THE

PATENT LAWS

OF

ALL NATIONS:

YALE LAW LIBRARY.

COMPILED AND ANNOTATED

BY

BENJAMIN VAUGHAN ABBOTT.

VOL. I.

ALGERIA—TURKEY.

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PREFACE.

THE usefulness of works like this is well understood. They enable a solicitor of patents to inform an inventor in what countries and at what cost he can patent his invention. They assist counsel to advise the owner of a patent what rights and protection it gives him, what will constitute an infringement, and what, in various countries, are his remedies. These being their uses, they must be published often, in order that changes in the various laws may be promptly chronicled, and that statutes newly enacted may be early substituted for any repealed.

This volume presents the Patent Laws of All Nations, so far as I have been able to find them in English dress. Little has been done in revising the translations; those given are such as have been found in trustworthy works, and appear correct. Each law is followed by a reference to the source whence it was derived; and in instances where materially differing translations have been found both are given, or that preferred is copied, adding a reference to the other, to aid comparison. The explanations of points in civil and political geography which abound, though brief, have been prepared with care, on

the basis of a wide search among the cyclopedias and geographic works in use in this country; and will be useful in showing the territorial authority of the various acts.

More of the within laws have been taken from a compilation by Messrs CARPMAEL, published in England about two years ago, than from any other one source; the United States Patent-office Gazette coming next. It was prepared with ability and skill, and at the time of its appearance was satisfactory. But since that time eight or ten new laws have been promulgated which are here collected; and there are as many more of which I have thought best to give versions different from those presented by the English work. For example, I have enlarged the quotations from the acts of the British Parliament; have added one or two Canadian acts (being indebted for them to a digest in pamphlet form by Mr. RICHARDS of New York City); have taken the Patent provisions of the French Code of Commerce from M. GOIRAND's translation, adding extensive notes of French decisions, founded on his commentary; and under several other countries have made considerable additions. The reader will also notice that my presentation of the laws of the United States is brought down to date, is accompanied by extensive notes (in which the more important of the cases collected in ABBOTT'S NATIONAL DIGEST are rearranged, and those published since that work are added), and is followed by the official forms.

BENJ. VAUGHAN ABBOTT.

TABLE OF CONTENTS.

Page

ALGERIA..... 1

ANTILLES. See SPAIN.

ANTIGUA. See LEEWARD ISLANDS.

ARGENTINE REPUBLIC..... 2
Law of October 11, 1864.

AUSTRALASIA..... 11
Act to constitute a Federal Council, 1885.
See also, NEW SOUTH WALES, NEW ZEALAND, QUEENSLAND, SOUTH AUSTRALIA, TASMANIA, VICTORIA, WESTERN AUSTRALIA.

AUSTRALIA. See NEW SOUTH WALES, QUEENSLAND, SOUTH AUSTRALIA, VICTORIA, WESTERN AUSTRALIA.

AUSTRIA-HUNGARY..... 15
Law of August 15, 1852. Extracts from a Digest by A. H. Mounsey. Law of June 27, 1878. Law of December 20, 1879. Decision of the Minister of Commerce, July 27, 1882, relative to the term of an Austrian patent.

BADEN. See GERMAN EMPIRE.

BALIZE: BELIZE. See BRITISH HONDURAS.

BARBADOES..... 33
Act of December 12, 1883.

BAVARIA. See GERMAN EMPIRE.

BELGIUM..... 38
Report by Mr. J. G. Kennedy. Law of May 24, 1854. Royal Decree for the execution of the foregoing law.
See also, INTERNATIONAL CONVENTION.

Page

BOSNIA. See AUSTRIA-HUNGARY.

BRAZIL..... 51
Law of October 14, 1882.
See also, INTERNATIONAL CONVENTION.

BRITISH COLUMBIA. See CANADA.

BRITISH GUIANA..... 58
Ordinance No. 13 of 1861.

BRITISH HONDURAS..... 78
Law of September 10, 1862.

CAMBODIA. See FRANCE.

CANADA..... 100
Act of June 14, 1872, as amended. Act of April 8, 1875, extending the foregoing law to Prince Edward Island. Act of April 19, 1884.

CANARY ISLANDS. See SPAIN.

CAPE COLONY: CAPE OF GOOD HOPE..... 121
Act No. 17 of 1860.

CENTRAL AMERICA. See COSTA RICA, GUATEMALA, NICARAGUA, SALVADOR.

CEYLON..... 140
Ordinance No. 6 of 1859.

CHANNEL ISLANDS. See GREAT BRITAIN AND IRELAND.

CHILI..... 152
Law of September 9, 1840. Decree of August 1, 1851.

CISLEITHANIA. See AUSTRIA-HUNGARY.

COCHIN CHINA. See FRANCE.

COLOMBIA..... 156
Law of May 13, 1869.

COSTA RICA..... 158

CUBA. See SPAIN.

DENMARK..... 159
Report by Mr. Strachey, 1873.

DOMINICA. See LEEWARD ISLANDS.

ECUADOR. See INTERNATIONAL CONVENTION.

ENGLAND. See GREAT BRITAIN AND IRELAND.

Page

FIJI: FEEJEE ISLANDS..... 161
Ordinance No. 3 of 1879.

FINLAND..... 170
Supreme decree of March 30, 1876.

FRANCE..... 176
Law of July 5, 1844; with notes of decisions. Decree of October 21, 1848.
See also, INTERNATIONAL CONVENTION.

FRENCH GUIANA. See FRANCE.

GERMAN EMPIRE..... 205
Law of July 1, 1877.

GREAT BRITAIN AND IRELAND..... 215
Act concerning Monopolies, 1723. Patents, Designs and Trade-Marks Act, 1883. Patents, Designs and Trade-Marks Amendment Act, 1885.
See also, INTERNATIONAL CONVENTION.

GREECE..... 256

GUADELOUPE. See FRANCE.

GUATEMALA..... 257
Decree of May 21, 1886.
See also, INTERNATIONAL CONVENTION.

GUIANA. See BRITISH GUIANA. FRANCE.

HAWAIIAN KINGDOM..... 261
Civil Code, sections 255, 256. Act of August 29, 1884.

HAYTI..... 264

HERZEGOVINA. See AUSTRIA-HUNGARY.

HONGKONG..... 265
Ordinance No. 14, of 1862.

HUNGARY. See AUSTRIA-HUNGARY.

INDIA..... 268
Act of May 17, 1859.

INTERNATIONAL CONVENTION. See close of Vol. II.

IRELAND. See GREAT BRITAIN AND IRELAND.

ISLE OF MAN. See GREAT BRITAIN AND IRELAND.

Page

ITALY 283
Law of October 30, 1859, as amended January 31, 1864.
See also, INTERNATIONAL CONVENTION.

JAMAICA 297
Act of 1857.

JAPAN 317
Imperial Proclamation, April 18, 1885. Notification No. 5, Council of State, April 18, 1885.

LEEWARD ISLANDS 323
Act No. 12 of 1876. Act No. 16 of 1878.

LIBERIA 343
Act of December 23, 1864.

LICHTENSTEIN. See AUSTRIA-HUNGARY.

LOYALTY ISLANDS. See FRANCE.

LUXEMBURG 347
Law of June 30, 1881.

MANITOBA. See CANADA.

MARQUESAS ISLANDS. See FRANCE.

MARTINIQUE. See FRANCE.

MAURITIUS 355
Ordinance No. 16 of 1875.

MEXICO 305
Law of May 7, 1832. Decree of September 28, 1843. Regulation of July 12, 1852.

MICQUELON. See FRANCE.

MONTSERRAT. See LEEWARD ISLANDS.

NATAL 371
Law No. 4 of 1870. Law No. 5 of 1871.

NETHERLANDS 302

NEVIS. See LEEWARD ISLANDS.

NEW BRUNSWICK. See CANADA.

NEW CALEDONIA. See FRANCE.

NEWFOUNDLAND 393
Consolidated Statutes, Title 15, Chapter 54, Section 51.

Page

NEW SOUTH WALES..... 400
Act No. 24 (December 6), of 1852.
See also, AUSTRALASIA.

NEW ZEALAND 402
Act of September 8, 1883.

NICARAGUA..... 425
Report of Mr. Corbett.

NORWAY 427
Law of June 16, 1885.

NOVA SCOTIA. See CANADA.

ONTARIO. See CANADA.

PARAGUAY..... 435

PERSIA..... 435

PHILIPPINE ISLANDS. See SPAIN.

PORTO RICO. See SPAIN.

PORTUGAL..... 436
Civil Code, Chapter 3, entitled "Property in Inventions."
See also, INTERNATIONAL CONVENTION.

PRINCE EDWARD ISLAND. See CANADA.

PRUSSIA 442
Extract from a report by Mr. Plunkett.
See GERMAN EMPIRE.

QUEBEC. See CANADA.

QUEENSLAND 447
Patents, Designs, and Trade-Marks Act, 1884.

REUNION: LA REUNION. See FRANCE.

RUSSIA..... 473
Code of Laws of the Russian Empire, Vol. XI., Part II. The Statute of Manufacturing Industry, Section 3.

ST. CHRISTOPHER. See LEEWARD ISLANDS.

ST. HELENA..... 482
Ordinance No. 3 of 1872.

ST. PIERRE. See FRANCE.

Page

SALVADOR: SAN SALVADOR. See INTERNATIONAL CONVENTION.

SAXONY. See GERMAN EMPIRE

SCOTLAND. See GREAT BRITAIN AND IRELAND.

SENEGAMBIA. See FRANCE.

SERVIA. See INTERNATIONAL CONVENTION.

SOUTH AUSTRALIA..... 485
Act No. 78 of (December 21,) 1877.
See also, AUSTRALASIA.

SPAIN..... 510
Law of July 30, 1878.
See also INTERNATIONAL CONVENTION.

STRAITS SETTLEMENTS..... 522
Inventions Ordinance, 1871.

SWEDEN..... 536
Law of May 16, 1884.

SWITZERLAND..... 544
See INTERNATIONAL CONVENTION.

TAHITI. See FRANCE.

TASMANIA..... 545
Act to facilitate the granting of letters patent for inventions, 1858.
See also, AUSTRALASIA.

TRINIDAD..... 567
Ordinance No. 25 of (September 2), 1867.

TUNIS. See INTERNATIONAL CONVENTION.

TURKEY..... 571
Law of the 20th day of the month of Rabia I., A. H., 1297. February 18, 1879.

PATENT LAWS OF ALL NATIONS.

VOL. I.

ALGERIA–TURKEY.

ALGERIA.

In the encyclopedias and geographical works most in use throughout the United States at the present time, "Algeria" is the name of the largest and most important of the colonial possessions of France; "Algiers" being its capital city. In general, the patent law of France extends over her colonies (see FRANCE); but according to M. Leopold Goirand, there is a decree on the subject of patents, dated June 5, 1850, "specially relating to Algiers." *Goirand's French Code of Commerce* (1880), 454, art. 15.

ANTIGUA.

See LEEWARD ISLANDS.

ANTILLES.

See SPAIN.

ARGENTINE REPUBLIC.

Law of October 11, 1864.

TITLE I.

GENERAL PROVISIONS.

ARTICLE 1. All new discoveries or inventions in any branch of industry confer on their originators the exclusive right of working the same during a fixed term and under certain conditions, conformably to article 17 of the constitution, upon the said right being established by a document called a *Patent of Invention*, to be delivered in the form prescribed by the present law.

ART. 2. The preceding paragraph applies not only to inventions and discoveries made in this country but also to those patented in foreign countries, provided the applicant be the inventor or his assignee, and provided also the conditions and formalities mentioned hereafter be duly observed.

ART. 3. The following shall be considered as new discoveries or inventions, viz., all new products of industry; new means, and the new application of known means, for obtaining an industrial result or product.

ART. 4. The following are not patentable; viz., pharmaceutical compositions; financial schemes; such discoveries or inventions as have, previous to the application, received a sufficient publicity in works, pamphlets, or periodicals, in this country or abroad, for being worked; those of a mere theoretical nature, without any indication of their practical use in industry; and finally, inventions contrary to morals or to the laws of the republic.

ART. 5. Patents shall be granted for the term of five, ten, or fifteen years, according to the merit of the invention and the wish of the applicant; the re-issue (confirmation) of foreign patents shall be limited to ten years, and in no case shall the term exceed that of the original patent, at the expiration of which they shall lapse.

ART. 6. A new patent has to be paid for at the rate of 80, 200, or 350 piasters (*pesos fuertes*), according to its being taken for the term of five, ten, or fifteen years. The re-issue of foreign patents is subject to the payment of a sum proportional to the term for which it is granted according to the same scale of fees.

ART. 7. The payment of the fees shall be made, one half at the

time of application, and the other half by successive yearly payments.

ART. 8. The executive government shall regulate by a special decree the mode in which the patent-office has to pay over the said fees to the public treasury.

TITLE II.

PATENT-OFFICE.

ART. 9. The before mentioned patents are to be delivered by a special office established for that purpose.

ART. 10. The official staff of the patent-office is to be composed of a commissioner, at a salary of 1,200 piasters per annum; of four sub-commissioners, at a salary of 800 piasters per annum; of a secretary, at a salary of 600 piasters per annum; and a porter, at a salary of 240 piasters. The five former are to be appointed by the president of the republic direct, and the two latter on the recommendation of the commissioner.

ART. 11. No officer of the patent-office is allowed to hold an interest, directly or indirectly, in patents which come under his control, under pain of dismissal, and a fine of from 100 to 1,000 piasters, if convicted.

ART. 12. The commissioner is chief of the office, and responsible to the government for all the documents and objects deposited, which must be carefully kept and registered.

ART. 13. The sub-commissioners must possess a special knowledge of the applied sciences relating to industry, to enable them to examine, under the direction of the commissioner, all inventions or discoveries sought to be patented, the grant of the patent depending on said examination.

ART. 14. The patent-office shall form a department of the ministry of the interior.

TITLE III.

PROCEEDINGS FOR GRANTING LETTERS PATENT.

FIRST SECTION. APPLICATIONS.

ART. 15. All applications for letters patent must be made by petition addressed to the commissioner of patents. This petition, with a 25 cent stamp affixed, has to be delivered at the patent-office in the capital, or at one of the chief post-offices in the provinces, and must be accompanied by a description, with proper drawings and patterns (all in duplicate), and a list of the objects presented.

ART. 16. In cases where the application is made through the post-office, applicants may deliver the descriptions, patterns, and drawings in a sealed packet, and require the same to be safely forwarded, at their own cost, to the patent-office.

ART. 17. The commissioner of patents shall provide the postmasters mentioned in article 15 with a ledger, duly paged and headed, in which the petitions shall be entered in order of their presentation, with the date and time. A similar book shall be kept as a register at the patent-office. This register is to state in a few words the subject of the application, and has to be signed by the commissioner, the secretary, and the applicant, or his attorney. At the request of the applicant, a certificate of deposit may be delivered to him at the mere cost of a fourth-class paper stamp.

ART. 18. No petition shall be delivered without at the same time depositing one-half of the fees mentioned before, such payment being authenticated by the certificate mentioned in the previous paragraph. The officer neglecting to see this payment made at the time of the application shall be made liable to a fine of double the amount. The same fine shall be imposed upon postmasters who neglect to forward applications to the commissioner of patents by the earliest mail, which is to be proved by the certificate of deposit and a certificate of the postmaster-general, unless such delay is caused by want of time, accidents, or circumstances beyond control.

ART. 19. Applications are to refer to a single chief object, with its accessories and applications; they must mention the term for which the patent is sought, without containing any restrictions, conditions, or reservations whatever; they must indicate a short and precise title of the invention; they must be written in the Spanish language; the omissions or additions must be duly mentioned, and the drawings accompanying the same are to be made in ink, and according to a metrical scale.

SECOND SECTION. ISSUE.

ART. 20. As soon as the application is in the hands of the commissioner, and when it appears that the object applied for is within the limits of article 2, and does not come under the limitation of article 4, the patent is granted, provided the term applied for does not exceed ten years; if it exceeds that time, the application is referred to the minister of the interior for ulterior decision, from which decision there lies no appeal.

ART. 21. All patents shall be issued in the name of the nation, by

authority of the government, and shall bear the signature of the commissioner and secretary, with the official seal, and shall consist of the decree granting the same, accompanied by the duplicate of the description and drawings.

ART. 22. Immediately after the issue of the patent it shall be delivered to the applicant or his attorney. However, if the application has been made through the post-office, the patent shall be forwarded by the same channel, the respective postmasters having to acknowledge the receipt as soon as possible. All subsequent certificates applied for shall be delivered at the rate of 5 piasters each.

ART. 23. The grant of a patent does not obviate the exceptions mentioned in article 46.

ART. 24. Applicants not complying with the provisions of article 15, shall have their patent refused, in which case one half of the sum deposited is returned to them, the other half being forfeited.

ART. 25. On the refusal of a patent an appeal may be made within ten days to the minister of the interior, who, after proper investigation, shall confirm or annul the refusal; in the former case the whole sum deposited is to be forfeited.

ART. 26. A quarterly list of all patents delivered and refused, with their respective dates, has to be forwarded by the commissioner to the government for publication.

THIRD SECTION. CERTIFICATES OF ADDITION OR IMPROVEMENT.

ART. 27. Improvements in patented discoveries or inventions entitle the originators to apply for a certificate of addition, which cannot be granted for a longer period than the original patent has yet to run, provided it does not exceed ten years, except when half that time has expired, or when the improvement lessens by half at least the cost of production, time, risk, or danger, or for other similar reasons, in which case the commissioner has to fix the proper term for which such a patent may be granted.

ART. 28. Certificates of addition are subject to the same formalities as patents, with the exception of the fees, the original patentee having only to pay one-fourth, and others than the patentee one-half of the said fees.

ART. 29. When such certificates of addition have been obtained by others than the original patentee, they do not confer on their owners the exclusive right of working their invention, except under the condition of paying a premium to the original inventor, the

amount thereof having to be fixed by the commissioner by taking into account the importance of the improvement and of the part used of the original invention.

ART. 30. The original inventor has the option between availing himself of the provision contained in the preceding paragraph and of working the improvement jointly with the improver; if he chooses the latter, a patent of addition shall be delivered to him on the same terms as that to the improver.

ART. 31. In no case shall improvers acquire the right of solely working the original invention, and the original inventor may only work the improvement under the second provision of the previous paragraph.

ART. 32. If two or more parties should apply at the same time for a certificate of addition for the same improvement, and if they should not come to some arrangement between themselves, no patent shall be issued to either. The same provision applies also to letters patent.

FOURTH SECTION. PROVISIONAL PATENTS.

ART. 33. Inventors or improvers may obtain a provisional patent, for the term of one year, and renewable at the expiration of each year.

ART. 34. Such a patent shall be obtained, on the payment of 50 piasters, by petition drawn up according to the provisions contained in Art. 15, pointing out the object of the invention and the means of carrying it out.

ART. 35. On the receipt of this petition the commissioner shall deliver the provisional patent, entering the same in a special book, to be kept in his custody in the secret archives, together with all the documents relating thereto.

ART. 36. No provisional patent shall be granted for inventions prohibited by article 4.

ART. 37. The effect of provisional patents is to defer, whilst they are in force, all grants of patents relating to the same invention or improvement until previous notice thereof is given to the original patentee at his own domicile.

ART. 38. The owner of a provisional patent may oppose an intended patent for an invention similar to his own, within three months. At the expiration of that term, or if he has not given due notice of his change of domicile, he shall forfeit his right.

ART. 39. In case of an opposition by the owner of a provisional

patent, the commissioners shall give a separate hearing to both applicants; and if the inventions should be identical, neither shall obtain a patent, unless both parties come to an arrangement. Should such inventions be different, the patent applied for shall be granted.

ART. 40. The fees paid for a provisional patent shall be deducted from the sum to be paid for letters patent, or for a certificate of addition obtained previous to the expiration of the former.

TITLE IV.

FIRST SECTION. ASSIGNMENT OF PATENTS.

ART. 41. Owners of patents or certificates may assign their rights on their own terms; such assignments, however, must be made by a notarial act, and after the payment of the entire fees mentioned in article 6. In order to give such assignments legal force with respect to third parties, they must be registered either at the patent-office in the capital, or at the before-mentioned post-offices in the provinces; and, to have this registration performed, it is necessary to produce the notarial act of assignment. Within five days of this registration, or by the earliest mail if in the provinces, a certificate of the register and the assignment shall be forwarded to the patent-office. The mutations that have taken place shall be entered in a special book, the entries to be published quarterly.

ART. 42. Assignments transfer all the rights of the original patentee, except in cases of special reservations by the latter.

SECOND SECTION. COMMUNICATION AND PUBLICATION OF PATENTS.

ART. 43. On the issue of a patent or certificate the commissioner shall publish it in the newspapers by inserting the name of the patentee, the duration of the patent, and a summary of the invention or discovery.

ART. 44. All descriptions, drawings, patterns, and models of the patents granted, not coming under the provision of article 33, shall be kept at the patent-office for public information. They shall be open to inspection without charge by any person applying for the same; and copies of the written documents shall be delivered without any other charge than the paper stamp duty of the fourth class.

ART. 45. At the beginning of each year the commissioner of patents shall publish in a volume the list of patents granted during

the preceding year, together with the descriptions and drawings required for the comprehension of the patented inventions or discoveries. A copy of the said publication is to be deposited at the patent-office and at the post-offices mentioned in article 15, for free public inspection.

TITLE V.

Nullity and Invalidity of Patents.

Art. 46. All patents or certificates obtained contrary to article 4 are null and void, as likewise all those that have been obtained under a fraudulent title, not corresponding to the invention; whenever the drawings or descriptions are incorrect or incomplete; whenever, in the case of certificates, they refer to a patent not actually obtained; or, whenever, in case of a foreign invention, the foreign patent confirmed by the republic has expired; or, whenever, at the date of the patent the discovery or invention was already in operation in the republic.

Art. 47. All patents duly issued become void whenever the invention has not been worked within two years of the issue of the patent; whenever the working has been interrupted for a similar period, except by circumstances beyond control, or accident, duly certified by the office; or, finally, at the expiration of the term for which the patent has been granted.

Art. 48. Actions for the nullity or avoiding a patent can only be instituted by interested parties before the sectional tribunals.

Art. 49. No special judicial decree of nullity or lapse is required for causing the patent discovery or invention to become public property; the mere fact of nullity or lapse suffices for authorizing every one to work freely the patent articles.

Art. 50. In case the owner of a void or invalid patent should dispute the free working of the invention or discovery to which it relates, either by complaint or otherwise, the official declaration of the invalidity or nullity of the patent may be obtained from the same sectional tribunals.

Art. 51. All decisions are summary; all proper proofs of title shall be admitted; but patentees cannot produce any evidence contrary to what is established by the documents of the patent-office, in proof of their privileges. The term for showing cause is to be fixed prudentially by the judge; however, it can never exceed six months, and that term is only granted in exceptional cases referring to matters lying beyond the sea, and on giving sufficient security in

favor of the claimant. Within ten days of the expiration of the term allowed for evidence, the judge shall deliver judgment and award costs. From this judgment there lies an appeal to the Supreme Court, which must be entered within three days. This court, after previously consulting the patent-office, shall deliver a final judgment.

ART. 52. The nullity or invalidity of a patent being established by judgment, and the judgment having become final, the tribunal shall inform the commissioner of patents thereof, that he may publish it in the prescribed form.

TITLE VI.

INFRINGEMENTS, LEGAL PROCEEDINGS, AND PENALTIES.

ART. 53. Infringements of patent-rights shall be considered as forgeries, and punished by a fine of from 50 to 500 piasters, or by imprisonment of from one to six months, and the forfeiture of the infringing articles, all without prejudice to any indemnity for losses and damages.

ART. 54. The same penalty shall be applied to those who knowingly participate in the infringement by selling, exhibiting, importing, or communicating the infringing articles.

ART. 55. In case of a second offense within five years the before mentioned penalty shall be doubled.

ART. 56. The fact of having been in the employ of the patentee, or having acquired surreptitious information of the invention, shall be considered as an aggravating circumstance.

ART. 57. All actions for the recovery of the above mentioned penalty are private, and are to be pleaded before the same sectional tribunals on the production of the patent, without which the complaint cannot be entered into; the defendant can only plead by way of answer the annulment or invalidity of the patent, his co-interest in the same, or his exclusive right of property.

ART. 58. The claimant has a right to demand security from the defendant for any loss which may be occasioned by his continuing to work the invention pending the trial, and, in default thereof, he may claim the suspension of the working and the seizure of the objects in dispute upon giving in his turn, to the defendant, if required, sufficient security. The seizure is to be effected with the usual legal forms.

ART. 59. All those who call themselves patentees without really

having patents shall be considered as forgers, and are liable to the penalties inflicted on forgers, with the exception of the loss of the infringing articles.

ART. 60. All fines imposed by this law shall be divided equally between the treasury and the informers.

TITLE VII.

RE-ISSUE OF PROVINCIAL PATENTS.

ART. 61. Owners of the provincial patents which are in force at the promulgation of the present law may obtain a re-issue within the six months following, by accompanying the patent with a petition according to the form prescribed by article 15.

ART. 62. Provincial patents not re-issued within said term shall have no effect whatever before the tribunals of the republic.

ART. 63. The re-issue may take place in two ways; either for the same province in which the patent right was exercised, or for the whole republic. In the former case the patent shall be granted free of expense and without any previous examination; in the latter case the proceedings shall be the same as for a new patent, and the portion of the fees corresponding to the term allowed must be paid in the usual way.

ART. 64. Re-issues of patents granted for the same province shall only be valid for the remainder of the term of the patent, and the patent rights conferred shall relate to the said province only. When granted for the whole republic, such re-issues may extend to ten years, the time they have already run being deducted.

ART. 65. There shall be kept a special register of these re-issues.

ART. 66. From the promulgation of the present law, all contrary provisions shall be abrogated.

ART. 67. The executive government shall be informed thereof.

From *Carpmael's Patent Laws of the World*, 1.

See APPENDIX OF RECENT LAWS, near end of vol. II.

AUSTRALASIA.

*An Act to constitute a Federal Council of Australasia.** *August* 14, 1885, 48 & 49 *Vict. c.* 60.

Whereas it is expedient to constitute a Federal Council of Australasia, for the purpose of dealing with such matters of common Australasian interest, in respect to which united action is desirable, as can be dealt with without unduly interfering with the management of the internal affairs of the several colonies by their respective legislatures :

Be it enacted, &c. : . . . .

1. *Definitions.* In this Act, unless the context otherwise require, the following terms shall bear the meanings set opposite to them respectively :

"Colonies." The colonies (including their respective dependencies) of Fiji, New Zealand, New South Wales, Queensland, Tasmania, Victoria and Western Australia, and the province of South Australia, and any other colonies that may hereafter be created in Australasia, or those of the said colonies in respect to which this Act is in operation :

"Crown Colony." Any colony in which the control of public officers is retained by Her Majesty's imperial government :

"Her Majesty's possessions in Australasia." The colonies and such other territories as Her Majesty may from time to time declare by order in council to be within the operation of this Act :

"Council." The Federal Council as hereby constituted :

* The names Australia and Australasia are used in somewhat different senses in modern times ; but, with reference to the operation of the Act given in the text, Australia is the immense island of that name lying between the Indian and the South Pacific oceans, considered alone, that is, without including the smaller, though settled and important islands of Tasmania, immediately south of Australia (of Victoria), New Zealand, lying south-east, and the Feejee (or Fiji) islands, to the east. New South Wales, Queensland, Victoria, Western Australia, and South Australia, are divisions of the island Australia, but do not form the whole of it ; the island contains, also, two large regions or divisions, known on the maps as North Australia and Alexandra Land, respectively. Thus the Act given in the text brings under the limited legislative power of a "Federal council of Australasia," the greater part, but as yet not the whole of Australia, and the most important, but not all of the other islands within Australasia.

"Governor." The Governor, lieutenant governor, or other officer administering the government of the colony referred to, with the advice of his executive council, except in the case of a Crown Colony, in which case the word shall mean the Governor, lieutenant governor, or such other officer alone.

2. *Institution of Federal Council.* There shall be in and for Her Majesty's possessions in Australasia a Federal Council, constituted as hereinafter provided, and called the Federal Council of Australasia, which shall have the functions, powers, and authority hereinafter defined.

3. *Power to make laws.* Within such possessions Her Majesty shall have power, by and with the advice and consent of the council, to make laws for the purposes hereinafter specified, subject to the provisions herein contained respecting the operation of this Act.

. . . . . .

15. *Matters subject to legislative authority of Council.* Saving Her Majesty's prerogative, and subject to the provisions herein contained with respect to the operation of this Act, the council shall have legislative authority in respect to the several matters following.

. . . . . .

(i.) Such of the following matters as may be referred to the Council by the legislatures of any two or more colonies, that is to say, . . . patents of invention and discovery, copyright, . . . and any other matter of general Australasian interest with respect to which the legislatures of the several colonies can legislate within their own limits, and as to which it is deemed desirable that there should be a law of general application; provided that in such cases the Acts of the Council shall extend only to the colonies by whose legislatures the matter shall have been so referred to it, and such colonies as may afterwards adopt the same.

17. *Royal assent to bills passed by Council.* Every bill passed by the Council shall be presented, for Her Majesty's assent, to the Governor of the colony in which the Council shall be sitting, who shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either that he assents thereto in Her Majesty's name, or that he withholds such assent, or that he reserves the bill for the signification of Her Majesty's pleasure, or that he will be prepared to assent thereto, subject to certain amendments to be specified by him.

18. *Power to Her Majesty to disallow Acts.* When the Governor

assents to a bill in Her Majesty's name, he shall, by the first convenient opportunity, send an authentic copy of the Act to one of Her Majesty's principal secretaries of state, and if Her Majesty, within one year after receipt thereof by the secretary of state, thinks fit to disallow the Act, such disallowance (with a certificate of the secretary of state of the day on which the Act was received by him) being signified by such Governor by message to the Council, or by proclamation in the Government Gazette of all the colonies affected thereby, shall annul the Act from and after the day of such signification.

19. *Bill reserved for signification of Her Majesty's pleasure.* A bill reserved for the signification of Her Majesty's pleasure shall not have any force unless and until within one year from the day on which it was presented to the Governor for Her Majesty's assent, such Governor signifies, by message to the Council, or by proclamation published as last aforesaid, that it has received the assent of Her Majesty.

20. *Acts of Council, when assented to, laws.* All Acts of the Council, on being assented to in manner hereinbefore provided, shall have the force of law in all Her Majesty's possessions in Australasia in respect to which this Act is in operation, or in the several colonies to which they shall extend, as the case may be, and on board all British ships, other than Her Majesty's ships of war, whose last port of clearance or port of destination is in any such possession or colony.

21. *Publication of Acts.* Every Act assented to in the first instance shall be proclaimed in the Government Gazette of the colony in which the session of the Council at which it was passed was held, and shall also be transmitted by the Governor assenting thereto to the Governors of the several colonies affected thereby, and shall be proclaimed by them within the respective colonies of which they are Governors.

22. *Acts of Council to supersede colonial enactments.* If in any case the provisions of any Act of the Council shall be repugnant to, or inconsistent with, the law of any colony affected thereby, the former shall prevail, and the latter shall, so far as such repugnance or inconsistency extends, have no operation.

. . . . . .

28. *Evidence of proceedings.* Whenever it shall be necessary to prove the proceedings of the Council in any court of justice, or otherwise, a certified copy of such proceedings, under the hand of

the clerk or other officer appointed in that behalf by the Council, shall be conclusive evidence of the proceedings appearing by such copy to have been had or taken.

. . . . . .

30. *Commencement of Act in respect of any colony.* This Act shall not come into operation in respect of any colony until the legislature of such colony shall have passed an Act or ordinance, declaring that the same shall be in force therein, and appointing a day on and from which such operation shall take effect, nor until four colonies at the least shall have passed such Act or ordinance.

31. *Power to determine operation of Act in any colony.* This Act shall cease to be in operation in respect to any colony the legislature of which shall have passed an Act or ordinance declaring that the same shall cease to be in force therein: provided, nevertheless, that all Acts of the council passed while this Act was in operation in such colony, shall continue to be in force therein, unless altered or repealed by the Council.

32. *Short title.* This Act shall be styled and may be cited as the Federal Council of Australasia Act, 1885.

From 125 *Publ. Gen. Stat.* 324.

See also: NEW SOUTH WALES; NEW ZEALAND; QUEENSLAND; SOUTH AUSTRALIA; TASMANIA; VICTORIA; WESTERN AUSTRALIA.

AUSTRALIA.

See NEW SOUTH WALES; QUEENSLAND; SOUTH AUSTRALIA; VICTORIA; WESTERN AUSTRALIA.

AUSTRIA-HUNGARY.

Law of August 15, 1852.

We, Francis Joseph the First, by the grace of God Emperor of Austria, King of Hungary and Bohemia, King of Lombardy and Venice, of Dalmatia, &c., &c.,

Being desirous of granting proper protection to the inventive genius even in those provinces of our empire which hitherto have been deprived of patent laws, and considering that the experience earned since the promulgation of the law of March 31, 1832, has shown that many reforms and enlargements are necessary, at the advice of our ministers and of our Imperial Council we have decreed the following rules for the whole extent of our empire:—

Section I.

Of the subject of an Exclusive Privilege.

§ 1. Exclusive privileges may be granted under the restrictions stated in §§ 2, 3, 4 and 5, for every new discovery, invention, or improvement having for its object—

a. A new product of industry; or,

b. A new means of production; or,

c. A new method of production;

whether such privileges be demanded by an Austrian subject or by a foreigner, unless the invention be not patentable according to §§ 2–5.

The term *discovery* is applied to the finding out an industrial process that may have been used in former times, but which has since been lost sight of or remained unknown in the empire.

The term *invention* is applied to the producing a new object by new means, or a new object by means known before, or a known object by means different from those used hitherto for the same object.

The term *improvement* or *alteration* is applied to every apparatus, arrangement, or process added to an object known or patented before, by means of which, in the object in view or in the means of arriving at it, a better result or greater economy is attained.

The term *new* is applied to any discovery, invention, or improvement that, up to the time of the application for a privilege,

has neither been worked nor become known through publications in the empire.

§ 2. No privileges can be granted for preparations of food, beverages, and medicines, nor for discoveries, inventions, or improvements which cannot be worked for reasons of public health, morals, or safety, or as being contrary to the general interest of the state, according to the existing regulations.

§ 3. A new discovery, invention, or improvement which is to be imported into the Austrian empire from abroad can only be patented during the currency of the foreign patent; nor can such a grant be made except to the foreign patentee or his assign. Under these restrictions a privilege can be granted for a discovery, invention, or improvement made abroad, provided it has not yet been published in the empire.

§ 4. Improvements of inventions that were known or patented before can only be patented with the restrictive clause that such a privilege does not refer to the whole article, but only to the improved part.

§ 5. Scientific principles, or purely scientific theorems, cannot be patented, even if the principle or theorem admit of a direct application to industrial objects. However, patents may be granted for every new application of such principles or theorems as lead to the creation of a new industrial product, a new means, or a new method of production.

§ 6. Two or several discoveries, inventions, or improvements that are different from each other may only be united into one patent if those discoveries, inventions, or improvements relate to one and the same object, as component parts or operative means.

Section II.

Of the Conditions for Obtaining an Exclusive Privilege, and the Formalities to be Fulfilled.

§ 7. Applicants for an exclusive privilege for a new discovery, invention, or improvement must fulfill the conditions prescribed in the present law.

Those conditions are:—

a. Applying to the competent authorities by means of a petition in due form, accompanied by the prescribed documents.

b. Payment of a fixed tax.

c. Fulfilling the obligation of describing the new discovery,

invention, or improvement clearly and completely; and, if required for the sake of clearness, of illustrating it by drawings or models, so as to enable every competent man to execute the same after its publication at the expiration of the patent.

§ 8. Petitions for exclusive privileges may be lodged with the stadtholder, or with the judges of districts (judges, delegates, county magistrates), to be forwarded by them.

