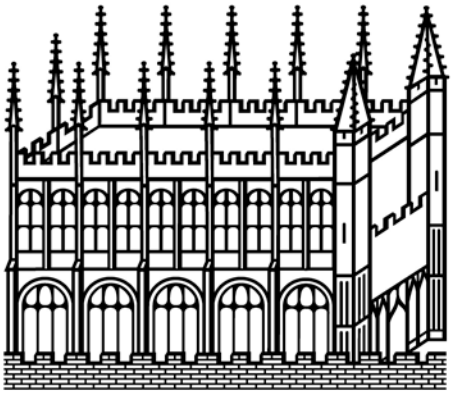

PRACTICAL REMARKS

ON THE

Present State

OF THE

LAW OF PATENTS:

ADDRESSED TO INVENTORS.

SECOND EDITION, REVISED AND CORRECTED.

BY WILLIAM SPENCE,

ASSOC. INST. C. E.

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PREFACE.

THIS little work in its former edition having been published about a month after the new law came in force, was necessarily rather conjectural in its character. But now having passed from conjecture to experience, it is desirable to gather up and embody, in a form of statement intelligible to inventors generally, such definite points of practice as may be said to have received the sanction of authority: also to allude to such points as have been suggested by discussions with inventors in the course of business.

Accordingly, this has been the aim of the writer in the following pages, which he trusts may be found useful in reconciling some of the varying opinions that seem to be held on the subject of Patent Practice. One point, however, is worthy of attention, as indicating a

certain degree of settlement of Practice, which is that the First and Second Sets of Rules and Regulations issued by the Law Officers, and bearing date 15th October, 1852, were alone acted upon, until the Third Set, bearing date 12th December, 1853, were incorporated with them. And these constitute "*all* the Rules and Regulations *now* in force."

It is to be observed that the present work reserves many points of practical detail for future notice, and that the work admits of expansion (especially in the Third Chapter), according to the growth of settled practice.

W. S.

50, Chancery Lane,
April, 1856.

PRACTICAL REMARKS

ON THE PRESENT STATE OF

THE LAW OF PATENTS.

INTRODUCTION.

THE practical question for inventors is—What is the *present* state of the law from the alterations which it has undergone since the "Patent Law Amendment Act, 1852" became law? It is not enough merely to tell inventors what provisions are contained in the new law, but they need to be told what is the effect of those provisions upon the pre-existing law, so that they may understand what is the real operative law *now*. Accordingly, the aim of the following pages is to point out what essential changes have been made in the mode of granting Patents, in order that inventors may be able to estimate the amount of benefit derivable from the new law; and may be guided in the course to be adopted by themselves or their agents in applying for Patents. It is also intended to advert to certain prominent features in the new system, so far as they have hitherto been developed, mainly with

a view of showing that they contain the germ of considerable advancement in Patent Practice.

There are therefore three distinct branches of information herein afforded to inventors :—

1. A comparison of the essential points of difference between the old and the new law (*a*).
2. Remarks on the present state of the law for practical purposes.
3. Practical remarks on the capabilities of the existing system.

(*a*) There is no exact distinction herein to be made between law and practice. Authorised practice will be treated as law, for it is as law in its effect upon the proceedings of applicants for Patents.

CHAPTER I.

ESSENTIAL POINTS OF DIFFERENCE BETWEEN THE OLD AND THE NEW LAW OF PATENTS.

1. OLD LAW.—One patent for England, another for Scotland, and a third for Ireland.

   NEW LAW.—One patent for the United Kingdom.

2. OLD LAW.—Patent for England 72*l.* 17*s.* (*a*); Scotland (about) 70*l.*; Ireland (about) 120*l.* Term of each Patent, fourteen years.

   NEW LAW.—Provisional protection for six months, 5*l.* Patent for the United Kingdom (including stamp duty on provisional protection and on final specification) for three years, 25*l.* Patent for United Kingdom for seven years, a further sum of 50*l.*

   Patent for United Kingdom for fourteen years, a still further sum of 100*l.*

   (*a*) This is the amount of fees on a Patent for England, after the latest reduction. The fees here given do not in any case include agents' charges.

3. OLD LAW.—Patent bore date from the day of sealing, usually about a

   NEW LAW.—Patent bears date from the day on which the application for

month (in unopposed cases) from the commencement of the application.

provisional protection is recorded; provided the Patent is proceeded with and completed within six months from such date, and within three months from the date of the warrant (*a*).

