present exists. The result is, that every inventor is tempted and induced to proceed through the successive stages, and to incur the whole cost of the patent, a consequence beneficial to his professional advisers, but very detrimental to the credit of a system framed with the view of preventing useless expenditure of money and time, and of checking as much as possible the creation of useless privileges.

Inspection of provisional specification.

The evil last adverted to, namely, the stimulus which exists to prosecute every application for a patent, is augmented by another alteration, which gives colour for the opinion that the provisional specification was to be a secret document.

This is contrary to the intentions of the promoters of the original measure, and to the spirit of the Bills of 1851. It might be expedient so long as any considerable number of patents granted under the old system remained unspecified, that the provisional specifications should be secret documents; but the period for the enrolling of such specifications having passed, the provisional specifications, when certified as sufficient, ought to be open to inspection. The speech of Sir A. E. Cockburn, already quoted, assumed this; and the great object of provisional protection, namely, that a party may avail himself of the experience and knowledge of others, leads to the same conclusion.

Further, 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; and it is contrary to public policy that such secresy should exist. Such secresy is an encouragement to crude and immature schemes, and injurious to inventors, who have a real interest in knowing at the earliest moment the demerits of their inventions.

To suggest that fraudulent persons might thereby acquire a knowledge of the invention, and by means of such knowledge oppose the patent at a later stage, is to import into the new one of the

crying defects of the old system, namely, that mere possession of an invention was a ground for opposing a patent, and to disregard the principle of the new system, that the first applicant has the *prima facie* right.

The suggestion of prejudice to the foreign patents is of the same character; no person ought to apply for a patent whose invention is not sufficiently matured to furnish a description adequate for the foreign patents, and a short interval, as a fortnight, between the deposit of the provisional specification and its being open to inspection, would afford all the security that can be required in respect of the application for the foreign patents.

Section IV.

Act of 1853.

All payments by stamps.

By an Act of the present Session (16 Vict., c. 5), which received the Royal assent 21st of February, 1853, all payments are to be made by stamps of suitable denominations, instead of in money. The Commissioners of Stamps are to provide stamps of various denominations, which are to be used as directed in the Act; the applicant or person wishing for an office copy, or to consult any document, or to enter an opposition, will purchase a stamp, which will be retained in the office of the Commissioners of Patents, or affixed to the copies of documents, and thus afford evidence of the payment.

Purchase of Indexes.

The Act also empowers the Commissioners to purchase the indexes of Mr. Bennett Woodcroft, for the use of the public. These indexes had been the subject of evidence before the Select Committee of the House of Lords, and their value to inventors, in enabling them to ascertain the subjects of prior patents, and as the nucleus of a complete history of inventions in the arts and manufactures, can hardly be too highly estimated.

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-

hibition as aforesaid, and on being satisfied that such invention is proper to be so exhibited, and that the description in writing so furnished describes the nature of the said invention so intended to be exhibited, and in what manner the same is to be performed, shall give a certificate in writing, under the hand or hands of such Attorney-General or the person or persons appointed as aforesaid, for the provisional registration of such invention. 14 Vict. c. 8.

IV. The Registrar of Designs acting under the Designs Act, 1850, upon receiving such certificate, and being furnished with the name and place of address of the person by or on whose behalf the registration is desired, shall register such certificate, name, 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 and seal, that such invention has been provisionally registered, and the date of such registration, and the name and place of address of the person by or on whose behalf the registration was effected: Provided always, 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 use by others at the time of the said registration, or if 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 void. 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 attached thereto, with the date of the said registration.

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 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.

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.

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.

The Designs Act, 1850, and this act to be construed as one act.

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.

Short title.

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

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 as therein mentioned.

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15 & 16 Vict. cap. 83.

An Act for amending the Law for granting Patents for Inventions. [1st July, 1852.]