§ 9. Those petitions must be arranged according to the Form A. They may be delivered by the applicant himself or his attorney. Such petitions must contain—

a. The christian and family name, profession, and residence of the applicant; and, in case of his not being settled in the empire, also the name, profession, and residence of an attorney domiciled in the empire. Applicants must state their christian and family name, profession, &c., even if the privilege is to be worked under a firm bearing a different name from that of the patentee. In such cases the name of the firm chosen must be stated. The said firm, however, must not correspond with an existing firm unless the consent of its proprietor be obtained.

b. The name (title) of the discovery, invention, or improvement; giving the essence of it.

c. The number of years for which the patent is demanded. That number of years cannot exceed fifteen, except by a special grant of the Emperor; and those inventions patented already abroad, and which are to be imported by their proprietors or their assigns, can only be patented for the unexpired term of the foreign patent.

d. The statement whether the discovery, invention, or improvement is to be kept secret or not.

§ 10. Petitions for patents must be accompanied by—

a. The due tax, or the receipt for the same, given by a public treasurer to whom the said tax had been paid. Except that tax, no other fees are to be demanded for a patent, even in the case of a previous examination on public grounds.

b. The power of attorney in case the applicant delivers his petition through an agent (§ 9).

c. In cases of discoveries, inventions, or improvements to be imported from abroad, the foreign letters patent in the original, or in an authenticated copy.

d. The above-mentioned (§ 7 *c*) description of the invention under sealed cover, on which is written the essence of the discovery.

invention, or improvement, corresponding with the statement made in the petition, and the address of the applicant or his attorney.

§ 11. The patent tax is in proportion to the duration of the privilege, and is the same for discoveries, inventions, improvements; for foreigners, or natives. It amounts to 100 florins for the first five years, 200 florins for the following five years, and 400 florins for the last five years; the annual ratio being 20 florins for the first five years, and that of the subsequent years as follows :— 6th year, 30 fl.; 7th year, 35 fl.; 8th year, 40 fl.; 9th year, 45 fl.; 10th year, 50 fl.; 11th year, 60 fl.; 12th year, 70 fl.; 13th year, 80 fl.; 14th year, 90 fl.; 15th year, 100 fl., amounting to 700 fl. for fifteen years, the longest period allowed.

The tax due for the whole number of years which the privilege has been applied for must be paid down at once, or a receipt for the amount has to be produced, to avoid the petition being rejected.

The said tax can only be repaid in case of the privilege being annulled on public grounds, and such repayments shall be in proportion to the unexpired term.

§ 12. The specification (§ 10), which is considered as an essential condition for obtaining an exclusive privilege, must answer the following requirements :—

a. It must be written in German, or in the usual language of the province where the application is made, and be signed by the applicant, or the attorney named in the petition.

b. It must contain the detailed description of the discovery, invention, or improvement, the essence of which was indicated in the petition.

c. It must be drawn out in such a manner as to enable all competent men to manufacture the article according to this description, without the addition of new inventions, additions or improvements.

d. What is new and also what constitutes the object of the privilege must be clearly described and pointed out in the specification.

e. The discovery, invention, or improvement must be set forth in a clear and plain manner, and contain no ambiguities that might lead astray, contrary to the provisions contained in *c.*

f. It must not keep secret anything relating either to the means or mode of working; therefore it is neither permissible to indicate means that are more expensive or do not produce the same effect, nor to conceal devices that relate to the success of the operation.

g. Should drawings, patterns, or models be required for better

understanding the specification, the former must be annexed in lasting colors; besides which (in as far as it may add to clearness according to *c*), any other print or writing may be added which the applicant shall think fit.

§ 13. The authority to whom a petition is presented is to examine in the presence of the applicant,—

a. Whether the petition is in due form, and has been signed:

b. Whether the required documents are annexed;

c. Whether the prescribed tax, or a receipt for the same is inclosed.

If the authority finds the petition in good order in this respect, he inscribes, in the presence of the applicant, on the cover of the specification, the day and hour of its presentation, and the amount paid, and hands to the applicant or his attorney a certificate containing the name and residence of the applicant or his attorney, the day and hour of presentation, the payment of the tax, and the title and essence of the discovery, invention, or improvement as set forth in the petition.

From that day and hour, the priority of the discovery, invention, or improvement disclosed, is reckoned, that is, every opposition on the ground of a similar discovery, invention, or improvement made or practiced after that time is considered ineffectual, and cannot refute and annul the novelty of the discovery, invention, or improvement which has been disclosed and described in due order by the applicant.

If an omission or other defect is found out on examination of the petition, the latter is returned to the applicant that he may amend the same.

§ 14. All petitions approved of, together with their annexed documents, are transmitted to the governors of the respective province within three days at the latest, if not addressed to them directly.

§ 15. The governors examine such petitions—

a. As to whether the object of the petition is not evidently unfit for a privilege.

b. As to whether the annexed documents fulfill the prescribed conditions, and particularly as to whether the description of the object of the patent inscribed on the cover of the specification corresponds with the indication made in the petition, and whether the latter is duly signed.

Should a governor think the article to be patented absolutely unfit for a privilege according to § 2–6, he is to inform the petitioner

thereof, requiring him to withdraw and give a receipt for the sealed specification, as well as to receive back the tax paid up, or otherwise to appeal to the ministry of commerce and trades within the term assigned in the regulation of trades.

Should it appear that the annexed documents do not answer the requirements, or that the object of the privilege, as indicated on the cover of the sealed description, does not correspond with the contents of the petition, the governor is to keep back the petition, and to assign a proper term for the amendment of the defect. Should that term not be observed, the petition is to be returned.

All petitions in due form, and not unfit for privilege, as well as those that have been amended within the prescribed term, shall be submitted by the governors, together with the sealed specifications, and all other documents, to the minister of commerce and trades.

§ 16. The minister of commerce and trades is to re-examine whether all the formalities have been fulfilled, and he has the exclusive authority to open the sealed specification and see—

a. Whether the specification is written in a current language (§ 12), and whether it is duly signed.

b. Whether the object for which a patent is desired does not comprehend two or more different objects (§ 6) and requires to be divided.

c. Whether the title of the invention is the same in the petition as on the cover of the annexed specification, and as in the specification itself; moreover, whether the specification possesses that degree of clearness and distinctness required by § 12, particularly whether the required drawings, patterns, and models are present, and whether all formal requirements about the same have been observed.

d. Whether the object to be patented as indicated in its essential features in the petition and on the cover of the specification is not contrary to sanitary laws, or to other public regulations, whereby it becomes entirely unfit for a privilege, or fit only under certain conditions and restrictions. Besides, special care is to be taken for the required secrecy being observed, and due precautions against any possible violation of the secret are to be adopted.

§ 17. No examination ever takes place as to the novelty or utility of the discovery, invention, or improvement before the granting of the privilege; on the other hand, no guarantee is given by the government, which grants the patent in this respect at the mere risk, peril and cost of the patentee.

§ 18. In all those cases, where the checking and examination

according to § 16 disclose no obstacle, the privilege is granted by the minister of commerce and trades by a separate document, otherwise all petitions deemed unfit for acceptance are rejected, the motive for so doing being mentioned, and the tax being ordered to be repaid. However, where there exist defects that may be amended, such rejections take place only after the applicant has failed to amend such defects within the proper term assigned to him for that purpose.

§ 19. The grant of a privilege releases a patentee in no case from the laws, regulations, and prescriptions that exist, or may be promulgated in the interest of public health, safety, morals, or in the interest of the State; the working of the patent is therefore subordinate to such regulations and prescriptions as may limit or defend it without the patentee being allowed to invoke an exceptional rule.

§ 20. The inclosed specifications belonging to the privileges, together with the annexed documents (§ 16), are delivered to the custody and the ulterior use of the central record office for patents, as will be explained in section V. of the present law.

Section III.

Of the advantages and Liberties incident to exclusive Privileges.

§ 21. An exclusive privilege secures to the patentee the exclusive use of his discovery, invention, or improvement, as laid down in his specification, for the number of years mentioned in his privilege.

§ 22. The patentee is authorized to establish those workshops and to engage those workmen which are required for the complete working of the subject of the patent to any extent; they may thus form everywhere in the whole empire establishments and depots for the manufacture and sale of the subject of their privilege, and authorize others to work their discovery, invention, or improvement, under the protection of their privilege; they may form partnerships, and work their patent to any extent, dispose of their patent, bequeath it, sell it, give licenses, or otherwise part with it, and obtain patents abroad for the same object.

However, those rights are strictly limited to the proper object of the patented discovery, invention, or improvement, and therefore must not be extended to similar objects, nor be used contrary to existing laws or other privileges.

§ 23. If the privilege relates to an improvement or an alteration

of a patented object it is merely limited to the individual improvement or alteration itself, and it gives to the privileged improver and alterer no right to the rest of the object that has already been patented, or of a process that is already known. On the other hand, the patentee of an object improved or altered by another patentee is not allowed to use the said improvement or alteration without his consent.

Section IV.

Of the Extent and Duration of Exclusive Privileges, and their Publication.

§ 24. The legal effect of exclusive privileges shall be co-extensive with the Austrian territory.

§ 25. The longest duration of privileges is fixed at fifteen years. We reserve to ourselves the right of extending that term, yet such a prolongation shall be demanded by the public authorities only for highly meritorious cases.

§ 26. Every exclusive privilege begins from the day of the delivery of the patent. The publication of the grant of the privilege shall be made in the same manner and within the same time as is provided for laws.

§ 27. Every patentee whose privilege has been granted for a shorter period than the longest (§ 9 *c*) may claim its prolongation for one or more years within the fixed longest period, provided they demand such a prolongation before the privilege has become extinct (§ 29—2 *a*, *b*). To obtain such a prolongation a petition for the same must be delivered in due time, together with the original patent, and the tax in full for the required term of prolongation (§ 11), or the receipt for the same from a public treasurer.

The prolongation is granted by the minister of commerce and trades, and is officially confirmed on the letters patent.

§ 28. Every privilege granted or prolonged by the minister of commerce and trades, as well as every cession of a privilege and its extinction, is published according to § 26.

§ 29. Privileges lose their force—

1. By nullity or by termination (recall, surrender or decree):

a. Such an annulment may take place if it is shown that the legal requirements for an exclusive privilege do not exist, particularly

aa. If it is shown that the description of the privilege is deficient, and particularly if is not in accordance with § 12, *c*—*f*, and therefore insufficient.

bb. If any one proves legally that the patented discovery, invention, and improvement, before the day and hour of the official certificate, had already no longer the character of novelty in the empire, according to the provisions of § 1, or that the patented discovery, invention, or improvement had been imported from abroad, and that the privilege in the Austrian States has not been granted to the original proprietor of the foreign patent, or his legitimate assignees (§ 3);

cc. If the proprietor of a valid privilege proves that the discovery, invention or improvement patented at a later period is identical with his own discovery, invention, or improvement, as previously laid down according to prescriptions;

b. If an obligation constituting the validity of the privilege is not fulfilled:

c. If the privilege is contrary to public law (§ 10).

2. By extinction, which takes place,—

a. If within one year at the latest from the date of the patent the patentee has not begun to work his discovery, invention, or improvement in the empire, or whenever he has interrupted his works for two complete years;

b. If the original or prolonged term of the patent has expired;

c. If the privilege is surrendered voluntarily.

It is well understood that those reasons, whereby the validity of a privilege ceases or becomes extinct, apply to purchasers of a privilege as well as to the original patentee.

§ 30. As soon as a privilege is invalidated, the use of the respective discovery, invention, or improvement is open to all under the observance of the existing laws regulating trades, and regulations relating thereto.

Section V.

Of the Registration of Privileges and Recording of Specifications.

§ 31. All privileges as soon as granted are inscribed in a register at the ministry of commerce and trades.

If the privilege is worked under a chosen firm that differs from the true name of the patentee, that firm must also be entered in the register.

The descriptions, drawings, models, &c., belonging thereto are kept in a special record office at the ministry. Every alteration in a privilege is noted in the above register.

§ 32. Any person is at liberty to obtain verbal or written information respecting granted privileges at the patent-office, and for this purpose to inspect the register for himself. The specifications kept at the same place, together with the annexes about which secrecy has not been demanded or belonging to extinct patents, are likewise open to the public; finally, copies may be taken of single parts of such privileges from the register, or from the privileges that are not to be kept secret. On such occasions those provisions in the present law (§ 44) that relate to infringements are expressly to be pointed out to the applicants.

§ 33. The record office of patents shall submit every month to the minister of commerce and trades a synopsis of the alterations made in privileges during that period by new grants, prolongations, transfers, and extinctions. A copy of that synopsis is forwarded to the governors of provinces and chambers of commerce and trades in the different provinces for the establishment of a register for giving information about patent matters, which information is to be given on demand in the proper way. At the expiration of each year a similar annual synoptical table is published.

§ 34. The specifications of patents expired are printed yearly according to their apparent utility, and circulated in a proper manner.

Section VI.

Of the Transfers of Privileges.

§ 35. All exclusive privileges may be transferred entirely or partially to others, during lifetime, as well as by bequest.

§ 36. All assignments, together with the patent, must be submitted to the minister of commerce and trades, directly, or through the governor of the province where the transfer took place, or where the petitioner resides, and for this purpose they must be duly legalized, unless they are issued by a public authority.

If the evidence of the assignment is found by the government or ministry to be defective, it shall be returned for correction.

All proper assignments are to be inserted in the special register (§ 31), and that insertion is to be confirmed on the patents themselves, and in case of a mere partial transfer a special certificate is to be delivered.

§ 37. All registered transfers of privileges are to be published immediately. After such publication no one is allowed to plead ignorance about the transfer.

Section VII.

Of Infringements and the Proceedings in Litigation.

§ 38. The following are to be considered as infringements, or as an injury to the holder of a patent. When any one without the consent of the patentee:—

a. Counterfeits or imitates the object of the patent in the manner described in the enclosed specification, even in the case where the counterfeiting or imitating takes place in consequence of the grant of a later patent which is entirely or partially identical.

b. Counterfeits or imitates the object of a patent by importing or bringing such articles from abroad for sale, or for storing and exhibiting for sale; or, finally,

c. Undertaking the sale, or even the storing or exhibiting of such articles for sale.

§ 39. If the specification of a privilege is inserted in the open registers, the very first infringement comes under the law; but if the specification has been kept secret, the repetition only of the infringement is considered as contrary to law, both being punishable, at the request of the injured party with the confiscation of the existing counterfeit goods, and a fine of from 25 fl. to 1000 fl. In case of insolvency of the guilty party, the fine is to be discharged by imprisonment at the rate of one day for 5 fl. As for the tools and means exclusively used for such counterfeitings, they are to be destroyed, transformed, or made useless, according to their nature, unless a special agreement be made between the parties.

The fine is to be paid into the poor-box of the place where the infringement took place. The confiscated objects are to be destroyed, unless the plaintiff agrees to take them in payment of damages given to him.

If the defendant has taken advantage of any knowledge of the discovery, invention, or improvement acquired in the service or by the trust of the plaintiff, such a circumstance must be considered as aggravating the guilt.

§ 40. Should the injured person not proceed criminally, or in cases of a first infringement of a privilege of which the specification is kept secret, the injured person is only authorized to demand the discontinuance of counterfeiting and selling counterfeit goods, and a security against the use or sale, during the term of the patent, of the counterfeit goods found at the infringer's establishment, pro-

vided they were manufactured in the empire, and for their re-exportation in case they were imported from abroad for sale.

§ 41. In all litigation relating to patents the discovery, invention, or improvement is only to be judged according to the specification annexed to the petition; that specification must therefore be taken as a basis in all cases where the decision depends on the contents of the specification, without regard to its being kept secret, and no additional alteration or framing whatever of the patent article can be taken into consideration at those proceedings.

§ 42. The ministry of commerce and trades alone decides the question, whether a patent, from any legal cause whatever, is to be considered as null and void, or as extinct (§ 29). It therefore especially decides the question of the novelty of a discovery, invention or improvement; moreover, the question as to whether it had only been imported from abroad, and was not appropriate for a privilege; finally, in contestations arising between two patentees, the ministry decides the question of the total or partial identity of their privileges.

§ 43. The examination and punishment of the infringements mentioned in §§ 38 and 39 belongs, except so far as other regulations be published in future, to the tribunal of the district in which they took place, according to the laws concerning trades. An appeal to the higher tribunal of the respective province is open for parties who feel themselves injured by such decisions, and in case of the first decision being modified before that tribunal, also to the ministry of commerce and trades; however, such appeals must in all cases be made within fourteen days at the latest of the signification of the judgment.

In cases of appeals the execution of the judgment is to be postponed till the confirmatory decision has been made. If, during the inquiry, the decision is found to depend upon a preliminary question belonging to the jurisdiction of civil tribunals, the parties are referred by the criminal court to the competent civil court, and in such cases the former can only give its own decision according to the legal decision of the latter. Moreover, the final decision of the criminal court by which any one has been found guilty of infringement and fined, may be invoked by the injured party before civil courts for claiming damages, as the case may be.

§ 44. The criminal court may, if sufficient reasons exist, order an inspection or inquiry to be made by an expert, and if by these or other means the case of an infringement is clearly made out, the

court may, at the request of the injured party, order the immediate confiscation or other effective keeping of the counterfeit articles, and the tools and means exclusively used thereto.

However, due care must be taken not to do, without a stringent necessity, any irreparable injury to the defendant, and therefore to demand, if required, security from the plaintiff for any injury and damages that may occur.

§ 45. If during the inquiry the decision is found to depend on preliminary questions determinable by the ministry of commerce and trades (§ 42), such a decision must be sought for officially, and the criminal proceedings are to be suspended till it is obtained.

However, any confiscations that may already have taken place, or any other provisional measures, may be maintained till the question is decided as to whether the proceedings are to be continued.

§ 46. In cases of infringements where no penalty is required, but where merely the discontinuance (§ 40) of the infringement is demanded, or in cases of decisions about privileges as to the priority of the discovery, invention or improvement, or as to private rights or in cases of private claims of the injured party that have been referred by the criminal court to the usual course of justice, the civil tribunals are called upon to give judgment according to the existing regulations respecting summary proceedings in civil matters, wherever such proceedings have been introduced.

§ 47. The civil tribunal likewise may, if the infringement is clearly made out or proved, by an inspection or an expert, order, at the request of the plaintiff, the immediate confiscation or other effective keeping of the counterfeit articles, either unconditionally or against proper security for damages (§ 40), and under the provisions of § 44.

Such measures, however, must be justified, like a prohibition, within eight days after the entry of the order, by a complaint, otherwise they will be rescinded immediately at the request of the opponent, and a claim may be made for damages for the outrage.

§ 48. If the decision of a complaint within the jurisdiction of a civil tribunal depends on preliminary questions that are to be decided by the minister of commerce and trades (§ 42), the parties are required to obtain his decision, and to produce it in the course of the proceedings.

§ 49. Infringements of the rights of third parties, which patentees commit in working their patent by exceeding the limits of their rights founded thereon, are to be punished by those authorities to

whose competency it belongs to decide on infringements of the regulations on trades, according to the special prescriptions on that subject. The circumstance of their having used the privilege for spoiling trades must be considered as aggravating the guilt.

§ 50. The question about the frauds or culpable actions committed by parties appropriating illicitly to themselves the original discovery, invention or improvement of others, in order to obtain a privilege thereon by themselves or other parties, is to be decided according to the penal laws.

SECTION VIII. [*Omitted* because relating to patents delivered before the promulgation of this law.]

FORM A.

Petition for a Privilege.

[*Insert address of the authorities of the respective district or province.*]

I [*we*] N. N. [*insert christian and family name, profession and domicile of the petitioner or petitioners*] beg to state that I [*we*] have made a new discovery [*invention, improvement*] consisting essentially in [*insert the comprehensive title*].

The complete specification drawn up according to the provisions of § 12 of the patent-law of is subjoined in the appendix.

[*Insert whether the Specification is to be kept secret, and state the exact number of the drawings, models, patterns, etc., if any.*]

For this discovery [*invention, improvement,*] announced and duly specified, which I [*we*] the undersigned petitioner, believe to the best of my knowledge to be patentable and new according to the provisions of the said Patent Law, and legal for obtaining an exclusive privilege at my [*our*] own risk and responsibility, I [*we*] solicit such a privilege for the stated discovery [*invention, improvement*] in the manner as represented in the annexed sealed specification, under the legal clauses and conditions for the term of years, for which purpose I [*we*] pay the entire patent tax of florins, due according to § 11 of the said patent law, and request the delivery of an official certificate for securing my [*our*] prior claims.

[*Address and date.*]

Signature[*s*].

From *Carpm. Pat. L. of World*, 14.

Extracts from a Digest of the patent law of Austria-Hungary, by Mr. A. H. Mounsey, of the British Legation at Vienna, published* 1873.

On the establishment of the dual system of government in Austria-Hungary, it was decided by a special agreement between the ministers of Hungary and Cisleithania that the Imperial Decree of August 15, 1852, in which the law and practice with regard to inventions are fully explained, should remain in force throughout the whole Empire.

In accordance with the terms of this agreement, the Cisleithanian and Hungarian ministers of commerce submit to mutual approval the inventions for which they intend granting patents, and subsequently to such approval each minister issues patents, bearing identical dates, for its respective division of the Empire.

Thus an inventor, desirous of securing an exclusive right to his invention in Austria-Hungary, must provide himself with two patents. These are, however, granted on a single application, addressed, at the choice of the applicant, either to the Cisleithanian or Hungarian ministry of commerce, and on one payment of the fees.

The patents thus issued are likewise valid in the principality of Lichtenstein.

The taxes on patents, for natives and foreigners indiscriminately, are as follows:

	Fl.	kr.		
For the first five years	100	10	=	$48 72
For the second five years	200	20	=	97 44
For the third five years	400	40	=	194 88
For fifteen years	700	70	=	341 04

These taxes must be paid or deposited in the hands of the government officials previous to the issue of the patent. They are only returned in cases where patents are canceled on public grounds.

From 4 *Pat. Off. Gaz.* 207.

* The omitted portions of Mr. Mounsey's paper are occupied with a concise statement of the substance of the law given in full in the text above.

Law of June 27, 1878.

[NOTE.*—This law empowers the ministry of the kingdoms and countries represented in the house of parliament, to establish a commercial and tariff union with the ministry of the countries of the Hungarian Crown. The following article relates to patents for inventions.]

ARTICLE XVI. Patents legally obtained are valid in both countries. For this purpose the conditions of the grant of such patents will be decreed on the same principles by the legislatures of both countries by mutual understanding, and shall, when necessary, be altered in the same way.

Until this takes place the rules relating thereto which are actually existent in both countries, and which do not materially differ from each other remain in force.

As regards proceedings in granting patents, the petition for a patent must be deposited at the ministry of that country in which the inventor has his domicile. Foreigners may present their petitions for the grant of patents at the ministry of one or the other of the two countries.

The ministry where the petition for a patent has been filed shall send the petition, after due examination, officially, to the ministry of the other country, in order to obtain the approbation of the latter.

The letters patent will be issued separately by each ministry for the country under its government, but both deeds must bear the same date, and will be delivered together to the petitioner through the ministry at which he filed the petition.

The prolongation or annulment of patents for inventions shall also be effected by mutual understanding.

The tax for the patent shall be paid in that country where the grant of the patent is petitioned for. For the grant of the patent in the other country a registration fee amounting to 25 per cent. of the patent tax shall be paid.

The registration fee must be paid at the same time as the patent tax, and will be remitted to the ministry of the other country.

From *Carpm. Pat. L. of World*, 32.

* Notes printed in this manner are from Carpmaels' edition.

Law of December 20, 1879.

[NOTE.—This law relates to the creation of a mutual union of tariffs with Bosnia and Herzegovina. The following clause refers to patents for inventions.]

SECTION 9. Patents which have been acquired in accordance with Article XVI. of the Tariff and Commercial Union of June 27, 1878, shall be valid also for Bosnia and Herzegovina according to the laws and regulations existing in both countries of the Austro-Hungarian monarchy.

Patents cannot be acquired by Bosnian and Herzegovinian subjects, except according to the said laws and regulations.

Detailed rules for the execution of these principles shall be issued by the administrations.

From *Carpm. Pat. L. of World*, 33.

Extract from a Decision of the Minister of Commerce, July 27, 1882, *relative to the term of an Austrian patent:*

Imp. Roy. Ministry of Commerce, No. 19, 328.

. . . . .

It is herewith affirmed that, according to the provisions of the Patent-Law of August 15, 1852, (Reichs-Gesetzblatt, No. 184) each extension of a patent has solely to be considered as an officially authenticated acknowledgment of the fact that the patentee really avails himself of the right to maintain his patent further in vigor, this right being conferred on him for the lawful term of fifteen years by the original granting of the letters patent, although this latter may not purport to be a fifteen years' one; that for this reason no Austro-Hungarian patent expires in consequence of its original term having elapsed, if the extension of the patent has been applied for in due time, and all the other lawful requirements have been fulfilled in the same time.

VIENNA, July 27, 1882.

By proxy of the minister of commerce,

PROFF, M. P.

From 23 *Pat. Off. Gaz.* 273.

BADEN.

Baden, also Bavaria, Prussia, Saxony and Würtemberg, while independent, had patent laws of their own. Translations of them or statements of their substance may be consulted as follows: Baden, 4 *Pat. Off. Gaz.* 235; Bavaria, *Id.* 237; Prussia, *Id.* 395; *post*,442; Saxony, *Id.* 473; Würtemburg, *Id.* 579, 607.

In 1871 these sovereignties became merged in the German Empire under a constitution, which confided the subject of patent legislation, among others, to the imperial legislature. Some time was, of course, required before this constitutional provision could be carried into full effect, but in 1877 a general patent law for the empire was enacted, which superseded the separate laws above mentioned.

BALIZE: BELIZE.

These names were formerly applied to the region of country now more commonly known as BRITISH HONDURAS (which see); also to its capital city, by which they are retained.

BARBADOES.

An Act to amend the law relating to the granting of Exclusive Privileges to the Inventors of new and useful Inventions. December 12, 1883.

Preamble. Whereas it is deemed expedient to amend the law relating to the granting of exclusive privileges to the inventors of new and useful inventions; Be it therefore enacted by the Governor, Council and Assembly of this island, and by the authority of the same as follows:

I. *Title of act.* This Act may be cited for all purposes as "The Patent Act, 1883."

II. *Specification to be filed in the colonial secretary's office.* Every person who desires to obtain in this island such exclusive privileges in respect of any invention as are hereinafter in this Act mentioned, shall file in the colonial secretary's office of this island a complete specification of the invention, with a copy of the same, particularly describing and ascertaining the nature of the invention, and in what manner the same is to be performed.

III. *Fee for filing specification.* Every person who files in the colonial secretary's office a specification of an invention shall pay to the colonial secretary for the benefit of the general revenue a fee of three pounds six shillings and eight pence.

IV. *Patentee to have exclusive right for seven years.* Every person who complies with the two last preceding sections of this Act, his executors, administrators and assigns, and every of them by himself and themselves or by his and their deputy or deputies, servants or agents, or such others as he, his executors, administrators and assigns shall at any time agree with and no others from time to time, and at all times during the term of seven years from the date of the filing of the specification as aforesaid, shall and lawfully may make, use, exercise and vend within this island the invention described in the specification so filed as aforesaid in such manner as to him, his executors, administrators and assigns, or any of them shall in his or their discretion seem meet, and he, his executors, administrators, and assigns shall and lawfully may have and enjoy the whole profit, benefit, commodity and advantage from time to time coming, grow-

ing, accruing, and arising by reason of the said invention for and during the term of years hereinbefore mentioned.

V. *Protection to Patentees.* It shall not be lawful for any person or persons, body or bodies politic or corporate, or any of them at any time during the continuance of the term hereinbefore mentioned, either directly or indirectly, to make, use, or put in practice the invention described in any specification so filed as aforesaid, or any part of the same, or in anywise counterfeit, imitate or resemble the same, or to make or cause to be made any addition thereto, or substraction from the same, whereby to pretend himself or themselves the inventor or inventors thereof, without the consent, permission, license or agreement of the person who filed the specification thereof, his executors, administrators or assigns in writing, under his or their hand or hands, and seal or seals, first had and obtained in that behalf.

VI. *Remedy for infringement of patent.* If any person or persons whomsoever, body or bodies politic or corporate, shall during the continuance of the term hereinbefore mentioned at any time, either directly or indirectly make, use, exercise, put in practice or vend the invention described in any specification so filed as aforesaid or any part thereof within this island without a consent, permission, license or agreement in writing first had and obtained from the person who filed the specification thereof, his attorneys, executors, administrators or assigns under his or their hand or hands, and seal or seals, the person who filed the specification thereof, his executors, administrators and assigns, shall have and be entitled to such and the like remedies both at law and in equity in the courts of this island against every such person or persons, body or bodies politic or corporate, for every such infringement or violation of the rights and privileges to which he and they is and are under this Act entitled, or against the person or persons for whose benefit the said invention or any part thereof shall have been so made, used, exercised, put in practice or vended without such consent, permission, license or agreement as aforesaid as the grantee of any letters patent for any invention would be entitled to in the like case by the law of England but to none other remedies; and in any action, suit or other proceeding which may be brought, instituted or taken against any such person or persons, body or bodies politic or corporate, it shall be lawful for the defendant to plead any such matter in defense as may be pleaded by any defendant in any action brought in any division of Her Majesty's High Court of Justice in England for the

infringement of any patent granted by Her Most Gracious Majesty the Queen.

VII. *No benefit unless invention a new one, or if person applying is not the true inventor, &c.* Nothing in this Act contained shall be deemed to confer on any person who files in the colonial secretary's office a complete specification of an invention the exclusive privileges mentioned in sections four, five, and six of this Act, if the invention described in such specification is not at the time when such specification is filed a new invention as to the public use and exercise thereof within this island, or if such person is not the true and first inventor within this island of the invention described in such specification, or if such invention was at the time when such specification was filed an invention well known elsewhere and also known to some person or persons in this island other than the person filing such specification.

VIII. *Not to give privilege to use the invention of any other person.* Nothing in this Act contained shall extend or be construed to extend to give to any person who files in the colonial secretary's office a complete specification of an invention, or to his executors, administrators or assigns or any of them, privilege to use or imitate any invention or work whatever which has prior to the filing of such specification been found out or invented by any other person whomsoever and publicly used or exercised within this island, and for the sole use, exercise and benefit whereof within this island the exclusive privileges mentioned in sections four, five and six of this Act or similar privileges have, prior to the filing of such specifications, been obtained; but the person filing such specification, his executors, administrators and assigns, and all and every other person and persons who have as aforesaid previously obtained like privileges, shall distinctly use and practice their several inventions by them invented and found out.

IX. *Rights to cease if invention not brought into operation within three years.* When the invention described in a specification filed under this Act is not brought into operation within a period of three years after the filing of the specification, the exclusive right hereby granted or intended to be granted shall be forfeited and shall cease to exist.

X. *Specifications to be numbered.* All specifications filed under this Act in the colonial secretary's office shall be numbered in that office consecutively from Number 1 upwards in the order of the dates on which they are filed.

XI. *Form of certificate.* Whenever a specification is filed under this Act, a certificate of the following form shall be filled up and signed by the colonial secretary, and given to the person filing such specification.

No.
Name of inventor filing specification.
Address.
Date of filing specification.
Title of invention.

I hereby certify that the facts above stated are true, and that the inventor whose name and address are given above is in respect of the invention herein referred to entitled to the several privileges specified in "The Patent Act, 1883," subject to the limitations and conditions therein mentioned.

(Sgd.)
Colonial Secretary,
Barbadoes.

XII. *Numbers of certificate and specification to be the same.* The number of each certificate given in compliance with the last preceding section of this Act shall be the same as that of the specification to which such certificate relates.

XIII. *Power of renewal.* Every person who at the date of the passing of this Act, or at any time hereafter, is, in respect of any invention, entitled under this or any other Act of the legislature to the exclusive privileges mentioned in this Act, or to similar privileges, may on or before, but not after the expiration of such privileges obtain a renewal thereof, for a second or further period of seven years, and may, on or before, but not after the expiration of such further period again obtain a renewal thereof for a third period of seven years; provided always that no person shall enjoy the exclusive privileges mentioned in this Act or similar privileges for more than twenty-one years.

XIV. *Fees to be paid on renewal.* Every person who desires to obtain a renewal of the exclusive privileges to which he is, in respect of any invention, entitled for a second or further period of seven years, shall pay to the colonial secretary for the benefit of the general revenue the sum of ten pounds, and shall thereupon become entitled to such exclusive privileges during such second or further period; and every person who desires to obtain a renewal of such exclusive privileges for a third period of seven years shall pay to the colonial secretary for the benefit of the general revenue the sum of twenty pounds, and shall thereupon become entitled to such exclusive privileges during such third period.

XV. *Renewal certificate.—Form.* The colonial secretary shall, on receipt of any fee under the last preceding section of this Act, fill up and give to the person by or on whose behalf the same is paid a certificate having on it the number of the specification of the invention to which it relates, and of the following form:

Specification No. .

I hereby certify that the exclusive privileges enjoyed by in respect of the invention described in the specification above referred to have been this day renewed for a period of seven years.

(Sgd.)
Colonial Secretary, Barbadoes.

Dated,

And the Colonial Secretary shall cause a copy of the same to be published three times in the Official Gazette.

XVI. *Copy certificate to be published in Official Gazette.* Whenever a specification is filed under this Act, the Colonial Secretary shall cause a copy of the certificate given to the person filing the same to be published three times in the Official Gazette.

XVII. *Repeal clause.* The Act of this island of the twenty-sixth day of August, one thousand eight hundred and fifty-two, entitled, "An Act relating to the Law of Patents," is hereby repealed.

From *Carpm. Pat. L. World*, 34.

BAVARIA.

See GERMAN EMPIRE.

BELGIUM.

Extracts from a Report of the patent-law of Belgium, by Mr. J. G. Kennedy of the British Legation, published, 1873.

Patents for invention are delivered in Belgium by virtue of the law of May 24, 1854. This law and the royal decree of the same date, determine the rights and the obligations of inventors. The said law has remained unchanged since the date of the publication, with the exception of two slight and unimportant modifications, both favorable to inventors, introduced in 1857, in articles VII. and XXII., and, taken as a patent law, it appears to have given general satisfaction on most points.

By the provisions of the law of 1854, patents for inventions are granted without previous examination either of the novelty or of the merit of the invention, and at the risk and peril of the inventor. It is the substitution of the repressive system for the preventive which formed the basis of the old law of January 25, 1817. The law of 1854 has also introduced special modifications with respect to the taxation of patents. By the law of 1817, the tax, which varied from $60.25 to $285.00 and upwards, had to be paid at once on delivery of the patent. The general effect of this condition was the exclusion of all poor inventors. Now that patents cost only $1.90 for the first year, $3.80 for the second, with a yearly increase of $1.90, and that the previous examination is suppressed, the number of inventors has greatly increased.

In granting patents the duty of the government is simply to ascertain that the formalities prescribed by the law and the royal decree have been fulfilled. In this case, provided the invention is a licit one, the patent is granted at the risk and peril of the patentee. In the contrary case, the patent is refused.

The government also interferes in questions of annulment of patent, first, for default of payment of the annuity tax within the time prescribed; and, secondly, in the event of the invention not being worked ("*exploitée*"). Excepting in the above two cases, all disputes concerning the exclusive rights of inventors must be decided by the ordinary civil tribunals.

The chief cause of the annulment, or rather of the lapse of pat-

ents, is default of payment of the anuuity within the time prescribed. More than ninety-five one-hundredths of the patents become public property in this way.

The action of government with regard to the concession of patents is very simple. In the case of the canceling of a patent for default in payment, the Finance Department transmits to the Home Department a statement of non-payment drawn up by the tax-receiver ("*receveur*") of the Finance Department, and thereupon the annulment of the patent is pronounced and published by royal decree.