(*a*) See Chapter II., pages 19 and 20, as to giving notice to proceed, and warrant and seal.

4. OLD LAW. — Patent granted virtually (although not formally) on the report of the law officer on the title and deposit of particulars of the invention by the petitioner.

NEW LAW.—Patent granted (virtually although not formally) on the certificate of the law officer on the title and "provisional specification."

N.B. The provisional specification is required to indicate the true scope and purpose and essential character of the invention as a "manufacture" (the term of definition used in the original statute, 21 Jac. I. c. 3).

5. OLD LAW. — Titles of Patents and specifications allowed to embrace more than one invention.

NEW LAW. — Titles of Patents and specifications "limited to one invention only" (*b*).

(*b*) See third set of Rules.

6. OLD LAW. — Particulars of invention merely deposited with law officer.

NEW LAW. — "Provisional specification" made public at the end of six months.

N.B. The effect of this is that any inconsistency between the provisional and final specifications may be at once apparent to an adverse party.

7. OLD LAW. — No specification could be enrolled until after the sealing of the Patent, and there was no inducement, but frequently danger, for a patentee to enrol his specification before the expiration of the time allowed.

NEW LAW. — An applicant for a Patent may have immediate protection for six months on depositing a "complete specification." And he may proceed at once to get a Patent, or defer it to a later period within that term, provided it does not appear that he is proceeding in fraud of the true and first inventor. In the case of proved fraud, the latter would be entitled to the Patent.

8. OLD LAW. — No Patent could be obtained without opportunity being given to others to chal-

NEW LAW. — No Patent can be obtained without the same, although protection for six months may

lenge the alleged right of the petitioner to the invention sought to be patented.

be secured by merely depositing a "complete specification" with the petition and declaration.

9. OLD LAW. — A Patent might be completed without any notice to other persons, except those who had entered caveats at the offices of the Attorney and Solicitor-General.

NEW LAW.—No Patent can be completed without the applicant giving notice of his intention to proceed after he has received protection, such notice of intention to proceed being advertised by the Commissioners in the London Gazette, and twenty-one days allowed for parties to enter oppositions to the application.

10. OLD LAW.—A petitioner or his agent received direct notice through his caveat of any application bearing upon the subject of such caveat (*a*).

NEW LAW.—A person interested in opposing a particular application for a Patent must now keep a vigilant eye upon the whole list of notices of intention to proceed as they are issued.

(*a*) It is true that, under the old system, a Patent on which the law officers' report had been obtained might be sealed without the knowledge of an opposing party, unless he had entered a special caveat in time to stop it.

11. OLD LAW.—Oppositions were entered by merely paying a fee of 3*l.* 5*s.* at the chambers of the law officer.

NEW LAW.—A statement in writing of objections to the application must now be left at the office of the Commissioners, together with a fee of 2*l.*; also a fee of 3*l.* 10*s.* to the law officer and clerk.

12. OLD LAW.—Oppositions were conducted by means of hearings of the parties or their agents before the law officers.

NEW LAW. — There is no change in this respect, except that there is a formal recognition of the probable need of scientific assistance for the law officer in particular instances. And there is a provision that the law officer is to determine the amount of extra fee to be paid for such assistance, and the party or parties who shall be required to pay such fee (*a*).

(*a*) As it is probable that these instances will occur most frequently on the accession of new law officers to power, it is suggested that the administration of this department would be susceptible of more permanent uniformity and efficiency by the appointment of some scientific

13. OLD LAW.—In hearings before the law officers, the only question for him to determine between the parties was, whether the petitioner was entitled to the grant for aught that appeared to the contrary. In other words, whether his allegation of novelty of invention was disproved by the opposing party describing a similar invention.

And in cases of collision of interests, the parties were left to make their own arrangements between themselves, the law officer withholding his report until a satisfactory arrangement was made.