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

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

VII. Every application for letters patent made under this act shall be referred by the commissioners, according to such regulations as they may think fit to 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 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; and if such law officer be satisfied that the provisional specification describes the nature of the invention, he shall allow the same, and give a certificate of his allowance, and such certificate shall be filed in the office of the commissioners, and thereupon the invention therein referred to may, during the term of six months from the date of the application for letters patent for the said invention, be used and published without prejudice to any letters patent to be granted for the same, and such protection from the consequences of use and publication is hereinafter referred to as provisional protection: Provided always, that in case the title of the invention or the provisional specification be too large or insufficient, it shall be lawful for the law officer to whom the same is 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 invention, instead of leaving with the petition and declaration a provisional specification as aforesaid, may, if he think fit, file with the said petition and declaration an instrument in writing under his hand and seal (hereinafter called a complete specification), particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, which complete specification shall be mentioned 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.

15 & 16 Vict. c. 83.

Copies of specifications, &c. as printed by Queen's printers to be evidence.

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.

Register of Patents to be kept.

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.

A Register of Proprietors to be kept at the office for filing specifications.

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

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 *prima 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,

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

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

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.

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 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.

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 suppo 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 respectively, 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 decree, 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.

15 & 16 Vict. c. 83.

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.

15 & 16 Vict. c. 83.

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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15 & 16 Vict. c. 83.

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 licences, 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 enjoy 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

15 & 16 Vict. c. 83.

15 & 16 Vict. c. 83.

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.

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16 Vict., c. 5.

An Act to substitute Stamp Duties for Fees on passing Letters Patent for Inventions, and to provide for the public use of certain Indexes of Specifications.

[21st Feb. 1852.

15 & 16 Vict. c. 83.

WHEREAS it is expedient that the fees payable in respect of letters patent for inventions under the Patent Law Amendment Act, 1852, and mentioned in the schedule to such Act, be converted into stamp duties: Be it enacted, therefore, 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:

Sections 17, 44, 45, 46, and 53, and part of schedule of recited Act repealed.

I. Sections seventeen, forty-four, forty-five, forty-six, and fifty-three of the said Patent Law Amendment Act, 1852, and so much of the schedule to the said Act as relates to fees and stamp duties to be paid under the said Act, shall be repealed.

Letters patent to be made subject to

II. All letters patent for inventions to be granted under the provisions of the said Patent Law Amendment Act, 1852, (except in the cases provided for in

the fourth section of this Act,) 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 years and seven years respectively the stamp duties in the schedule to this Act annexed expressed to be payable before the expiration of the third year and of the seventh year respectively, and such letters patent, or a duplicate thereof, shall be stamped with proper stamps showing the payment of such respective stamp duties, and shall, when stamped, be produced before the expiration of such three years and seven years respectively at the office of the Commissioners; and a certificate of the production of such letters patent or duplicate so stamped, specifying the date of such production, shall be endorsed by the clerk of the commissioners on the letters patent or duplicate, and a like certificate shall be endorsed upon the warrant for such letters patent filed in the said office.

Avoidance on non-payment of stamp duties expressed in schedule to this Act annexed.

III. There shall be paid unto and for the use of her Majesty, her heirs and successors, for or in respect of letters patent applied for or issued under the provisions of the said Patent Law Amendment Act, 1852, warrants, specifications, disclaimers, certificates, and entries, and other matters and things mentioned in the schedule to this Act, 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 in respect of such letters patent, warrants, specifications, disclaimers, certificates, entries, matters, and things; and the stamp duty mentioned in the said schedule on office copies of documents shall be in lieu of such sums as by the said Patent Law Amendment Act, 1852, are authorised to be appointed to be paid for such office copies.

Stamp duties mentioned in the schedule to this Act to be payable.

As to payment of stamp duties on letters patent for England, Scotland, or Ireland respectively.