It remains to investigate some of the clauses of the Belgian law of 1854, in order to illustrate the practical working of the different sections, and the nature of the privileges conferred on and obligations incurred by patentees in Belgium.

Article I. enacts that three kinds of patents may be granted—a patent of invention, of importation, and of improvement. A patent of invention is granted to the inventor who takes out his Belgian patent before obtaining letters patent in any other country. In that case, he is entitled to protection for twenty years. A patent of importation is granted to an inventor who, previously to lodging his demand in Belgium, has applied for letters patent in any other country. The patent of importation is limited to the term for which the previous foreign patent is granted, and expires with it. Thus a Belgian patent of importation for an invention already protected in Great Britain would be granted for fourteen years, and if the invention were patented in France the Belgian patent would be for fifteen years.

Belgian patents of importation may be taken out in the name of the inventor or his assign duly appointed. It has been decided by the courts in 1858–59, that a simple power from the inventor authorizing a party to take out a Belgian patent in his own name suffices for the purpose, said power being stamped and registered.

A patent of improvement may be obtained by a patentee for an improvement on or addition to his previous invention. The patent of improvement must be for improvement of the same nature as the original invention, otherwise it would not be held to be legally valid. No tax is required for a patent of improvement, which forms part of the original patent, and expires with it.

In article second the government declines all responsibility as to the value of the patent or of the invention. In case of legal proceedings the patentee may be obliged to lodge a certain sum previ-

ously to the case being brought before the courts. When the patentee is a foreigner he is always obliged to make a deposit, but said deposit rarely exceeds $95.00.

Under article XVII., in applying for a Belgian patent the inventor or his attorney, having paid the first year's tax, presents himself at the office of the provisional government or "*Commissariat d'Arrondissement*," where he lodges a receipt for the tax and a petition to the minister of the interior, praying that letters patent may be granted to him, and also a sealed packet containing two copies of the specifications and drawings illustrating the invention. The specification may be in any form, and written either in French or Flemish; the drawings may be made on paper of any size. The patent clerk registers the hour and date of the demand in a book kept for the purpose, and signed by the inventor or his attorney and by the head of the office.

Article XXI. treats of transfers. All transfers of patents are subject to a registration tax, fixed by the law at $1.90, but, in practice, a few francs more are charged for additionals; and the deed of transfer has to be stamped according to the size of the paper upon which the deed is drawn up. The transfer is then notified to the minister of the interior, who has it recorded in the patent-office and published summarily in the "*Recueil des Brevets d'Invention.*"

Article XXII. of the law of 1854 prescribed that a patent should be null and void in case the annual tax should not be paid within a month of its becoming due. In 1857 this article was modified, and a delay of six months was allowed to pay the tax, with an additional fee of $1.90; and the government is now obliged to call the attention of the inventor to the fact that the tax is due, by a registered letter to that effect. This duty devolves on the delegates ("*receveurs*") of the ministry of finance.

Article XXIII. enacts that all patentees shall work their invention, or cause it to be worked, within a year of its having been worked in any other country. The question whether this manufacture or construction of the article must take place in Belgium has been answered in various ways. The law has, however, left this matter entirely to the discretion of the government, which alone has power to decide what is to be understood by the working of an invention, and to judge in each case whether the requirements of the law have been complied with. The courts decline all competency in this matter, and assume that a patent has been worked according to law until it has been annulled by the government.

The views of the government in respect of working an invention may be inferred from divers cases in which patents have been annulled. It would appear that it is not considered sufficient to import the patented articles from abroad and put them on sale in one or more shops or warehouses, even if large numbers were sold in the country by this means. It is not even considered sufficient to have a certain number of the patented articles made and sold in Belgium, the same articles being imported also from abroad and sold in Belgium. The mere fact of importing the patented articles into Belgium, excepting a very limited number to serve as models seems to be considered as quite contrary to the spirit of the law, while a patentee having his invention manufactured in Belgium, and so badly made, owing to the lack of skill or tools, or means of the workmen he employed, that no purchaser could be found to buy it, would, in all probability, be held to have complied with the law, from his having manufactured in the country, and thus favored the "national industry."

The government seldom or never interferes as regards the working of a patented invention, unless called upon to do so by any party having an interest to overthrow the patent. The head of the department there states the case to the patentee or his agent, and requests him to say when and where the patent has been worked. Every facility is afforded him to explain his case and prove that he has complied with the law; and it is only if he fail to do so to the satisfaction of the department that his patent is annulled.

By Article XXIII. (*a.*) The courts may annul a patent if the invention has been worked commercially in the kingdom by a third party before the demand of the patent.

This alludes to the working commercially by a third party; but if the real and true inventor shall have commercially worked his invention before applying for a patent, such commercial working has no influence on the validity of his patent.

(*b.*) The intentional omission of part of the inventor's secret, or an erroneous specification given in intentionally, also invalidates a patent.

(*c.*) If the complete specification and exact drawings should have been printed and published previously to the demand of the Belgian patent, unless such publication should have been prescribed by law—thus, for the publication of an invention to invalidate a subsequent Belgian patent the complete specification and exact drawings must be published—an abridged specification would have

no influence on the Belgian patent. And, as regards patents of importation, an especial exception is made for such publications as the Blue Book printed specifications of English patents, by order of the commissioner of patents.

It may be interesting to mention a further peculiarity connected with Belgian patents of importation, showing what importance is attached by the Belgian law to the patentee being the first and real inventor.

A foreign patentee, though his foreign patent may be several years old, may, should his invention not come under any of the stipulations of article XXIV., take out a valid Belgian patent, and his Belgian patent will have priority over any patents for the same invention taken out by others between the date of his foreign patent and that of his Belgian patent of importation.

From 4 *Pat. Off. Gaz.* 263.

Law of May 24, 1854.*

ARTICLE I. Exclusive and temporary rights shall be granted under the name of patents of invention, of improvement, or of importation, for all discoveries or all improvements capable of being employed as articles of industry or of commerce.

ART. II. Patents shall be granted without previous examination at the risk and peril of the demander, without guarantee as to the reality, or the novelty, or merit of the invention, or to the accuracy of the specification, and without prejudice to the rights of other parties.

ART. III. The duration of patents is fixed at twenty years, save the case provided for in article fourteen, and shall take effect from the date on which the *procès verbal* shall have been made, as mentioned in article eighteen.

For each patent yearly and progressive dues shall be paid, as follows, viz :

First year, $1.90 ; second year, $3.80 ; third year, $5.70 ; and so on to the twentieth year, for which the tax shall be $38.00.†

* Another translation of the law of 1854, differing very slightly from that in the text, is given in Carpmaels' edition.

† There shall be paid for every patent an annual and progressive tax, as follows : 1st year 10 francs, 2nd year 20 francs, 3rd year 30 francs, and so on till the 20th. year, for which the tax shall be 200 francs. *Carpm. Pat. L. of World*, 40.

These dues shall be paid in advance, and shall not in any case be reimbursed.

No payment of dues shall be required for patents of improvement when granted to the proprietor of the original patent.

ART. IV. The patents guarantee to their possessors or assigns the exclusive right—

(*a.*) To make and sell to their profit the patented article, or cause or license it to be made or sold by other parties.

(*b.*) To sue in the courts of law such persons who may infringe on their rights, either by making the patented article, or by employing the means comprised in the patent, or retaining, selling, or exposing for sale, or introducing into the Belgian Territory one or more counterfeited articles of the same.

ART. V. If the persons sued in virtue of article IV. (*b*) shall have knowingly infringed (the patent right,) the courts of law shall pronounce, to the profit of the patentee or of his assigns, confiscation of the articles made in contravention of the patent, or the instruments, tools, or utensils especially destined for executing the same, or award the payment of a sum equal to the price of the articles which may have been already sold.

If the persons sued are of good faith, the court shall prohibit them, under penalty as above stated, from commercially making use of the machines or apparatus of production proved as counterfeits, or to make use of, with the same intent, tools and utensils for making the patented articles.

In either case, damages and interest may be awarded to the patentee or his assigns.

ART. VI. Possessors of patents or their assigns may obtain, by request, authorization from the president of the tribunal of the first instance, to name one or several persons as experts, in order to inspect and make an inventory of the machines, apparatus, or articles supposed to be counterfeited.

The president may by the same ordinance forbid the holders to part with the said articles, and permit the patentee to appoint a guardian, or even to place the articles under seal.

The ordinance of the president shall be communicated by a bailiff *ad hoc*.

ART. VII. The patent shall be joined to the request, which shall contain the address where the inventory is to be made. The examiners named by the president of the court shall be sworn by him,

or by a magistrate specially authorized by him prior to the proceedings.*

ART. VIII. The president may bird the patentee to deposit a sum as caution money.

In this case his ordinance shall not be delivered unless proof be given that the caution money has been deposited. The caution money shall always be required from foreigners.

ART. IX. The plaintiff may be present at the inventory if he should be specially authorized by the president of the court.

ART. X. If the doors shall be closed, or access refused, proceedings shall be adopted conformably to article 587 of the Code of Civil Procedure.

ART. XI. A copy of the *procès verbal* of the inventory made by the examiners shall be left by the detainer of the articles prescribed.

ART. XII. If in eight days the inventory is not followed by a summons before the tribunal of the district where the inventory was made, the ordinance delivered conformably to article six will lose its effect, and the detainer of the articles described may reclaim the original *procès verbal*, and prevent the patentee from making use of its contents, and render public the same, without prejudice to all damages and interest.

ART. XIII. The courts shall consider patent affairs to be summary and urgent.

ART. XIV. The author of an invention already patented in a foreign country, or his assigns, may obtain a patent of importation in Belgium. The duration of such patent shall not exceed the term of the patent previously granted in another country for the longest term, and in no case exceed the limit fixed by article III.

ART. XV. In case of modification of an invention a patent of improvement may be obtained, the term of which shall end at the expiration of the original patent.

If, nevertheless, the possessor of the new patent is not the principal patentee, he shall not, without the consent of the latter, make use of the original invention, and reciprocally the principal patentee shall not make use of the improvement without the consent of the holder of the new patent.

* As modified by the law of March 27, 1857, enabling the president to depute a magistrate to swear the examiners.

ART. XVI. Patents of importation and of improvement confer the same rights as patents of invention.

ART. XVII. Any person desirous of obtaining a patent shall be bound to deposit, under seal, in duplicate at the *greffe* (office) of one of the provisional Governors of the Kingdom, or at the office of a *Commissariat d'Arrondissement*, observing the formalities which shall be determined by a royal decree, an exact and complete specification, in one of the languages used in Belgium, and an exact drawing made to a metrical scale of the invented article.

No deposit shall be received without the production of a receipt showing that the first annuity tax shall have been paid.

A *procès verbal*, drawn up free of cost by the provisional *greffier*, or by the district commissary, in a special register, and signed by the demander, shall authenticate each deposit and express the day and hour of the delivery of the document.

ART XVIII. The legal date of the invention is established by the *procès verbal*, which shall be drawn up when the demand of the patent is deposited.

A duplicate of this *procès verbal* shall be given to the depositor free of expense.

ART. XIX. A decree of the minister of the interior, proving that the described formalities have been accomplished, shall be delivered forthwith to the depositor, and shall constitute his patent. An extract of this decree shall be published in the Moniteur.

ART. XX. The specifications of patents granted shall be published *verbatim*, or in substance, under the care of the administration, in a special collection, three months after the grant of the patent. When a patentee shall require a complete publication or extract furnished by himself, such publication shall be effected at his expense.

After the same term the public shall be admitted to inspect the specifications, and copies of them may be obtained on payment of the expenses.

ART. XXI. All legal transfers of patents between persons, or by will, shall be recorded on payment of a fixed fee of ten francs ($1.90).

ART. XXII. If the tax fixed by article III. of the law of May 24, 1854, shall not have been paid in the month when due, the patentee, after previous notice, must pay before the expiration of six months, under penalty of forfeiture of his rights, a sum of ten francs, ($1.90,) besides the usual annuity.

Holders of patents granted since the enforcement of the above law who may not have paid within the legal delay the annuity tax, conformably to article III., will be relieved of the forfeiture incurred by payment, within three months of the publication of the present law, of the sum of ten francs, ($1.90,) besides the annuities due.

The forfeiture of patents shall be published in the Moniteur. The same shall happen in case the patentee shall have been, at his own request, relieved of the forfeiture.

ART. XXIII. The proprietor of a patent must work, or cause to be worked, in Belgium, the patented article within a year from the date of its having been worked or used in a foreign country.

The government may, however, by an explanatory decree, inserted in the Moniteur before the expiration of this term, grant a prolongation of one year, at most.

At the expiration of the first year, or of the delay which shall have been granted, the patent shall be annulled by a royal decree.

Annulment shall also be pronounced when the patented article, made use of in a foreign country, shall have ceased to be worked in Belgium during one year, unless the possessor of the patent shall be able to justify the motives of his inaction.

ART. XXIV. Patents shall be declared null and void by the courts for the following causes :

(*a.*) When it shall be proved that the patented object has been worked or made use of for commercial purposes by other parties prior to the legal date of its invention, or importation, or improvement.

(*b.*) When the patentee shall have intentionally omitted to explain in the specification joined to his demand any part of his secret, or shall have inaccurately specified the same.

(*c.*) When it shall be proved that the complete specification and accurate drawings of the patented object have been published in a printed work prior to the date of the deposit, unless, as regards patents of importation, this publication should be a case for legal prescription.

ART. XXV. A patent of invention shall be declared null by the courts if the object for which it was granted shall have been previously patented in Belgium or in a foreign country.

Nevertheless, if the demand has the quality required by article fourteen, the patent may be maintained as a patent of importation on the terms of the said article.

These dispositions shall be applicable, should the case arise, to patents of improvements.

ART. XXVI. When forfeiture or extinction of a patent shall have been pronounced, according to articles XXIV. and XXV. by judgment or decree, having acquired the force of a case judged, the annulment of the patent shall be proclaimed by a royal decree.

ART. XXVII. [Omitted because relating only to patents existing when the law took effect.]

From 4 *Pat. Off. Gaz.* 265.

Royal Decree for the Execution of the Foregoing Law.

ARTICLE I. Any person desirous of obtaining a patent of invention, of improvement, or of importation, must deposit a demand to this effect in the office (*greffe*) of one of the provincial governments of the kingdom, or in the office of one of the *Commissariats d'Arrondissements* situate out of the chief town of the province.

To this demand must be joined, under sealed cover—

1. The specification of the article invented ;
2. The drawings, models, or patterns which may be necessary for the comprehension of the specifications ;
3. A duplicate certified copy of the specification and drawings ; and
4. A list of the documents and objects deposited.

ART. II. The deposit of the documents mentioned at article I. shall not be received without the production of a receipt showing the payment of 10 francs, ($1.90,) forming the first annuity of the tax.

This receipt shall be joined to the other papers.

ART. III. The demand must be written on stamped paper, and indicate the name, surname, occupation, (possession,) and the real or elected abode of the inventor in the kingdom. It must express a title, including a summary and precise designation of the object of the invention. Each demand shall comprise only one sole principal object, with the details and applications relating thereto.

When a patent of importation shall be demanded the petition shall make known the date and duration of the original patent, and the country where it has been granted. If the petitioner is not the owner of the foreign patent, but his attorney, (*ayant cause,*) he must justify his title by means of an act in due form.

ART. IV. The specification must be written in the French, or German, or Flemish language.

The specification must be written without alterations or interlineations; the words erased as null shall be counted and verified; the pages and references must be initialed, (*paraphés.*)

The specification shall explain the invention in a clear and complete manner, and conclude with a clear enunciation of its component parts.

ART. V. The drawings shall be traced in ink, and to a metrical scale; they must represent as near as possible the article to be invented, by plans, and sections, and elevations, and those parts of the drawings which specially characterize the invention must have a different tint from the other parts.

ART. VI. All the documents must be dated and signed by the inventor or his attorney, whose power, duly legalized, shall remain annexed to the demand.

ART. VII. A *procés-verbal* drawn up by the *greffier* of the provincial government, or by the district commissary, shall be evidence of each deposit, stating the day and hour of the said deposit.

The invention shall be designated by the summary and truthful title which the demander shall have indicated.

This *procés-verbal* shall contain the name, surname, quality, and residence of the demander or his attorney, ("*mandataire.*") It shall also indicate, when a patent of importation is asked for, the date and duration of the original patent, and the name of the patentee. It must make mention of the payment of the first annuity.

This *procès-verbal* shall be signed by the depositor and by the writer of the same, and shall be affixed on the cover of the package containing the documents relative to the demand of the patent.

A copy of the *procés-verbal* shall be delivered free of cost to the depositor.

ART. VIII. The legal date of the invention is confirmed by the said *procès-verbal.*

ART. IX. The officers of the provincial *Greffiers* and those of the *Commissaires d'Arrondissement* shall be open for the demand of patents every day from 10 A. M. to 2 P. M., excepting Sundays and fête days.

ART. X. All the documents relating to demands of patents shall be transmitted within five days to the department of the interior.

ART. XI. On the arrival of these documents at the above depart-

ment the demands shall be enrolled, in the order of their date of admission, in a special register, which the public may inspect any day, excepting Sundays and fête days from 10 A. M. to 2 P. M.

ART. XII. In case of omission or irregularity of form the demander shall be required ("*invités*") to make the necessary rectifications.

A note of these rectifications shall be made in the special register mentioned in the preceding article.

ART. XIII. Patents demanded in a regular manner shall be delivered without delay.

A decree of the minister of the interior, stating the accomplishment of the prescribed formalities, shall be delivered to the demander, and shall constitute his patent.

ART. XIV. The patent shall expressly state that the grant of the same is made without previous examination, at the risk and peril of the demander, and without guarantee as to the reality or the novelty, or the merit of the invention, or to the accuracy of the specification, and without prejudice to the rights of other parties.

ART. XV. The first delivery of patents shall be made free of expense, but all future deliveries demanded by the patentee or his assigns shall be subject to the reimbursement of the expenses.

ART. XVI. The specifications of patents shall be published verbatim or in substance, under the care of the administration, in a special collection three months after the grant of the patent.

When the patentee shall require a complete publication of his specification, or of an extract of the same furnished by himself, he must inform the administration of his desire one month at least before the expiration of the term fixed by the preceding paragraph, and consign the amount requisite to cover the cost of this publication.

ART. XVII. After the said term of three months the public shall be admitted to examine the specifications, and may obtain copies thereof on reimbursement of the expenses.

ART. XVIII. The patentee who may desire to obtain a prolongation of the delay, as provided for by article XXIII. of the law, for putting into activity the patented article, must address his demand to the minister of the interior two months at least before the expiration of the delay fixed by the said article.

This demand must contain sufficient motives and indicate within the legal limit the term necessary for putting into activity the invention.

ART. XIX. All cessions or mutations, total or partial, of a patent shall be notified to the department of the interior.

The notification of the cession or any other act involving mutation must be accompanied by an authentic extract of the act of cession or of mutation.

ART. XX. Proprietors of patents not expired or annulled at the time of the publication of the law of the 24th May, 1854, may have their rights placed under the administration of this law on forming their demand before the 25th May, 1855.

A patentee who shall not have paid, when the benefit of his disposition shall be demanded, a sum equal to the amount of the annuities due according to article III. of the law, shall be bound to effectuate this payment and justify the same by a receipt joined to their demand; otherwise the demand shall be of no avail.

A declaration stating that the patent is placed under the administration of the new law shall be sent to the interested party.

ART. XXI. The grants of patents, the acts of cession or of mutation, as also the declarations mentioned in the preceding article, shall be published in a special collection of patents. The decrees pronouncing annulment of patents, or their having been given up to the public, shall likewise be inserted in the same collection.

ART. XXII. At the expiration of patents the original drawings and specifications shall be deposited in the Museum of Industry.

ART. XXIII. The minister of the interior is charged with the execution of the present decree.

From 4 *Pat. Off. Gaz.* 267.

BOSNIA.

See AUSTRIA-HUNGARY.

BRAZIL.

Law of October 14, 1882.*

ARTICLE I.

By the grant of a patent to the author of any invention or discovery the law guarantees his right to the property and exclusive use of the invention.

SECTION 1. According to this law the following shall constitute an invention or discovery.

1. The invention of new industrial products.

2. The invention of new processes or the new application of known processes for obtaining an industrial product or result.

3. The improvement of an invention already patented if it facilitates the manufacture of the product or the use of the patented invention, or if it increases its utility.

Those industrial products, processes, applications, and improvements shall be considered new which, up to the application for a patent, have never been employed or used within or without the empire, nor have been described or published so that they could be employed or used.

SEC. 2. The following inventions cannot be the subjects of patents:—

1. Those contrary to law or morality.

2. Those dangerous to public security.

3. Those hurtful to public health.

4. Those which do not offer practical industrial results.

SEC. 3. The patent will be granted by the executive power after the fulfillment of the formalities prescribed in this law and in its regulations.

SEC. 4. The exclusive privilege for a principal invention will only be valid for fifteen years, and that for an improvement to the

* The substance of the former law, which was promulgated August 28, 1830, is given in a report by Mr. Phipps of the British Legation, published Sept. 16, 1873, 4 *Pat. Off. Gaz.* 289, together with accounts of the practice and formalities in granting patents in Brazil, and of the project then pending for a more complete and comprehensive legislation on the subject. A translation of the Law of 1852, differing very slightly from that presented in the text, may be found in 23 *Pat. Off. Gaz.* 193.

invention granted to the inventor will terminate at the same time as the original patent.

If public necessity or utility require the free use (*vulgarisação*) of an invention or its exclusive use by the State during the privilege for it, the patent can be disappropriated in conformity with the legal formalities.

SEC. 5. The patent is transmissible by any of the modes of cession or transfer recognized by law.

ARTICLE II.

Inventors receiving privileges in other countries can obtain confirmation of their rights in the empire, provided they fulfill the formalities and conditions of this law and observe the further provisions in force applicable to the case. The confirmation will give the same rights as a patent granted in the empire.

SEC. 1. The priority of right of property of an inventor who, having solicited a patent in a foreign country, shall make a similar petition to the imperial government within seven months, will not be invalidated by facts which may occur during this period—such as another similar petition, the publication of the invention, and its use or employment.

SEC. 2. To the inventor who, before obtaining a patent, desires to experiment in public with his inventions, or wishes to exhibit them in an official or officially recognized exhibition, will be given a document provisionally guaranteeing to him his right of property for a specified time and with the formalities required.

SEC. 3. During the first year of the patent only the inventor himself or his legal successors can obtain a patent for improvements on the invention. Third parties will be permitted, however, to present their petitions within the said period in order to establish their rights.

The inventor of an improvement cannot make use of the improved article while the patent for the principal invention lasts without an authorization from its inventor. Nor can the latter employ the improvement without agreement with the former.

SEC. 4. If two or more persons petition for patents at the same time for an identical invention, the government, except in the hypothesis of section 1 of this article, will require that they previously determine the priority either by means of agreement or in a competent court.

ARTICLE III.

The inventor who seeks a patent shall deposit in duplicate in the department which the government shall designate, in a closed and sealed envelope, a specification in Portuguese, describing the invention with accuracy and clearness, its purpose and the method of using it, with the plans, designs, models, and samples which may contribute to an exact understanding of the invention and the elucidation of the specification, so that any person competent in the matter can obtain or apply the result, means, or product of which it treats. The specification shall clearly set forth the characteristic features of the invention. The rights under the patent will be limited to the said features, mention of this being made in the patent.

SEC. 1. With the documents deposited shall be presented the petition, which should be limited to one single invention, specifying its nature and its purposes or applications in accordance with the specification and the documents deposited.

SEC. 2. If it shall appear that the subject of the invention involves an infraction of section 2, article I., or has for its object alimentary, chemical, or pharmaceutical products, the government will order a previous secret examination of one of the samples deposited, in conformity with the regulations to be issued, and in accordance with the result it will or will not concede a patent. From an adverse decision there will be an appeal to the Council of State.

SEC. 3. With the sole exception of the cases mentioned in the preceding paragraph, the patent will be issued without previous examination. The patent will always designate the object of the privilege in a concise manner, saving the rights of third parties and without guarantee of the government, as to the originality or utility of the invention.

In the patent of an inventor privileged outside of the empire it will be declared that it is valid so long as the foreign patent is in force, never exceeding the specified period of section 4, article I.

SEC. 4. Besides the expenses and fees incurred, patentees shall pay a tax of twenty dollars for the first year, thirty dollars for the second, forty dollars for the third, the annuity for each year of the privilege being ten dollars more than the preceding annuity. In no case will the annuities be refunded.

SEC. 5. To the privileged inventor who improves his own inven-

tion will be given a certificate of improvement, which will be appended to the original patent. For this certificate the inventor will pay, once for all, an amount corresponding to the annuity about to become due.

SEC. 6. The transfer or cession of a patent or certificate will not come into effect until it has been registered in the bureau of agriculture, commerce, and public works.

ARTICLE IV.

The patent having been issued, within a period of thirty days the opening of the deposited envelopes shall take place with the formalities which the regulations shall specify. The specification shall be immediately published in the *Diario Official*, and one of the copies of the designs, plans, models, or samples will be open to the inspection of the public and the study of parties interested, copies being allowed to be taken.

SEC. 1. In case the previous examination mentioned in section 2, article III., has not taken place, the government, having published the report, will order the verification of the requisites and conditions required by law for the validity of the privilege by means of experiments according to the procedure established for such examination.

ARTICLE V.

A patent shall be of no effect in case of nullity or lapsing.

SEC. 1. The patent shall be null—

1. If in its granting any one of the requirements of sections 1 and 2 of article I. has been violated.

2. If the patentee did not have priority.

3. If the patentee has falsified the truth or concealed essential matter in the specification describing the invention, whether in its object or in the manner of using it.

4. If the title of the invention is, with fraudulent purpose, diverse from its real object.

5. If an improvement has not an indispensable relation with the principal invention, but can constitute a separate industry, or if there shall have been the state of priority referred to in article II., section 3.

SEC. 2. The patent shall lapse—

1. If the patentee does not make effective use of the invention within three years, counting from the date of patent.

2. If the patentee suspends the effective use of the invention for

more than one year, except by reason of *force majeur* admitted by the government after consulting the Council of State. By use is understood, in these two cases, the effective exercise of the patented industry, and the supply of the products in proportion to their employment or consumption. On proof that the supply of the products is evidently insufficient for the needs of employment or consumption, the privilege can be restricted to a zone determined by a decree of the government with the approval of the legislative power.

3. If the patentee does not pay the annuities within the terms of the law.

4. If a patentee residing out of the empire does not appoint an accredited agent to represent him before the government or in court.

5. If the patent is expressly renounced.

6. If the patent or foreign privilege for an invention also patented in the empire ceases from any cause.

7. When the term of the privilege has expired.

SEC. 3. The nullity of a patent or of a certificate of improvement shall be declared by a decision of the commercial court (*jurzo comercial*) of the capital of the empire by means of the summary process of the decree No. 737 of November 25, 1850.

The following are competent to promote an action for nullity: —the solicitor of the treasury (*procurador dos fertos da fazenda*) and his assistants, to whom will be forwarded the documents and proofs corroborative of the infraction, and any interested party, with the assistance of that official and his assistants.

An action for nullity in the cases of article I., section 2, Nos. 1, 2, and 3, having been begun, the effect of the patent and the use or employment of the invention will be suspended until the final decision. If the patent is not annulled, the patentee will be reinvested in its enjoyment for the whole term of the privilege.

SEC. 4. The lapse of patents shall be declared by the minster and secretary of state for affairs of agriculture, commerce, and public works, with an appeal to the Council of State.

ARTICLE VI.

The following will be considered infringers of the patent:—

1. Those who, without license from the patentee, manufacture the products or employ the processes or make the applications which are the subject of the patent.

2. Those who import, sell, or expose for sale, conceal, or receive for the purpose of sale products which are infringements of the privileged industry, knowing them to be such.

SEC. 1. The infringers of a patent will be punished, for the benefit of the treasury, with a fine from five hundred dollars to five thousand dollars, and for the benefit of the patentee, with from ten to fifty per cent. of the damage caused or which may be caused.

SEC. 2. The following will be considered as aggravating circumstances:—

1. The infringer being, or having been, an employe or workman in the establishment of the patentee.

2. The infringer having associated with an employe or workman of the patentee for acquiring knowledge of the practical method of obtaining or employing the invention.

SEC. 3. The cognizance of infringements of a privilege belongs to the *juizes de direito* (district judges) of the *comarcas* (districts) where they occur, who will issue, on the petition of the patentee or his legal representative, warrants of search, apprehension, and deposit, and will prescribe the preparatory or preliminary proceeding of the process. The sentence shall be governed by law No. 562 of July 2, 1850, and by decree No. 707 of October 9th of the same year, so far as they apply to the case. The products of which Nos. 1 and 2 of this article treat, and the respective instruments and apparatus, will be adjudged to the patentee by the same sentence which comdemns the authors of the infringements.

SEC. 4. The process will not hinder an action by the patentee to secure indemnification for damage caused or which may be caused.

SEC. 5. Commercial jurisdiction is competent for all cases relative to industrial privileges in conformity with this law.

SEC. 6. The following will be punished with a fine of from one hundred dollars to five hundred dollars for the benefit of the treasury :—

1. Those who announce themselves as possessors of a patent, by using emblems, marks, placards, or labels upon products or articles prepared for commerce or exposed for sale, as if they had been patented.

2. Inventors who continue to exercise an industry as patented when the patent has been suspended, annulled, or has lapsed.

3. Privileged inventors who in prospectuses, advertisements, placards, or by any mode of public notice shall mention patents without designating the special object for which they were obtained.

4. Professional men or experts who being employed under section 2, of article III. cause the general diffusion of the secret of the invention; without prejudice in this case to such criminal or civil actions as the laws permit.

SEC. 7. The offenses of which the preceding paragraph treats shall be prosecuted and judged as simple police offenses, in conformity with the legislation in force.

ARTICLE VII.

When a patent has been conceded to two or more co-inventors, or when it becomes common property by deed of gift or succession, each one of the co-proprietors may use it freely.

ARTICLE VIII.

If a patent shall be given or left in usufruct, the usufructuary will be obliged, when his rights cease through the extinction of the usufruct or termination of the term of privilege, to give to the owner of the property the value at which it shall be estimated, calculated with relation to the time which the usufruct has lasted.

ARTICLE IX.

Patents of inventions already granted will continue to be governed by the law of October 26, 1830, the provisions of article V. section 2, Nos. 1 and 2, and of article VI. of this present law, with the exception of pending processes or actions, being applicable to them.

ARTICLE X.

All enactments contrary to the present law are hereby repealed.

From *Carpm. Pat. L. of World*, 46.

See also INTERNATIONAL CONVENTION.

BRITISH COLUMBIA

See CANADA.

BRITISH GUIANA.

Ordinance No. 13, *of* (*July* 12), 1861, *to regulate the granting of Patents.*

Preamble.

Whereas it is expedient to regulate the granting of patents for inventions in this colony: Be it therefore enacted by His Excellency the Lieutenant-Governor of British Guiana, with the advice and consent of the court of policy thereof, as follows:—

1. *Petition for patent to be accompanied by affidavit and provisional specification.* From and after the taking effect of this ordinance, every inventor desirous of obtaining protection for his invention within this colony shall petition the Governor to grant to him, his heirs, executors, administrators, and assigns, letters patent for his invention, in the name of Her Majesty, under the public seal of this colony, and every petition for letters patent as aforesaid, shall be lodged at the office of the government secretary, accompanied by an affidavit, signed by the petitioner, that he is the true and first inventor, and that the invention is not in use by any other person or persons within the colony, to the best of his knowledge and belief, and also by a statement in writing, hereinafter called the provisional specification, signed by or on behalf of the petitioner, describing the nature of the invention; and all such petitions, affidavits, and provisional specifications shall be preserved in, and a registry thereof kept at, the said office.

2. *Petition and affidavit of absent inventor to be legalized.—Also complete specification.* In the event of any such inventor being resident out of the colony, the petition, affidavit, and provisional specification may be lodged by any person acting as his agent in the colony, provided that the petition and affidavit of such inventor (or his declaration in places where a declaration is allowed by law instead of an oath) be certified and transmitted under the signature and seal of any mayor, notary public, or justice of the peace, or of any British consul, or vice-consul, or of any other officer authorized to administer oaths or receive declarations; and in like manner the complete specification referred to in the 4th and 12th sections may be deposited by the agent of any such absent inventor, provided the same be legalized as aforesaid.

3. *Applications to be referred to attorney-general for examination.* Every application for letters patent under this ordinance, together with all documents connected therewith, shall be referred for examination, and report to the attorney-general, who shall be at liberty in examining the provisional specification to call to his aid such scientific or other person as he may think fit, and to cause to be paid to such person by the petitioner such remuneration as the attorney-general shall appoint; and if the attorney-general be satisfied that the provisional specification describes the nature of the invention, he shall allow the same, and give a certificate of his allowance, and such certificate shall be filed in the office of the government secretary, and thereupon the invention therein referred to may, during the term of twelve months from the date of the application for letters patent for the said invention, be used and published without prejudice to any letters patent to be granted for the same, and such protection from the consequences of use and publication is hereinafter referred to as provisional protection: Provided always, that in case the title of the invention or the provisional specification be too large or insufficient, it shall be lawful for the attorney-general to allow or require the same to be amended; it being, nevertheless, in every case, entirely at the hazard of the petitioner whether the invention is new or will have the desired effect.

4. *Inventors may deposit a complete specification; to confer rights for* 12 *months.* The applicant for letters patent for an invention, instead of leaving with the petition and affidavit a provisional specification as aforesaid, may, if he think fit, deposit in the registrar's office for the counties of Demerara and Essequebo an instrument in writing under his hand (hereinafter called a complete specification), particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, of which specification an authentic copy shall be filed with the petition and affidavit, and the day of the delivery of every such petition, affidavit, and complete specification shall be recorded at the office of the government secretary, and a certificate thereof given to such applicant or his agent, and thereupon, subject and without prejudice to the provisions hereinafter contained, the invention shall be protected under this ordinance for the term of twelve months from the date of the application, and the applicant shall have during such term of twelve months, the like powers, rights and privileges as might have been conferred upon him by

letters patent for such invention issued under this ordinance and duly sealed as of the day of the date of such application; and during the continuance of such powers, rights, and privileges under this section, such invention may be used and published without prejudice to any letters patent to be granted for the same; and where letters patent are granted in respect of such invention, then in lieu of a condition for making void such letters patent in case such invention be not described and ascertained by a subsequent specification, such letters patent shall be conditioned to become void if such complete specification deposited as aforesaid does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed; and every such complete specification shall be open to the inspection of the public as hereinafter provided, from the time of depositing the same.

5. *Patent not invalidated by protection obtained in fraud.* In case of any application for letters patent for any invention, and the obtaining upon such application of provisional protection for such invention or of protection for the same, by reason of the deposit of a complete specification as aforesaid in fraud of the true and first inventor, any letters patent granted to the true and first inventor of such invention shall not be invalidated by reason of such application or of such provisional or other protection as aforesaid, or of any use or publication of the invention subsequent to such application, and before the expiration of the term of such provisional or other protection.

6. *Protections to be advertised and provisional specifications deposited.* Where any invention is provisionally protected under this ordinance, or protected by reason of the deposit of such complete specification as aforesaid, the government secretary shall cause public notice of such provisional protection or other protection as aforesaid to be given in the Official Gazette, and the government secretary shall cause to be delivered to the registrar for the counties of Demerara and Essequebo every provisional specification after the term of the provisional protection of the invention has expired, to be by him entered free of charge in the "Register of Patents" hereinafter mentioned.

7. *Application to be advertised, and oppositions may be entered.* The applicant for letters patent, so soon as he may think fit after the invention shall have been provisionally protected under this ordinance, or where a complete specification has been deposited at the time of filing his petition and affidavit, then so soon as he may

think fit after such deposit, may give notice at the office of the government secretary of his intention of proceeding with his application for letters patent for the said invention, and thereupon the government secretary shall cause his said application to be advertised in the Official Gazette in such manner as he may see fit; and any person having an interest in opposing the grant of such letters patent for the said invention shall be at liberty to file particulars in writing of their objections to the said application in the office of the government secretary within one month from the date of the notice, and all such objections shall be referred to the attorney-general.