NEW LAW.—A change has been found necessary here, in order to balance the provision in the Act 15 & 16 Vict. c. 83, admiting of protection for six months immediately on the deposit of a "complete specification." *Now* instead of the report of the law officer being withheld merely on the ground of a dispute existing between the parties as to the right to the invention, the law is expressly on the side of the true and first inventor, and against his opponent: so that the obtaining of protection by another, by means either of a "provisional" or a "complete" specification in fraud of the true and first inventor, is not to be allowed to operate against the rightful claim of the latter, who may

person acquainted with Patents to assist the law officers in every case, such assistant to be not removable by a change of law officers.

	have his Patent notwithstanding such protection, or use or publication of the invention under it.
14. OLD LAW. — A petitioner, after receiving his report from the law officer, obtained the Queen's warrant and proceeded to the completion of his Patent according to his convenience, unless met by a special caveat.	NEW LAW. — A petitioner receives the warrant of the law officer for sealing the Patent, which will be sealed without further trouble on the part of the petitioner, unless notice and particulars in writing of objections to such sealing (with the necessary fees) shall have been left at the commissioners' office by an opposing party.

Such is a popular summary of the leading points of difference between the old and the new law, as they practically affect inventors applying for Patents. There are also other points of considerable practical importance contained in the Act 15 & 16 Vict. c. 83; but as they relate rather to specific than to general cases, it does not seem advisable to introduce them into a little work like the present, which only professes to give general information to inventors who propose to take out Patents, and not to raise points of critical nicety addressed to the profession. In Chapter III., however, will be found some remarks on the prominent features of change introduced into Patent Practice by the alteration in the law.

CHAPTER II.

PROTECTION FOR SIX MONTHS.

An inventor, on applying for a Patent, has to deposit at the office of the commissioners, a petition, bearing a stamp of £5, a declaration, and a "provisional specification." On his application being there duly recorded, it is referred to the law officer; from whom, if approved of, the papers are returned to the commissioners' office, where the petitioner may, on application, get the certificate of provisional protection for six months from the date of his original depositing of the papers. If the documents be not approved of by the law officer, it is necessary for the petitioner to satisfy him, or he cannot get his certificate, nor consequently the protection.

An inventor may, if he prefer it, get protection for six months, by depositing with his petition a "complete specification," bearing a stamp of £5, instead of a "provisional specification," and without having his specification referred to the law officer. (*a*)

In either case there is no difficulty in taking this initiatory step. Professional aid is not required, except to draw the title of the Patent, and the provisional or the complete specification.

But experience has shown that it is well for inventors to pause before they venture to depend upon their own

(*a*) In this case a different form of declaration must be used.

unaided skill in drawing their titles and specifications. The provisional specification is a document which bears an important relation both to the title of the Patent and to the complete specification afterwards to be filed. And if it be at length found that the two documents (the provisional and complete specifications) are not in accordance one with the other, the Patent cannot be supported. Every title of a Patent must contain only one substantive invention; every 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; (*a*) and every complete or final specification must "*particularly* describe and ascertain the nature of the invention, and in what manner the same is to be performed." (*b*)

It is thus required that the provisional specification should indicate the essential character of the invention as distinguished from its accidents, and the final specification must take up this more abstract representation of the invention and show its reality in a more concrete form, without cramping the legitimate scope of the invention, as originally stated. And there is no doubt this supposes in the person who is competent to draw these documents a capacity for understanding scientific propositions, and for taking a cool and dispassionate view of their application in each case. It also supposes him to be fully instructed as to the main points of the invention in the first instance.

(*a*) See second set of Rules and Regulations, under the Act 15 & 16 Vict., c. 83, for the passing of Letters Patent for Inventions.

(*b*) See form of Letters Patent.

I have attempted to make clear the constant theory of patentable invention in my work on "Patentable Invention and Scientific Evidence," in the chapter entitled "Patentable Invention as interpreted by the authorities is an embodied principle;" and the reasoning in that chapter will be seen to be applicable to the present point of the relation that must subsist between the provisional and final specifications, by considering the provisional specification as required to state what is there called the "*principle*" (by way of illustration the "*soul*") of the invention, and the complete or final specification as required to exhibit what is there called the "*embodied principle*" (by way of illustration, the "*soul and body*" united); and as required to refer with due care the essential character of the invention claimed under the Patent, to the "*principle*" or "*soul*" rather than to the organisation of matter or "body."