IV. Where letters patent for England or Scotland or Ireland have been granted before the commencement of the said Patent Law Amendment Act, 1852, or have been since the commencement of the said Act, or hereafter may be granted for any invention, in respect of any application made before the commencement of the said Act, letters patent for England or Scotland or Ireland may be granted for such invention in like manner as if the said Act had not been passed: Provided always, that in lieu of all fees or payments and stamp duties which were at the time of the passing of the said Act payable in respect of such letters patent as last aforesaid, or in or about obtaining a grant thereof, and in lieu of all other stamp duties whatsoever, there shall be paid in respect of such letters patent as last aforesaid on the sealing thereof stamp duties equal to one third part of the stamp duties which would be payable under this Act in respect of letters patent issued for the United Kingdom under the said Patent Law Amendment Act, 1852, on or previously to the sealing of such letters patent as last aforesaid, and before the expiration of the third year and the seventh year respectively of the term granted by such letters patent for England, Scotland, or Ireland, stamp duties equal to one third part of the stamp duties payable under this Act before the expiration of the third year and the seventh year respectively of the term granted by letters patent issued for the United Kingdom under the said Patent Law Amendment Act, 1852, and the condition of such letters patent for England or Scotland or Ireland shall be varied accordingly.

Duties to be under the management of the Commissioners of Inland Revenue;

V. 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 contained in any Act now or hereafter to be in force with reference to stamp duties shall be applicable thereto.

Commissioners who are to provide the proper stamps for the purpose.

VI. The said commissioners of Inland Revenue shall prepare stamps impressed upon adhesive paper, of the amounts following, that is to say, twopence, fourpence, eightpence, and one shilling, to be used only in respect of the stamp duties on the office copies of documents and on the certificates of searches and inspections mentioned in the schedule to this Act; such adhesive stamps of proper amounts to be affixed by the clerk of the commissioners of patents for inventions, to such office copies of documents and certificates of searches and inspections as aforesaid; and immediately after such affixing he shall obliterate or deface such stamps by impressing thereon a seal to be provided for that purpose, but so as not to prevent the amount of the stamp from being ascertained; and no such office copy or certificate shall be delivered out until the stamps thereon shall be obliterated or defaced as aforesaid.

Conditions of letters patent already granted under recited Act to be satisfied by payment of stamp duties, &c. under this Act.

VII. The condition contained in any letters patent granted under the said Patent Law Amendment Act, 1852, and before the passing of this Act for making such letters patent void 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 years and seven years respectively, the sums of money and stamp duties by the said Patent Law Amendment Act, 1852, required in this behalf, shall be deemed to be satisfied and complied with by payment of the like stamp duties as would have been required if such letters patent had been granted after the passing of this Act, and had been made subject to the condition required by this Act in lieu of the said condition therein contained; and the provision hereinbefore contained concerning the endorsement on the letters patent or duplicate, and on the warrant for the same letters patent, of a certificate of the production of the letters patent or duplicate properly stamped,

shall be applicable in the case of such letters patent granted before the passing of this Act.

Power to Commissioners to purchase the indexes of existing specifications prepared by Mr. Woodcroft.

VIII. And whereas by the said Patent Law Amendment Act, 1852, the commissioners are directed to cause indexes to all specifications heretofore or hereafter to be enrolled or deposited to be prepared in such form as they may think fit, which indexes are to be open to the inspection of the public: And whereas the existing specifications so directed to be indexed as aforesaid are in number fifteen thousand and upwards, and it would require some years to make indexes thereof on a proper arrangement and classification: And whereas Mr. Bennett Woodcroft has already made complete indexes of such specifications, which the commissioners have examined and approved of, and it is expedient that such indexes be purchased for the use of the public:

It shall be lawful for the commissioners, with the consent of the commissioners of her Majesty's Treasury, to purchase the said indexes of the said Bennett Woodcroft for a sum not exceeding one thousand pounds, and to pay the purchase money for the same out of the moneys in their hands which have arisen from fees received in respect of letters patent under the said Patent Law Amendment Act, 1852, and directed by the said Act to be paid into the receipt of the Exchequer; and after the purchase of such indexes the provisions of the said Act shall be applicable thereto as if such indexes had been prepared under the said recited enactment.

As to the word "duplicate."

IX. The word "duplicate" shall be construed to mean in this Act such letters patent as may be issued under the twenty-second section of the Patent Law Amendment Act, 1852, in case of any letters patent being destroyed or lost.

This Act & 15 & 16 Vict. c. 83, to be construed together.