8. *Patent to issue on report of attorney-general.—Appeal.* When the time allowed for filing objections as aforesaid shall have expired, the attorney-general shall report in writing to the Governor upon each application for letters patent as aforesaid, and also upon any opposition that may be entered thereto, and public notice of all such reports having been submitted to the governor shall be given in the Official Gazette for two successive weeks, at the expiration of which time, if the attorney-general shall have reported that there is no valid legal objection to letters patent being granted, the governor may direct letters patent to issue, as hereinafter provided: Provided always, that within the said period of two weeks any party interested who may consider himself aggrieved by any such report of the attorney-general shall be at liberty to apply by petition to the Supreme Court of Civil Justice of the colony, or chief justice during non-session of said court, for their or his judgment upon the question at issue; and the court or chief justice, after hearing the parties interested if they or any of them shall think proper to appear, shall give judgment accordingly, and all costs shall be in the discretion of such court or chief justice; and the attorney-general shall alter or amend his report according to such judgment if necessary.

9. *Duration and effect of patent.* All letters patent for inventions under this ordinance shall be granted by the governor, in the name of Her Majesty, under the public seal of the colony, and the same shall extend to whole of the colony, and shall continue in force within this colony for the term of fourteen years from the date of the original application, and during such term the patentee, his heirs, executors, administrators, and assigns, shall have full power, sole privilege, and authority, by himself and themselves, and by his and their deputy or deputies, servants or agents, or such others as he,

the said patentee, his heirs, executors, administrators, or assigns, shall at any time agree with, and no others, from time to time, and at all times during the said term of fourteen years, lawfully to make, use, exercise, and vend the invention mentioned in such letters patent within this colony, in such manner as to him, the said patentee, his heirs, executors, administrators, and assigns, or any of them, shall, in his or their discretion, seem meet; and he, the said patentee, his heirs, executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage from time to time coming, growing, accruing, and arising by reason of such invention for and during such term of fourteen years; but all such letters patent shall be subject to the conditions hereinafter mentioned.

10. *No person to use or imitate the invention without consent.* During the continuance of the said term it shall not be lawful for any person whomsoever at any time, either directly or indirectly, to make, use, or put in practice within this colony the said invention or any part of the same, nor in any wise to counterfeit, imitate, or resemble the same, nor to make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself the inventor or devisor thereof, without the consent, license, or agreement of the said patentee, his heirs, executors, administrators, or assigns, in writing under his or their hands, first had and obtained in that behalf; and if any person shall, at any time during the continuance of the said term, either directly or indirectly, make, use, or put in practice within this colony the said invention or any part of the same, or shall in any wise counterfeit, imitate, or resemble the same, or make or cause to be made any addition thereto, or subtraction therefrom, whereby to pretend himself the inventor or devisor thereof, without such consent, license, or agreement as aforesaid, every such person shall be liable to such pains and penalties as can or may be inflicted upon any person for any such breach or violation of this ordinance, and shall further be answerable to the said patentee, his heirs, executors, administrators, and assigns, according to law, for his and their damages thereby occasioned.

11. *Patent to be avoidable on non-fulfillment of certain conditions.* All letters patent for inventions under this ordinance shall be made and shall be subject to the conditions that the same shall be void, and that the powers and privileges thereby granted shall cease and determine, if any person shall, during the continuance of the said term of fourteen years, successfully establish and prove

before the Honorable the Supreme Court of Civil Justice of this colony that the grant of such letters is contrary to law, or prejudicial or inconvenient to Her Majesty's subjects in general, or that the invention mentioned in such letters patent is not a new invention as to the public use and exercise thereof, or that the grantee of such letters patent is not the true and first inventor within this colony: And such letters patent, or anything therein contained, shall not extend or be construed to extend to give privilege unto the grantee thereof, his heirs, executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatever theretofore found out or invented by any other of Her Majesty's subjects whatsoever, and publicly used or exercised in this colony, unto whom like letters patent or privileges shall have already been granted in this colony for the sole use, exercise, and benefit thereof.

12. *Patent to be avoidable on non-fulfilment of further conditions.* All letters patent for inventions under this ordinance shall also be made and shall be subject to the further conditions that the same shall be void, and that the powers and privileges thereby granted shall cease and determine, if the patentee shall fail or neglect to record the said letters patent in the registrar's office for the counties of Demerara and Essequebo within ten days from the date thereof, and also if the patentee shall fail or neglect to deposit in the said registrar's office, within six months from the date of the said letters patent, save (and except as provided in the 4th section of this ordinance) a clear and copious statement in writing, herein called the complete specification, under his hand, particularly describing and ascertaining the nature of his invention, and in what manner the same is to be performed, and also if the said instrument in writing deposited as aforesaid does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said patentee, his heirs, executors, administrators or assigns, shall not supply or cause to be supplied for Her Majesty's service in this colony all such articles of the said invention as he or they shall be required to supply by the officers administering the department of Her Majesty's service in this colony for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms, as shall be settled for that purpose by the governor; and further that the said letters patent shall be void, and that the powers and privileges thereby granted shall cease and determine, at the expiration of seven years from the date thereof, unless

there be paid before the expiration of the said seven years the stamp duty in the schedule A to this ordinance annexed; and such letters patent, or a duplicate thereof shall, on such payment, be stamped with a proper stamp, showing the payment of such duty, and notice of such payment shall be given by the government secretary in the Official Gazette.

13. *No patents to be issued after three months.* No letters patent for inventions under this ordinance shall be issued or be of any force or effect unless the same shall be applied for, and the stamp duty then payable in respect thereof tendered, within the period of three months from the date of the attorney-general's report; and no letters patent shall be issued or be of any force or effect unless the same be granted during the continuance of the provisional protection under this ordinance, or unless a complete specification has been deposited under this ordinance, or then unless such letters patent be granted during the continuance of the protection conferred under this ordinance by reason of such deposit; save that where the application to seal such letters patent has been made during the continuance of such provisional or other protection as aforesaid, and the sealing of such letters patent has been delayed by reason of a caveat, or an application to the Supreme Court or chief justice against or in relation to such letters patent, then such letters patent may be sealed within such extended time as the court or chief justice shall be pleased to grant for enabling the applicant to apply to the Governor to order such letters patent to be sealed.

14. *Patent may be granted to heirs, &c., of applicant.* Where the applicant for such letters patent dies during the continuance of the provisional protection, or the protection by reason of the deposit of a complete specification (as the case may be), such letters patent may be granted to the heirs, executors or administrators of such applicant during the continuance of such provisional or other protection, or at any time within three months after the death of such applicant notwithstanding the expiration of the term of such provisional or other protection, and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such provisional or other protection.

15. *Patent may be dated as of the day of application.* It shall be lawful to cause any letters patent to be issued in pursuance of this ordinance to be sealed and bear date as of the day of the application for the same, or where the governor thinks fit and

directs any such letters patent as aforesaid may be sealed and may bear date as of the day of the sealing of such letters patent, or of any other day between the day of such application and the day of such sealing.

16. *Patent antedated to be valid.* Any letters patent issued under this ordinance, sealed and bearing date as of any day prior to the day of the actual sealing thereof, shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date: Provided always, that, save where such letters patent are granted for any invention in respect whereof a complete specification has been deposited upon the application for the same under this ordinance, no legal proceeding shall be had upon such letters patent in respect of any infringement committed before the same were actually granted.

17. *Patent obtained in the colony for patented extra-colonial inventions.* Where upon any application made after the taking effect of this ordinance for or in respect of any invention first invented in the United Kingdom, or in any foreign country, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in the United Kingdom, or in any foreign country is there obtained before the grant of such letters patent in this colony, all rights and privileges under such letters patent shall (notwithstanding any term in the letters patent limited) cease and be void immediately upon the expiration or other determination of the term during which the patent or other like privilege obtained in the United Kingdom or in such foreign country shall continue in force, or where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges: Provided always that no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained in the United Kingdom or in any foreign country, and which shall be granted in this colony after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

18. *Patent not to prevent the use of invention in foreign ships.* No letters patent for any invention (granted after the taking effect of this ordinance) shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of of any foreign ship or vessel which may be in any port in this colony or in any of the waters within the jurisdiction of any of

Her Majesty's courts in this colony, where such invention is not used for the manufacture of any goods or commodities to be vended within or exported from this colony : Provided always, that this enactment shall not extend to the ships or vessels of any foreign State, of which the laws authorize subjects of such foreign State having patents or like privileges for the exclusive use or exercise of inventions within its territories to prevent or interfere with the use of such inventions in British ships or vessels, or in or about the navigation of Britith ships or vessels while in the ports of such foreign State, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from the territories of such foreign State.

19. *Patents heretofore granted in the United Kingdom.* Nothing herein contained shall extend to prejudice or affect any letters patent heretofore granted in the United Kingdom, and made applicable by the tenor thereof to this colony, and such letters patent shall be in every respect as valid and effectual as if this ordinance had not been passed : and printed or manuscript copies or extracts, certified and sealed with the seal of the commissioners of patents, of every such letters patent, and of the specification thereto relating, and of any disclaimer or memorandum of alteration in respect thereof, shall be deposited or recorded in the registrar's office, and notice thereof given in the Official Gazette.

20. *Disclaimer and memorandum of alteration—notice and appeal.* Any person who, as grantee, assignee, or otherwise, shall obtain letters patent under this ordinance, may, if he think fit, enter at the said registrar's office, having first obtained the leave of the attorney-general, certified by his fiat and signature, a disclaimer of any part of either the title of the invention or of the complete specification, stating the reason for such disclaimer, or may, with such leave as aforesaid, enter a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said letters patent ; and such disclaimer or memorandum of alteration, being entered at the said office and notified by the registrar in the Official Gazette, shall be deemed and taken to be part of such letters patent, or such complete specification, in all courts whatever in this colony: Provided always, that any person desirous of entering any such disclaimer or alteration shall be bound to give three weeks previous notice in the Official Gazette of his intention to enter the

same: And provided further, that any party aggrieved by any decision of the attorney-general under this section may, within two weeks from the date of such decision apply by petition to the Supreme Court or chief justice to alter or amend the same; and the court or chief justice, after hearing the parties interested, if they or any of them shall think proper to appear, shall give judgment accordingly, and all costs shall be in the discretion of such court or chief justice; and the attorney-general shall alter or amend his decision, according to such judgment, if necessary.

21. *Caveats may be entered.* Any person may enter a caveat against such disclaimer or alteration at the said registrar's office within the said period of three weeks, which caveat, being so entered, shall be referred to and heard and determined by the attorney-general, subject to an appeal to the court or chief justice in like manner as is provided in the last preceding section: Provided always, that no disclaimer or alteration shall be receivable in evidence in any action or suit pending at the time when such disclaimer or alteration was entered, but in every such action or suit the original title and complete specification alone shall be given in evidence and deemed and taken to be the title and complete specification of the invention for which the letters patent shall have been granted: And provided further, that such entry and notification in the Official Gazette of any disclaimer or memorandum of alteration in pursuance of the leave of the attorney-general, shall, except in cases of fraud, and subject to the aforesaid appeal, be conclusive as to the right of the party to enter such disclaimer or alteration; and no objection shall be allowed to be made in any proceeding in this colony upon or touching such letters patent, specification, disclaimer, or alteration, on the ground that the party entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf.

22. *Mode of proceeding for confirmation of the letters patent.* If in any action or suit in this colony it shall be specially found by the court or jury that any person who shall have obtained letters patent in this colony for any invention, or supposed invention, was not the first inventor thereof, or of some part thereof, by reason of some other person or persons having invented or used the same or some part thereof in this colony before the date of such letters patent, or if such patentee or his assigns shall discover that some other person had unknown to such patentee invented or used the same or some part thereof in this colony before the date of such letters

patent, it shall be lawful for such patentee or his assigns to petition the governor, with the advice and consent of the Court of Policy, to confirm the said letters patent, or to grant new letters patent, the matter of which petition shall be referred to and heard before the Court of Policy, and such court, upon examining the said matter, and being satisfied that such patentee believed himself to be the first and original inventor, and further, that such invention or part thereof had not been publicly and generally used in this colony before the date of such letters patent, may state by resolution their opinion that the prayer of such petition ought to be complied with, whereupon the governor may, if he think fit, grant such prayer; and the said letters patent shall in such case be available in law to give such petitioner the sole right of using, making, and vending in this colony the said invention as against all persons whatever, any laws, usage, or custom to the contrary notwithstanding: Provided, that any person opposing such petition shall be entitled to be heard before the said Court of Policy, and that any person party to any former suit or action touching such first letters patent shall be entitled to have notice of such petition before presenting the same.

23. *Application for the prolongation of the term of the patent.* If any person who shall obtain any letters patent under this ordinance, or any assignee of such patentee, shall advertise for one month in the Official Gazette that he intends to apply to the Governor to grant to him, with the advice and consent of the Court of Policy, a prolongation of his term of sole using and vending his invention within this colony, and shall petition the Governor to that effect, it shall be lawful for any person to enter a caveat at the office of the government secretary; and the matter being referred to the consideration of the Court of Policy, the petitioner and the parties entering caveats and their respective witnesses shall be heard, whereupon, and upon hearing and inquiring of the whole matter, the Court of Policy may state by resolution their opinion that a further extension of the term in the said letters patent should be granted, not exceeding seven years; and the Governor may, if he think fit, thereupon grant new letters patent for the said invention for a further term not exceeding seven years after the expiration of the first term, any law, usage, or custom to the contrary notwithstanding; provided always, that no such extension shall be granted unless the petition shall be presented six months at least before the expiration of the term originally granted in such letters patent, and

shall be thereafter prosecuted by the petitioner with due diligence, to the satisfaction of the Governor and Court of Policy.

24. *Witnesses may be summoned in proceeding under this ordinance.* It shall be lawful for the Governor and Court of Policy to order any person to be summoned to appear before them to give evidence in any proceeding before them under this ordinance; and if any person being served with any such order or summons of the Governor and Court of Policy, shall refuse or neglect to appear at the time and place mentioned in such order or summons, such person shall be subject to a fine by the Governor and Court of Policy, not exceeding two hundred and forty dollars, to be recovered at the instance of the attorney-general by summary execution.

25. *Evidence to be given upon oath.* It shall be lawful for the Governor and Court of Policy to administer to any person who shall appear as a witness in any such proceeding, any oath or affirmation that may lawfully be administered in any court of justice, and every witness who shall willfully give a false answer to any question that may be put to him or her, or shall swear falsely on any oath, or shall falsely affirm any matter or thing, shall be deemed guilty of perjury, and on conviction thereof before the Supreme Court of Criminal Justice shall be subjected to the pains and penalties imposed on persons guilty of willful and corrupt perjury.

26. *Summonses to be served by the provost-marshal.* All summonses and orders of the Governor and Court of Policy, granted in any of such proceedings as aforesaid, shall be served and executed by provost-marshal of the colony, or his lawful deputy, and for the making and serving of each copy of any such summons or order the provost-marshal shall be allowed to charge the sum of fifty cents, and no more, and for traveling expenses or distance money the fees chargeable by the marshal under ordinance No. 27 of the year 1855, and the costs of procuring the attendance of every such witness shall be borne by the party requiring him to be summoned, unless the Governor and Court of Policy shall otherwise direct.

27. *Register of patents to be kept.* There shall be kept at the Registrar's office aforesaid, a book or books, to be called the "Register of Patents," which shall be kept alphabetically indexed, and wherein shall be entered and recorded in chronological order all letters patent granted or filed under this ordinance (and nothing contained in section 24 of ordinance No. 3 of 1860, shall extend or

apply to any such letters patent), all provisional specifications after the term of the provisional protection of the invention has expired, all complete specifications, disclaimers and memoranda of alterations entered in respect of such letters patent, all amendments in such letters patent and specifications, all assignments of such letters patent, or of any share or interest therein, all confirmations and extensions of such letters patent, the expiry, vacating or cancelling of such letters patent, with the dates thereof, respectively, and all other matters and things affecting the validity of such letters patent as the government secretary may direct: and such register, on payment of the fee hereinafter provided, shall be open at all convenient times to the inspection of the public, subject to such regulations as the Supreme Court may make.

28. *In suits for infringement, particulars to be delivered.* In any suit for the infringement of letters patent the plantiff shall deliver, with his claim and demand, particulars of the breaches complained of in the said suit, and the defendant, on pleading thereto, shall deliver with his pleading, and the plaintiff, in any proceedings to have declared void letters patent granted under this ordinance, shall deliver with his claim and demand, particulars of any objections on which he means to rely at the trial in support of the defense in the said suit or of the averments in the said claim and demand in the proceedings to have declared void such letters patent respectively; and at the trial of such suit or proceeding no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such letters patent, which shall not be contained in the particulars delivered as aforesaid: Provided always, that the place or places at or in which, and in what manner, the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars; provided also that it shall and may be lawful for any judge of the Supreme Court to allow such plaintiff or defendant, respectively, to amend the particulars delivered as aforesaid upon such terms as to such judge shall seem fit; provided also, that at the trial of any proceeding to have letters patent declared void the defendant shall be entitled to begin and to give evidence in support of such letters patent, and in case evidence shall be adduced on the part of the plaintiff impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

29. *Supreme Court or chief justice may grant an interdict.* In any suit for the infringement of letters patent, it shall be lawful

for the Supreme Court or chief justice in non-session, on the application of the plaintiff or defendant, respectively, to make such order for an interdict, inspection, or account, and to give such directions respecting such suit, interdict, inspection, and account, and the proceedings therein respectively, as to such court or chief justice may seem fit.

30. *Particulars to be regarded in taxation.* In taxing the costs in any suit, after the taking effect of this ordinance, for infringing letters patent, regard shall be had to the particulars delivered in such suit, and the plaintiff and defendant, respectively, shall not be allowed any costs in respect of any particular, unless certified by the court or judge before whom the trial was had to have been proved by such plaintiff or defendant, respectively, without regard to the general costs of the cause: and it shall be lawful for the court or judge before whom any such suit shall be tried to certify on the record that the validity of the letters patent in the claim and demand mentioned came in question, and the record with such certificate being given in evidence in any suit or action for infringing the said letters patent, or in any proceeding to have the letters patent declared void, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding, on obtaining a final sentence, to his full costs, charges, and expenses, taxed as between attorney and client, unless the court or judge trying such action or proceeding shall certify that the plaintiff or defendant, respectively, ought not to have such full costs.

31. *Copies of Official Gazette, and certified copies of letters patent, &c., to be evidence.* Copies of the Official Gazette containing all notices and other matters required by this ordinance to be inserted therein, and copies certified and signed by the registrar of all letters patent granted under this ordinance, and of all specifications, disclaimers, memoranda of alterations, and all other documents recorded, deposited, or entered in his office under this ordinance, shall be received in evidence in all proceedings relating to letters patent for inventions in all courts whatsoever within this colony without further proof or production of the originals.

32, 33. [Omitted because relating only to patents existing when the law took effect.]

34. *Solicitor-general to act in case of absence or inability of attorney-general.* In case of the absence or inability to act of the attorney-general, the duties of his office may, for all the purposes

of this ordinance, be discharged, and the fees in respect thereof received by the solicitor-general.

35. *Fees and stamp duties on patent to be as in schedule A.* There shall be paid in respect of letters patent applied for or issued as herein mentioned, the filing of complete specifications and disclaimers, reports, certificates, entries, inspections, and searches, and other matters and things mentioned in the schedule A to this ordinance, such fees and stamp duties as are mentioned in the said schedule and no other; and all fees and stamp duties by such schedule made payable at the office of the government secretary shall accrue due, and be paid to Her Majesty for the use of the colony and in support of the government thereof.

36. *Nothing to affect prerogative of Crown.* Nothing herein contained shall extend to abridge or affect the prerogative of the crown in relation to the granting or withholding the grant of any letters patent whatever, or the terms, restrictions, conditions, or provisos thereof.

37. *Forms in schedule B may be used.* The several forms in the schedule B. to this ordinance annexed may be used for and in respect of the several matters therein mentioned, and the Governor may, with the approval of the Court of Policy, cause to be varied such forms as occasion may require.

38. *Interpretation clause.* In the construction of this ordinance, the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context (that is to say):

The expression "United Kingdom" shall mean the United Kingdom of Great Britain and Ireland;

The expression "invention" shall mean any manner of new manufacture, the subject of letters patent, and grant of privilege within the meaning of the Act of Parliament of the twenty-first year of the reign of King James the First, chapter three:

The expressions "petition," "affidavit," "provisional specification," "letters patent" and "complete specification" respectively shall mean instruments in form and to the effect in the schedule B hereto annexed, subject to such alterations as may from time to time be made therein under the powers and provisions of this ordinance.

39. *Short title.* In citing this ordinance in other ordinances, instruments, and proceedings, it shall be sufficient to use the expression "The Patent Law Ordinance, 1861."

40. *Commencement of ordinance.* This ordinance shall come into operation and take effect on the publication thereof.

And that no ignorance may be pretended of this our ordinance, these presents shall be printed and published in the customary manner.

SCHEDULE A.

Fees to be paid at the attorney-general's office.

On examining provisional specification, to be paid on filing petition.....	$25	0
On reporting on application for letters patent after notice to proceed.....	25	0
On giving notice of disclaimer or alteration	25	0
On entering caveat.....	25	0

Stamp duties to be paid at the government secretary's office.

On notice to proceed.....	5	0
On the sealing of letters patent.....	20	0
On the letters patent or a duplicate thereof before the expiration of the seventh year.....	100	0
On petition for confirmation or prolongation of patent.....	50	0
On the sealing of grant confirming or prolonging letters patent.....	100	0

Fees to be paid at the registrar's office.

On recording letters patent.....	5	0
On depositing complete specification, including copy	15	0
On entering disclaimer or alteration, including copy and notification in the Official Gazette.....	10	0
On entering caveat, including copy and notification in the Official Gazette	10	0
For copy of any of the before-mentioned documents, or of any provisional specification deposited, per page.....	0	25
On inspecting register of patents, for each patent, and all documents connected therewith.....	0	48

N. B.—For copies of drawing attached to specifications, the registrar to be allowed to charge extra, subject to the approval of the chief justice.

SCHEDULE B.

FORMS.

Petition.

To His Excellency [*here insert the name of the Governor*] Governor and Commander-in-Chief, in and over the colony of British Guiana, Vice-Admiral and Ordinary of the same, &c., &c., &c.

The humble petition of [*name of the petitioner*] respectfully showeth,—

That your petitioner is in possession of an invention for [*the title of the invention*], which invention he believes will be of great public utility; that he is the true and

first inventor thereof; and that the same is not in use by any other person or persons in this colony, to the best of his knowledge and belief.

Your petitioner, therefore, humbly prays,—

That your Excellency will be pleased to grant unto him, his heirs, executors, administrators, and assigns, letters patent, in the name of Her Majesty, for the sole use, benefit and advantage of his said invention, within the colony of British Guiana, for the term of fourteen years, pursuant to the ordinance in that case made and provided.

And your petitioner will ever pray, &c.

Affidavit.

I , of , having been duly sworn, make oath and say, that I am in possession of an invention for [*the title as in petition*], which invention I believe will be of great public utility; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons in this colony, to the best of my knowledge and belief. *A. B.*

Sworn this day of , A. D. , before me,

A commissioner for administering oaths to affidavits, &c.

Provisional Specification.

I do hereby declare the nature of the said invention [*the title of the invention*] to be as follows: [*here insert description*].

Dated this day of A. D.

(*To be signed by petitioner or his agent.*)

Letters Patent.

By His Excellency [*name of Governor*], Governor and Commander-in-Chief [L. S.] in and over the colony of British Guiana, Vice-Admiral and Ordinary of the same, &c., &c., &c.

To all to whom these presents shall come, greeting:

Whereas hath, by his petition, humbly represented unto me that he is in possession of an invention for

which the petitioner conceives will be of great public utility; that he is the true and first inventor thereof; and that the same is not in use by any other person or persons in this colony, to the best of his knowledge and belief; the petitioner therefore most humbly prayed that I would be pleased to grant unto him, his heirs, executors, administrators and assigns, letters patent in the name of Her Majesty, for the sole use, benefit, and advantage of his said invention, within the colony of British Guiana, for the term of fourteen years, pursuant to the ordinance in such case made and provided; Know ye, therefore, that I, in the name and on the behalf of Her most Gracious Majesty the Queen, and being thereto duly authorized by the ordinance in such case made and provided, do by these presents, give and grant unto the said , his heirs, executors, administrators, and assigns, my special license, full power, sole privilege and authority that he, the said , his heirs, executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their duputy or deputies, servants, or agents, or such others as he, the said , his heirs,

executors, administrators, or assigns, shall at any time agree with, and no others, from time to time, and at all times hereafter during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within the colony of British Guiana, in such manner as to him the said , his heirs, executors, administrators, and assigns, or any of them, shall in his or their discretion, seem meet; and that he, the said , his heirs, executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage from time to time coming, growing, accruing and arising, by reason of the said invention for and during the term of years herein mentioned; to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages hereinbefore granted or mentioned to be granted, unto the said , his heirs, executors, administrators, and assigns, for and during, and unto the full end and term of fourteen years from the day of in the year of our Lord one thousand eight hundred and next and immediately ensuing, according to the ordinance in such case made and provided; and to the end that he, the said , his heirs, executors, administrators, and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention, I do, by these presents, require and strictly command all and every person and persons, bodies politic and corporate, and all others, of what estate, quality, degree, name, or condition soever they be, within this colony, that neither they, nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, nor in any wise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, license, or agreement of the said , his heirs, executors, administrators, or assigns, in writing under his or their hands first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt, and further not be answerable to the said , his heirs, executors, administrators, and assigns, according to law, for his and their damages thereby occasioned: Provided always, and these letters patent are and shall be upon this condition, that if at any time during the said term hereby granted, it shall be made to appear to the Honorable the Supreme Court of Civil Justice of this colony, that this grant is contrary to law, or prejudicial or inconvenient to Her Majesty's subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said is not the true and first inventor thereof within this colony as aforesaid, these letters patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein contained to the contrary thereof in anywise notwithstanding: Provided also, that these letters patent, or anything hereinbefore contained, shall not extend or be construed to extend to give privilege unto the said , his heirs, administrators or assigns, or any of them, to use or imitate any invention or work whatsoever, which hath heretofore been found out or invented by any other of Her Majesty's subjects whatsoever, and publicly used or exercised in this colony, unto whom like letters patent or privileges have been already granted in this colony for the sole use, exercise, and benefit thereof, it being my will and pleasure that the said , his heirs, executors, administrators and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly

use and practice their several inventions by them invented and found out, according to the true intent and meaning of the same respective letters patent, and of these presents: Provided likewise nevertheless, and these letters patent are upon this express condition, that if the said shall not record these letters patent in the registrar's office for the counties of Demerara and Essequebo within ten days from the date of these presents, and also if the said shall not particularly describe and ascertain the nature of his said invention, and in what manner the same is to be performed, by an instrument in writing under his hand, and cause the same to be deposited in the office of the said registrar within six calendar months next and immediately after the date of these letters patent, and also if the said instrument in writing, deposited as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said , his heirs, executors, administrators, or assigns, shall not supply or cause to be supplied for Her Majesty's service in this colony, all such articles of the said invention as he or they shall be required to supply by the officers administering the department of Her Majesty's service in this colony, for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the Governor of this colony, and also if the said , his heirs, executors, administrators, or assigns, shall not pay or cause to be paid at the office of the government secretary, the sum of one hundred dollars stamp duty, on or before the day of , A. D., that then and in any of the said cases, these letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted: And lastly, I do by these presents, in the name and on the behalf of Her Majesty, grant unto the said , his heirs, executors, administrators, and assigns, that these letters patent, or the filing thereof, shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said , his heirs, executors, administrators, and assigns, in all courts of record as well as elsewhere in this colony, and by all and singular the officers and ministers whatsoever of Her Majesty, and amongst all and every the subjects of Her Majesty in this colony, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging.

In witness whereof I have caused these letters to be made patent this
day of A. D. and to be sealed and bear date as of the said
day of A. D., in the year of Her Majesty's reign.

Specification.

To all to whom these presents shall come, I , of , send greeting.

Whereas His Excellency [*Governor's name*], Governor and Commander-in-Chief in and over the colony of British Guiana, &c., &c., &c., by letters patent, bearing date the day of , in the year of our Lord one thousand eight hundred and

, in the year of Her Majesty's reign, did, in the name of Her Majesty, pursuant to the ordinance in such case made and provided, give and grant unto me, the said , his special license, that I, the said , my heirs, executors, administrators, and assigns, or such others as I, the said , my heirs, executors, administrators and assigns, should at any time agree with, and no others, from time to time, and at all times thereafter, during the term therein expressed, should, and lawfully might make, use, exercise, and vend within the colony of British Guiana, an invention for [*insert title as in letters patent*] upon the condition (amongst others) that I, the said , by an instrument in writing under my hand, should particularly describe and ascertain the nature of the said invention, and in what manner the same was to be performed, and cause the same to be deposited in the registrar's office for the counties of Demerara and Essequebo, within six calendar months next and immediately after the date of the said letters patent: Now know ye, that I, the said , do hereby declare the nature of my said invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement; (that is to say) [*describe the invention*].

In witness whereof I, the said , have hereto set my hand, this day of A. D. , in the presence of the subscribing witnesses.

From *Carpm. Pat. L. of World*, 55.

BRITISH HONDURAS.

An Act for amending the Law for granting Patents for Inventions. September 10, 1862; 26° *Victoriæ, Sessio I^a, cap. II.*

WHEREAS it is expedient to amend the law concerning Letters Patent for inventions: Be it enacted by the Lieutenant Governor, by and with the advice and consent of the Legislative Assembly, as follows:

I. *Commissioners of patents.* The Lieutenant Governor and the members of the Executive Council for the time being respectively, together with such other person or persons as may be from time to time appointed by the Lieutenant Governor as hereinafter mentioned, shall be commissioners of patents for inventions; and it shall be lawful for the Lieutenant Governor from time to time, by warrant under his hand and seal, to appoint such other person or persons as he may think fit to be a commissioner or comissioners as aforesaid; and every person so appointed shall be a commissioner during Her Majesty's pleasure; and all the powers hereby vested in the commissioners may be exercised by any three or more of them, two members of the Executive Council being two of them.

II. *Authentication of documents and copies.* Three or more of such commissioners, of whom two shall be members of the Executive Council, shall subscribe their names to all warrants for letters patent under this Act, and all instruments proceeding from the office of the commissioners; and all copies or extracts from documents deposited in the commissioners' office shall be certified by the clerk of the commissioners, and all courts, judges, and other persons in this colony shall take notice of and receive the signatures of such commissioners in evidence, and shall also take notice of and receive in evidence, without further proof or production of the originals, all copies or extracts, certified under the hand of the said commissioners' clerk, of or from documents deposited in such office.

III. *Power of commissioners to make rules and regulations.* It hall be lawful for the commissioners from time to time to make such rules and regulations (not inconsistent with the provisions of this Act), respecting the business of their office, and all matters and things which under the provisions herein contained are to be under

their control and direction, as may appear to them necessary and expedient for the purposes of this Act ; and all such rules shall be laid before the Legislative Assembly within fourteen days after the making thereof, if the General Assembly be sitting in annual session, and if it be not sitting in annual session, then within fourteen days after the next meeting of the General Assembly in annual session ; and in the meantime, and until the commissioners shall make such rules and regulations, those contained in the schedule annexed to this Act shall be observed.

IV. *Colonial secretary's office to be the office of the commissioners, and he their clerk.* The office the colonial secretary shall be the office of the commissioners for the filing of specifications, and the office of the colonial secretary and the office of clerk of the commissioners shall be combined ; and the colonial secretary for the time being shall be the clerk of the commissioners for the purposes of this Act.

V. *Petition and declaration, specification.* Every petition for the grant of letters patent for an invention, and the declaration required to accompany such petition, shall be left at the office of the colonial secretary, and there shall be left therewith a statement in writing, hereinafter called the provisional specification, signed by or on behalf of the applicant for letters patent, describing the nature of such invention ; and the day of the delivery of every such petition, declaration, and provisional specification, shall be recorded at the said office, and indorsed on such petition, declaration, and provisional specification, and a certificate thereof given to such applicant or his agent ; and all such petitions, declarations, and provisional specifications shall be preserved in such manner as the commissioners may direct, and a registry thereof, and of all proceedings thereon, kept at the office of the colonial secretary.

VI. *Applications to be referred to attorney-general.* Every application for letters patent made under this Act shall be referred by the commissioners, according to such regulations as they may think fit to make, to Her Majesty's attorney-general for this colony.

VII. *Provisional specifications to be referred to attorney-general, who may give certificate.* The provisional specification shall be referred to the attorney-general, who shall be at liberty to call to his aid such scientific or other person as he may think fit, and cause to be paid to such person by the applicant such remuneration as the attorney-general shall appoint ; and if the attorney-general be satisfied that the provisional specification describes the nature of

the invention, he shall allow the same, and give a certificate of his allowance, and such certificate shall be filed in the office of the colonial secretary, and thereupon the invention therein referred to may, during the term of six months from the date of the application for letters patent for the said invention, be used and published without prejudice to any letters patent to be granted for the same, and such protection from the consequences of use and publication is hereinafter referred to as a provisional protection: Provided always, that in case the title of the invention or the provisional specification be too large or insufficient, it shall be lawful for the attorney-general to allow or require the same to be amended.

VIII. *Inventor may deposit a complete specification to confer rights.* The applicant for letters patent for an invention, instead of leaving with the petition and declaration a provisional specification as aforesaid, may, if he thinks fit, file with the said petition and declaration an instrument in writing under his hand and seal (hereinafter called a complete specification), particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, which complete specification shall be mentioned in such declaration, and the day of the delivery of every such petition, declaration, and complete specification, shall be recorded at the office of the colonial secretary, and indorsed on such petition, declaration, and specification, and a certificate thereof given to such applicant or his agent, and thereupon, subject and without prejudice to the provisions hereinafter contained, the invention shall be protected under this Act for the term of six months from the date of the application, and the applicant shall have during such term of six months the like powers, rights, and privileges as might have been conferred upon him by letters patent for such invention, issued under this Act and duly sealed as of the day of the date of such application; and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any letters patent to be granted for the same; and where letters patent are granted in respect of such invention, then in lieu of a condition for making void such letters patent in case such invention be not described and ascertained by a subsequent specification, such letters patent shall be conditioned to become void if such complete specification, filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed; and a copy of every such complete specification shall be open to the

inspection of the public, as hereinafter provided, from the time of depositing the same, subject to such regulations as the commissioners may make.

IX. *Patent not to be invalidated by protection in fraud.* In case of any application for letters patent for any invention, and the obtaining upon such application of provisional protection for such invention, or of protection for the same by reason of the deposit of a complete specification as aforesaid, in fraud of the true and first inventor, any letters patent granted to the true and first inventor of such invention shall not be invalidated by reason of such application, or of such provisional or other protection as aforesaid, or of any use or publication of the invention subsequent to such application, and before the expiration of the term of such provisional or other protection.

X. *Commissioners to cause protections to be advertised.* Where any invention is provisionally protected under this Act, or protected by reason of the deposit of such complete specification as aforesaid, the commissioners shall cause such provisional protection or such other protection as aforesaid to be advertised in such manner as they may see fit.

XI. *Application to be advertised, particulars of opposition.* The applicant for letters patent, so soon as he may think fit after the invention shall have been provisionally protected under this Act, or where a complete specification has been deposited with his petition and declaration, then so soon as he may think fit after such deposit, may give notice at the office of the colonial secretary of his intention of proceeding with his application for letters patent for the said invention, and thereupon the said commissioners shall cause his said application to be advertised in such manner as they may see fit; and any persons having an interest in opposing the grant of letters patent for the said invention shall be at liberty to leave particulars in writing of their objections to the said application at such place, and within such time, and subject to such regulations as the commissioners may direct.