Again this necessary relation of the two documents may be seen in a somewhat more practical form in my work on the Specification,—sect. 5, pp. 60 to 107, by considering what is there called the "*object*" and "*essence*" of the invention, as required to be stated in the provisional specification, and what is there called the "*description of detail*" (illustrated, if necessary, by suitable drawings), and the "*claim*," as required to be added to such statement in the complete or final specification, the test of accuracy lying in the congruity of the whole statement and illustrations when thus brought together.

There must be one consistent order of development of the invention throughout, otherwise the Patent cannot be supported. The great liability of failure, however, is not so much to be apprehended from a discrepancy

between the title and the provisional specification, as between the latter and the final specification, because the inspection of the original document by the law officer is at least a check upon informality and palpable inconsistency: besides it is comparatively easy to draw the provisional specification merely in conformity with the title. The great test will always lie (as before observed), in the comparison of the provisional with the final specification. And the future will show how many of the deposited specifications, drawn by inexperienced persons, will stand this test. Of course many defective specifications will pass without question, because the points involved in them have not been thought worth contesting, or because they have not attracted attention.

Some inventors—conscious of the risk involved in any discrepancy between the two documents, and others attracted by the speedy mode of obtaining protection, without waiting for the law officer's inspection of the papers—have adopted the course of depositing a complete specification in the first instance. But this is, with very few exceptions, an ill-advised course. For it rarely occurs that an inventor has sufficiently matured his invention to qualify him to describe it fully and accurately in the first instance, so that the document on which the Patent rests, if prepared under these unfavourable circumstances, is most likely to be seriously defective.

An inspection of the printed specifications will show in how many instances there is evidence of great want of skill in the preparation of the documents, the want of clearness and intelligibility in which is calculated to endanger the validity of the Patents resting upon them. Such an inspection will also disclose the inadequate ideas

which are too frequently entertained by inventors as to the important relation of accurate drawings to the other parts of the specification. Many inventors do not seem to be conscious of the fact that geometrical drawings are *demonstrably* true or false—that they are in their nature free from that imperfectibility of interpretation which attaches to language. The drawings ought to express by their lines, the most approved form of the organisation of matter constituting the "body" of the invention, in such a manner as to enable a competent draughtsman to recognise an illustration of the points predicated of the invention by the verbal statements in the specification. Some inventors are inclined to omit drawings altogether, lest they should unduly limit the scope of the invention: but by this practice there is danger of leaving the document perilously vague and indefinite. Accurate drawings will never do harm, provided the specification be drawn by a person who knows how to distinguish accurately the essential character of the invention from its accidents, and to express the distinction intelligibly. Again, it is exceedingly bad policy to neglect the drawings on the score of economy, for after all but a small amount of money can be thereby saved, and a considerable risk will be incurred.

Inventors require cautioning, also, against the practice of talking too freely about their inventions after they have obtained their certificate of provisional protection; since they may thereby induce parties to enter oppositions to them, which of course involve expenses; and it may turn out that by this course they have been putting weapons into the hands of their opponents. It is true the Act does provide a remedy in proved cases of

fraud, but not otherwise; and this does not reach the whole of the danger involved in an indiscreet publication of the invention while the application for the Patent is open to opposition. Neither is this danger entirely reached, so as to be obviated by the primâ facie right arising from the prior record of the invention. On the whole, therefore, it is prudent to abstain from disclosing the invention to others in reliance upon the mere fact of provisional protection.

PROCEEDING WITH THE PATENT.

As soon as the provisional protection is allowed, it is advertised by the commissioners in the "London Gazette," and when a petitioner thus protected gives notice of his intention to proceed, and deposits the sum of 5*l.* at the office of the commissioners, such "notice to proceed" is advertised by the commissioners in the "London Gazette." Then, "any persons having an interest in opposing such application, are 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." (*a*)

The notice of intention to proceed must be left at the office of the commissioners "eight weeks at the least before the expiration of the term of provisional protection." (*b*) Inexperienced persons have failed to notice this rule, and Patents have been lost in consequence.

(*a*) See first set of Rules and Regulations, under the Act 15 & 16 Vict., c. 83, for the passing of Letters Patent for Inventions.

(*b*) See third set of Rules and Regulations.

A stamp duty of 2*l.* (see Schedule to the Act 16 Vict. c. 5) has to be paid on leaving the particulars of objections. In case of an opposition the parties are to be heard before the law officer, and, unless he see cause to withhold the warrant for sealing the Patent, it will be granted after the hearing, the fees for which are 3*l.* 10*s.*

SEALING THE PATENT.