X. This Act and the Patent Law Amendment Act, 1852, shall be construed together as one Act.

The Schedule of Stamp Duties to be paid to which this Act refers.

	£	s.	d.
On petition for grant of letters patent -	5	0	0
On certificate of record of notice to proceed - - - - - -	5	0	0
On warrant of law officer for letters patent	5	0	0
On the sealing of letters patent - -	5	0	0
On specification - - - - -	5	0	0
On the letters patent, or a duplicate thereof, before the expiration of the third year - - - - -	50	0	0
On the letters patent, or a duplicate thereof, before the expiration of the seventh year - - - - -	100	0	0
On certificate of record of notes of objections - - - - - -	2	0	0
On certificate of every search and inspection - - - - - -	0	1	0
On certificate of entry of assignment or licence - - - - - -	0	5	0
On certificate of assignment or licence -	0	5	0
On application for disclaimer - -	5	0	0
On caveat against disclaimer - -	2	0	0
On office copies of documents, for every ninety words - - - - -	0	0	2

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16 and 17 Vict., c. 115.

An Act to amend certain Provisions of the Patent Law Amendment Act, 1852, in respect of the Transmission of certified Copies of Letters Patent and Specifications to certain Offices in *Edinburgh* and *Dublin*, and otherwise to amend the said Act. [20th *August* 1853.]

WHEREAS it is expedient to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of 15 and 16 Vict., c. 83.

letters patent and specifications to certain offices in *Edinburgh*, and *Dublin*, and otherwise to amend the said Act: 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:

Sect. 33. & Part of Sect. 28. of recited Act repealed.

I. Section thirty-three of the said Act, and such part of section twenty-eight of the said Act as directs that in case reference is made to drawings in any specification deposited or filed under the said Act an extra copy of such drawings should be left with such specification, shall be repealed.

Copies of provisional specifications to be open to inspection at the Commissioners office.

II. The Commissioners shall cause true copies of all provisional specifications left at the office of the Commissioners to be open to the inspection of the public, at such times, after the date of the record thereof respectively, as the commissioners shall by their order from time to time direct.

A copy of every specification, &c., under the hand of the patentee or applicant, to be left at Commissioners office.

III. A true copy, under the hand of the patentee or applicant, or agent of the patentee or applicant, of every specification and of every complete specification, with the drawings accompanying the same, if any, shall be left at the office of the Commissioners on filing such specification or complete specification.

Copies or extracts of letters patent, &c., certified and sealed, filedat Commissioners office, to be received in evidence.

IV. Printed or manuscript copies or extracts, certified and sealed with the seal of the Commissioners, of letters patent, specifications, disclaimers, memoranda of alterations, and all other documents recorded and filed in the Commissioners' office, or in the office of the Court of Chancery appointed for the filing of specifications, shall be received in evidence in all proceedings relating to letters patent for inventions in all courts whatsoever within the United Kingdom of *Great Britain* and *Ireland*, the Channel Islands, and *Isle of Man*, and Her Majesty's Colonies and Plantations abroad, without further proof or production of the originals.

V. Certified printed copies, under the seal of the Commissioners, of all specifications and complete specifications, and fac-simile printed copies of the drawings accompanying the same, if any, disclaimers, and memoranda of alterations filed or hereafter to be filed under the said Patent Law Amendment Act, shall be transmitted to the office of the Director of Chancery in *Scotland* and to the Enrolment office of the Court of Chancery in *Ireland* within twenty-one days after the filing thereof respectively, and the same shall be filed in the office of Chancery in *Scotland* and *Ireland* respectively, and certified copies or extracts from such documents shall be furnished to all persons requiring the same, on payment of such fees as the Commissioners shall direct; and such copies or extracts shall be received in evidence in all courts in *Scotland* and in *Ireland* respectively in all proceedings relating to letters patent for inventions, without further proof or production of the originals.

Certified printed copies of specifications, &c., under seal of Commissioners, to be transmitted to the director of Chancery in Scotland, and to the Court of Chancery in Ireland, which shall be evidence, without production of originals.