XII. *Specification and objections to be referred to attorney-general.* So soon as the time for the delivery of such objections shall have expired, the provisional specification, or the complete specification (as the case may be) and particulars of objection (if any) shall be referred to the attorney-general.

XIII. *Power of attorney-general to order costs.* It shall be lawful for the attorney-general, if he see fit, by certificate under his

hand, to order by or to whom the costs of any hearing or inquiry upon any objection, or otherwise in relation to the grant of such letters patent, or in relation to the provisional (or other) protection acquired by the applicant under this Act shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid be not paid within fourteen days after the amount shall be so ascertained, it shall be lawful for the attorney-general to make an order for the payment of the same, and any such order may be made a rule of the Supreme Court to the effect that execution may pass thereupon in common form.

XIV. *Power of attorney-general to warrant sealing patent.—Lieutenant governor to have discretion granting.—Scire facias.* It shall be lawful for the attorney-general, after such hearing (if any) as he may think fit, to cause a warrant to be made for the sealing of letters patent for the said invention, and such warrant shall be signed by three of the said commissioners, of whom two shall be members of the Executive Council, and shall set forth the tenor and effect of the letters patent thereby recommended to be granted, and shall direct the insertion in such letters patent of all restrictions, conditions, and provisos as he may deem usual and expedient in such grants, or necessary in pursuance of the provisions of this Act; and the said warrant shall be the warrant for the making and sealing of letters patent under this Act, granting to the applicant, his executors, administrators, and assigns, for a term not exceeding fourteen years, the sole right and liberty of making, using, exercising, and vending the said invention according to the tenor of the said warrant: Provided always, that the Lieutenant Governor shall and may have and exercise a discretion in respect of the said warrant, and any letters patent thereby proposed to be made under this Act; and the writ of scire facias shall lie for the repeal of any letters patent issued under this Act in the like cases as the same would lie in England for the repeal of letters patent issued under the Great Seal of the United Kingdom of Great Britain and Ireland.

XV. *Patent to be avoidable on non-payment of certain sums.* All letters patent for inventions granted under the provisions hereinbefore contained, shall be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid before the expiration of the said three and seven years respec-

tively the sum or sums of money in the schedule to this Act annexed; and the payment of the said sums of money shall be indorsed on the warrant for the said letters patent, and the colonial secretary shall issue under his hand a certificate of such payment, and shall indorse a receipt for the same on any letters patent issued on such warrant, and such certificate of payment shall be evidence of the payment of the several sums respectively.

XVI. *Patent under public seal to be valid in the colony.* The commissioners, so soon after the signing of the said warrant as required by the applicant for the letters patent, shall cause to be prepared letters patent for the invention according to the tenor of the said warrant, and it shall be lawful for the lieutenant governor to cause such letters patent to be sealed with the public seal of the colony, and such letters patent so sealed shall extend to the whole of the Colony of British Honduras.

XVII. *No patent to be issued after three months from date of warrant.* Provided always, that no letters patent, save as hereinafter mentioned in the case of letters patent destroyed or lost, shall issue on any warrant granted as aforesaid, unless application be made for the issue of such letters patent within three months after the date of the said warrant.

XVIII. *No patent to be issued after expiration of protection given by this Act.* Provided also, that no letters patent (save letters patent issued in lieu of others destroyed or lost) shall be issued or be of any force or effect unless the same be granted during the continuance of the provisional protection under this Act, or where a complete specification has been deposited under this Act, then unless such letters patent be granted during the continuance of the protection conferred under this Act by reason of such deposit, save that where the application to seal such letters patent has been made during the continuance of such provisional or other protection as aforesaid, and the sealing of such letters patent has been delayed by reason of any caveat or on application to the lieutenant governor against or in relation to the sealing of such letters patent, then such letters patent may be sealed at such time as the lieutenant governor shall direct.

XIX. *Patent may be granted to personal representative.* Provided also, that where the applicant for such letters patent dies during the continuance of the provisional protection, or the protection by reason of the deposit of a complete specification (as the case may be), such letters patent may be granted to the executors or admin-

istrators of such applicant during the continuance of such provisional or other protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such provisional or other protection, and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such provisiona or other protection.

XX. *If patent destroyed or lost, other may be issued.* Provided also, that in case any such letters patent shall be destroyed or lost, other letters patent of the like teror and effect, and sealed and dated as of the same day, may, subject to such regulations as the commissioners may direct, be issued under the authority of the warrant in pursuance of which the original letters patent were issued.

XXI. *Patent may be dated as of the day of application.* It shall be lawful to cause any letters patent to be issued in pursuance of this Act to be sealed and bear date as of the the day of the application for the same.

XXII. *Patent ante-dated.* Any letters patent issued under this Act, sealed and bearing date as of any day prior to the day of the actual sealing thereof, shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date: Provided always that, save where such letters patent are granted for any invention in respect whereof a complete specification has been deposited upon the application for the same under this Act, no proceeding at law or in equity shall be had upon such letters patent in respect of any infringement committed before the same were actually granted.

XXIII. *Patent for patented foreign inventions.* Where upon any application made after the passing of this act, letters patent are granted in this colony for or in respect of any invention first invented in the United Kingdom of Great Britain and Ireland, or in any foreign country, or in any other British colony, or by the subject of any foreign power or state, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in the United Kingdom of Great Britian and Ireland, or in any foreign country, or in any other British colony is there obtained, before the grant of such letters patent in this colony, all rights and privileges under such letters patent shall (notwithstanding any term in such letters patent limited) cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in the United Kingdom, such foreign

country, or other British colony (as the case may be) shall continue in force, or where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges: Provided always, that no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained in the United Kingdom of Great Britain and Ireland, in any foreign country, or in any other British colony, and which shall be granted in this colony after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

XXIV. *Patent not to prevent use of inventions on board ships.* No letters patent for any invention shall extend to prevent the use of such invention in any ship or vessel not registered in British Honduras, or for the navigation of any ship or vessel not registered in British Honduras which may be in any port of this colony, or any of the waters within the jurisdiction of the courts of this colony, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the colony: Provided always, that this enactment shall not extend to the ships or vessels of any foreign state of which the laws authorize the subjects of such foreign state, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British ships or vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture of goods and commodities to be vended within or exported from the territories of such foreign state.

XXV. *Specifications to be filed—Enrollment not necessary.* All letters patent to be granted under this Act (save only letters patent granted after the filing of a complete specification) shall require the specification thereunder to be filed in the colonial secretary's office, instead of requiring the same to be enrolled, and no enrollment shall be requisite.

XXVI. *Specification to be preserved in Secretary's office.* Every specification to be filed in pursuance of th condition of any letters patent shall be filed in the colonial secre ary's office, and every provisional specification and complete specification left at the office of the colonial secretary, on the application for any letters patent, shall forthwith after the grant of the letters patent, or if no letters patent be granted, then immediately after the expiration of

six months from the time of such application, be filed and preserved in the said office; and in case reference is made to drawings in any specification deposited or filed under this Act, an extra copy of such drawings shall be left with such specification.

XXVII. *Copies of specifications to be open to inspection.* The commissioners shall cause true copies of all specifications (other than provisional specifications), disclaimers, and memoranda of alterations filed under or in pursuance of this Act, and of all provisional specifications after the term of the provisional protection of the invention has expired, to be open to the inspection of the public at the office of the colonial secretary at all reasonable times, subject to such regulations as the commissioners may direct.

XXVIII. *Register of patents to be kept.* There shall be kept at the colonial secretary's office a book or books to be called the Register of Patents, wherein shall be entered and recorded, in chronological order, all letters patent granted under this Act, the deposit or filing of specifications, disclaimers, and memoranda of alterations filed in respect of such letters patent, all amendments in such letters patent and specifications, all confirmations and extensions of such letters patent, the expiry, vacating, or canceling of such letters patent, with the dates thereof respectively, and all other matters and things affecting the validity of such letters patent as the commissioners may direct; and such register, or a copy thereof, shall be open at all convenient times to the inspection of the public, subject to such regulations as the commissioners may make.

XXIX. *Register of proprietors to be kept.* There shall be kept at the colonial secretary's office a book or books entitled the Register of Proprietors, wherein shall be entered, in such manner as the commissioner shall direct, the assignment of any letters patent, or of any share or interest therein, and any license under letters patent, with the name or names of any person or persons having any share or interest in such letters patent or license, the date of his or their acquiring such letters patent, share and interest, and any other matter or thing relating to or affecting the proprietorship in such letters patent or license; and a copy of any entry in such book, certified under the hand of the colonial secretary, shall be given to any person requiring the same, on payment of the fees hereinafter provided; and such copies, so certified, shall be received in evidence in all courts and in all proceedings, and shall be *prima facie* proof of the assignment of such letters patent, or share and interest therein, or of the license or proprietorship as therein expressed: Provided

always, that until such entry shall have been made the grantee or grantees of the letters patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such letters patent of all the licenses and privileges thereby given and granted; and any writ of scire facias to repeal such letters patent may be issued to the provost marshal in case of the grantee or grantees residing in this colony, and in case such grantee or grantees do not reside in the colony, it shall be sufficient to file such writ in the clerk of the court's office, and serve notice in writing thereof at the last known residence or place of business of such grantee or grantees; and such register, or a copy, shall be open to the inspection of the public at the colonial secretary's office, subject to such regulations as the commissioners may make.

XXX. *Falsification or forgery of entries in Registers.* If any person shall willfully make or cause to be made any false entry in the said register of proprietors, or shall willfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in the said book, or shall produce or tender, or cause to be produced or tendered, in evidence any such writing knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall be punished by fine and imprisonment accordingly.

XXXI. *Entries may be expunged or varied.* If any person shall deem himself aggrieved by any entry made under color of this Act in the said register of proprietors, it shall be lawful for such person to apply by motion to the Supreme Court, or by a summons to the chief justice in chambers, for an order that such entry may be expunged, vacated, or varied; and upon any such application the said court or chief justice respectively may make such order for expunging, vacating, or varying such entry and as to the costs of such application, as to the said court or chief justice may seem fit; and the colonial secretary, on the production to him of any such order for expunging, vacating, or varying any such entry, shall expunge, vacate, or vary the same according to the requisitions of such order.

XXXII. *Disclaimers, and memoranda of alterations.* Any person who, as grantee, assignee, or otherwise, shall obtain letters patent for the sole making, exercising, vending, or using of any invention, and in case the original patentee or patentees hath or have departed with his or their whole or any part of his or their interest by assignment to any other person or persons, such patentee, together with such assignee or assignees, if part only hath been

assigned, and the assignee or assignees, if the whole hath been assigned, may, if he or they think fit, lodge with the colonial secretary an application for leave to enter a disclaimer of any part of either the title of the invention or of the specification, stating the reason of such disclaimer, or to enter a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said letters patent; and all such applications shall be referred by the commissioners to the attorney-general; and every such disclaimer or memorandum of alteration, when approved by the attorney-general, certified by his fiat and signature, and being filed in the colonial secretary's office with the specification to which the same relates, shall be deemed and taken to be part of such letters patent or such specification in all courts whatever: Provided always, that any person may lodge with the said colonial secretary a caveat against such disclaimer or alteration, and every such caveat shall be referred by the commissioners to the attorney-general; and such caveat, being so entered, shall give the party entering the same a right to have notice of the application being heard by the attorney-general: Provided also, that no such disclaimer or alteration shall be receivable in evidence in any action or suit (save and except by any proceeding by scire facias) pending at the time when such disclaimer or alteration was filed; but in every such action or suit the original title and specification alone shall be given in evidence and deemed and taken to be the title and specification of the invention for which the letters patent shall have been granted: Provided also, that it shall be lawful for the attorney-general, before granting such fiat, to require the party applying for the same to advertise his disclaimer or alteration, in such manner as to the attorney-general shall seem right, and shall, if he so require such advertisement, certify in his fiat that the same has been duly made: Provided also, that such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the attorney-general, certified as aforesaid, shall, except in cases of fraud, be conclusive of the right of the party to enter such disclaimer or memorandum of alteration; and no objection shall be allowed to be made in any proceeding upon or touching such letters patent, specification, disclaimer, or memorandum of alteration, on the ground that the party entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf: Provided also, that no action shall be brought upon any letters patent in which, or in the specification

of which, any disclaimer or memorandum of alteration shall have been filed, in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the attorney-general shall certify in his fiat that any such action may be brought notwithstanding the entry or filing of such disclaimer or memorandum of alteration.

XXXIII. *Prolongation of term of patent.* If the grantee of any letters patent as aforesaid shall advertise, in such manner as the commissioners may direct, that he intends to apply to the commissioners for a prolongation of his term of sole using and vending his invention, and shall enter with the colonial secretary a petition addressed to the lieutenant governor to that effect, it shall be lawful for any person to enter a caveat against the same with the colonial secretary; and, notice being first given, to any person or persons who shall have entered such caveats, the petitioner shall be heard in person, or by his counsel or agent and witnesses, to prove his case, and the persons entering caveats shall likewise be heard in person, or by their counsel or agents and witnesses, whereupon, and upon hearing and inquiring of the whole matter, the commissioners are hereby authorized and empowered, if they shall think fit, to authorize to issue their warrant for the grant of new letters patent for the said invention for a term not exceeding seven years or any shorter period than that prayed, after the expiration of the first term: Provided always, that no such extension shall be granted if a petition for the same shall not have been presented before the expiration of the term sought to be extended.

XXXIV. *Commissioners may warrant extensions.* If in any petition for the extension of the term for which the letters patent as aforesaid have been granted, presented before the expiration thereof, it be set forth that the grantee thereof has been unable to obtain a due remuneration for his expense and labor in perfecting such invention, and that an exclusive right of using and vending the same for the further period of seven years in addition to the term in such patent mentioned will not suffice for his reimbursement and remuneration, then upon consideration of the same in manner aforesaid the commissioners may, if they think fit, grant their warrant for the extension thereof for a term not exceeding fourteen years, or any shorter period than that prayed, after the expiration of such first term.

XXXV. *Grant of new letters patent, extending period.* It shall be lawful to grant any such extension either to an assignee or

assignees, or to the original patentee or patentees or to an assignee or assignees and original patentee or patentees conjointly.

XXXVI. *Warrant and sealing such letters patent.* In the granting of any new letters patent, extending the term for which the original letters patent were granted, the warrant of the commissioners shall be a sufficient authority for the sealing of any new letters patent, and for the insertion in such new letters patent of any restrictions, conditions, and provisions in the said warrant mentioned; and the lieutenant governor shall thereupon cause letters patent, according to the tenor and effect of such warrant, to be made and sealed in the manner herein directed for lette. s patent issued under the certificate of the attorney-general and the commissioners' warrant thereupon: Provided always, that such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the original letters patent, which may first expire.

XXXVII. *In action for infringement, particulars to be delivered.* In any action in the Supreme Court for the infringement of letters patent the plaintiff shall, two weeks at least previously to the entering of his complaint, deliver or cause to be delivered to the person against whom such action is intended to be brought, particulars of the breaches intended to be complained of in such action, and the defendant, on pleading or filing any notice of defense thereto, shall deliver with his pleas or notice, and the prosecutor in any proceedings by scire facias to repeal letters patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in said action, or of the suggestions of the said declaration in the proceedings by scire facias respectively; and at the trial of such action or proceeding by scire facias no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such letters patent, which shall not be contained in the particulars delivered as aforesaid: Provided always, that the place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars: Provided also, that it shall and may be lawful for the chief justice at chambers to allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid, upon such terms as to such judge as shall seem fit: Provided also, that at the trial of any proceeding by scire facias to repeal letters patent the defendar* shall be entitled to begin and to give evidence in support of such letters patent, and in

case evidence shall be adduced on the part of the prosecutor impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

XXXVIII. *Supreme Court may grant injunctions.* In any action in the supreme court for the infringement of letters patent, it shall be lawful for the court if then sitting, or if the court be not sitting then for the chief justice, on the application of the plaintiff or defendant respectively, to make such order for an injunction and inspection or account, and to give such directions respecting such injunction, inspection, and account, and the proceedings therein, respectively, as to such court, or chief justice may seem fit.

XXXIX. *Particulars to be regarded in taxation of costs.* In taxing the costs in any action in the Supreme Court regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular unless certified by the chief justice to have been proved by such plaintiff or defendant respectively, without regard to the general costs of the cause; and it shall be lawful for the chief justice to certify on the record that the validity of the letters patent in the declaration mentioned came in question; and the record with such certificate being given in evidence in any suit or action for infringing the said letters patent, or in any proceeding by scire facias to repeal the letters patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by scire facias, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, taxed as between attorney and client, unless the chief justice shall certify that the plaintiff or defendant respectively ought not to have such full costs.

XL. *Fees and payments in letters patent to be as in schedule.* There shall be paid in respect of letters patent applied for or issued as herein mentioned, the filing of specifications and disclaimers, certificates, entries, and searches, and other matters and things mentioned in the schedule to this Act, such fees as are mentioned in the said schedule; and there shall be made unto and for the use of Her Majesty, her heirs and successors, to be applied to the purposes of the government of this colony, for or in respect of the warrants and certificates mentioned in the said schedule, or the paper on which the same respectively are written, the payments mentioned in the said schedule; and no other fees shall be levied, or payments, except as hereinafter mentioned, taken in respect to

such letters patent and specifications, and the matters and things in such schedule mentioned.

XLI. *Payment of fees to attorney-general and colonial secretary.* Provided always, that nothing herein contained shall prevent the payment to the attorney-general on the investigation of each application, caveat, disclaimer, and memorandum of alterations, including certificate or report, or certificate and report, and in cases of opposition to the granting of letters patent, and to the colonial secretary for office or other copies of documents in his office, and in respect of the additional duties imposed on him by this Act, of the fees fixed in the schedule hereunto annexed.

XLII. *Defrayment of expenses incurred under Act.* It shall be lawful for the Lieutenant Governor and Council to allow from time to time the necessary sums for the defraying the current and incidental expenses by virtue of this Act, and the sums to be so allowed shall be paid out of such moneys as may be provided by the General Assembly for that purpose, or if no moneys be specially provided for them, from any unappropriated moneys in the public treasury.

XLIII. *Forms in schedule may be used.* The several forms in the schedule to this Act may be used for and in respect of the several matters therein mentioned, and the commissioners may, when they think fit, vary such forms where occasion may require, and cause to be printed and circulated such other forms as they may think fit to be used for the purposes of this Act.

XLIV. *Patent granted out of colony.* No letters patent hereafter to be obtained in Great Britain or elsewhere, for the exclusive privilege of any trade or manufacture, or any invention in connection therewith, shall be of any validity or effect in this colony, unless letters patent for the privilege of invention in respect of which such foreign letters patent may have been obtained, shall be granted and issued in pursuance of this Act, nor until all the provisions and requirements of this Act shall have been complied with in respect to letters patent.

XLV. *Interpretation of terms.* In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context:

The expression the "commissioners" shall mean the commissioners for the time being acting in the execution of this Act:

The expression "chief justice" shall include any person

appointed to act as chief justice during a vacancy in the office, and any senior or other puisne judge of the Supreme Court acting in the place of the chief justice during his absence or incapacity, and also any person appointed acting chief justice during such absence or incapacity :

The expression "colonial secretary" shall include any person who shall be appointed to act as colonial secretary during any vacancy in the office, and any person appointed to act or acting for such officer during the absence on leave or incapacity of the colonial secretary :

The expression "the attorney-general" shall include any person who shall be appointed to act as attorney-general during any vacancy in the office of attorney-general, and any person appointed to act for the attorney-general during his absence or incapacity :

The expression "invention" shall mean any manner of new manufacture, the subject of letters patent and grant of privilege within the meaning of the Act of the Imperial Parliament passed in the twenty-first year of the reign of King James the First, chapter three, entitled An act concerning monopolies, and dispensations with penal laws and the forfeitures thereof:

The expressions "petition," "declaration," "provisional specification," "warrant," and "letters patent" respectively shall mean instruments in the form and to the effect in the schedule hereto annexed, subject to such alterations as may from time to time be made therein under the powers and provisions of this Act.

XLVI. *Short title.* In citing this Act in other Acts of the Legislature, instruments, and proceedings, it shall be sufficient to use the expression "The Patent Law Amendment Act, 1862."

XLVII. *Operation suspended until confirmation of Act, &c.* This Act shall not come into operation until Her Majesty's gracious allowance and confirmation thereof shall have been communicated to the Legislative Assembly, or made public by proclamation by His Excellency the Lieutenant Governor.

The SCHEDULE to which this Act refers.

FEES to be paid.

1. *To Colonial Secretary.*

	$	Rls.
On leaving petition for grant of letters patent	0	4
On notice of intention to proceed with application	0	2
On sealing of letters patent or duplicate	5	0
On filing specification	0	4
On certificate of payment at or before the expiration of the third year	2	0
On certificate of payment at or before the expiration of the seventh year	3	0
On leaving notice of objections	0	2
Every search or inspection, per hour or less	0	2
Entry of assignment or license	1	0
Certificate of assignment or license	1	0
Filing application for disclaimer	0	4
Caveat against disclaimer	0	4
Copies of documents, per folio of 90 words	0	2
On each certificate on copy	0	3
For preparing each advertisement	1	0

2. *To the Attorney-General.*

By the person opposing a grant of letters patent, including summons	16	0
By the petitioner on hearing the case of opposition, including summons	16	0
By the petitioner for the hearing previous to the fiat of the Attorney-General allowing a disclaimer or memorandum of alteration in letters patent and specification	14	0
By the person opposing the allowance of such disclaimer or memorandum of alteration, on the hearing of the case of opposition	14	0
By the petitioner for the fiat of the Attorney-General allowing a disclaimer or memorandum of alteration on letters patent and specification	16	0
On investigation of each application, and certificate and report thereon	10	0

PAYMENTS to be made to the Colonial Secretary and accounted for to the Public Treasurer.

On sealing letters patent	25	0
On every assignment or license	5	0
At or before the expiration of the third year	50	0
At or before the expiration of the seventh year	100	0
On duplicate of letters patent lost or destroyed	5	0

FORMS.

No. *Petition.*

To His Excellency the Lieutenant Governor of the Colony of British Honduras.

The humble petition of [*here insert the name and address of the petitioner*]

Showeth,

That your petitioner is in possession of an invention for

[*the title of the invention*]

which invention he believes will be of great public utility; that he is the true and first inventor thereof; and that the same is not in use by any other person or persons, to the best of hi. nowledge and belief.

Your petitioner therefore humbly prays that your Excellency will be pleased to grant unto him, his executors, administrators, and assigns, letters patent for the colony of British Honduras, for the term of fourteen years, pursuant to the statutes in that case made and provided.

And your petitioner will ever pray.

No. *Declaration.*

I , of , in the colony of British Honduras , do solemnly and sincerely declare that I am in possession of an invention for, &c.

[*the title as in petition*]

which invention I believe will be of great public utility; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons, to the best or my knowledge and belief; [*where a complete specification is to be filed with the petition and declaration, insert these words*:—" and that the instrument in writing under my hand and seal hereunto annexed, particularly describes and ascertains the nature of the said invention, and the manner in which the same is to be performed;"] And I make this declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the session of parliament held in the fifth and sixth years of the reign of His late Majesty King William the Fourth, intituled " An Act to repeal an Act of the present session of Parliament, intituled, "'An Act for the more effectual abolition of oaths and affirmations taken and made "'in various departments of the state, and to substitute declarations in lieu thereof "'and for the more entire suppression of voluntary and extra judicial oaths and affidavits,' and to make other provisions for the abolition of unnecessary oaths."

A. B.

Declared at in British Honduras, this day of A. D.
before me,

C. D., Judge of Supreme Court.
or
Justice of the Peace.

No. *Provisional Specification.*

I do hereby declare the nature of the said invention for
[*insert title as in petition*]
to be as follows:
[*here insert description*]

Dated this day of A. D.
(*To be signed by the applicant or his agent.*)

Reference.

[*To be indorsed on the petition.*]

The commissioners of patents for inventions refer this petition to the attorney-general, to consider what may properly be done therein.

A. B., Member of Council
C. D., Member of Council
E. F.
} Three of the commissioners of patents.

Certificate of the Attorney-General, and *Warrant* thereon of the Commissioners.

In obedience to the order of the commissioners of patents referring to me the petition of , of , to consider what may be properly done thereon, I do hereby certify as follows: That the said petition sets forth that the petitioner

[*allegations of the petition*]:

And the petitioner humbly prays,

[*prayer of the petition*]:

That in support of the allegations contained in the said petition, the declaration of the petitioner has been laid before me, whereby he solemnly declares that

[*allegations of the declaration*]:

That there has also been laid before me [a provisional specification signed and also a certificate ,] *or* [a complete specification, and a certificate of the filing thereof], whereby it appears that the said invention was provisionally protected [*or* protected] from the day of , A. D. , in pursuance of the statute:

That it appears the said application was duly advertised:

Upon consideration of all the matters aforesaid, and as it is entirely at the hazard of the said petitioner whether the said invention is new or will have the desired success, and as it may be reasonable to encourage all arts and inventions which may be for the public good, I am of opinion that letters patent may be granted unto the petitioner, his executors, administrators, and assigns, for his said invention within the Colony of British Honduras, for the term of fourteen years, according to the statute in that case made and provided, if the Lieutenant Governor shall be graciously pleased so to do according to the tenor and effect following:—

[*See next Form.*]

Given under my hand this day of A. D.

G. H., Attorney-General.

We, the undersigned, commissioners of patents for inventions in British Honduras, do warrant hereby the issue of letters patent, according to the tenor and effect above set forth.

A. B. *C. D.* *E. F.*	*Members of the Executive Council*	Three of the commissioners of patents.

Letters Patent.

BRITISH HONDURAS ss.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To all to whom these presents shall come, greeting

Whereas hath by his petition humbly represented unto the Lieutenant Governor of our Colony of British Honduras, that he is in possession of an invention for , which the petitioner conceives will be of great public utility; that he is the true and first inventor thereof, and that the same is not in use by any other person or persons, to the best of his knowledge and belief; the petitioner therefore most humbly prayed that we would be most graciously pleased to grant unto him, his executors, administrators, and assigns, our letters patent for the sole use, benefit, and advantage of his said invention within our said Colony of British Honduras, for the term of fourteen years, pursuant to the statutes in that case made and provided:

[And whereas the said hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed, by an instrument in writing under his hand and seal, and has caused the same to be duly filed in the office of the colonial secretary :]

And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioners' request: Know ye therefore, that we of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents for us, our heirs and successors, do give and grant unto the said , his executors, administrators, and assigns, our especial license, full power, sole privilege and authority, that he, the said , his executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as he the said , his executors, administrators, or assigns shall at any time agree with, and no others, from time to time and at all times hereafter, during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within our said colony of British Honduras, in such manner as to him the said , his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet; and that he the said , his executors, administrators and assigns shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage from time to time coming, growing, accruing, and arising by reason of the said invention for and during the term of years herein mentioned; to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages hereinbefore granted, or mentioned to be granted unto the said , his executors, administrators, and assigns for and during and unto the full end and term of fourteen years from the day of A. D. next and immediately ensuing, according to the statute in such case made and provided; and to the end that he the said , his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention according to our gracious intention herein-before declared, we do by these presents for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all others our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within our said colony of British Honduras, that neither they nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same so attained unto by the said as aforesaid, nor in any wise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, license, or agreement of the said , his executors, administrators, or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can and may be justly inflicted on such offenders for their contempt of this our royal command, and further to be answerable to the said , his executors, administrators, and assigns according to law for his and their damages thereby occasioned; and, moreover, we do by these presents for us, our heirs and successors, will and command all and singular the justices of the peace, provost-marshal, alcaldes, constables, and all other officers and ministers whatsoever of us, our heirs and successors, for the time being, that they or any of them do not nor shall at any time during the

said term hereby granted, in any wise molest, trouble, or hinder the said , his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall be made appear to us, our heirs or successors, or to the commissioners of patents in our said colony of British Honduras, that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said is not the true and first inventor thereof within this our colony of British Honduras as aforesaid, these our letters patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein-before contained to the contrary thereof in anywise notwithstanding: Provided also, that these our letters patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said , his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use, exercise, and benefit thereof, it being our will and pleasure that the said , his executors, administrators, and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions by them invented and found out according to the true intent and meaning of the same respective letters patent and of these presents: Provided likewise, nevertheless, and these our letters patent are upon this express condition [that if the said shall not particularly describe and ascertain the nature of his said invention and in what manner the same is to be performed, by an instrument in writing under his hand and seal, and cause the same to be filed in the colonial secretary's office within six calendar months next and immediately after the date of these our letters patent;] [and also if the said instrument in writing filed as aforesaid does not describe and ascertain the nature of the said invention, and in what manner the same is to be performed;] and also if the said , his executors, administrators, or assigns, shall not pay or cause to be paid at the office of the colonial secretary the sums following; that is to say, the sum of fifty dollars on or before the day of A. D. , and the sum of one hundred dollars on or before the day of A. D. ; and also if the said , his executors, administrators, or assigns, shall not supply or cause to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same, that then and in any of the said cases these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything herein-before contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted; and lastly, we do by these presents, for us, our heirs and successors, grant unto the said , his executors, administrators, and assigns, that these our letters patent, or the filing thereof, shall be in and by all

things good, firm, valid, sufficient, and effectual in the law according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said , his executors, administrators, and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors, in our said colony of British Honduras; and amongst all and every the subjects of us, our heirs and successors, whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention or of the materials thereunto conducing and belonging. In witness whereof we have caused these our letters to be made patent.

Witness His Excellency , Lieutenant-Governor of our said colony of British Honduras, at Government House, Belize, the day of A. D. , in the year of our reign.

Specification.

To all to whom these presents shall come:

I , of , send greeting:

Whereas Her most Excellent Majesty Queen Victoria, by her letters patent bearing date the day of , A. D. , in the year of her reign, did for herself, her heirs and successors, give and grant unto the said her special license that I, the said , my executors, administrators, and assigns, or such others as I, the said , my executors, administrators, and assigns, should at any time agree with, and no others, from time to time, and at all times thereafter during the time therein expressed, should and lawfully might make, use, exercise, and vend within the colony of British Honduras an invention for [*insert title as in letters patent*] upon the condition (amongst others) that I the said by an instrument in writing under my hand and seal should particularly describe and ascertain the nature of, the said invention, and in what manner the same was to be performed, and cause the same to be filed in the office of the colonial secretary within six calendar months next and immediately after the date of the said letters patent: Now know ye, that I, the said , do hereby declare the nature of my said invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement; (that is to say), [*describe the invention*].

In witness whereof I, the said , have hereunto set my hand and seal, this day of A. D. .

A. B. (Seal.)

From *Carpm. Pat. L. of World*, 78.

CAMBODIA.

See FRANCE.

YALE LAW LIBRARY.

CANADA.

An Act respecting Patents of Invention. June 14, 1872, 35 *Vict. c.* 26; *as amended or modified by later laws.**

Preamble. Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Patent-Office constituted.

1. *Minister of agriculture to be commissioner of patents.* There shall be attached to the department of agriculture, as a branch thereof, an office to be called the patent-office; and the minister of agriculture for the time being shall be the commissioner of patents; and it shall be the duty of the said commissioner to receive all applications, fees, papers, documents, and models for patents, and to perform all acts and things requisite to the granting and issuing of patents of inventions; and he shall have the charge and custody of the books, records, papers, models, machines, and other things belonging to the said office.

2. *Seal to be made, and impressions thereof to be received in evidence.* The commissioner shall cause a seal to be made for the purposes of this Act, and may cause to be sealed therewith patents and other instruments and copies proceeding from the patent-office; and all courts, judges, and other persons whomsoever shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the Great Seal are received in evidence,

* At the larger law libraries throughout the United Sates one may consult the Canadian patent laws in the Statutes of Canada themselves; where they may be found as follows:

Act of June 14, 1872, Stat. 35 Vict. c. 26, Can. Stat. 97.

Act of May 23, 1873, 36 Vict. c. 44, Can. Stat. 129.

Act of May 26, 1874, 37 Vict. c. 44, Can. Stat. 190.

Act of April 8, 1875, 38 Vict. c. 14, Can. Stat. 91.

Act of May 25, 1883, 46 Vict. c. 19, Can. Stat. 331.

These enactments may be found separately in 20 Pat. Off. Gaz. 960, and 23 Id. 2241. Carpmaels' Pat. L. of World gives them consolidated, placing the amendments taken from later laws in their connection with the sections of the law of 1872 amended. Richards' Digest of Patent Laws, &c. of Canada does the same; he however adds:

Act of May 17, 1882; and

Act of April 19, 1884.

The version given in the text is that of Messrs. Carpmaels collated with that of Mr. Richards (the two do not materially differ) with the addition of the Acts of 1882 and 1884 quoted from Mr. Richards' reprint.

and shall also take notice of and receive in evidence, without further proof and without production of the originals, copies, or extracts certified under the seal of the said office to be copies of or extracts from documents deposited in such office.

3. *Commissioner to make rules.—Publication and effect.* The commissioner may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations, and prescribe such forms, as may appear to him necessary and expedient for the purposes of this Act, and notice thereof shall be given in the Canada Gazette; and all documents, executed in conformity with the same and accepted by the commissioner, shall be held valid so far as relating to proceedings in the patent-office.

4. *Deputy commissioner and clerks.—Employes in patent-office not to be concerned in patents.—Exception.* The deputy of the minister of agriculture shall be the deputy commissioner of patents of invention; and the Governor in Council may, from time to time, appoint such clerks and officers under him as may be necessary for the purposes of this Act, and such clerks and officers shall hold office during pleasure. No officer or employe of the patent-office shall buy, sell, or acquire, or traffic in an invention or patent, or rights to patents therefor; and every such purchase and sale, and every assignment or transfer thereof; by or to any officer or employe as aforesaid, shall be utterly null and void. But this shall not apply to any original inventor, or to the acquisition by bequest.

5.* *Annual report and list of patents.—Publications of specifications.* The commissioner shall cause a report to be prepared annually and laid before Parliament of the proceedings under this Act, and shall, from time to time, and at least once in each year, publish a list of patents granted, and may, with the approval of the Governor in Council, cause such specifications and drawings as may be deemed of interest, or essential parts thereof, to be printed from time to time for distribution or sale.

WHO MAY OBTAIN PATENTS.

6. *Any person may obtain a patent for his invention, it not having been then in public use in Canada for more than one year.—Form of patent.—Proviso: what shall not be patentable.* Any person having invented any new and useful art, machine, manufacture,

*According to Richards' edition of the patent law of Canada, the text is Section 5 "as amended by Act of May 23, 1873;" Carpmaels' edition does not mention the fact of amendment, but gives the section in the same language.

or composition of matter, or any new and useful improvement on any art, machine, manufacture, or composition of matter, not known or used by others before his invention thereof, and not being in public use or on sale for more than one year previous to his application in Canada, with the consent or allowance of the inventor thereof, may, on a petition to that effect presented to the commissioner, and on compliance with the other requirements of this Act, obtain a patent granting to such person an exclusive property therein; and the said patent shall be under the seal of the patent-office and the signature of the commissioner, or the signature of another member of the Privy Council, and shall be good and avail to the grantee, his executors, administrators, or assigns, for the period mentioned in such patent; but no patent shall issue for an invention having an illicit object in view, nor for any mere scientific principle or abstract theorem.

7. *As to inventions for which foreign patents have been taken out.* But an inventor shall not be entitled to a patent for his invention, if a patent therefor in any other country shall have been in existence in such country more than twelve months prior to the application for such patent in Canada; and if during such twelve months any person shall have commenced to manufacture in Canada the article for which such patent is afterwards obtained, such person shall continue to have the right to manufacture and sell such article, notwithstanding such patent; and under any circumstances, where a foreign patent exists, the Canadian patent shall expire at the earliest date at which any foreign patent for the same invention expires.