Should there be no opposition, the applicant may have the Patent sealed by depositing the required amount of stamp duty, viz. 10*l.* But this amount must be paid at the office of the commissioners "twelve clear days at least before the expiration of the term of provisional protection."(*a*) Some Patents have been lost from inattention to this rule. The amount of stamp duty thus required to be paid, as far as the sealing of the Patent, is 20*l.* in unopposed cases.

The sealing of the Patent may, however, be opposed before the Lord Chancellor; and it must be completed in all ordinary cases within the term of provisional protection; but the Lord Chancellor has power, under the Act 16 & 17 Vict., c. 115, to extend the time for sealing, but not beyond the period of one month.

FILING THE COMPLETE SPECIFICATION.

Every Patent granted on the deposit of a provisional specification, is so granted conditionally, upon the patentee filing within six months (the term of his protection) a

(*a*) See third set of Rules and Regulations.

complete or final specification. The Lord Chancellor has power, under the Act 16 & 17 Vict., c. 115, to extend the time for filing this specification, but not beyond the period of one month, and only "provided the delay in such filing has arisen from accident, and not from the neglect or wilful default of the patentee." And the practice hitherto has not been such as to introduce laxity.

This specification bears a stamp of 5*l.*

The Great Seal Patent Office is the office appointed for the filing of specifications for England. The Office of the Director of Chancery in Scotland is the office appointed for filing certified printed copies of the same in Scotland; and the Enrolment Office of the Court of Chancery in Dublin is appointed for the same in Ireland.

EXPENSE OF PATENT

(INCLUDING THE FILING OF THE COMPLETE SPECIFICATION).

The total stamp duty required to be paid on an unopposed Patent, including the complete or final specification, is 25*l.* In the case of an opposed Patent, there must be added to this 3*l.* 10*s.* for the fees to the law officer and his clerk on an ordinary hearing, and any costs which the law officer may direct, in the case of his thinking it necessary to call to his aid "some scientific or other person" (under clause 8 of the Act 15 & 16 Vict., c. 83). No further sum is payable until the end of three years, when 50*l.* must be paid, or the Patent will expire; and then nothing further until the end of the seventh year of the Patent, when 100*l.* must be paid, in order to keep it alive for the remaining seven years.

Any further extension of the term must be obtained on application as heretofore to the Judicial Committee of the Privy Council.

In all the foregoing statements the stamp duties and fees required to be paid by applicants or their agents have alone been noticed. The charges for professional assistance are of course to be added. But patentees will be able readily to separate these charges from the stamp duties and fees paid by their agents ; and this fact ought to form an adequate security to the public against over-charge on the part of unscrupulous persons.

CHAPTER III.

PRACTICAL REMARKS ON THE CAPABILITIES OF THE PRESENT SYSTEM.

ALTHOUGH the "Patent Law Amendment Act, 1852" is of considerable bulk and the provisions contained in it are numerous, yet the practice which has so far resulted from it may be stated popularly to be reducible to three main divisions:—1. All the business is transacted at one office—the Great Seal Patent Office. 2. The whole business is under the control of the Commissioners of Patents. 3. There is a provision for the publication of all documents in such a form as to be available for public use, at a moderate cost.

Now it will be my effort to give a general idea of the practice under these three divisions, and to offer such practical remarks upon them as have struck me in the course of my experience.

GREAT SEAL PATENT OFFICE.

All documents relating to Patents have to be deposited in this office, where they are recorded and registered in such a manner as to be convenient for reference by the public. So that all the following points may be readily ascertained, viz., the state of progress of any application for a Patent,—the state of a Patent right as to any change it may have undergone by the filing of a disclaimer

or memorandum of alteration; or the expiry or cancelling of a Patent, or on the other hand its confirmation or extension—also the extent of interest in a Patent which the patentee may have assigned to others; and the cost at which the public are enabled to procure the information they require is exceedingly moderate. Any person conversant with the practice of passing Patents under the old law cannot fail to recognise the convenience of having one office for the transaction of all this kind of business: in which no other business of a different nature is carried on. I think, therefore, it will not be necessary for me to say any more, than that, so far as my experience has gone, the arrangements in this office appear to be such as to afford all reasonable convenience to the public.

COMMISSIONERS OF PATENTS.