VI. Where letters patent have not been sealed during the continuance of the provisional protection on which the same is granted, provided the delay in such sealing has arisen from accident, and not from the neglect or wilful default of the applicant, it shall be lawful for the Lord Chancellor, if he shall think fit, to seal such letters patent at any time after the expiration of such provisional protection, whether such expiration has happened before or shall happen after the passing of this Act, and to date the sealing thereof as of any day before the expiration of such provisional protection, and also to extend the time for the filing of the specification thereon; and where the specification, in pursuance of the condition of any letters patent, has not been filed within the time limited by such letters patent, provided the delay in such filing has arisen from accident, and not from the neglect or wilful default of the patentee, it shall be lawful for the Lord Chancellor, if he shall think fit, to extend

Lord Chancellor, in certain cases, may seal letters patent after the expiration of provisional protection.

the time for the filing of such specification, whether the default in such filing has happened before or shall happen after the passing of this Act: Provided always, that, except in any case that may have arisen before the passing of this Act, it shall not be lawful for the Lord Chancellor to extend the time for the sealing of any letters patent, or for the filing of any specification, beyond the period of one month.

Removing doubts as to provision of 15 & 16 Vict. c. 83. respecting the making and sealing of new letters patent for a further term.

VII. And whereas doubts have arisen whether the provision of the Patent Law Amendment Act, 1852, for the making and sealing new letters patent for a further term, in pursuance of Her Majesty's order in council, in the cases mentioned in section forty of the said Act, extends to the making and sealing of new letters patent in the manner by such Act directed where such new letters patent are granted by way of prolongation of the term of letters patent issued before the commencement of the said Act: And whereas it is expedient that such new letters patent granted by way of prolongation shall be granted according to the provisions of the said Patent Law Amendment Act: Be it declared and enacted, that where Her Majesty's order of council for the sealing of new letters patent shall have been made after the commencement of the said Act, the said provisions of the said Act for making and sealing in manner aforesaid of new letters patent shall extend, and shall as from the commencen. .t of the said Act be deemed to have extended, to the making and sealing in manner aforesaid of new letters patent for a further term, as well where the original letters patent were made before as where such original letters patent have been issued since the commencement of the said Act.

15 & 16 Vict. c. 83. and this Act to be construed as one Act.

VIII. This Act, and the Patent Law Amendment Act, 1852, shall be construed together as one Act.

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.

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.

Office.

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.

Sizes of paper.

I. 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.

Drawings.

II. The drawings accompanying provisional specifications shall be made upon a sheet or sheets of parch-

ment, paper, or cloth, each of the size of twelve inches in length by eight inches and a half in breadth, or of the size of twelve inches in breadth by seventeen inches in length, leaving a margin of one inch on every side of each sheet.

Advertisement of provisional protection.

III. 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.

IV. 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.

Notice of proceeding and advertisement.

V. 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.

Clerk of the patents.

VI. 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.

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

VIII. 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. Office copies.

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

Dated 1st Oct. 1852.

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: Law Officers' 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

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.

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

Office for specifications.

I. 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.

Size of parchment.

II. All specifications in pursuance of the conditions of letters patent, and all complete specifications accompanying petitions for the grant of letters patent, shall be respectively written bookwise upon a sheet or sheets of parchment, each of the size of twenty-one inches and a half in length by fourteen inches and three-fourths of an inch in breadth; the same may be written upon both sides of the sheet, but a margin must be left of one inch and a half on every side of each sheet.

Size of drawings.

III. The drawings accompanying such specifications shall be made upon a sheet or sheets of parchment, each of the size of twenty-one inches and a half in

length by fourteen inches and three-fourths of an inch in breadth, or upon a sheet or sheets of parchment, each of the size of twenty-one inches and a half in breadth by twenty-nine inches and a half in length, leaving a margin of one inch and a half on every side of each sheet.

IV. 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.

NOTE.—*It is recommended to Applicants and Patentees to make their elevation drawings according to the scale of one inch to a foot.*

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.

Office in Scotland.

I. 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.

Office hours.

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

Office copies.

III. 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.

Office in Dublin.

IV. 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.

Office hours.