8. *Representatives of inventor may obtain the patent.* The patent may be granted to any person to whom the inventor entitled under the sixth section to obtain a patent has assigned or bequeathed the right of obtaining the same, or in default of such assignment or bequest, to the executors or administrators or *other legal representatives* of the deceased inventor.

[Note.*—The words in italics were added by 36 Vict. cap. 44.]

9. *As to patents for improvements on patented inventions.—Proviso.* Any person who has invented any improvement on any patented invention may obtain a patent for such improvement, but shall not thereby obtain the right of vending or using the original invention, nor shall the patent for the original invention confer the right of vending or using the patented improvement.

*Notes printed in this form are from Carpmaels' edition.

10. *As to joint application for patent.* In cases of joint applications, the patent shall be granted in the names of all the applicants; and in such cases any assignment from one of the said applicants or patentees to the other, or to any person, shall be registered in like manner as other assignments.

Conditions and Formalities.

11. *Declaration to be made by application for a patent.—Before whom.—Applicant to elect a domicile in Canada.* Every inventor, before a patent can be obtained, shall make oath, or, when entitled by law to make an affirmation instead of an oath, shall make an affirmation, that he verily believes that he is, or, in the case of the inventor being deceased, the applicant shall make oath or affirm that the person whose assignee or representative he is, was the inventor of the invention for which the patent is solicited, and that the several allegations in the petition contained are respectively true and correct. Such oath or affirmation may be made before any justice of the peace in Canada; but if the inventor or the applicant is not at the time in Canada the oath or affirmation may be made before any minister plenipotentiary, chargé d' affaires, consul, vice-consul, or consular agent, holding commission under the government of the United Kingdom, or any Judge of *a court of record or a public notary, or the mayor or other chief magistrate of any city, borough, or town corporate in* the country in which the applicant happens at the time to be.

[Note.*—The words in italics were added by 36 Vict. cap. 44.]

12. *Particulars required in application.* The petitioner for a patent shall for all the purposes of this Act elect his domicile at some known and specified place in Canada, and mention the same in his petition for a patent.

13. *Specification and drawing, form of, and what to show.* The applicant shall, in his petition for a patent, insert the title or name of the invention, and shall, with the petition, send in a specification, in duplicate.

14. *Commissioner may require further drawings.—Drawings, how disposed of.* The specification shall correctly and fully describe the mode or modes of operating contemplated by the inventor; and shall state clearly and distinctly the contrivances and things which he claims as new, and for the use of which he

* Notes printed in this form are from Carpmaels' edition.

claims an exclusive property and privilege; it shall bear the name of the place where it is made, the date, and be signed by the inventor, if he be alive (and if not, by the applicant) and two witnesses; in the case of a machine the specification shall fully explain the principle and the several modes in which it is intended to apply and work out the same; in the case of a machine, or in any other case where the invention admits of illustration by means of drawings, the applicant shall also, with his application, send in drawings in duplicate showing clearly all parts of the invention; and each drawing shall bear the signature of the applicant or of his attorney, and shall have written references corresponding with the specification, but the commissioner may require further drawings or dispense with any of them, as he may see fit; one duplicate of the specification and of the drawings, if there are drawings, shall be annexed to the patent of which it forms an essential part, and the other duplicate shall remain deposited in the patent office. *But the said commissioner may, in his discretion, dispense with the said duplicate specification and drawing, and in lieu thereof cause copies of the specification and drawing, in print or otherwise, to be attached to the patent of which they shall form an essential part.

[NOTE.—The words following the asterisk were added by 36 Vict. cap. 44.]

15. *Working model to be delivered to the commissioner.—Or specimens of ingredients.—Exception as to explosive materials.* The applicant shall also deliver to the commissioner, unless specially dispensed from so doing for some good reason, a neat working model of his invention on a convenient scale, exhibiting its several parts in due proportion, whenever the invention admits of such model; and shall deliver to the commissioner specimens of the ingredients, and of the composition of matter sufficient in quantity for the purpose of experiment, whenever the invention is a composition of matter; provided such ingredients and composition are not of an explosive character or otherwise dangerous, in which case they are to be furnished only when specially required by the commissioner, and then with such precautions as shall be prescribed in the said requisition.

CONTENTS, DURATION, SURRENDER, RE-ISSUE OF PATENTS, AND DISCLAIMERS.

16. *Contents of patents.—Conditions.* Every patent granted under this Act shall contain the title or name of the invention, with a reference to the specification,—and shall grant to the patentee,

his executors, administrators, *legal representatives*, and assigns, for the period therein mentioned for the granting of the same, the exclusive right, privilege, and liberty of making, constructing, and using, and vending to others to be used, the said invention, subject, nevertheless, to adjudication before any court of competent jurisdiction.

[NOTE:—The words in italics were added by 36 Viet. cap. 44.]

17. *Duration of patents and periodical extension—not exceeding fifteen years in all.—Form of extension.* The term limited for the duration of every patent of invention issued by the patent-office shall be fifteen years; but at the time of the application therefor it shall be at the option of the applicant to pay the full fee required for the term of fifteen years, or the partial fee required for the term of five years, or the partial fee required for the term of ten years. In case a partial fee only is paid the proportion of the fee paid shall be stated in the patent, and the patent shall, notwithstanding anything therein or in this Act contained, cease at the end of the term for which the partial fee has been paid, unless at or before the expiration of the said term the holder of the patent pays the fee required for the further term of five or ten years, and takes out from the patent-office a certificate of such payment (in the form which may be from time to time adopted) to be attached to and to refer to the patent, and under the signature of the commissioner, or, in case of his absence, another member of the Privy Council; and in case such second payment, together with the first payment, makes up only the fee required for ten years, then the patent shall, notwithstanding anything therein or in this Act contained, cease at the end of the term of ten years, unless at or before the expiration of such term the holder thereof pays the further fee required for the remaining five years, making up the full term of fifteen years, and takes out a like certificate in respect thereof. Every patent heretofore issued by the patent-office in respect of which the fee required for the whole or for any unexpired portion of the term of fifteen years, has been duly paid according to the provisions of the now existing law in that behalf, has been and shall be deemed to have been issued for the term of fifteen years, subject, in case a partial fee only has been paid, to cease on the same conditions on which patents hereafter issued are to cease under the operation of this section.

[NOTE.—The original clause 17 was repealed and the above substituted by 46 Viet. cap. 19.]

18. *Patents or extension to be examined by minister of justice before granted.* Every patent and instrument for the extension of time as aforesaid shall, before it is signed by the commissioner or any other member of the Privy Council, and before the seal hereinbefore mentioned is affixed to it, be examined by the minister of justice, who, if he finds it conformable to law, shall certify accordingly, and such patent or instrument may then be signed and the seal affixed thereto, and being duly reistered, shall avail to the grantee thereof.

19. *In certain cases of error, &c., the commissioner may cause a new patent to issue, on amended specification.—Effect of new patent and specification.* Whenever any patent shall be deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee claiming more than he had a right to claim as new, but at the same time it appears that the error arose from inadvertence, accident, or mistake, without any fraudulent or deceptive intention, the commissioner may, upon the surrender of such patent, and the payment of the further fee hereinafter provided, cause a new patent, in accordance with an amended description and specification to be made by such patentee, to be issued to him for the same invention for any part or the whole of the then unexpired residue of the period for which the original patent was or might have been, as hereinbefore directed, granted; —in case of the death of the original patentee or of his having assigned the patent, a like right shall vest in his assignee or legal representative: The new patent, and the amended description and specification, shall have the same effect in law, on the trial of any action thereafter commenced for any cause subsequently accruing, as if the same had been originally filed in such corrected form before the issue of the original patent, *and the commissioner may entertain separate applications and cause patents to be issued for distinct and separate parts of the thing patented, upon payment of the fee for a re-issue for each of such re-issue patents.*

[NOTE.—The words in italics were added by 38 Vict. cap. 14.]

20. *Patentee may disclaim anything included in patent by mistake.—Form.—Disclaimer not to effect pending suits.—In case of death of patentee.—Effect of disclaimer.* Similarly, whenever by any mistake, accident, or inadvertence, and without any willful intent to defraud or mislead the public, a patentee has made his specification too broad, claiming more than that of which he or the party through whom he claims was the first inventor, or has in the

specification claimed that he or the party through whom he claims was the first inventor of any material or substantial part of the invention patented, of which he was not the first inventor, and to which he had no legal right ;—the patentee may, on payment of the fee hereinafter provided, make disclaimer of such parts as he does not claim to hold by virtue of the patent or the assignment thereof:—such disclaimer shall be in writing, and in duplicate, and attested in the manner hereinbefore prescribed for a patent, one copy to be filed and recorded in the office of the commissioner, the other copy to be attached to the patent and made a part thereof by reference, and such disclaimer shall thereafter be taken and considered as part of the original specification. Such disclaimer shall not affect any action pending at the time of its being made, except in so far as may relate to the question of unreasonable neglect or delay in making it. In case of the death of the original patentee or of his having assigned the patent, a like right shall vest in his assigns or legal representatives respectively, any of whom may make disclaimer. The patent shall thereafter be deemed good and valid for so much of the invention as is truly the disclaimant's own, and not disclaimed, provided it be a material and substantial part of the invention, and definitely distinguished from other parts claimed without right ; and the disclaimant shall be entitled to maintain a suit for such part accordingly.

Assignment and Infringement of Patents.

21. *Government may use patented invention.* The government of Canada may always use any patented invention, paying to the patentee such sum as the commissioner may report to be a reasonable compensation for the use thereof.

22. *Patents to be assignable.—To be registered on pain of nullity.* Every patent for an invention whensoever issued shall be assignable in law either as to the whole interest or as to any part thereof, by any instrument in writing ; but such assignment, and also every grant and conveyance of any exclusive right to make and use and to grant to others the right to make and use the invention patented, within and throughout Canada or any part thereof, shall be registered in the office of the commissioner, in the manner from time to time adopted by the commissioner of patents for such registration ; and every assignment affecting a patent for invention shall be deemed null and void against any subsequent assignee unless such instrument is registered as hereinbefore prescribed, before the regis-

tering of the instrument under which such subsequent assignee may claim.

23. *Remedy for infringement of patent.* Every person who, without the consent in writing of the patentee, makes, constructs, or puts in practice any invention for which a patent has been obtained under this Act, or any previous Act, or procures such invention from any person not authorized to make or use it by the patentee, and uses it, shall be liable to the patentee in an action of damages for so doing ;—and the judgment shall be enforced, and the damages and costs that may be adjudged shall be recovered in like manner as in other cases in the court in which the action is brought.

24. *Action for infringement of patent.—Injunction may issue. —Appeal allowed.* An action for the infringement of a patent may be brought before any court of record having jurisdiction to the amount of damages asked for, and having its sittings within the province in which the infringement is said to have taken place, and being, at the same time, of the courts of such jurisdiction within such province, the one of which the place of holding is nearest to the place of residence or of business of the defendant ; and such court shall decide the case and determine as to costs. In any action for the infringement of a patent, the court, if sitting, or any judge thereof in chambers if the court be not sitting, may, on the application of the plaintiff or defendant respectively, make such order for an injunction, restraining the opposite party from further use, manufacture, or sale of the subject matter of the patent, and for his punishment, in the event of disobedience to such order, or for inspection or account, and respecting the same and the proceedings in the action, as the court or judge may see fit ;—But from such order an appeal shall lie under the same circumstances and to the same court, as from other judgments or orders of the court in which the order was made.

25. *Court may discriminate in certain cases.* Whenever the plaintiff fails to sustain his action, because his specification and claim embrace more than that of which he was the first inventor, and it appears that the defendant used or infringed any part of the invention, justly and truly specified and claimed as new, the court may discriminate, and the judgment may be rendered accordingly.

26. *Defense in actions for infringement.* The defendant, in any such action, may specially plead as matter of defense, any fact or default which by this Act, or by law, would render the patent void; and the court shall take cognizance of that special pleading and of

the facts connected therewith, and shall decide the case accordingly.

NULLITY, IMPEACHMENT, AND AVOIDANCE OF PATENTS.

27. *Patents may be declared void in certain cases, or valid only for part.—Copy of judgment to be sent to patent-office.* A patent shall be void if any material allegation in the petition or declaration of the applicant be untrue, or if the specification and drawings contain more or less than is necessary for obtaining the end for which they purport to be made, such omission or addition being willfully made for the purpose of misleading; but if it shall appear to the court that such omission or addition is simply an involuntary error, and it is proved that the patentee is entitled to the remainder of his patent *pro tanto*, the court shall render a judgment in accordance with the facts, and determine as to costs, and the patent shall be held valid for such part of the invention described; and two office copies of such judgment shall be furnished to the patent-office by the patentee, one to be registered and to remain of record in the office, and the other to be attached to the patent, and made a part of it by a reference.

28. *Patents to be conditioned for the manufacture in Canada of the thing patented:—and of the patentee's not importing it into Canada.—Proviso.—Commissioner may extend the term for manufacture in Canada.* Every patent granted under this Act shall be subject and expressed to be subject to the condition that such patent and all the rights and privileges thereby granted shall cease and determine, and the patent shall be null and void at the end of two years from the date thereof, unless the patentee, or his assignee or assignees, shall within that period have commenced, and shall, after such commencement, continuously carry on in Canada the construction or manufacture of the invention or discovery patented, in such manner that any person desiring to use it may obtain it or cause it to be made for him at a reasonable price, at some manufactory or establishment for making or constructing it, in Canada, and that such patent shall be void if, after the expiration of twelve months from the granting thereof, the patentee, or his assignee or assignees, for the whole or a part of his interest in the patent, imports or causes to be imported into Canada, the invention for which the patent is granted; and provided always, that in case disputes should arise as to whether a patent has or has not become null and void under the provisions of this section, such disputes shall be settled

by the minister of agriculture, or his deputy, whose decision shall be final.

(*a*) Whenever a patentee has been unable to carry on the construction or manufacture of his invention within the two years hereinbefore mentioned, the commissioner may at any time not more than three months before the expiration of that period grant to the patentee a further delay on his adducing proof to the satisfaction of the commissioner that he was for reasons beyond his control prevented from complying with the above mentioned condition.*

[NOTE.—The words to which (a) is prefixed were substituted by 38 Vict. c. 14.]

29. *Proceedings for impeachment of patent.—Scire facias may issue.* Any person desiring to impeach any patent issued under this Act, may obtain a sealed and certified copy of the patent and of the petition, affidavit, specification, and drawings thereunto relating, and may have the same filed in the office of the prothonotary or clerk of the Superior Court for the province of Quebec, or of the Court of Queen's Bench or Common Pleas for the province of Ontario, or of the Supreme Court in the province of Nova Scotia, or of the *Supreme Court* in the province of New Brunswick, according to the domicile elected by the patentee as aforesaid, or in the court of highest jurisdiction in the province of Manitoba or British Columbia, which courts shall adjudicate on the matter, and decide as to costs. The patent and documents aforesaid shall then be held as of record in such court, so that a writ of scire facias under the seal of the court grounded upon such record, may issue for the repeal of the patent, for cause as aforesaid, if upon proceedings had upon the writ in accordance with the meaning of this Act, the patent be adjudged to be void.

[NOTE.—The words in italics were substituted by 37 Vict. c. 44.]

30. *Judgment voiding patent to be filed in patent-office.* A cer-

* According to Richards' edition of the Patent Laws of Canada the following "sub-section 3" was inserted in section 28, by Act, May 17, 1882.

3. *Further provision as to extension of patent.* The commissioner may grant to the patentee or his assignee or assignees for the whole or any part of the patent, an extension for a further period of time, not exceeding one year beyond the twelve months limited by the first paragraph of this section, during which he may import or cause to be imported into Canada the invention for which the patent is granted: Provided, that the patentee or his assignee or assignees for the whole or any part of the patent, shall show cause satisfactory to the commissioner to warrant the granting of such extension; but no extension shall be granted unless application be made to the commissioner at some time within three months before the expiry of the twelve months aforesaid or any extension thereof.

tificate of the judment voiding any patent shall, at the request of any person or party filing it, to be of record in the patent-office, be entered on the margin of the enrollment of the patent in the office of the commissioner, and the patent shall thereupon be and be held to have been void and of no effect, unless and until the judgment be reversed on appeal, as hereinafter provided.

31. *To be subject to appeal.* The judgment declaring any patent void, shall be subject to appeal to any court of appeal having appellate jurisdiction in other cases over the court by which the same was rendered.

Patents Issued under Foreign Laws.

32. *Existing provincial and dominion patents to remain in force. —Extension of provincial patents to other provinces, on certain conditions.* All patents issued under any Act of the Legislature of the late province of Canada, or of Nova Scotia, or of New Brunswick, or of British Columbia, and all patents issued for the provinces of Ontario and Quebec, under any Act of the late province of Canada, and all patents issued under the Patent Act of 1869, to the date of the coming into operation of the present Act, shall remain in force for the same term and for the same extent of territory, as if the Act under which they were issued had not been repealed, but subject to the provisions of this Act in so far as applicable to them.

2. And it shall be lawful for the commissioners upon the application of the patentee named in any such patent, being the inventor of the subject matter of the patent, if the subject matter of the patent has not been known or used, nor with the consent of the patentee on sale in any of the other provinces of the Dominion, to issue on payment of the proper fees in that behalf a patent under this Act extending such provincial patent over the whole of the Dominion, for the remainder of the term mentioned in the provincial patent.

33. *Records of provincial patent-offices to be handed over to the commissioner.* All the records of the patent-offices of the late province of Canada, and of the provinces of Ontario and Quebec, of Nova Scotia and New Brunswick, and British Columbia, shall be handed over by the officers in charge of them to the commissioner of patents of invention, to form part of the records of the patent-office for the purposes of this Act.

Tariff of Fees.

34. *Tariff of fees.* The following fees shall be payable to the commissioner, before an application for any of the purposes hereinafter mentioned shall be entertained, that is to say :—

	$
On petition for a patent for 5 years	20 00
On petition for a patent for 10 years	40 00
On petition for a patent for 15 years	60 00
On petition for extension from 5 to 10 years	20 00
On petition for extension from 10 to 15 years	20 00
On petition for extension from 5 to 15 years	40 00
On lodging a caveat	5 00
On asking to register a judgment *pro tanto*	4 00
On asking to register an assignment	2 00
On asking to attach a disclaimer to a patent	2 00
On asking for a copy of patent with specification	4 00
On petition to re-issue a patent after surrender; and on petition to extend a former patent to the dominion, for every unexpired year of the duration of sub-patent, the fee shall be at the rate of	4 00

On office copies of documents, not above mentioned, the following charges shall be made :—

	$
For every single or first folio of certified copy	0 50
For every subsequent hundred words (fractions from and under fifty being not counted, and over fifty being counted for one hundred.)	0 25

35. *For copies of drawings.* For every copy of drawings, the party applying shall pay such sum as the commissioner considers a fair remuneration for time and labor expended thereon by any officer of the department or person employed to perform such service.

36. *Fees to be in full of all services.* The said fees shall be in full of all services performed under this Act, in any such case, by the commissioner or any person employed in the patent-office.

37. *Fees to form part of consolidated revenue fund.—Exception.* All fees received under this Act shall be paid over to the receiver-general and form part of the consolidated revenue fund of Canada, except such sums as may be paid for copies of drawings when made by persons not receiving salaries in the patent-office.

38. *Return of fees in certain cases only.—Case of withdrawal.* No fee shall be made the subject of exemption in favor of any person ; and no fee once paid, shall be returned to the person who paid it, except :

1. When the invention is not susceptible of being patented ;

2. When the petition for a patent is withdrawn ;

And in every such case the commissioner may return one half of the fee paid ;

And in the case of withdrawal, a fresh application is necessary to revive the claim, as if no proceeding had taken place in the matter.

Miscellaneous Provisions.

39. *Intending applicant for a patent may file a* caveat.—*Effect of* caveat.—*Proviso: duration of* caveat. An intending applicant for a patent who has not yet perfected his invention, and is in fear of being despoiled of his idea, may file in the patent-office a description of his invention so far, with or without plans, at his own will ; and the commissioner, on reception of the fee hereinbefore prescribed, shall cause the said document to be preserved in secrecy, with the exception of delivering copies of the same whenever required by the said party or by any judicial tribunal—the secrecy of the document to cease when he obtains a patent for his invention ; and such document shall be called a caveat : Provided always, that if application shall be made by any other person for a patent for any invention with which such caveat may in any respect interfere, it shall be the duty of the commissioner forthwith to give notice by mail to the person who has filed such caveat, and such person shall within three months after the date of mailing the notice, if he would avail himself of the caveat, file his petition and take the other steps necessary on an application for patent, and if, in the opinion of the commissioner, the applications are interfering, like proceedings may be had in all respects as are by this Act provided in the case of interfering applications : Provided further, that unless the person filing any caveat shall within one year from the filing thereof have made application for a patent, the commissioner of patents shall be relieved from the obligation of giving notice, the caveat then remaining as a simple matter of proof as to novelty or priority of invention if needed.

40. *Commissioner may object to grant a patent in certain cases.* The commissioner may object to grant a patent in the following cases :

1. When is he of opinion that the alleged invention is not patentable in law ;

2. When it appears to him that the invention is already in the

possession of the public with the consent or allowance of the inventor;

3. When it appears to him that there is no novelty in the invention;

4. When it appears that the invention has been described in a book or other printed publication before the date of the application, or is otherwise in the possession of the public;

5. When it appears that the invention has already been patented in Canada (or elsewhere, when the case is one within the seventh section of this Act), except, however, when the case is one in which the commissioner has doubts as to whether the patentee or the applicant is the first inventor.

41. *Commissioner to notify ground of objection to applicant.* Whenever the commissioner objects to grant a patent as aforesaid, he shall notify the applicant to that effect, and shall state the ground or reason therefor with sufficient detail to enable the applicant to answer, if he can, the objection of the commissioner.

42. *Appeal by applicant to Governor in Council.* Every applicant who has failed to obtain a patent by reason of the objection of the commissioner as aforesaid, may at any time within six months after notice thereof has been addressed to him or his agent, appeal from the decision of the commissioner to the Governor in Council.

43. *Arbitration in case of interfering applications.—The same: Appointment of arbitrators.—Their oath of office.—Powers of arbitrators to summon and swear witnesses.—Willful false evidence to be perjury.—As to fees to arbitrators, and by whom paid.* In case of interfering applications for any patent, the same shall be submitted to the arbitration of three skilled persons, one of whom shall be chosen by each of the applicants, and the third person shall be chosen by the commissioner or by his deputy or the person appointed to perform the duty of that office;—And the decision or award of such arbitrators, or any two of them, delivered to the commissioner in writing, and subscribed by them or any two of them, shall be final as far as respects the granting of the patent:

2. If either of the applicants refuses or fails to choose an arbitrator, when required so to do by the commissioner, the patent shall issue to the opposite party;—And when there are more than two interfering applicants, and the parties applying do not all unite in appointing three arbitrators, the commissioner or his deputy or person appointed to perform the duty of that officer, may appoint the three arbitrators for the purposes aforesaid:

3. The arbitrators so named shall, before a judge of any court in any of the provinces of Canada, subscribe to the following oath:

"I, the undersigned (A. B.), being duly appointed an arbitrator under the authority of the forty-third section of the Patent Act of 1872, do hereby solemly swear (*or* affirm, *as the case may be*), that I will well and truly perform the duty of such arbitrator on the the interfering applications of (C. D. and E. F.) submitted to me:"

4. The arbitrators, or any one of them, after having been so sworn, shall have the power of summoning before them any party or witness, and of requiring him to give evidence on oath, orally, or in writing (or on solemn affirmation, if the person be entitled to affirm in civil matters), and to produce such documents and things as such arbitrators deem requisite to the full investigation of the matters into which they are appointed to examine, and shall then have the same power to enforce the attendance of such witnesses, and to compel them to give evidence, as is vested in any court of law in civil cases, in the province in which the arbitration is to be had; and any willfully false statement made by any such witness on oath or solemn affirmation, shall be deemed to be willful and corrupt perjury; but no such party or witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution:

5. The fees for the services of arbitrators shall be a matter of agreement between the said arbitrators and the parties, and shall be paid by the parties naming them, respectively, except those of the arbitrator or arbitrators when named by the Commissioner of Patents, which shall be paid by the applicants jointly.

44. *Documents to be open to inspection.* All specifications, drawings, models, disclaimers, judgments, and other papers, except *caveats*, shall be open to the inspection of the public at the patent-office, under such regulations as may be adopted in that behalf.

45. *As to clerical errors.* Clerical errors happening in the framing or copying of any instrument of the patent-office, shall not be construed as invalidating the same, but when discovered they may be corrected under the authority of the Commissioner.

46. *Destroyed patent may be replaced.* In case any patent be destroyed or lost, others of the like tenor, date, and effect may be issued in lieu thereof, on the party paying the fees hereinbefore prescribed for office copies of documents.

47. *As to use of patented invention in foreign vessels.* No patent shall extend to prevent the use of any invention in any foreign

ship or vessel, where such invention is not so used for the manufacture of any goods to be vended within or exported from Canada.

48. *Patent not to affect a previous purchaser of the invention.—Proviso: As to other persons.* Every person who before the issuing of a patent has purchased, constructed or acquired any invention for which a patent has been obtained under this Act, shall have the right of using and vending to others, the specific article, machine, manufacture, or composition of matter patented, so purchased, constructed, or acquired before the issue of the patent therefor, without being liable to the patentee or his representatives for so doing; but the patent shall not be held invalid as regards other persons by reason of such purchase, construction, or acquisition, or use of the invention by the person first aforesaid, or by those to whom he may have sold the same, unless the same was purchased, constructed, or acquired or used for a longer period than one year before the application for a patent therefor, which circumstance would then have the effect of making the invention one having become public and in public use.

49. *Patented articles to be marked as such.—Penalty for default.* Every patentee under this Act shall stamp or engrave on each patented article sold or offered for sale by him the year of the date of patent applying to such article thus: "Patented 1872," or as the case may be; or when from the nature of the article this cannot be done by fixing to it or to every package wherein one or more of such articles is or are enclosed a label marked with a like notice; and any such patentee selling or offering for sale any such patented article not so marked or not enclosed in a package so marked shall be liable to the punishment of a fine not to exceed one hundred dollars, and in default of the payment of such fine, to imprisonment not to exceed two months.

[NOTE. The original clause 49 was repealed and the above substituted by 38 Vict. c. 14.]

50. *Falsely marking anything as patented to be a misdemeanor. —Punishment.* Whosoever writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks upon anything made or sold by him, and for the sole making or selling of which he is not the patentee, the name or any imitation of the name of any patentee for the sole making or selling of such thing without the consent of such patentee—or without the consent of the patentee, writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks upon anything not purchased from the patentee, the words

"Patent," "Letters Patent," "Queen's Patent," "Patented," or any word or words of like import, with the intent of counterfeiting or imitating the stamp, mark, or device of the patentee, or of deceiving the public and inducing them to believe that the thing in question was made or sold by or with the consent of the patentee, or whosoever puts to sale as patented, any article not patented in Canada, for the purpose of deceiving the public,—shall be deemed guilty of misdemeanor, and shall on conviction be punished therefor by fine, or by imprisonment, or both, in the discretion of the court before which the conviction shall be had; but the fine shall not exceed two hundred dollars, nor shall the imprisonment exceed three months.

51. *Making false entry or copy in matters subject to this Act to be a misdemeanor.* Any person willfully making or causing to be made any false entry in any register or book, or any false or altered copy of any document relating to the purposes of this Act, or who shall produce or tender any such false or altered document, knowing the same to be such, shall be guilty of a misdemeanor, and shall be punished by fine and imprisonment accordingly.

52. *Inconsistent enactments repealed.—Exception.* Chapter thirty-four of the Consolidated Statutes of the late Province of Canada, respecting Patents for Inventions,—Chapter one hundred and seventeen of the Revised Statutes of Nova Scotia (third series), —Chapter one hundred and eighteen of the Revised Statutes of New Brunswick, and the Patents Ordinance, 1867, of British Columbia, the Patent Act of 1869,—and any Act amending any of the said Acts or laws, or any other Act relating to patents, are hereby repealed, in so far as they or any of them may be inconsistent with this Act, or make any provision in any matter provided for by this Act, except only as respects all rights acquired and penalties or liabilities incurred under the said laws or any of them, before the coming into force of this Act, as to which they shall remain in force, and nothing in this Act contained shall affect any suit pending in any court of law or equity at the time of the coming into force of this Act.

53. *Short title.* In citing this Act it shall be sufficient to call it "The Patent Act of 1872."

54. *Commencement of Act.* This Act shall commence and take effect on the first day of September, 1872.

From *Carpm. Pat. L. of World*, 105.

Provisions of Act of April 8, 1875, *Stat.* 38 *Vict. c.* 14, *extending the foregoing law to Prince Edward Island.*

4. *Provisions of* 35 *V., c.* 27, *and its amending Acts and patents issued under them, extended to Prince Edward Island.* From and after the passing of this Act all and every the provisions of The Patent Act of 1872, as amended by this Act, and of the Acts amending the same, shall have the same force and effect in Prince Edward Island as the same then respectively have in the other provinces forming this Dominion; and every patent theretofore issued under the said Acts or any of them shall extend over the said province for the remainder of the term mentioned therein.

5. *Inconsistent enactments of acts of General Assembly of Prince Edward Island repealed.* The following Acts of the General Assembly of Prince Edward Island are hereby repealed, that is to say—The Act passed in the seventh year of the reign of his late Majesty King William IV., chapter twenty-one, entitled An Act for granting Patents for useful Inventions; the Act passed in the thirty-second year of Her Majesty's reign, chapter twenty, entitled An Act to add to and amend the Act relating to Patents for useful Inventions; and the Act passed in the thirty-third year of her Majesty's reign, chapter nineteen, entitled An Act to amend the Act relating to Patents for useful inventions,—but in so far only as such Acts, or any of them, may be inconsistent with this Act or make any provision in any matter provided for by this Act—except only as respects all rights acquired and penalties or liabilities incurred under the said Acts, or any of them, before the coming into force of this Act, as to which the said Acts shall remain in force; and nothing in this Act contained shall affect any suit pending in any court of law or equity at the time of the coming into force of this Act.

From *Richards' Digest of Patent-Laws* (*of Canada*), 12.

Patents Issued under Former Laws.

6. *Existing provincial patents to remain in force.* All patents issued under the said Acts of the General Assembly of Prince Edward Island, or any of them, to the date of the passing of this Act shall remain in force in the said province for the same term as if the Act or Acts under which such patent respectively were issued had not been repealed, but subject to all the provisions of this Act,

in so far as such provisions, or any of them, may be applicable to such patents respectively.

2. *Extension of provincial patent provided for.* And it shall be lawful for the commissioner, upon the application of the patentee named in any such patent, being the inventor of the subject-matter of the patent, if the subject-matter of the patent has not been known or used nor with the consent of the patentee on sale, in any of the other provinces of the dominion, to issue, on payment of the proper fees in that behalf, a patent under this Act extending such provincial patent over the whole of the dominion, for the remainder of the term mentioned in the provincial patent.

7. *Records of patent office of Prince Edward Island to be handed over to commissioner.* All the records of the Province of Prince Edward Island shall be handed over by the officers in charge of them to the commissioner of patents of invention, to form part of the records of the patent-office for the purposes of the Act hereby amended and of the Acts amending the same and of this Act.

8. *Proceedings for impeachment of patents.* Any person desiring to impeach any patent issued under The Patent Act of 1872, as amended by subsequent Acts and by this Act, the petitioner for which has elected his domicile at any place in Prince Edward Island, may obtain a sealed and certified copy of the patent and of the petition, affidavit, specification and drawings thereunto relating, and may have the same filed in the office of the clerk of the Supreme Court of Judicature in that province,—which court shall adjudicate on the matter and decide as to costs. The patent and documents aforesaid shall then be held as of record in such court, so that a writ of scire facias under the seal of the court grounded upon such record may issue for the repeal of the patent, for cause as aforesaid, if upon proceeding had upon the writ in accordance with the meaning of this Act, the patent be adjudged to be void.

9. *Act to be one with former Acts.—Short title.* This Act shall be read and construed as one Act with the Act hereby amended, and the two Acts amending the same; and the said four Acts may be cited together as The Patent Acts, 1872 to 1875.

From *Richards' Digest of Patent Laws, &c. (of Canada)*, 24.

Act of April 19, 1884, *Stat.* 47 *Vict. c.* 38.

1. *A bill or note given for a patent right or interest therein, to have certain words on its face.* A bill of exchange or promissory note, the consideration of which consists in whole or in part of the purchase money of a patent right, or of a partial interest (limited geographically or otherwise) in a patent right, shall have written or printed prominently and legibly across the face thereof, before the same is issued, the words "given for a patent right."

2. *Purchaser or holder of such instrument to take it subject to certain rights of defense.* The indorsee or other transferee of any such instrument having the words aforesaid so printed or written thereon shall take the same subject to any defense or set-off in respect of the whole or any part thereof, which would have existed between the original parties.

3. *Punishment for inducing any one to make, take, &c. such bill or note without certain words to it.* Any one who issues, sells or transfers by indorsement or delivery any such instrument not having the words "given for a patent right" printed or written in manner aforesaid across the face thereof, knowing the consideration of such instrument to have consisted in whole or in part of the purchase money of a patent right, or of a partial interest (limited geographically or otherwise) in a patent right, shall be guilty of a misdemeanor, and shall be liable to be imprisoned in any jail or other place of confinement for any term not more than once year, or to such fine as the judge may think fit, not exceeding two hundred dollars.

From *Richards' Digest of Patent Laws, &c.* (*of Canada*).

CAPE COLONY: CAPE OF GOOD HOPE.

Act to provide for the granting, in this Colony, of Patents for Inventions. No. 17 of 1860.*

Preamble. Whereas it is expedient that the making of new and useful inventions should be encouraged by securing to their inventors, for a limited time, the exclusive enjoyment thereof: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. *Interpretation of terms.* In the interpretation of this Act the term "invention" shall bear and have the same meaning as the term "invention" bears and has in the Act of the Imperial Parliament, the 15th and 16th of Her Majesty, chapter 83, and the term "letters patent" shall mean authorizations granted by the governor under the public seal of the colony, and the term "proceeding in the nature of a scire facias" shall mean as much as may be what the same term would mean if used in an Act of the Imperial Parliament.

II. *Power to grant patents.* It shall be lawful to make and issue in the manner hereinafter mentioned, letters patent granting to the true and first inventor of any invention the privilege of the sole and exclusive working, making, and enjoyment of such invention, within this colony, for any term not exceeding fourteen years from the date of such letters patent.

III. *Governor to make rules for executing this Act.* It shall be lawful for the governor, with the advice of the Executive Council, from time to time to make such rules and regulations, not inconsistent with the provisions hereof, as may appear to be necessary and expedient for the purposes of this Act, and all such rules and regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the next meeting in Parliament.

IV. *Applicants to deposit specifications.—They may be amended.*

* A translation of this law differing very slightly from that presented in the text, and without the schedules, except the schedule of fees, may be found in 20 *Pat. Off. Gaz.* 1167.

All applications under this Act for the grant of letters patent for an invention shall be made as follows, that is to say, the applicant shall deposit at the office of the colonial secretary an instrument in writing under his hand, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, and also a copy of such instrument, and of the drawings accompanying the same, if any; and the day of the deposit of every such specification shall be recorded at the said office, and indorsed upon such specification, and a certificate thereof given to such applicant or his agent; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act, for the term of six months next after the said deposit, and the applicant shall have during such term the like powers, rights, and privileges as might have been conferred on him by letters patent for such invention issued under this Act, and duly sealed, as of the day of such deposit, and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any letters patent to be granted for the same; and where letters patent are granted in respect of such invention, such letters patent shall be conditioned to become void if such specification does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed: Provided always, that in the case the title of the invention or the said specification be too large or insufficient, it shall be lawful for the attorney-general hereinafter mentioned, during the said term of six months, and before the grant of the letters patent, to allow or require such specification to be amended, or another and sufficient specification to be deposited in lieu thereof; and every such amended or new specification shall have the force, effect, and operation as if it had been originally deposited in its amended state.

