A custom which would give to an employé working under such conditions an exclusive title, as against his employer, to the results of his experiments, is unreasonable, and cannot be sustained[3].

2. ——— considered with reference to the patent laws. Generally.— (*a*) ***Employé entitled to inventions independently made by him.*** In a recent English case it was conceded to be a well settled principle, that "the mere existence of a contract of service does not, *per se*, disqualify a servant from taking out a patent for an invention made by him during the term of service, even though the invention may relate to subject matter germane to, and useful for his employers in their business, and even though the servant may have made use of his employer's time and servant's and materials in bringing his invention to completion, and may have allowed his employer to use the invention

---

pet all the shades indicated by the design. After his work was approved by the designer, it was his duty to enter in a book called a "Colour Book" the number of the carpet and the formula by which each shade of colour used in its manufacture was produced. He was also required to keep a book in which a piece of yarn coloured according to the formula for each shade in the carpet, was preserved with the number of the carpet to which the shades belonged. When the colours were prepared they were put into large pitchers, each labelled with the formula or recipe it contained. *Held*, (1) that the recipes prepared by the colour mixer for the use of his employers in the manufacture of their carpets belonged to them so far at least as to give them the right to continue the use of the various colours and shades produced by them; (2) that the mixer had a right if he chose so to do to preserve the recipes for his use in the future, but his right was not an exclusive one as against his employers; (3) that if the colour mixer did not keep the books which it was his duty to keep, but kept private books of his own in which he recorded the recipes, his employers had a right to a copy of their own recipes when he retired from their employment; (4) that in an action by the mixer to recover damages for the detention of his books, the value of the recipes in the books should not be considered in estimating his damages; (5) that the plaintiff's measure of damages was merely the detention of the books without regard to the recipes, and also proper compensation for any unnecessary violence in the manner of the detention of the books, or disregard for the sensibilities or the self respect of the plaintiff; (6) that in the instruction as to damages the jury should be told to consider the conduct of the plaintiff, his disregard of his duty in making no entries in his employers' colour books, his failure to disclose this fact to them, and his leaving them under the honest belief that he was removing from their mill their own colour books.

[3] In *Dempsey* v. *Dobson* (see last note), evidence of such a custom with regard to the various combinations and shades of colour devised by him was held to have been properly rejected.