V. 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.

Charges.

VI. 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.

Patent for one invention.

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

Specification to be filed within six months of application.

VIII. 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.

Provisional specification not to be altered.

IX. 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.*

X. 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. Provisional specification.

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

Dated 15th Oct. 1852.

The Colonies.—These rules, as originally issued, directed that the names of any Colonies to which the patent was wished to extend should be specified. A practice sprung up of inserting the names of all the Colonies, and thereupon the Commissioners determined, not to include any of the Colonies in the grant, for the present.

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.

Opposition to sealing.

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.

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 (*a*).

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

Dated 15th Oct. 1852.

(*a*) The rules and instructions hereby revoked will be found in the October number of the Repertory of Patent Inventions. A.D. 1852.

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 of 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.

PATENT LAW AMENDMENT ACT, 1852.

THIRD SET OF

RULES AND REGULATIONS

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

FOR THE PASSING OF

LETTERS PATENT FOR INVENTIONS,

And under the Act of the 16 & 17 VICT. c. 115.

By the Right Honourable Robert Monsey Lord Cranworth Lord High Chancellor of Great Britain, the Right Honourable Sir John Romilly Master of the Rolls, Sir Alexander James Edmund Cockburn her Majesty's Attorney General, and Sir Richard Bethell her Majesty's Solicitor General, being four of the Commissioners of Patents for Inventions under the said Act of the 15 & 16 Vict. c. 83,

It is Ordered as follows:—

Rule repealed.

Rule VII. of the Second Set of Rules and Regulations of the Commissioners, dated the 15th October 1852, is hereby rescinded.

One invention in each application.

I. Every application for Letters Patent, and every title of invention and provisional specification, must be limited to one invention only, and no provisional protection will be allowed or warrant granted where the title or the provisional specification embraces more than one invention.

Requisites of title.

II. The title of the invention must point out distinctly and specifically the nature and object of the invention.

Copy of specification and drawings.

III. The copy of the specification, or complete specification, directed by the Act 16 & 17 Vict. c. 115, sect. 3, to be left at the office of the Commissioners

on filing the specification or complete specification, shall be written upon sheets of brief or foolscap paper, briefwise, and upon one side only of each sheet. The extra copy of drawings, if any, left with the same, must be made as heretofore, and according to the directions contained in Rule III. of the Lord Chancellor, dated the 1st October 1852.

Copy of provisional specification.

IV. The copy of the provisional specification to be left at the office of the Commissioners on depositing the same shall be written upon sheets of brief or foolscap paper, briefwise, and upon one side only of each sheet. The extra copy of drawings, if any, left with the same, must be made as heretofore, and according to the directions contained in Rule II. of the Commissioners, dated the 1st of October 1852.

Writing of documents.

V. All specifications, copies of specifications, provisional specifications, petitions, notices, and other documents left at the office of the Commissioners, and the signatures of the petitioners or agents thereto, must be written in a large and legible hand.

Time for giving *notice of* proceeding for patents, and of applying for warrant.

VI. In the case of all petitions for Letters Patent left at the office of the Commissioners after the 31st day of December 1853, the notice of the applicant of his intention to proceed for Letters Patent for his invention shall be left at the office of the Commisioners eight weeks at the least before the expiration of the term of provisional protection thereon, and no notice to proceed shall be received unless the same shall have been left in the office eight weeks at the least before the expiration of such provisional protection; and the application for the warrant of the Law Officer and for the Letters Patent must be made at the office of the Commissioners twelve clear days at the least before the expiration of the term of provisional protection, and no Warrant or Letters Patent shall be prepared unless such application shall have been made twelve clear days at the least before the expiration of such

Extension of time.

provisional protection: Provided always, that the Lord Chancellor may in either of the above cases, upon special circumstances, allow a further extension of time, on being satisfied that the same has become necessary by accident, and not from the neglect or wilful default of the applicant or his agent.

(Signed) CRANWORTH, C.
JOHN ROMILLY, M. R.
A. E. COCKBURN, A. G.
RICHARD BETHELL, S. G.

Dated the 12th of Dec. 1853.