V. *Patent not affected by specification of pretended inventor.* In case of the deposit of any such specification as aforesaid, in fraud of the true and first inventor, any letters patent granted to the true and first inventor of any such invention shall not be invalidated by reason of such deposit, or of any use or publication of the invention subsequent to such deposit, and before the expiration of the said term of protection.

VI. *Mode of proceeding after deposit of specification.* The applicant so soon as he shall think fit after the deposit of such specification as aforesaid, and of the drawings and models accom-

panying the same, if any, may give notice in writing at the office of the attorney-general of his intention to proceed with his application for letters patent for the said invention, stating in such notice the title of the said invention, and the day on which the specification thereof was deposited at the office of the colonial secretary, and at the time of giving such notice shall produce the said certificate of deposit; and thereupon the said attorney-general shall deliver to the applicant or his agent an appointment in the form contained in the second schedule to this Act, or to the like effect; and such applicant or agent shall cause the said appointment to be published once in the Government Gazette, once in some newspaper published in the city of Cape Town, and twice in some newspaper published in the town or place at or near to which the applicant uses or exercises the said invention, or (in case he does not use or exercise the same) in or near to which he resides, or if there shall be no newspaper published in such town or place, then twice in some newspaper circulating in the neighborhood where he uses or exercises the said invention, or (in case he does not use or exercise the same) where he resides; and any persons having an interest in opposing the grant of letters patent for the said invention shall be at liberty to leave particulars in writing of their objections to the said application at the office of the attorney-general within such time, not being less than one month, as the said attorney-general by such appointment may direct.

VII. *Attorney-general to hear applications and objections, and award costs.* At the time and place named in the said appointment the applicant shall produce the newspapers containing the same, and the attorney-general shall thereupon hear and consider the said application and all objections to the same mentioned in the said particulars, if any, and for that purpose shall obtain from the office of the colonial secretary the copy of the said specification, and of the drawings and models accompanying the same, if any, and may call to his aid such scientific or other person or persons as he may think fit, and may, by writing under his hand, order to be paid to such person or persons some remuneration for his or their attendance, and may also in like manner order that the costs of any hearing, upon any objection or otherwise, in relation to the grant of such letters patent or the protection acquired by the applicant under this Act, shall be paid, and in and by such writing shall fix the amount of such remuneration or costs, and by or to whom the same respectively shall be paid; and every such order shall be in

the form contained in the third schedule to this Act or to the like effect, and may be made a rule of the Supreme Court: Provided always, that the applicant, the objectors, and their respective witnesses and evidence, shall be respectively heard, examined, and considered separately, and apart from and in the absence of the other and his witnesses and evidence.

VIII. *Attorney-general may issue grant for patent.* The attorney-general after such hearing and consideration may issue a warrant under his hand for the granting of letters patent for the said invention, and by such warrant shall direct the insertion in such letters patent of all such restrictions, conditions, and provisos as he may deem usual and expedient in such grants, or necessary in pursuance of this Act, and the said warrant shall be the warrant for the making and sealing of letters patent under this Act, according to the tenor of the said warrant; and every such warrant shall be in the form contained in the fourth schedule to this Act, or to the like effect.

IX. *Patent may be repealed or withheld, and specifications canceled.* A writ of the Supreme Court, in the nature of a writ of scire facias in England, shall lie for the repeal of any letters patent granted under this Act, and it shall be lawful for the Governor, with the advice aforesaid, to order such attorney-general to withhold such warrant as aforesaid, or that any letters patent, for the granting whereof he has issued a warrant, shall not issue, or to order the insertion in any such letters patent of any restrictions, conditions, and provisos, in addition to or in substitution for any restrictions, conditions, or provisos which would otherwise be inserted therein under this Act; and it shall also be lawful for the Governor, with the advice and consent aforesaid, to order any specification in respect of the invention described in which no letters patent may have been granted, to be canceled, and thereupon the protection obtained by the deposit of such specification shall cease.

X. *Patent void on non-performance of conditions.* All letters patent for inventions granted under this Act shall be in the form contained in the fifth schedule to this Act, or to the like effect, and be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid within the said three and seven years respectively the sum or sums of money in that behalf hereby required to be paid, and the colonial secretary

shall issue under his hand a certificate of such payment, and shall indorse a receipt for the same on the letters patent.

XI. *Patent to be issued within three months.* The colonial secretary, so soon after the receipt by him of the warrant aforesaid as required by the applicant, shall cause to be prepared letters patent for the invention according to the tenor of the said warrant; and it shall be lawful for the Governor, with the advice of the Executive Council, to cause letters patent to be sealed with the public seal of the colony, and such letters patent shall be made applicable to the said colony, and shall be valid and effectual as to the whole of the same; bnt, except as hereinafter mentioned, no letters patent shall issue on any warrant granted as aforesaid, unless application be made to seal such letters patent within three months after the date of the said warrant, nor unless such letters patent be granted during the continuance of the protection conferred under this Act by reason of such deposit as aforesaid.

XII. *Patent may issue after that time, in certain cases.* Where the application to seal such letters patent has been made during the continuance of such protection as aforesaid, and the sealing of such letters patent has been delayed from accident, and not from the neglect or willful default of the applicant, then such letters patent may be sealed at such time, not being more than one month after the expiration of such protection as the Governor, with the advice aforesaid, shall direct; and where the applicant for such letters patent dies during the continuance of such protection as aforesaid, such letters patent may be granted to the executors, testamentary or dative, of such applicant during the continuance of such protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such protection; and in case any letters patent shall be destroyed or lost, other letters patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the Governor, with the advice aforesaid, may direct, be issued under the authority of the warrant in pursuance of which the original letters patent were issued.

XIII. *Patent to bear date of deposit of specification.* All letters patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such specification as aforesaid, and shall be of the same force and validity as if they had been

sealed on the day as of which the same are expressed to be sealed and bear date ; and after any letters patent shall have been granted or issued under this Act it shall not be necessary or admissible to inquire or ascertain whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

XIV. *Patent for foreign invention ends with foreign patent.* Where, upon any application made under this Act, letters patent are granted for or in respect of any invention, first invented in parts out of the Colony of the Cape of Good Hope, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any parts out of the Cape of Good Hope is obtained before the grant of such letters patent in the Cape of Good Hope, all rights and privileges under such letters patent shall, notwithstanding any term in such letters patent limited, cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such part out of the Cape of Good Hope shall continue in force, or, where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges : Provided always, that no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained abroad, granted in the Cape of Good Hope after the expiration or determination of the term for which such patent or privilege was granted or was in force, shall be of any validity.

XV. *Patent not to prevent use of inventions in foreign ships.* No letters patent for any invention, granted after the passing of this Act, shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of the Cape of Good Hope, in case such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the same.

XVI. *Specification to be filed after issue of patent, &c.* Every specification deposited at the office of the colonial secretary as aforesaid, and the drawings and models accompanying the same, if any, shall forthwith, after the grant of the letters patent, or if no letters patent be granted, then immediately on the expiration of six months from the time of such deposit, be transferred to and kept in

such office as the governor, with the advice aforesaid, shall from time to time appoint for that purpose.

XVII. *Notice of application to disclaim or make alterations.* Any person who shall obtain letters patent under this Act, or in case such person shall depart with the whole or any part of his interest by assignment, such person, together with the assignee (if part only has been assigned), or the assignee alone (if the whole hath been assigned), may apply to the attorney-general for leave to enter a disclaimer of any part of either the title of the invention or of the specification, or a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration, as shall extend the exclusive right granted by the said letters patent; and thereupon the attorney-general shall deliver to such patentee and assignee, or either of them, or to their or either of their agents, an appointment in the form contained in the sixth schedule to this Act, or to the like effect, and such patentee or assignee shall thereupon cause such disclaimer (stating the reason for the same) or such memorandum of alteration to be written at the foot of such appointment, and shall cause the same respectively to be published in the manner hereinbefore required, with respect to the said first-mentioned appointment, and any person having an interest in opposing the said application shall be at liberty to leave particulars, in writing, of their objections to the same, at the office of the attorney-general, within such time, not being less than one month, as the said attorney-general by such appointment may direct: Provided always, that where such application as aforesaid shall be for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the attorney-general may dispense with such appointment and publication, and in that case shall certify in the fiat hereinafter mentioned, that he has dispensed with the same.

XVIII. *Application for disclaimer to be heard.* At the time and place named in such appointment, the said patentee and assignee, or one of them, shall produce the newspapers containing the same, and the said disclaimer or memorandum of alteration at the foot thereof; and the attorney-general shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and all such power and authority shall and may be exercised on such occasion by the attorney-general, as by virtue of the provisions hereinbefore contained can and may be exercised in relation to the hearing and considering an application

for letters patent, and objections to the same, and shall and may be enforced in the same manner.

XIX. *How disclaimer may be entered, and alterations made.* After such hearing and consideration, or without such hearing and consideration where the said appointment and publication shall have been dispensed with, as aforesaid, such patentee and assignee, or either of them, may, by leave of the attorney-general, to be certified by a fiat under his hand (to be written at the foot of the same parchment with the said disclaimer or memorandum), enter such disclaimer, stating the reason for the same, or such memorandum of alteration; and at the time of entering such disclaimer or memorandum of alteration shall deposit a copy thereof in the office next hereinafter mentioned, and such disclaimer or memorandum of alteration being filed in such office as the Governor, with the advice aforesaid, shall from time to time appoint for that purpose, shall be deemed and taken to be part of such letters patent or such specification, and subject to the several incidents thereof in all colonial courts, and shall be valid and effectual in favor of any person in whom the rights under the said letters patent may then be, or hereafter become, legally vested; and no objection shall be allowed to be made in any proceeding upon, or touching such letters patent, specification, disclaimer, or memorandum of alteration, on the ground that the person entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf: Provided always, that no action shall be brought upon any letters patent in which, or on the specification of which, any disclaimer or memorandum of alteration shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration (unless the attorney-general shall certify in his said fiat that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration); and no such disclaimer or alteration shall be receivable as evidence in any action or suit (save and except in any proceeding, as aforesaid, in the nature of a scire facias) pending at the time when such disclaimer or alteration was filed as aforesaid; but in every such last mentioned action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the letters patent have been or shall have been granted: Provided also, that when any such fiat shall have been granted or issued under this Act, it shall not be necessary or material to inquire or ascertain

whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act; and such filing of any disclaimer or memorandum of alteration, in pursuance of the leave of the attorney-general certified as aforesaid, shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Act.

XX. *Copies of specification, disclaimers, &c., open for inspection.* The copies of all specifications, and the drawings and models accompanying the same, if any, and of all disclaimers and memoranda of alterations respectively deposited under or in pursuance of this Act, shall be open to the inspection of the public at all reasonable times after the grant of letters patent, or if no letters patent be granted, then immediately on the expiration of six months from the time of such deposit, but subject to such regulations as the Governor, with the advice aforesaid, may make in that behalf.

XXI. *Mode of obtaining extension of the term.* If any person having obtained letters patent under this Act, or in case such person shall have departed with his whole, or any part of his interest by assignment, if such person, together with the assignee (where part only hath been assigned) or if the assignee alone (where the whole hath been assigned), shall, six months before the expiration or other termination of such letters patent, present to the Governor a petition for the extension of the term in such letters patent mentioned, and shall set forth in such petition that he or they has or have been unable to obtain a due remuneration for his or their expense or labor in perfecting such invention, and that an exclusive right of using and vending the same for some further period, to be named in such petition, in addition to the said term, is necessary for his or their reimbursement and remuneration, it shall be lawful for the Governor, with the advice aforesaid, to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

XXII. *Mode of obtaining confirmation of invalid patent.* If in any suit or action it shall be proved or specially found by the verdict of a jury that any person who shall have obtained letters patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented or used the same or some part thereof, before the date of such letters patent, or if such patentee or his assigns shall discover that some other person had, unknown to such patentee,

invented or used the same or some part thereof before the date of such letters patent, such patentee or his assigns may petition the Governor to confirm the said letters patent, or to grant new letters patent, and it shall be lawful for the Governor, with the advice aforesaid, to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

XXIII. *Governor to appoint commissioners.* For the purpose of considering any such petition as aforesaid, it shall be lawful for the Governor, if, with the advice aforesaid, he shall think fit, to issue and direct in the name of Her Majesty, her heirs or her successors, to five or more persons, of whom some of the judges of the Supreme Court shall be two, a commission reciting such petition, and requiring and authorizing such persons or any three of them, of whom one of the said judges shall be one, to meet at some time, not being less than two months from the publication of the said commission in the Government Gazette, and at some place to be respectively fixed in the said commission, and then and there to consider the said petition and to report to the Governor, in case such petitioner shall have prayed for an extension of the term in the letters patent mentioned, whether any and, if any, what further extension of the said term should be granted, according to the prayer of the said petition, and upon what, if any, conditions, or, in case such petitioner shall have prayed for a confirmation of the letters patent, or for a grant of new letters patent, whether such confirmation or grant should be made.

XXIV. *Notice of commission to be published, and caveats entered.* Two months at least before the time named in the said commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published in the same manner as is hereinbefore required with respect to the said first-mentioned appointment, an advertisement of the contents of the said commission in the form contained in the seventh schedule to this Act, or to the like effect; and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the colonial secretary at any time, not being less than one week before the time named in the said commission for the execution thereof.

XXXV. *Commissioners to hear all parties, and report.* At the time and place fixed in the said commission for that purpose, the commissioners shall meet and proceed to consider such petition, and

the petitioner shall be heard by his counsel and witnesses, to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this Act ; and the persons entering caveats shall likewise be heard by their counsel and witnesses ; and all such witnesses shall be examined upon oath or affirmation, which oath or affirmation such commissioners as aforesaid are hereby authorized and required to administer, and thereupon, and upon hearing and inquiry of the whole matter, in case such petitioner shall have prayed for an extension as aforesaid, the said commissioners may report whether any, and, if any, what further extension of the said term should be granted ; and the Governor is hereby authorized and empowered, if he, with the advice aforesaid, shall think fit, to grant to the petitioner new letters patent for the said invention, for a term not exceeding fourteen years after the expiration of the first term, anything hereinbefore contained to the contrary thereof in anywise notwithstanding ; and such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the first letters patent ; or, in case such petitioner shall have prayed for a confirmation or grant as aforesaid, such commissioners, upon examining the said matter, and being satisfied that such patentee, as aforesaid, believed himself to be the first and original inventor, and being satisfied that such invention, or part thereof, had not been publicly and generally used before the date of such first letters patent, may report to the Governor their opinion that the prayer of such petition ought to be complied with, whereupon the Governor may, if he, with the advice aforesaid, shall think fit, grant such prayer ; and the said letters patent shall be available at law and in equity to give to such petitioner the sole right of using, making and vending such invention, as against all persons whatsoever, anything hereinbefore contained to the contrary thereof notwithstanding: Provided that any person, party to any former action or suit touching such first letters patent as last aforesaid, shall be entitled to have notice in writing of the time and place fixed, as aforesaid, for the first meeting of the said commissioners to consider the said petition, and after any such report shall have been made, it shall not be material to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner hereinbefore directed in that behalf.

XXVI. *Indexes to specifications, disclaimers, &c.* The governor,

with the advice aforesaid, may cause indexes to all specifications, disclaimers, and memoranda of alterations heretofore or to be hereafter enrolled or deposited as aforesaid, to be prepared in such form as may be thought fit, and such indexes shall be open to the inspection of the public at such places as the governor, with the advice aforesaid, shall appoint, and subject to the regulations to be made as hereinbefore provided.

XXVII. *Register of patents to be kept.* There shall be kept at the office to be appointed as aforesaid, a book or books to be called the "Register of Patents," wherein shall be entered and recorded in chronological order all letters patent granted under this Act, the deposit and filing of specifications, disclaimers, and memoranda of alterations filed in respect of such letters patent, all amendments in such letters patent and specifications, all confirmations and extensions of such letters patent, the expiry, determination, vacating, or canceling such letters patent, with the dates thereof respectively, and all other matters and things affecting the validity of such letters patent as the Governor, with the advice aforesaid, may direct; and such register or a copy thereof shall be open at all convenient times to the inspection of the public, subject to such regulations as the governor, with the advice aforesaid, may make in that behalf.

XXVIII. *Register of proprietors to be kept.* There shall be kept at the same office a book or books entitled "The Register of Proprietors," wherein shall be entered, in such manner as the governor, with the advice aforesaid, shall direct, the assignment of any letters patent, or of any share or interest therein, any license under letters patent, and the district to which such license relates, with the name or names of any person having any share or interest in such letters patent or license, the date of his or their acquiring such letters patent, share, and interest, and any other matter or thing relating to or affecting the proprietorship in such letters patent, or license; and a copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be *primâ facie* proof of the assignment of such letters patent, or share, or interest therein, or of the license or proprietorship as therein expressed: Provided always, that until such entry shall have been made, the grantee or grantees of the letters patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such letters patent, and of all the licenses and privileges thereby given and granted, and such register,

or a copy, shall be open to public inspection subject to such regulations as the governor, with the advice aforesaid, may make.

XXIX. *Falsification or forgery of entries.* If any person shall willfully make, or cause to be made, any false entry in the said registry, or shall willfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in the said book, or shall produce or tender, or cause or suffer to be produced or tendered in evidence, any such writing, knowing the same to be false or forged, he shall be guilty of the crime of contravening this section of this Act, and shall upon conviction be liable to imprisonment with or without hard labor for any period not exceeding five years.

XXX. *Entry may be expunged, or varied, by order of Supreme Court.* If any person shall deem himself aggrieved by any entry made under color of this Act in the said register, it shall be lawful for such person to apply by motion to the Supreme Court for an order that such entry may be expunged, vacated, or varied; and upon any such application, such court may make such order for expunging, vacating, or varying such entry, and as to the costs of such application as to such court may seem fit; and the officer having the care and custody of such registry, on the production to him of any such order, shall expunge, vacate, or vary the said entry according to such order.

XXXI. *Penalty for unauthorized user of word "Patent."* If any person shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark upon anything made, used, or sold by him, for the sole making or selling of which he hath not, or shall not have obtained letters patent, the name or any imitation of the name of any other person who hath or shall have obtained letters patent for the sole making or vending of such thing, without leave in writing of such patentee or his assigns: or if any person, shall, upon such thing not having been purchased from the patentee, or some person who purchased it from or under such patentee, or not having had the license or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "Patent," the words "Letters Patent," or the words "By the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, he shall for every such offense forfeit and pay the sum of one hundred pounds, one half to Her Majesty, Her heirs and successors, and the other half, with full

costs of suit, to any person who shall sue for the said penalty by action of debt: Provided always, that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping, or in any way marking the word "Patent," upon anything for the sole making or vending of which letters patent before obtained shall have expired or otherwise determined.

XXXII. *In actions for infringement, particulars of breaches and objections to be delivered.* In any action for the infringement of letters patent the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his pleas, and the prosecutor in any proceedings in the nature of scire facias to repeal letters patent, shall deliver with his declaration particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration respectively; and at the trial of such action or proceedings, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such letters patent, which shall not be contained in the particulars delivered as aforesaid: Provided always, that the place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the letters patent, shall be stated in such particulars: Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff, or defendant, or prosecutor respectively, to amend the particulars delivered as aforesaid, upon such terms as to such judge may seem fit: Provided also, that at the trial of any proceeding to repeal letters patent, the defendant shall be entitled to begin and give evidence in support of such letters patent, and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

XXXIII. *Particulars to be regarded in taxing costs.* In taxing the costs in any action for infringing letters patent, regard shall be had to the particulars delivered in such action; and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular, unless certified by the court before which the trial was had, to have been proved by such plaintiff or defendant respectively; and it shall be lawful for the court before which any such action shall be tried, to certify on the record that the validity of the letters patent in the declaration mentioned came in question, and the record with such certificate being given in evidence in any suit or

action for infringing the said letters patent, or in any proceeding in the nature of a scire facias to repeal the letters patent, shall entitle the plaintiff in any such suit or action, or the defendant in any such proceeding, on obtaining a decree or judgment, to his full costs, charges, and expenses, to be taxed as between attorney and client, unless the court making such judgment, decree, or order shall certify that the plaintiff or defendant respectively ought not to have such full costs.

XXXIV. *Fees on obtaining patents.* There shall be paid in respect of letters patent applied for or issued as herein mentioned, the depositing of specifications, disclaimers, and memoranda of alterations, warrants, certificates, entries, and searches, and other matters and things respectively mentioned in the last schedule to this Act, such fees as are enumerated in that schedule; and such of the said fees as are thereby made payable to the attorney-general, as well as the residue thereof, shall form part of the colonial revenue.

XXXV. *English patents subject to this Act.* All letters patent which shall be granted in the United Kingdom of Great Britain and Ireland after the first day of July, in the year of Our Lord one thousand eight hundred and sixty, for any invention, shall, so far as the same relate to this said colony, be utterly void and of none effect, and in nowise be put in execution: But all such letters patent granted in the said United Kingdom on or before that day, and which, if this Act had not been passed, would have been valid in this colony, shall be deemed and taken to have been granted under this Act and may be dealt with accordingly.

SCHEDULES.

The First Schedule.

To all to whom these presents shall come, I, John Doe, of Cape Town, engineer, send greeting: Whereas I am desirous of obtaining letters patent for securing unto me Her Majesty's special license that I, my executors and assigns, and such others as I or they should at any time agree with, and no others, should and lawfully might, from time to time and at all times during the term of fourteen years (to be computed from the day on which this instrument shall be left at the office of the colonial secretary), make, use, exercise, and vend within the colony of the Cape of Good Hope, an invention for [*insert the title of the invention*]; and in order to obtain the said letters patent, I must, by an instrument in writing under my hand, particularly describe and

ascertain the nature of the said invention, and in what manner the same is to be performed and must also enter into the covenant herein-after contained; Now know ye that the nature of the said invention and the manner in which the same is to be performed, are particularly described and ascertained in and by the following statement, that is to say [*describe the invention*]. And I do hereby, for myself, my heirs and executors, covenant with Her Majesty, her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, and that I do not know or believe that any person other than myself is the true and first inventor of the said invention, and that I will not deposit these presents at the office of the colonial secretary with any such knowledge or belief as last aforesaid. In witness whereof I have hereunto set my hand at Cape Town this day of 186 .

SECOND SCHEDULE.

Patent for [*insert the title as in the specification*].

This is to notify that John Doe, of, &c., did, on the day of instant (or last) deposit at the office of the colonial secretary in Cape Town, a specification or instrument in writing under his hand, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, and that by reason of such deposit the said invention is protected and secured to him exclusively for the term of six calendar months thence next ensuing. And I do further notify that the said John Doe has given notice in writing at my office, of his intention to proceed with his application for letters patent for the said invention, and that I have appointed [Thursday] the day of next, at o'clock in the noon, at my office, to hear and consider the said application and all objections thereto; and I do hereby require all persons having an interest in opposing the grant of such letters patent to leave, before that day, at my office in Cape Town, particulars in writing of their objections to the said application, otherwise they will be precluded from urging the same.

Given under my hand, this day of , 186 .

W. P., Attorney General.

THIRD SCHEDULE.

Upon hearing the objection of A. B., to the grant to John Doe, of letters patent for [*insert the title as in the specification*], I do by this writing under my hand, order that the said A. B. shall pay to the said John Doe the sum of for the costs of such hearing [or to E. F. the sum of as a remuneration for his attendance at such hearing].

W. P., Attorney General.

Given under my hand, this day of 186 .

FOURTH SCHEDULE.

I have heard and considered the application of John Doe for letters patent for [*insert the title as in the specification*], and also all objections to the same, and having perused the specification and the usual and necessary advertisements, am of opinion that as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, Her Majesty's royal letters patent may be issued in the form contained in the fifth schedule to the Act [*with the following additional clauses, that is to say: here set them out, if any*].

Given under my hand, this day of 186 .

W. P., Attorney General.

Fifth Schedule.

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to all to whom these presents shall come, greeting: Whereas John Doe, of in the division of , engineer, hath represented that he is desirous of obtaining our royal letters patent for securing unto him our special license that he, his executors and assigns, and such others as he or they should agree with, and no others, should and lawfully might make, use, vend, and exercise within our colony of the Cape of Good Hope, an invention for [*insert the title of the invention*], and by an instrument in writing under his hand deposited in the office of the colonial secretary, the said John Doe hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed: And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said John Doe the privileges herein-after mentioned. Know ye, therefore, that we of our especial grace, certain knowledge, and mere motion have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said John Doe, his executors and assigns, our especial license, full power, sole privilege, and authority, that he, the said John Doe, his executors, administrators, and assigns, and every of them, by himself and themselves, or his and their deputy or deputies, servants or agents, or such others as he or they shall at any time agree with, and no others, during the term herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within our said colony, in such manner as to him, his executors and assigns, or any of them, shall seem meet; and that he, his executors and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention, during the said term: to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages unto and by the said John Doe, his executors and assigns, for and during and unto the full end and term of years now next ensuing. And to the end that he, his executors and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention, according to our gracious intention, we do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, whatsoever, of what estate, quality, degree, name, or condition soever they be within our said colony, that neither they, nor any of them, at any time during the said term, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said John Doe as aforesaid, nor in any wise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, license, or agreement of the said John Doe, his executors or assigns, in writing under his or their hands first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this our royal command; and further to be answerable to the said John Doe, his executors and assigns, according to law, for his and their damage thereby occasioned: Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted, it shall appear that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and

exercise thereof, or that the said John Doe is not the first and true inventor thereof within this colony, these our letters patent shall forthwith cease, determine, and be utterly void to all intents any purposes, anything herein-before contained to the contrary thereof in anywise notwithstanding; Provided also, that these our letters patent, or anything herein contained, shall not extend, or be construed to extend, to give privilege unto the said John Doe, his executors and assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use and exercise and benefit thereof, within our said colony; it being our will and pleasure that the said John Doe, his executors and assigns, and all and every person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions by them invented and found out, according to the true intent and meaning of the same respective letters patent and of these presents: Provided likewise nevertheless, and these our letters patent are upon this express condition, that if the said instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also, if the said John Doe, his executors or assigns, shall not pay at the office of the colonial secretary of our said colony the sum of pounds within three years next after the date of these presents, and the sum of pounds within seven years next after such date, that then, and in any of the said cases, these our letters patent and all liberties and advantages whatsoever hereby granted shall utterly cease, determine, and become void, anything herein-before contained to the contrary hereof in anywise notwithstanding; provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted: And, lastly, we do by these presents, for us, our heirs and successors, grant unto the said John Doe, his executors and assigns, that these our letters patents shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said John Doe, his executors and assigns.

In witness whereof we have caused these our letters to be made patent, and to be sealed and bear date as of the day of .

The Sixth Schedule.

Patent for [*insert the title*].

This is to notify to all whom it may concern, that John Doe, of, &c., has applied to me for leave to enter a disclaimer of part [or memorandum of alteration, as the case may be] of the said invention, the particulars whereof are stated below; I do therefore appoint [Thursday] the day of next, at o'clock in the noon, to hear and consider the said application, and all objections to the same. And I do hereby require all persons having an interest in opposing the said application to leave, before that day, at my office in Cape Town, particulars in writing of their objection to the same, otherwise they will be precluded from urging such objections.

Given under my hand this day of .

W. P., Attorney-General.

The following is the disclaimer [*or as the case may be*] which I desire to make in, &c. [*the applicant must here set forth what he wishes to enter, and sign it*].

THE SEVENTH SCHEDULE.

Patent for [*insert the title*].

Notice is hereby given that I have presented a petition to His Excellency the Governor, praying for the confirmation of [*or extension of the term in*] the said patent, and that a commission has issued authorizing and requiring certain commissioners therein named to consider and report upon the subject to the said Governor, which said commissioners will meet for that purpose on the day of next, at o'clock in the noon, at . All persons objecting to the said confirmation [*or extension*] must enter a caveat against the same at the office of the colonial secretary in Cape Town, otherwise they will be precluded from objecting to it.

Dated this day of JOHN DOE.

THE LAST SCHEDULE.

	£	s.	d.
On depositing specification	2	10	0
To the attorney-general for any "appointment"	2	4	6
On obtaining letters patent	2	10	0
At or before the expiration of the third year	10	0	0
At or before the expiration of the seventh year	20	0	0
To the attorney-general with particulars of objections	2	4	6
On presenting petition for extension or confirmation	2	10	0
Every search and inspection	0	1	0
Entry of assignment or license	0	10	0
Certificate of assignment or license	0	10	0
Filing memorandum of alteration or disclaimer	2	10	0
Entering any caveat	2	10	0
Copy or extract of any writing per common law folio	0	1	0

From *Carpm. Pat. L. of World*, 127.

CENTRAL AMERICA.

See COSTA RICA, GUATEMALA, NICARAGUA, SALVADOR.

CEYLON.

An Ordinance for granting exclusive Privileges to Inventors; No. 6 (*of November* 2), 1859.

Preamble. Whereas it is expedient for the encouragement of inventors of new manufactures, that certain exclusive privileges in their inventions should be granted to them in Ceylon, it is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :—

1. *Short title of ordinance.* This ordinance may be cited for all purposes as the "Inventions Ordinance, 1859."

2. *Commencement of ordinance.* This ordinance shall come into operation on the day of passing the same.

3. *Inventor may petition to file specification.—Form, &c., of petition.* The inventor of any new manufacture may petition the Governor for leave to file a specification thereof. Every such petitiot shall be in writing, in the form or to the effect mentioned in the schedule hereunto annexed, and shall be signed by the petitioner, or, in case the petitioner shall be absent from Ceylon, by an authorized agent, and shall state the name, condition, and place of residence of the petitioner, and the nature of the invention.

4. *Order to file specification.* An *alien ami*, whether resident in Ceylon or not, may petition for leave to file a specification under this ordinance.

5. *Power to refer petition for inquiry and report.* Upon such petition, the Governor may, with the advice of the Executive Council, make an order authorizing the petitioner to file a specification of the invention: Provided always, that before making such order, the governor shall refer the petition to any person or persons for inquiry and report, and such person or persons shall be entitled to a reasonable fee for such inquiry and report, to be paid by the petitioner; the amount of fee, in case of dispute, to be settled by the district court of Colombo in a summary manner.

6. *Exclusive privilege for fourteen years.—Extension.* If within the space of six months from the date of such order, the petitioner cause a specification of his invention to be filed, in manner hereinafter mentioned, the Governor, with the advice and consent of the Executive Council, may, in the Form D. in the schedule to this ordinance appended, under the public seal of the Island of

Ceylon, grant to the petitioner, his heirs, executors, administrators, and assigns, the sole and exclusive privilege of making, selling, and using the said invention in Ceylon, and authorizing others so to do, for the term of fourteen years from the time of filing such specification; and for such further term, if any, not exceeding fourteen years from the expiration of the first fourteen years, as the Governor, with the advice of the Executive Council, may think fit to direct, upon petition to be presented by such inventor, at any period, not more than one year, and not less than six months, before the expiration of the exclusive privilege hereby granted.

7. *Order to file specification may be subject to conditions.* An order, authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to such conditions and restrictions as the Governor, with the advice of the Executive Council, may think expedient.

8. *Specification to be in writing, and to describe invention.* Every specification of an invention filed under this ordinance shall be in writing, and shall be signed by the petitioner, and shall particularly describe and define the nature of the said invention, and in what manner the same is to be carried out.

9. *Petition and specification to be left with colonial secretary; accompanied by declaration.* Every petition for leave to file a specification, and every specification filed under this ordinance, shall be left with the colonial secretary, and shall be accompanied by a declaration in writing, signed by the petitioner, in the form or to the effect mentioned in the schedule hereunto annexed, marked A. and B. respectively; and if the inventor be absent from Ceylon, the petition and specification shall also be accompanied by a declaration, signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration purporting to be the declaration of the inventor was signed by him, and that the contents thereof are true; which declaration shall be in the form hereunto annexed, marked C. The date of the delivery of every such petition and specification shall be indorsed on the same respectively, and shall be also recorded at the office of the colonial secretary.

10. *False statement in declaration punishable as perjury.* Any person who shall willfully and corruptly make any false statement in any declaration required by this ordinance shall be liable to the pains and penalties of perjury.

11. *Payment of fees.* No specification shall be filed until the petitioner shall have paid all fees payable under this ordinance.

12. *To be open to inspection.* The specification, or a copy thereof, shall be open at all reasonable times, at the office of the colonial secretary, to public inspection, upon payment of a fee of five shillings.

13. *Book for the registry of petitions, specifications, &c.* A book shall be kept in the office of the colonial secretary, wherein shall be entered every such petition and specification, and every order made upon such petition, or relating to the invention therein mentioned, and every grant of exclusive privilege. Every specification and every such grant as aforesaid shall be numbered according to the order in which it is entered in such book; and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention.

14. *Inspection of registry book.—Certified copy of entry.* Such book, or copy thereof, shall be open at all convenient times for the inspection of any person, upon payment of a fee of five shillings; and the said colonial secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

15. *Certified copy to be primâ facie evidence.* Every such certified copy shall be primâ facie evidence of the document of which it purports to be a copy.

16. *When exclusive privilege does not attach.* No person shall be entitled to any exclusive privilege under the provisions of this ordinance,

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention in Ceylon, or

If the petitioner is not the inventor or importer thereof into Ceylon, or

If the specification filed does not particularly describe the nature of the invention, and in what manner the same is to be carried out.

17. *New invention.—Knowledge of invention fraudulently acquired.—Public use by actual inventor.* An invention shall be deemed a new invention within the meaning of this ordinance, if it shall not, before the time of applying for leave to file the specification have been publicly used in Ceylon. The public use of an invention, prior to the application for leave to file a specification shall not be deemed a public use within the meaning of this section, if the knowledge thereof shall have been obtained surreptitiously, or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor, or in breach of confidence. Provided

the inventor shall, within six months after the commencement of such public use, apply for leave to file a specification, and shall not previously have acquiesced in such public use. Provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing, shall not be deemed a public use thereof, within the meaning of this ordinance.

18. *Inventor having patent in England may petition.* If an inventor who, prior to the time of applying for leave to file a specification of an invention under this ordinance, shall have obtained Her Majesty's letters patent for the exclusive use of such invention in any part the United Kingdom, but not extending to this island, shall petition the Governor for leave to file a specification of such invention, it shall be competent to the Governor, with the advice of the Executive Council, to make an order authorizing the petitioner to file a specification of the invention and exemplification of the letters patent granted to him. On this being done, the petitioner shall be entitled to the sole and exclusive privilege of making, using and selling the said invention in Ceylon for the term or terms mentioned in the 6th section. Provided the petition for leave to file the specification shall state that such letters patent have been granted, and shall also state the date thereof, and the term during which the same are to continue in force.

19. *Exclusive jurisdiction in the district court of Colombo.* And whereas it is expedient that sole jurisdiction over all actions, suits, and proceedings arising in respect of this ordinance should be vested in the district court of Colombo, to the exclusion of other courts having jurisdiction under the 24th and 29th sections of the Letters Patent of his late Majesty King William the Fourth, bearing date the 18th day of February, 1830; And whereas by Letters Patent of her present Majesty, bearing date the 28th day of January, 1843, it is declared that it shall be competent to the Governor, by any law or ordinance to be by him from time to time made, with the advice and consent of the Legislative Council, to make provision for the better administration of justice within this island, anything in the said Letters Patent of King William the Fourth to the contrary notwithstanding: It is therefore enacted that the said district court of Colombo shall have sole and exclusive jurisdiction over all such actions, suits, and proceedings as aforesaid, wheresoever the same may arise, and to the exclusion of all other district courts in the island, subject, however, to appeal, as hereinafter provided.

