PROGRESS

With which is Incorporated

THE SCIENTIFIC NEW ZEALANDER.

VOL. II.—No. 5. MONTHLY.] WELLINGTON, N.Z., MARCH 1, 1907. [PRICE: 6d Per Copy; 6/6 Per Annum posted, or in advance 5/-

Progress

With which is Incorporated

The Scientific New Zealander.

Published Monthly by Baldwin & Rayward, Patent Attorneys, 71 Lambton Quay, Wellington, N.Z.

PROGRESS *will be mailed regularly every month to any address in the colony on prepayment of the Annual Subscription*—6/6 per annum posted, or in advance, 5/- *To Australia or United Kingdom*, 5/6 in advance.

* * * * * *

All communications to be addressed: "The Editor, PROGRESS, Progress Buildings, Cuba street, Wellington." Telephone 2234.

* * * * * *

In case of change in address, or irregularity of this papers's delivery, subscribers should send immediate notice.

EDITORIAL COMMENT.

The Patent Regulations.

INSTEAD of altering the law in regard to the working of patents, which seems to be the intention of the government next session, reform might be effected in the regulations under the Act which urgently require amendment. These regulations are made by the Governor-in-Council, and the same power can unmake and remake at its own will and pleasure. There is a point of great importance to which the attention of this body may be drawn, we hope, with great advantage. The Registrar has no authority to receive declarations during the proceedings in his Court. These are admitted in the Supreme Court, where the interests are at least as great, as those involved in applications to the Registrar of patents. *Prima facie*, there does not seem to be any reason why the procedure which is right in the case of the greater interests should be wrong in the lesser. As a matter of fact there is a weighty reason why the practices of the two should be assimilated. It is that the applicants for, and the objectors to, the granting of patent rights, who live in other countries, or who live in New Zealand and are unable to attend in person, are not permitted to give evidence by written declaration. Such persons are consequently debarred from giving evidence at all. This is a serious hardship and in many cases a source of loss and injustice. In England the practice is to admit declarations in all patent cases, and the bulk of the evidence in the English Patent Courts is tendered that way. In the name of common sense and justice why can the practice not be the same here? Our law is based on the English law and our practice ought, by analogy, to be based upon the English practice. If it be contended that our law is silent on the subject we can only assume that the provision for accepting declarations was omitted from the Act of 1889 by inadvertence.

There is another anomaly, very serious, not less unjust and even more absurd. There are local Patent Offices in different parts of the colony. In these branches both provisional and complete applications may be filed. This practice is convenient for the inventor and there is no reason for its alteration. But when the application for completion following upon an application for a provisional protection in a local Patent Office is presented at the same office, the applicant is informed that the local office has no authority to receive the documents which must be sent to the central Office in Wellington.

In practice the hardship is easily imagined. The provisional protection lasts for nine months. There being no reason to imagine anything so absurd as a rule which prevents the receipt of the final papers at the office to which they would in the natural course of things belong, applicants naturally send their final documents there. To the consternation of the applicant the applications are returned to him, and if the period of nine months has elapsed, he can not obtain his final patent rights, and the result may be serious loss. It is true that an extension of time may be granted. But why require the trouble of applying for an extension when everything is ready and presented for filing? Moreover, extensions cost money and there is no power to compel their grant. This anomaly has been complained of for many years by the patent agents of the colony without redress. It is really time that the patent Office of New Zealand realised that the object of the Patent Laws is to encourage, not to discourage, invention.

A third anomaly is the status of Patent Agents. It is hardly necessary to say that enormous sums of money are invested in patents and very large businesses built up on them. It will scarcely be believed that the Patent Agents who are entrusted with the duty of framing the technical descriptions upon which the patents are granted, are required to pass no examination except as to their knowledge of the law of patents. They are not asked to show any knowledge of mechanics, of electricity, of chemistry, or of any of the countless technical subjects concerning which they may be called on at any moment to take out patents. Now in all of these matters they will be expected by their clients to show considerable skill in the preparation of specifications and drawings and the hundred other things surrounding the technicality of every patent. In England there has always been provision for the passing of severe tests by all aspirants to the rank of Patent Agent. All candidates have to qualify in a wide range of subjects, technical and scientific, and they have in addition to pass an examination in at least one foreign language, including of course the technical terms common thereto. These tests moreover are growing more and more difficult as time goes on, and inventions progress. Here any lawyer without further examination, or any one who passes examination in the patent laws, may become a Patent Agent. Now the mere grant of patent rights is not a guarantee of the validity of a patent. Take the case of such highly technical constructions as type machines, gold saving apparatus, oil engines, motor cars. Considerable technical skill and fine discrimination are required to set forth the particular characteristics and essential features of any of these intricate and highly technical apparatus and the particular point or points in which it differs from other patents. Without such skill the specification may be faulty in a hundred ways. When faulty a patent has the inestimable advantage of being open to the gallop of the proverbial coach and six through its various specifications. Moreover let it not be forgetten that a flaw in the description voids the patent, which therefore proves valueless when contested in a Court of Law. Recent cases have demonstrated this sad truth to several inventors much to their chagrin and more to their loss. A large proportion of the Patents granted in New Zealand are, we do not hesitate to say, not worth the paper on which they are written, for the simple reason that some part of the specification is faulty through draughtmanship by incompetent persons. The English practice recognises that the inventor must not only be encouraged to invent, but that he must also be protected in what he has invented against the employment of incompetent assistants without technical skill. Here, the law not recognising (as we have shown) the need for encouraging the inventor to invent, the regulations naturally refuse to recognise the necessity for protecting him when he has invented. It is high time for radical alteration.

The sealing of patents requires a word. In Great Britain it is almost the universal practice for the executive heads of the Patent Office to sign the Deed of Letters Patent. In New Zealand the old practice of the Governor's signature is still obligatory. The advance of the colony has now reached a point where the practice of Great Britain might well be followed and the deed signed by the Registar, thus facilitating the business of the office.

The Uses of Exhibitions.

"A modern universal exposition is a collection of the wisdom and achievements of the world for the inspection of the world—for the study of its experts by which they may make comparisons and deductions, and develop plans for future improvements and progress. Such a universal exposition might well be called an encyclopædia of society, as it contains in highly specialised array society's words and works. It constitutes a classified, complete, indexed compendium (available for ready reference) of the achievements and ideas of society, in all phases of its activity, extending to the most material as well as the most refined. It offers illustrations covering the full field of social performance, from the production of the shoes on our feet and the pavement beneath them, to a presentation of the most delicate creations of the brains and hands of men, what are classified as the fine arts of civilisation."

One is reminded of these words, which were written by the director of exhibits at the Louisiana Exposition in an introduction to the bulky volumes in which the showings and the doings and the aspirations for which that exposition was remarkable are chronicled and catalogued. They raise the hope that the chronicling and cataloguing of the exposition at Christchurch (which has already reached its millionth visitor) may be worthy of the objects of every exposition so well described by the man who enjoys the reputation of being the greatest organiser of exhibitions in the world. It cannot, of course, be expected that the compendium of the arts and sciences of the world, with all their various processes and all the complexity of detail of the various tools used in their production, could be as complete at Christchurch as it was at St. Louis. Nevertheless Christchurch is as great an opportunity for us as was St. Louis for the American people. It is our industrial census, by which we can gauge our progress and pull ourselves together for the next forward step. The government did well to organise this census. But if the official descriptive record is not in proportion, the value of that organisation will be considerably diminished. The ten volumes of the St. Louis record are an admirable guide. They are full of descriptions charmingly written, accurate in principle and detail, and they were published early after the Fair.