PRACTICAL DIRECTIONS

FOR OBTAINING

LETTERS PATENT.

The invention having been sufficiently matured, a proper title must be selected (*a*). The title.

A title having been selected, the provisional or complete specification, as the case may be, must be prepared and written on paper or parchment of the proper size (*b*), and signed by the applicant, or the agent of the applicant in the case of a provisional specification. The specification.

The petition and declaration must then be prepared (*c*), the declaration is to be made before a Justice of the Peace (at any one of the Police Offices in the Metropolitan District), or before one of the Clerks for taking affidavits at the Clerks' Office in Chancery Lane, or before a Master Extraordinary in Chancery, or Justice in the Country. Petition and declaration.

The petition, declaration, and provisional or complete specification (care being taken that they agree with each other in the title of the invention and in the names and description of the applicant), with a stamp of £5 affixed to the petition, are to be taken to the Office of the Commissioners of Patents in Southampton Buildings, Chancery Lane, and left there, when a receipt will be given. To be left at the Patent Office.

(*a*) As to the requisites of a title, see *post* 109, n. *a*.

See also "The Subject Matter of Letters Patent for Inventions;" also "The Law and Practice of Patents," by the author of this work.

(*b*) As to this, see Rules of the Commissioners, *ante* 102 & 106. Papers of the proper size may be had of the law stationers.

(*c*) See Forms, *post* 109 & 112. Blank forms may be purchased.

Notice at Patent Office.

The applicant, after the allowance of the provisional protection shall have been advertised, if he be still minded to proceed for the patent, must give notice at the Office of the Commissioners of his intention to proceed, which being recorded, with a stamp of £5, will be duly advertised.

If no opposition be entered, the warrant of the law officer, also bearing a stamp of £5, will be made out, and upon that the patent, also bearing a stamp of £5, will be issued from the Office of the Commissioners.

These four several sums or stamps of £5 are the only moneys which the applicant has to pay in the case of an unopposed patent.

Opposed patent.

The opponent of a patent must leave particulars of objections at the Office of the Commissioners, with a stamp of £2.

Should the applicant after this proceed with his patent, a hearing will take place before the law officer, when the applicant and opponent will each have to pay—

To the law officer . . .	£2	12	6
To his clerk	0	17	6

being the amount settled in the manner directed by the statute.

The law officer after hearing the parties will grant or refuse his warrant, and give such directions as to costs as he may think fit.

The patent, if the warrant be allowed, will be obtained from the Office of the Commissioners as before.

The complete specification, in cases in which a provisional specification had been deposited in the first instance, must be filed in the Office of the Commissioners within six months from the date of the application; this also will bear a £5 stamp.

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* 106) 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* 105) the petition must state for which of the colonies the grant is desired, but these had better be omitted altogether, except under very special circumstances. See *ante* 105.

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,

(*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* 104-5) 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, with a stamp of* £5, *declaration, and provisional specification or complete specification, with a stamp of* £5, (*as the case may be*), *and an extra copy of the provisional or complete specification and the drawings* (*if any*), *are to be left at the the Office of the Commissioners in Southampton Buildings, Chancery Lane.*

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

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; it must be left eight weeks at the least before the expiration of the term of provisional protection.*

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

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, with a £2 stamp; 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, and must be applied for twelve days at the least before the expiration of the provisional protection.*]

IX.

NOTICE OF OPPOSITION TO THE SEALIN OF LETTERS PATENT BEFORE THE LORD CHANCELLOR.

No.

Take notice, that the sealing of letters patent f

[*Insert title.*]

is opposed, and the objections to such sealing are follows:—

Dated this day of A.D.

A.B.

X.

THE LETTERS PATENT.

[*The form is given in the schedule to the act; litho graphed or printed forms will be filled up in th office of the Commissioners, sealed with the Gree Seal, and delivered out to the party; it will bear stamp of* £5.]

XI.

THE SPECIFICATION.

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

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

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

It must have a stamp of £5, *whatever its length.*

An extra copy of the specification and drawings is t be left.]

LONDON:

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

Ex. G. A. A.