It was felt to be a great objection to the old practice, that there were so many separate jurisdictions; the practice having grown out of a state of things not directly applicable to Patents for inventions. In order, therefore, to give unity of jurisdiction, so far as relates to the grant of Letters Patent, the body of Commissioners was constituted, "the prerogative of the Crown in granting or withholding the grant of Letters Patent" being saved, also the old powers of the Lord Chancellor.

Still for practical purposes the body of the commissioners has a single jurisdiction. From first to last application must be made to the proper officer of this body for the privileges to be obtained under the Patent Law, and the seal of the commissioners gives the authority of original

documents to printed or manuscript copies or extracts therefrom furnished under the authority of the commissioners. Rules and regulations have also been issued by this body for the "control and direction" of applicants for Patents.

It is plainly, therefore, a contradiction of the main idea involved in the constitution of this body, that there should be any diversity of practice observed by the law officers to whom the documents are referred by the commissioners. So far, then, as such diversity exists there is need of change, in order to bring out into practice the idea apparently contemplated in the Act; and any person of experience knows this to be a practical point of considerable importance.

It has been reported that the commissioners have it in contemplation to issue some regulations concerning Patent agents, requiring them to give proof of their previous training for the profession and of their reasonable qualification before they are admitted to practice: also making them amenable to the Chancellor for misconduct; I trust such wholesome regulations will be carried into effect.

PUBLICATION OF DOCUMENTS, &c.

The principal function as to the publication of documents required to be discharged under the authority of the commissioners is that of publishing all specifications, including therein all provisional and all complete or final specifications and all disclaimers or memoranda of alteration; and these documents are accordingly published in a convenient form (the drawings being on the same scale as those originally filed) and so that the

specifications may be procured separately at a small cost. The public may therefore purchase just so much as they require, without being encumbered with other matter not required by them. Looking at the provision in the statute, which merely directs the publication of specifications and indexes without specifying any particular mode of publication, I should have thought the simplest mode of carrying such provision into effect would have been to take the 1st October 1852 as a starting point, and publish all specifications from that date in succession prospectively, and proceed retrospectively from the same date with the specifications enrolled under the old law, leaving the indexes to assist persons in grouping *them* as they thought fit: and then the discretion of the commissioners might have been exercised as to the propriety of leaving the early specifications of the latter class unpublished. But a different course has been adopted. The specifications under the old law have been published in groups or series, embracing some of the more important manufactures, and particular specifications have been published merely as parties have ordered copies of them. The consequence of this mode of publication has been, that it has been necessary to inform the public from time to time in the Commissioners' Journal what specifications were already published, whereas the simple announcement of the last specification published (viz., that of earliest date) would, under the suggested mode, have given all the necessary information. Still it is true that under the system at present pursued as the groups or series are multiplied many of the modern specifications are becoming published; and notwithstanding the adoption of a complicated rather than a simple mode of publication,

the great economy and convenience in other respects of the improved means of access to the contents of specifications enrolled under the old law has been experienced by all those who have had occasion to avail themselves of it. Specifications filed under the new law have been published successively.

There is, however, one point respecting the disposal of printed specifications that appears to me to border on the ludicrous. "The Patent Law Amendment Act, 1852," makes it lawful for the commissioners "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." And hitherto the commissioners have thought fit not to allow such persons to have any of such copies without payment. It may be true that in many cases some of the copies would be soon treated as waste paper, but this should have been thought of before the clause was inserted in the Act: it is now too late for the plea to have much force.

But another important function, as to publications issued under the authority of the commissioners, is that of the preparation and printing of indexes. The provision herein has been carried into effect by the purchase, under the Act 16 Vict., c. 5, of Mr. Woodcroft's indexes of specifications under the old law, being upwards of 15,000 in number, and by the preparation of indexes of specifications filed subsequently under the superintendence of Mr. Woodcroft. By the publication of these indexes the public are put in possession of a ready means of turning to Patents which formerly they

