chinery, of the velocity of movement of his cylinder from one certain rate of revolution to another certain rate of revolution, at proper stages in the process of manufacture. These points of novelty are not set forth and claimed particularly and specifically as the matter of his discovery, but his claim is for the whole combination of the machinery and manner of operating it at different degrees of velocity. The claim is therefore too broad, and was properly rejected by the Office as disclosing no novelty upon the references given to Hull's machine and the barley-hulling machine of Andrews and Piper. Considering, therefore, that the second reason of appeal cannot be sustained, in view of the references given, and that the first and third do not present proper matter of inquiry upon a specification framed in such general terms, and not making claim of novelty for that upon which these supposed errors are assigned, and the fourth reason being identical with the second, I am of opinion, and accordingly certify to the Hon. S. F. Shugert, Commissioner of Patents, that there is no error in the decision of the Office upon the claim in the shape in which it is now submitted. Whether it may be so amended as to present patentable novelty, is a question upon which I cannot pass judgment upon the present appeal; and I further, therefore, certify that the judgment of the Commissioner is affirmed, and the application for a patent must be denied.

J. S. Brown, for the appellant.

SAMUEL B. ELLITHORP, APPELLANT,

vs.

T. J. W. ROBERTSON, APPELLEE. INTERFERENCE.

Decision in Ellithorp *v.* Robertson (*ante*, p. 585) affirmed.

(Before MORSELL, J., District of Columbia, April, 1859.)

MORSELL, J.

The points decided by me on the 28th of September, 1858, in a case of appeal from the decision of the Commissioner of Patents

between the above-named parties for an "improvement in sewing machines, it appears to me, are involved in the issue in this case. The objection in that case to granting a patent to the appellant was the great lapse of time which had been suffered to occur between the discovery of the applicant's invention and the time of his application, and of its being suffered to go into public use in the interval. The circumstances which were offered to prove this I was satisfied were sufficient. The invention claimed in this case is of the same date, and the facts and circumstances in that case are applicable to this. There is, however, evidence offered in this case to excuse the delay. I have carefully examined it, and should have been glad to have discovered in it enough for that purpose, but have not. Upon further deliberation upon the questions of law as settled by me upon the particular case then before me, I have found no reason to change my opinion. I think, therefore, the decision of the Commissioner in this case is correct, and ought to be affirmed, which is accordingly done.

Low & Haskell, for the appellant.

P. S. JUSTICE, ASSIGNEE OF EDWIN YOUNG, APPELLANT,

vs.

D. D. JONES, ASSIGNEE OF EDMUND MORRIS, APPELLEE.

INTERFERENCE.

LIMIT OF APPEAL—DISCRETION OF COMMISSIONER—HOW FAR AFFECTED BY ORDER OF THE SECRETARY.—The Commissioner may, in his discretion, enlarge the limit of appeal from his decision; and his act in that regard is not reviewable by the judge upon appeal, although he so extended the time upon the suggestion or order of the Secretary of the Interior. If he should refuse to comply with such a request of the Secretary, a question might then arise for the court to decide.

PUBLIC USE AND SALE BY ANOTHER—ACQUIESCENCE OF INVENTOR.—The omission by an inventor to apply for a patent within two years after he learns that another is publicly using the invention and claiming it as his own, and the failure to interpose any warning or objection whatever, makes out a