

1926.  
NEW ZEALAND

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# PATENTS, DESIGNS, AND TRADE-MARKS.

THIRTY-SEVENTH ANNUAL REPORT OF THE REGISTRAR.

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*Presented to both Houses of the General Assembly pursuant to Section 128 of the Patents, Designs, and Trade-marks Act, 1921-22.*

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ON the 31st October last Mr. J. C. Lewis retired from the Office, after forty years' devoted service. As his successor I have the honour, in pursuance of section 128, to submit my report on the proceedings under the Act during the past year.

The revenue for the year ended 31st December, 1925, was £13,355 2s. This amount exceeded that of last year by £884 2s. 6d. and that of the highest previous year (1922) by £441 6s. 9d. The expenditure amounted to £5,509 8s. 9d. This is £326 13s. 5d. more than that for the year 1924, and is mainly attributable to printing, on which £1,883 was expended as compared with £1,494 in 1924. The amount paid in salaries and clerical assistance was £3,474 15s. 11d., while the corresponding amount last year was £3,369 7s. 1d. The surplus for the year was £7,845 13s. 3d., as compared with £7,288 4s. 2d. for the previous year, bringing the amount received over that expended since the 1st January, 1890, to £128,253 17s. 5d.

## GENERAL ADMINISTRATION AND STAFF REORGANIZATION.

The most urgent problem since the last report has been the question of reorganizing and stabilizing the staff to the best advantage for immediate and future needs. In his last report my predecessor drew attention to work which, though requiring action, could not be undertaken with the staff he then had. Speaking of his staff, he reported that "*though very diligent and efficient, it is so small as to be barely able to cope with the current work of the Office.*" An unprecedented number of trained and partly trained officers have left the Office since then, and the position has become acute (*vide* Appendix O). It therefore scarcely need be stated that the heavy staff depletion since my predecessor's report for 1924 has further arrested the carrying-out of a broad progressive policy in regard to patents and trade-marks. (*Vide* Thirty-sixth Annual Report, for 1924, "Other Matters requiring Attention.")

Negotiations have, however, been in train since November last to meet this predicament as satisfactorily as possible. These negotiations are based on my recommendations for the provision of a permanent, suitably graded staff, incorporating all trained or partly trained men, in such relative positions to one another as will tend to stability, and will enable their experience to be utilized to the best all-round advantage in the reorganized staff.

It is self-evident that such a permanent and suitably graded and stabilized staff is essential for efficient, economical running; and in view of improvements already effected or under way, there are grounds for expecting that the provision of such a staff will be an accomplished fact before the next report is presented. So soon as this staff is permanently constituted the immediate and main cause for anxiety will be removed, but for some years the Office will obviously be working under a heavy handicap through shortage of men sufficiently experienced in the work of the Office. The importance of maintaining an experienced staff has been urged, and in this connection it may be mentioned:—

(a.) That the Office is concerned as much with the rights of overseas applicants (British and foreign) as with the rights of local applicants. The decisions of the Office from day to day, and its fortnightly *Journal*, are subject to criticism overseas by legal and technical experts, and by powerful commercial organizations. In fact, the overseas reputation of New Zealand in regard to industrial property rights depends primarily on the quality of the work of the Office.

(b.) That the work of the Office is specialized and technical. This is recognized both in and beyond New Zealand. Australia, for instance, classifies a substantial part of its Patent Office staff as professional. In New Zealand, under the Patents, &c., Act, 1921-22, any appeals against decisions by the Office are considered by the Supreme Court. This Act also confers on the Office a special jurisdiction (without value limit) in certain matters previously reserved to the Supreme Court. According to a judgment in the Court of Appeal the question of registering a trade-mark is one of judicial discretion, or, rather, "of judicial policy, the act of granting registration being in effect an act *quasi* of legislation, as it affects the whole State" (*Lever Bros. v. Newton and Sons (C.A.)* 26 N.Z. L.R. 856, at p. 874). As regards judicial functions in its own specialized province, the Patent Office is comparable with the Magistrate's Court rather than with non-legal branches of the Public Service whose duties are of a clerical nature. The statutory recognition of a duly examined profession (patent agency) whose members conduct patent proceedings before the Office, is further evidence of the specialized nature of patent work.