could only consult at the offices of Patent agents. In the Alphabetical Index of Patentees, extending from March 2nd, 1617, to October 1st, 1852, are comprised in one volume the names of all patentees within that period, and the Patents taken out by a particular individual may be readily turned to in this volume. But the Subject-matter Index is the more frequently required, and the more difficult to construct, so as to be rendered available for ready use. Accordingly it has been found that persons who were not acquainted from experience with the nature of this work and what difficulties its preparation involves, have been disappointed that it has not given them at once the aptitude for using it, and for reading specifications so as to discover the leading points in them, which is possessed by Patent agents, who are experienced both in preparing and using indexes and in reading specifications with a view to the discovery of their leading points, so that they may be enabled to take them into account in preparing subsequent specifications. It is true the Subject-matter Index of the commissioners has omitted one important feature, which increased the difficulty of the public in using it. The subjects are placed under an arbitrary classification, without a key to such classification. But this omission has not been perpetuated in the indexes hitherto published of specifications under the new law. In these indexes, too, the specifications themselves have been examined, whereas, in the former case, the index was "made from titles only." I, therefore, take these improvements as an earnest of the intention of the commissioners to supply all proved defects in their indexes, and I think it very important that so excellent

an idea should be *fully* developed. At the same time I am relieved to find that a rumoured intention to embody in the current Subject-matter Index abstracts of the specifications therein referred to appears to be abandoned.

The Reference Index is a very useful volume, and although Patent agents have ordinarily inserted references in their manuscript Chronological Indexes, yet it is very convenient to have them in the more compact form in which they are presented in this single volume. At the end of this index is a reference to Reports of Patent Cases, but some of these reports can only be referred to by those who have access to the great law libraries. I trust the commissioners will have the reports referred to added to their free library, so that all the works referred to in the index may be consulted by the public.

I think, too, it would form a valuable appendix to the Reports of Cases, if the leading points of Patent Law were reduced to propositions, and the authorities were briefly classed under such propositions.

There is one other publication of the commissioners which has its use for the public—"The Commissioners of Patents' Journal,"—giving the advertisements inserted in the "London Gazette," with other current information of interest to patentees and inventors.

Having thus endeavoured to give a general idea of the capabilities of the present system from a consideration of its three prominent features, so far as they have been reduced to practical operation, I will only add that there are numerous other points of detail included in the fifty-seven clauses of the "Patent Law Amendment Act, 1852," and the two Acts 16 Vict., c. 5, and 16 & 17 Vict.,

c. 115, which constitute the new law; but as they have not as yet been brought out in practice so as to receive interpretation with authority, I think it better for the present to defer any allusion to them.

CONCLUSION.

THE foregoing pages have been confined to the subject of granting Patents, because the recent change in the law essentially relates to that subject. But it has been necessary to draw attention generally to the points required to be observed in the specifications (particularly those deposited on the original application at the office of the commissioners), because such points are of great importance to be observed by all applicants for Patents, or their agents, and because experience has shown, that inventors require to be informed on those points, in order to guard them against the risk of making fatal mistakes.

In Chaper I. there is a comparison of the old and the new law on such leading points of practice as have been affected by the latter. In Chapter II. there are certain practical remarks on the method of proceeding in order to obtain Patents. But inventors are cautioned against the danger of acting upon the notion that they can now, any more than formerly, dispense with scientific and professional aid in drawing the necessary documents, and advising in cases of difficulty; some of the consequences of mistaken policy being adverted to. And in Chapter III. there are practical remarks on the prominent

features of the new system, so far as they have been at present developed, from which experienced patentees may be able to form an idea of the system and its capabilities of further useful development.

Now, without asserting that the present system is without defects, and while admitting that the "Patent Law Amendment Act, 1852," contains some unmechanical machinery, so to speak,—yet I do affirm that the system, as it is in process of being reduced to practice, contains features of considerable value. Too many persons calling themselves reformers exaggerate the defects in the law, and seem to lose sight of the moral defects of selfish and litigious persons who make an improper use of the law. But where is the morality of an infringer of a Patent doing all that he is not restrained by the law from doing, against a patentee's just interests? Again, where is the morality of a professional man advising proceedings, which, as a man of integrity, he would scruple to take in his own name? And let persons reflect that if cases of this kind were unknown, what an improved *appearance* it would give to the law. Let them also ask themselves, whether it be possible for any human law adequately to protect the right, unless the principle of submission to the moral law be duly recognised. It has been remarked as a characteristic of an Englishman, that he knows how to make a bad law work well. And surely this is a strong point of national character, for it indicates the presence of an enlightened deference to legal authority, which is of the essence of civilisation.

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