20. *Particulars to be delivered.* In any suit for the infringement of such exclusive privilege the plaintiff shall deliver with his libel particulars of the breaches complained of in said suit, and the defendant, in pleading thereto, shall deliver, with his answer, particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to the said district court under the 22nd, 23rd, and 24th sections of this ordinance, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any such suit or issue, no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such exclusive privilege, which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used, shall be stated in such particulars. Provided always, that it shall be lawful for the court in which the suit or proceeding is pending, or in which the issue is tried, to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid, upon any such terms as shall seem fit.

21. *Defect in specification or petition, or want of novelty in invention, &c., no defense.—Actual use a defense.* No such suit shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor shall any such suit be defended upon the ground of a misdescription of the invention in the petition ; unless the defendant shall show that he is the actual inventor or derives title from him.

22. *Application to declare exclusive privilege not acquired.* It shall be lawful for any person to apply by motion to the district court of Colombo for a rule to show cause why the court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this ordinance, by reason of all or any of the objections following, (to be specified in the rule,) that is to say :—

Invention not new. That the said invention was not, at the time of presenting the petition for leave to file the specification, a new invention ; or

Petitioner not the inventor, &c. That the petitioner was not the inventor thereof, and in addition thereto, either that the appli-

cant was the inventor, or that the inventor has dedicated or made known the invention to the public, or has acquiesced in the public use thereof ; or

Invention not described in specification. That the specification filed does not particularly describe and define the nature of the invention, or in what manner the same is to be carried out ; or

Fraud in petition or specification. That the petitioner has fraudulently inserted in the petition or specification, as part of his invention, something which was not new or whereof he was not the inventor ; or

False statement in petition. That the petitioner has willfully made a false statement in his petition ; or

Fraudulent misdescription of part of invention in specification. That some part of the invention, or the manner in which that part is to be carried out as described in the said specification, is not thereby sufficiently described and defined, and that such defect or insufficiency was fraudulent, and is injurious to the public.

23. *Like application as to part of an invention.* Any person may in like manner apply to the said district court for a rule to show cause why that court should not declare that an exclusive privilege has not been acquired under the provisions of this ordinance, in any part of the invention to be specified in the rule, by reason of all or any of the objections following (to be specified in the rule), that is to say :—

That such part of the invention was not new at the date of the petition for leave to file the specification ; or

That the petitioner was not the inventor of that part of the invention, and, in addition thereto, either that the applicant was the inventor of that part, or that the inventor has dedicated or made known the same to the public, or has acquiesced in the public use thereof ; or

That that part of the invention, and the manner in which it is to be carried out, is not sufficiently described and defined in the specification, and that such defect or insufficiency is injurious to the public.

24. *Application by Queen's advocate on breach of special condition.* It shall be lawful for the Queen's advocate or any deputy Queen's advocate to apply to the said district court for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the leave to file a specification has

been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor under the power hereinafter reserved may, in the judgment of the said Governor, depend, should not be tried in the form of an issue directed by the said court; and if the rule be made absolute, the court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor. The costs of such trial, and also the costs of such proceedings, shall be in the discretion of the said court.

25. *When exclusive privilege shall cease.* Every exclusive privilege under this ordinance shall cease if the governor, with the advice of the Executive Council, shall declare by notification in the Government Gazette that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the petitioner shall have been authorized to file a specification, or upon which the term of the exclusive privilege shall have been extended, shall be proved to the satisfaction of the aforesaid district court, and if the governor, with the advice of the Executive Council, shall thereupon declare that such exclusive privilege shall cease.

26. *District court may direct issue for trial.* The said district court may, if it think fit, direct an issue for trial before the same court of any question of fact arising upon an application under sections 22, 23, 24 of this ordinance, and such issue shall be tried accordingly, in a summary manner.

27. *Judgment.* If it shall appear to the said district court at the hearing of any application under the provisions of sections 22 and 23 of this ordinance that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the court shall give judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just; and thereupon the petitioner, his heirs, executors, administrators, and assigns, shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

28. *Amendment of specification.* If the court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the description of his invention in the petition or specification, included something which at the date of the petition was not new, or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the

error, defect, or insufficiency was not fraudulently intended, the said court may adjudge the said exclusive privilege to have been acquired and to be valid save as to the part thereof affected by such error, defect, or insufficiency; or if the court shall think that the error, defect, or insufficiency can be amended without injury to the public, it may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his heirs, executors, administrators, or assigns, shall, within the time limited by the court for the purpose, file a specification amended according to such order.

29. *Misdescription in petition, not to defeat privilege.* An exclusive privilege shall not be defeated upon the ground that there is any misdescription of the invention in the petition, unless such description was fraudulent.

30. *Entry in Registry Book of judgment, &c.* Whenever it shall be adjudged by the said district court that an exclusive privilege as to the whole or any part of an invention has not been acquired, the colonial secretary shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

31. *Actual inventor entitled to assignment of privilege fraudulently obtained.* If upon proceedings instituted within two years from the date of a petition to file a specification the inventor shall prove to the satisfaction of the said district court that the petitioner was not the inventor, and that at the time of the petition he knew, or had good reason to believe, that the knowledge of the invention was obtained by himself, or by some other person surreptitiously or in fraud of the inventor, or by means of a communication made in confidence by the actual inventor, to him or to any person through whom he derived such knowledge, the court may compel the petitioner to assign to the inventor any exclusive privilege obtained under this ordinance, and to account for and pay over the profits thereof.

32. *Service of proceeding.* A book shall be kept in the office of the colonial secretary, (such book to be open to inspection without fee), wherein every person filing a specification under this ordinance shall cause to be stated, under a number corresponding with the

number of the specification, some place in Ceylon where service of any rules or proceedings, for the purpose of canceling or revoking his exclusive privilege, may be made. Any person, partnership, or company, from time to time being proprietors of, or having shares or interest in such exclusive privilege, shall cause to be entered in such book, under such number as aforesaid, their names, together with the name of some place for the service of such proceedings as aforesaid. All such rules and proceedings shall be deemed sufficiently served on any such person, partnership, or company, if a copy thereof be left at the place entered in such book, or (if any other place be substituted for the same, by entry in the said book) at the place last substituted, by delivering the same to any person resident at or in charge of such place, or if there be no person resident at or in charge of such place, or if such place be not within the local limits of the jurisdiction of the court, by causing such rule or proceeding to be sent by post, by a registered letter directed to such person, partnership, or company, at such place; and if any such person, partnership, or company shall neglect to make or cause to be made such entry, then service of such rule or proceeding may be effected by affixing a copy thereof to some conspicuous part of the court-house, or in such other manner as the court may direct, provided that notice of any rule obtained or proceeding taken under either of the sections 22, 23, and 24, shall be served on all persons appearing to be proprietors, or to have shares or interests in the exclusive privilege under the provisions of this section, and it shall not be necessary to serve such notice on any other person.

33. *Prerogative in respect to letters patent saved.* Nothing in this ordinance contained shall abridge or affect the prerogative of the crown in relation to the granting or withholding the grant of any letters patent for inventions, or otherwise, or affect or interfere with any letters patent for an invention heretofore granted or hereafter to be granted by the crown.

34. *Right of appeal saved.* All decisions and orders of the district court of Colombo, made under the authority of this ordinance, shall be subject to an appeal to the Supreme Court, and every such appeal shall be brought on and prosecuted in such manner and shall be subject to such regulations as now exist or shall be hereafter made by law; and subject to the rules and limitations contained in the 52nd clause of the charter, any party or parties to any suit or proceeding under this ordinance may appeal to her

Majesty, her heirs and successors, in her, his, or their Privy Council, from any final judgment, decree, or sentence of the Supreme Court, or against any rule or order made by such Supreme Court, and having the effect of a final or definitive sentence.

35. *Stamp of petition.* Every petition for leave to file a specification under the provisions of this ordinance, or for the extension of the term of an exclusive privilege, shall be written or printed on a stamped paper of the value of ten pounds.

36. *Interpretation.* In the construction of this ordinance, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such constructions :—

The word "invention" shall include an improvement. The word "manufacture" shall be deemed to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture. The word "inventor" when not used in conjunction with the word "actual" shall include the importer of an invention not publicly known or used in Ceylon. The words "inventor" and "actual inventor" shall include the heirs, executors, administrators, or assigns of an inventor or actual inventor, as the case may be. The word "assigns" shall include grantees of the sole use or benefit in Ceylon, of an invention, or of the sole use of an exclusive privilege, for a limited time. The words "colonial secretary" shall include any person acting as or for the colonial secretary. The words "Queen's advocate" shall include any person acting as or for the Queen's advocate.

SCHEDULE.

Form of Petition.

To the Governor of Ceylon.

The petition of [*here insert name, addition, and place of residence*] for leave to file a specification under the Inventions Ordinance, 1859.—Showeth,

That your petitioner is in possession of an invention for [*state the title of the invention*], which invention he believes will be of public utility; that he is the inventor or owner of the said invention [*or, as the case may be, the assignee, or the executor, or administrator, or heir of the inventor or owner of the said invention*]; and that the same is not publicly known or used in Ceylon, to the best of his knowledge and belief [*or, as the case may be, that he is the first importer into Ceylon of the said invention, and that the same is not publicly known or used in Ceylon*].

If letters patent have been obtained for the invention, state according to the requirements of section 18.

The following is a description of the invention [*here describe it*].

Your petitioner therefore prays leave to file a specification of the said invention, pursuant to the provisions of the Inventions Ordinance, 1859.

And your petitioner, &c.

(Signed)

The day of

Forms of Declaration.

A.

I [*here insert name, addition, and place of residence*] do solemnly and sincerely declare, that I am in possession of an invention for [*state the title of the invention as in the petition*]; that I believe the said invention will be of public utility; that I am the inventor or owner of the said invention [*or, as the case may be, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention; or, that I am the first importer of the said invention into Ceylon*]; and that the same is not publicly known or used in Ceylon, to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said invention is truly described in my petition for leave to file a specification thereof.

(Signed)

The day of

B.

I [*here insert name, addition, and place of residence*] do solemnly and sincerely declare that I am in possession of an invention for [*state the title of the invention*], which invention I believe will be of public utility; that I am the inventor or owner of the said invention [*or, as the case may be, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention; or, that I am the first importer of the said invention into Ceylon*], and that the same is not publicly known or used, in Ceylon, to the best of my knowledge and belief; and that, to the best of my belief the instrument in writing under my hand hereunto annexed particularly describes and defines the nature of the said invention, and in what manner the same is to be carried out.

(Signed)

The day of

C.

I of , do solemnly and sincerely declare, that I have been appointed by the said , his agent for the purpose of , and I verily believe that the declaration purporting to be the declaration of the said marked ( ) was signed by him, and that the contents thereof are true.

(Signed)

The day of

Form of Grant.

D.

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c.

To all to whom these presents shall come, greeting.

Whereas A. B. of C. D. has presented to us [*insert name of Governor*] Governor

of Ceylon, a petition (numbered in the book of petitions for exclusive privilege in inventions in the colonial office), praying for leave to file a specification of a certain invention, intituled [*here insert title of invention*], and we have, with the advice and consent of the Executive Council, made an order, dated the day of 18 , authorizing the said A. B. to file a specification of the said invention; and whereas the said A. B. did on the day of 18 , file a specification in accordance with the said order, and the same is entered in the Book of Specifications in the colonial office, and bears the number therein; and whereas the said Governor and the Executive Council are agreed that the said A. B. hath done all things to entitle him to exclusive privilege in the invention in the said petition and specification instituted, mentioned, and described, for the term of years; Now know ye that we, with the advice and consent of the Executive Council, do grant to the said A. B. his heirs, executors, administrators and assigns, the exclusive privilege of making, selling, and using (as the case may be) the said invention in the said specification described in Ceylon for the term of years, in terms of and subject to the provisions of the Inventions Ordinance, 1859 (here insert any condition under which the grant is made).

(Signed) (*Signature of Governor*).

From *Carpm. Pat. L. of World*, 149.

CHANNEL ISLANDS.

See GREAT BRITAIN AND IRELAND.

CHILI.

Law of September 9, 1840.

ARTICLE 1. The author or inventor of an art, manufacture, machine or instrument, preparation of materials or any improvement thereof, who seeks to obtain the exclusive right to it assured by Article 152 of the Constitution, * shall present at the ministry of the interior a faithful, clear, and succinct account of the work or invention, declaring that the discovery is original and unknown in the country, accompanying it with samples, drawings, or models, as the circumstances of the case may require, and soliciting a patent which may establish his property therein.

ART. 2. The minister of the interior shall name a commissioner of one or more experts to examine the work or invention, and inform him as to its originality; they, in presence of the applicant, making oath to the faithful discharge of their duty, and also to religiously guard during the whole time prescribed by the law the secret which may be communicated.

ART. 3. After due investigation, the President of the Republic shall grant the exclusive privilege for a term not exceeding ten years, and shall order the issue of the necessary patent, which shall be authenticated by his signature, and sealed with the seal of the Republic.

ART. 4. This patent shall be registered in full in a book kept in the office of the ministry of interior.

ART. 5. Before delivery of the letters of patent to the applicant, he shall show by the exhibition of the proper receipt that he has paid into the public treasury the sum of $50† and that he has deposited in the National Museum drawings, samples or models, and a specification in full, to the satisfaction of the inspecting commission, and bearing the signature of each of its members, which shall

* Article 152 of the Chilian constitution, dated May, 1833, accords to every author or inventor the exclusive proprietorship of his discovery or invention for the time which the law may cede to him, and further authorizes the payment of a proper indemnity should it be found necessary to publish the invention. Report of Mr. J. De V. Drummond-Hay, of the British Legation, 4 Pat. Off. Gaz. 317.

† Mr. J. De V. Drummond-Hay states the fee as the "sum of £10 (about $50)." 4 Pat. Off. Gaz. 318.

contain a complete, minute, and specific description distinguishing the invention or discovery from other matters previously known and employed, and defining the method or principles adopted, in order to enable any other competent person to use the same for the public benefit at the expiration of the term of the patent. This written specification shall be closed in presence of the commission, the title or subject of the patent being written on the envelope, and the proprietor shall declare that he has faithfully fulfilled the conditions here imposed, and the commission shall certify thereto. The proprietor during the term of his privilege may examine the envelope as often as he pleases, in order to see if it remains sealed and closed as when he handed it over.

ART. 6. In the National Museum a room shall be set apart for the reception of the plans, samples or models, and a secure chest for the safe keeping of the closed packets above mentioned, which shall not be opened or published before the expiration of the patent, except in cases of articles 11, 12, 15.

ART. 7. The $50 above mentioned shall go toward the maintenance, &c., of the room in the Museum.

ART. 8. * [Omitted because repealed by law of July 25, 1872.]

ART. 9. Property in a patent is transferable like anything else, but in such cases the minister of the interior must first be informed, reasons being given. If these are found to be good, the transfer shall be noted in the transfer book, and if not, the provisions of article 11 shall come into play.

ART. 10. Any person constructing protected articles by the same method shall pay a fine of from $100 to $1000, the articles so constructed, and the machines, implements, &c., made use of being confiscated, and the value thereof being divided between the Gov-

*ART. 8 permitted "introducers of arts, industries or machines invented elsewhere and entirely unknown or not established nor employed in Chili" to obtain exclusive privileges on same conditions as prescribed for new inventions, except that the term was limited to eight years. By a law of August 16, 1856, the restriction was imposed upon any petitioner for the introduction of inventions already known in other countries, that the privileges solicited should be published in the Official Journal for thirty days, in order that parties who might have already brought into the country, or established such conventions or industries, or have taken steps for their introduction or establishment, and thereby incurred expense previous to the petition for such exclusive privilege, should have a right to oppose the cession of the monopoly desired. By the law of July 25, 1872, the provision of ART. 8 of the law of 1840 allowing introducers to obtain patents was repealed. See reprort of Mr. J. De V. Drummond-Hay, 4 Pat. Off. Gaz. 318; Carpm. Pat. L. of World, 165.

ernment and the patentee, and in addition losses and damages may be recovered.

ART. 11. Patentees whose patents have been surreptitiously obtained, that is to say, by false testimony or under a false name, or for industries already established in the country, shall immediately in the same manner be fined, besides which they shall be condemned in costs, and shall incur imprisonment of from three to twelve months.

ART. 12. In case of dispute between rival inventors, arbitration shall be employed, one arbitrator being named by each party, and a third by the minister of the interior.

ART. 13. Patents conceded may be general, that is for the whole Republic, or particular, that is for a department or portion thereof.

ART. 14. For each patent a proportionate term shall be fixed for the establishment of the machinery, plant or manufactures, on the conclusion of which the term of the patent shall commence to run.

ART. 15. If, at the expiration of this term of establishment, the invention has not come into work, the privilege shall lapse, as shall it also do if after establishment it shall be abandoned for more than one year, or if the products are adulterated, becoming inferior to the samples, specimens, or models exhibited.

ART. 16. Renewal of patents can only be granted when accidents or unforeseen circumstances render the patentees really deserving of it, and it shall be sought at least six months before the expiration of the actual patent.

ART. 17. The present law shall not invalidate the mining *ordenanza* with respect to patents in that branch, nor what is established in the law of 24th July, 1834, with reference to literature and the fine arts.

From *Carpm. Pat. L. of World*, 164.

Decree of August 1, 1851.

Having noticed in several reports of the experts nominated for the concession of special privileges, that the necessary demonstration of the specialty of that to which the privilege relates has not been submitted to the government, and it being indispensable to correct this abuse in order to the due fulfillment of the law,

I have granted and decreed that those persons who, as experts, are nominated agreeably to article 2 of the law of 9th September, 1840, shall not only report as to the usefulness or introduction of the invention, but also to the injury which might result to industry or commerce, also as to the difficulties and expenses incurred by the petitioners, in order to regulate the period for which the privilege should be granted, and the time within which the said industry shall be established.

They shall also show whether it relates to a new invention, or only to one newly introduced into the country, and specify what particulars should be required for the clear recognition of the invention, introduction, or industry, which by granting of the above privilege shall be otherwise prohibited.

Signed, &c.

From *Carpm. Pat. L. of World*, 167.

CISLEITHANIA: AUSTRIA.

See AUSTRIA-HUNGARY

COCHIN CHINA.

See FRANCE.

COLOMBIA.

Law No. 35 *of* (*May* 13,) 1869.*

ART. 1. All new discoveries or inventions, in whatever kind of industry, give the inventor under the conditions and for the time mentioned in this law a right to the exclusive benefit of his invention or discovery. This right is secured by grants issued by the Executive Power of the Union, called Patents of Invention.

ART. 2. Any Colombian or foreigner who shall invent or improve any machine, mechanical contrivance, combination of materials, or process, useful to industry, arts or sciences, or any manufacture or industry, may obtain a patent from the Executive Power, securing to him or to his lawful representatives, for a term of from five to twenty years, the exclusive right to make, sell, or use his discovery or invention.

ART. 3. No privileges shall be granted for the importation of natural or manufactured productions from foreign countries.

ART. 4. Persons applying for a patent in Colombia for inventions which have already been patented in a foreign country may obtain the said patent, provided the invention in question has not been already introduced into public use. A patent granted in Colombia for an invention which has already been patented in a foreign country, shall expire at the same time as the foreign patent.

ART. 5. In order to obtain a patent of invention or improvement, the person interested shall apply either personally or through his attorney to the Executive Power, specifying his invention or improvement, explaining it with clearness, and asking for the patent to be granted to him; and if the said patent be granted, he is required before he receives it to furnish within forty days an exact drawing or model of the machine or mechanical contrivance he shall have invented, or a full and detailed description of the new method or process, or a specimen of the manufacture, if the nature of the case should admit, in order that the same may be deposited in the

* A statement of the patent law of Colombia, by Mr. Charles O'Leary, of the British Legation, founded on the same law as is given in the text, but differently expressed, was published September 23, 1873, in 4 Pat. Off. Gaz. 318.

corresponding department of state, to be there at hand should any questions arise touching the patent.

ART. 6. Every patent shall contain a copy of the present law, as also of the executive decree granting the privilege, and specifying the invention, improvement, or new industry, and the term of its duration, and shall declare the patentee to be in possession of said privilege, and it shall be published twice at least in the National Official Gazette.

ART. 7. A patent of invention or improvement shall be granted without previous inquiry as to the usefulness of the article, or as to whether it be really an invention or improvement. The government does not declare, on issuing a patent, that the invention or improvement is genuine or useful, or that the patentee is the actual inventor, or the article is a new one, or that the descriptions or models are exact; as those who are interested in the matter are at liberty to prove the contrary before the law courts.

The Executive Power shall give notice through the National Gazette thirty days before issuing the grant of any applications that may be made for patents.

ART. 8. No patent shall be issued unless all the formalities laid down in this law are fulfilled, or in case the invention, improvement, or new industry, should endanger public health or security, or if it should be opposed to morality or to existing rights.

ART. 9. When the term for which a patent is granted expires, the manufacture, sale, or use of the patented invention or improvement shall become free; the descriptions furnished by the inventor shall be published, and copies of the respective drawings or models may be had on application at the expense of the person asking for them. This will likewise take place when, before the expiration of the term, the patent is declared null and void.

ART. 10. All attempts to imitate or counterfeit patented articles or industries, shall be prosecuted in accordance with the penal laws of the Union.

ART. 11. Besides the case mentioned in article 4, patents become void when they have been granted to the prejudice of a third party, which shall be decided by the tribunals of the States.

ART. 12. A patent for a new industry will also be void when said industry is not practiced during a whole year, unless unavoidable circumstances should have intervened.

ART. 13. On receiving the patent the patentee shall pay into the national treasury a fee of from five to ten dollars ($5 to $10) for

every year of the privilege. The person who applies for a patent shall fix a term for its duration within the maximum fixed, and shall deposit at the treasury the sum of ten dollars ($10) which he shall forfeit if the patent be refused, and which shall be taken in part payment of the patent fee should the patent be granted.*

ART. 14. The law of May 15, 1848, respecting Patents of Invention or Improvement of Machines and Industrial Apparatus is hereby repealed.

From *Carpm. Pat. L. of World*, 169.

COSTA RICA.

>rding to a memorandum published October 7, 1873, in 4 ". *Gaz.* 373 (under the title San José), the constitution states t belongs to the constitutional Congress to promote the progr c the arts and sciences, and to secure, for a limited time, to authors or inventors the exclusive right of their writings or discoveries; and every one who believes himself to have a right to a patent of invention must solicit it from Congress.

CUBA.

See SPAIN.

* The fee is thus stated by Mr. Charles O'Leary. To secure a privilege a fee of from $5 to $10 (£1 to £2) for every year of its duration must be paid to the government, the entire sum being levied when the patent is granted. In soliciting a patent, the number of years for which it is desired to take it out is mentioned in the petition, but no petition is entertained unless preceded by a payment into the treasury of $10 (£2), which the petitioner forfeits if the application is refused, or if granted is computed as part payment of the fee.

DENMARK.

Report by Mr. Strachey, of the British Legation, published 1873.

1. No laws have been passed in Denmark on the subject of protection to inventions.

Inventors are protected by royal letters patent granted through the ministry of the interior, in accordance with rules prescribed by the traditional practice of that department.

2. A person who wishes his invention to enjoy *gueret*, or monopoly, must address the ministry of the interior, accompanyiug his demand by detailed specifications and drawings.

3. The ministry forwards these papers to the Polytechnic School, with a request that the director will report on the applicant's scheme. The director, after consulting, if necessary, the professors of the institute, reports to the ministry whether the alleged invention is new and deserving of protection. He also states the period for which, in his opinion, the *gueret* or patent should be granted.

4. The ministry always adopts the director's conclusion. It is understood that a patent will be allowed whenever the alleged invention really contains something novel in principle or practice. Generally speaking, the applicant's request is granted.

5. The patents usually run for three, four, or five years. Important inventions are protected for ten years, and in special cases for fifteen years. Patents granted to foreigners never run for more than five years.

6. The fee charged at the ministry of interior for the whole transaction is £1 17s. 6d. ($9.) The time occupied in the correspondence is about two months.

7. The patent is forfeited (1) if it is shown that a similar invention has been used in Denmark before; or (2) if the patentee does not carry out his invention within the year, and continue to employ it.

COPENHAGEN, *December* 24, 1872.

From 4 *Pat. Off. Gaz.* 319.

DOMINICA.

See LEEWARD ISLANDS.

EAST INDIES (French).

See FRANCE.

ECUADOR.

See INTERNATIONAL CONVENTION.

See also APPENDIX OF RECENT LAWS, near end of Vol. II.

ENGLAND.

See GREAT BRITAIN AND IRELAND.

FIJI: FEEJEE ISLANDS.

Ordinance No. III. 1879.—*To repeal Ordinance No. XXIV. of* 1877, *and to make other provisions in lieu thereof for the issue of Letters Patent.*

I. *Privileges.* Every inventor shall be entitled, under the conditions and restrictions hereinafter enacted, to the sole exclusive right of and in his invention.

II. *Interpretation clause.* In the interpretation of this ordinance the word "invention" shall mean and include any manner of new manufacture, also every new process of manufacture, and every new method of application of known processes, and improvements in any known process.

The word "inventor" shall include the heirs, executors, administrators or assigns of an inventor.

III. *Form of letters patent and privileges conferred.* The right and privilege granted to inventors shall be conferred by letters patent under the seal of the colony in form contained in schedule A hereto, whereby the inventor shall be entitled to the sole and exclusive privilege of using, selling, or making his said invention in the colony, and of authorizing others so to do, for the term of fourteen years from the date of the letters patent.

IV. *Letters patent not to be granted in certain cases.* No person shall be entitled to letters patent—

a. If the invention is of no utility.

b. If the invention at the time of presenting the petition was not a new invention.

c. If the petitioner is not the true and first inventor thereof.

d. If the petition or any specification contain a willfully false statement.

And the attorney-general may make an application to the Supreme Court on any such grounds for the cancellation or revocation of any letters patent.

V. *Proceeding in application for letters patent.* Every person desirous of obtaining letters patent under this ordinance shall file in the office of the colonial secretary a petition in the form contained in schedule B signed by him or his agent or attorney, setting forth the residence of the inventor and the title of the invention. To the

petition shall be annexed a specification (or instrument in writing), particularly describing and ascertaining the nature of the said invention and the manner in which the same is to be produced or performed, and with such specification or instrument in writing shall be filed the drawings necessary to elucidate the same, and such petition, and all documents and drawings accompanying the same, shall be in duplicate.

VI. *Petition to be accompanied by declaration.* Every petition and specification particularly describing the nature of an invention shall be accompanied by a declaration in writing, signed by the petitioner, or his agent or attorney for him, in the form contained in schedule C, hereto.

VII. *Petition, specification, &c., to be recorded.* The colonial secretary shall cause to be filed every petition and specification, with accompanying drawings, if any, explaining the nature of any invention ; and also any certificate granted by the attorney-general, and every letters patent issued, and a memorandum of any order relating thereto.

VIII. *Records may be inspected.* Such records shall be open to the inspection of all persons, at any reasonable hour, upon the payment of a fee of four shillings, and any person may have a copy of any document recorded on payment for the same at the rate of eight-pence for every folio of seventy-two words.

IX. *Certified copies to be received as evidence.* Copies of any documents so recorded, certified as correct by the colonial secretary, shall be received in evidence in any court of law in the colony.

X. *Specification may be amended.* A specification may be amended on application to the attorney-general, provided that if the attorney-general shall refuse to allow such specification to be amended the same may be amended by leave of the Governor in Council, and when so amended shall, except as to suits and proceedings relative to the exclusive privilege claimed by any inventor pending at the time, have the same effect as if no amendment had been made, and no extension or enlargement of any exclusive privilege before acquired should be effected thereby.

XI. *Provisional certificate.* When any applicant has filed his petition for letters patent, the Governor shall direct the same to be referred by the colonial secretary to the attorney-general, with one of the duplicates of such petition and the specification, and all other accompanying documents and drawings, and a certificate of the filing of the petition ; and the attorney general shall, if he deem the

invention as primâ facie entitled to protection, issue a certificate to that effect, as in form contained in schedule D, and the inventor shall, subject to the provisions of this ordinance, be protected for a period of six months in like manner as by letters patent ; Provided nevertheless, that it shall be competent to the attorney-general to extend the period of such protection pending the decision as to any opposition made to the granting of any letters patent as to him shall seem necessary.

XII. *Where certificate is refused, appeal may be made.* If in any case the attorney-general shall refuse to issue such certificate as hereinbefore provided, an appeal shall lie from the decision of the attorney-general so refusing such certificate to the Governor in Council, who may direct the same to be issued by the clerk of the council in such manner and subject to such conditions and restrictions as shall seem fit, provided that such application shall be made to the Governor in Council within one month from the time of the decision of the attorney-general refusing a certificate being made known to the applicant for letters patent, or to his agent or attorney : provided also that any certificate to be issued by direction of the Governor in Council shall be issued within three months from the date of such appeal, and upon the issue of such certificate like proceedings shall be had and taken as if such certificate had been issued by the attorney-general.

XIII. *Procedure where no opposition is made to application.* Within two months of the issue of the certificate of the attorney-general, or, where the attorney-general has refused to issue such certificate, from the date of the issue of the same by the clerk of the council, as provided in the next preceding section, the applicant for letters patent shall give notice in the form contained in schedule E, hereto, twice in the Royal Gazette, and one other paper published in Fiji ; and if no notice of opposition to the application for letters patent be sent to the attorney-general within three months of the date of publication of the first of such notices, the attorney-general shall report such fact to the Governor in Council, and the Governor in Council shall, within three months from the date of such report, cause letters patent to be issued with such reservations, provisos, and conditions as may be deemed fit.

XIV. *Where application is opposed, holder of certificate may appeal.* Any person desiring to oppose such application shall, within the time last mentioned in the next preceding section, give notice in writing of his opposition to such application and of the grounds

thereof to the attorney-general, who shall, after hearing the parties to and against such application, and such witnesses as he may deem necessary, decide the same and intimate his decision to the Governor in Council, and the Governor in Council shall, within three months from the date of such intimation, if the same be favorable to the person holding a provisional certificate, direct the issue of letters patent to such person with such reservations, provisons, and conditions as may be meet. And in case the decision be adverse to the party holding the provisional certificate, he may appeal against such decision to the Governor in Council; and the Governor in Council shall, within three months from the date of such appeal, either direct the issue of letters patent to the appellant, subject to such reservations, provisos, and conditions as he may deem fit, or make such other order as may be meet.

XV. *Where letters patent have been granted for inventions already patented beyond the colony.—Proviso.* Where upon application made under this ordinance for letters patent in respect of any invention first invented in parts out of the colony, and letters patent for the exclusive use of such invention has been granted in such parts before the grant of such letters patent in this colony, all rights and privileges under such letters patent last mentioned shall (notwithstanding any term in such letters patent limited) cease and be void immediately upon the revocation, cancellation, or other determination of such letters patent obtained in parts beyond the colony; or where more than one such patent is obtained, then upon the revocation, cancellation, or other determination of the first of such letters patent: Provided that no letters patent shall be granted in respect of any invention for which letters patent have been granted in parts beyond the colony and have expired, or if letters patent shall be granted in respect thereof the same shall not be of any validity.

XVI. *Patents for inventions protected by imperial patent.* Any person holding Her Majesty's letters patent for any invention may obtain letters patent for the same in this colony on satisfactory proof of the issue of such letters patent, provided the patent obtained in this colony shall be subject to the provisions relating to patents obtained in places beyond the colony contained in the next preceding section.

XVII. *Letters patent to be registered.* All letters patent and assignments of letters patent shall be registered in the office of the

registrar-general on the payment of fees in respect thereof, as specified in schedule F.

XVIII. *Governor in Council may annul letters patent.* Letters patent may be annulled by the Governor in Council if the same be proved to be prejudicial to the public interests, or if the special conditions on which the same have been granted are not observed. Notice of any letters patent being annulled, and the cause thereof, shall be inserted in the Royal Gazette. On the issue of any letters patent any petition, specification, and other documents and drawings referring thereto, shall be transferred from the office of the colonial secretary to the registrar-general, and shall be filed by him forthwith.

XIX. *Letters patent to be for one invention only.* No letters patent will be allowed to include several distinct and separate inventions; but where one invention is applicable to the improvement of several manufactures, or where several inventions are applicable to the improvement of one and the same manufacture, the whole may be included in the same letters patent.

XX. *Notice of proceeding under section IV. to be published.* The attorney-general shall give at least one month's notice of his intention to proceed under section IV., by notice in the Royal Gazette, and such notice shall be published in not less than three issues of the Royal Gazette, and the period of one month before mentioned shall commence from the date of the publication of the last of such notices, and such publication shall be in lieu of service of any writ or process required by the rules of the Supreme Court.

XXI. *Where letters patent may be canceled or revoked by order of Supreme Court.* If upon any of the grounds set out in section IV. of this ordinance, the Supreme Court or a judge thereof shall order any letters patent to be canceled or revoked, a copy of such order shall be forthwith forwarded by the registrar of the court to the registrar-general, who shall record the same, and all right under any letters patent so canceled or revoked shall cease.

XXII. *Supreme Court may order amendments.* The court may order any specification or petition to be amended, and may reserve its decision for a time sufficient to allow of such amendment to be effected, and thereafter give judgment on such terms as to costs and otherwise as may seem fit.

XXIII. *Penalty for making false declaration.* Any person making a false declaration under this ordinance shall be deemed guilty of perjury, and upon conviction be liable to imprisonment

not exceeding two years, without prejudice to any action which any injured parties may bring against him.

XXIV. *Fees.* The fees specified in schedule F of this ordinance shall be paid to the colonial treasurer for the several matters referred to therein. Provided that the Governor in Council may make additions, alterations, and amendments in the said schedule, and such additions, alterations, and amendments so made and published in the Royal Gazette shall have the full force and effect of law.

XXV. *Ordinance No. XXIV. of* 1877 *repealed.* From and after the passing hereof, Ordinance No. XXIV. of 1877 shall be, and the same is, hereby repealed: provided that nothing herein contained shall affect or prejudice any proceedings or thing lawfully done or taken, or any letters patent granted or protection issued by virtue of the said ordinance.

XXVI. *Short title.* This ordinance may be cited as "The Patents Ordinance, 1879."

Passed in Council this thirteenth day of January, in the year of our Lord One thousand eight hundred and seventy-nine.

SCHEDULE A.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to all to whom these presents shall come, greeting:

Whereas A. B., of in the colony of Fiji hath represented that he is desirous of obtaining our royal letters patent for securing unto him our special license, that he, his executors, administrators and assigns, and such others as he or they should agree with, and no others, should and lawfully might make, use, exercise and vend within our colony of Fiji and its dependencies, an invention for [*insert the title of the invention*], and by an instrument in writing under his hand and seal deposited in the office of the colonial secretary, the said A. B. hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed. And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said A. B. the privileges hereinafter mentioned. Know ye therefore that we, of our special grace, certain knowledge and mere motion, have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said A. B., his executors, administrators and assigns, our special license, full power, sole privilege and authority, that he the said A. B., his executors, administrators and assigns, and every of them, by himself and themselves, or his and their deputy or deputies, servants or agents, or such others as he or they shall at any time agree with, and no others, during the term herein expressed, shall, and lawfully may, make

use, exercise and vend his said invention within our said colony and its dependencies, in such a manner as to him, his executors, administrators and assigns, or any of them shall seem meet, and that he, his executors, administrators and assigns shall, and lawfully may, have and enjoy the whole profit, benefit, commodity and advantage from time to time coming, growing, accruing and arising by reason of the said invention during the said term. To have, hold, exercise and enjoy the said licenses, powers, privileges and advantages unto and by the said A. B., his executors, administrators and assigns, for and during, and unto the full end and term of fourteen years now next ensuing. And to the end that he, his executors, administrators and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention according to our gracious intention. We do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic, corporate, and all other our subjects whatsoever, of what estate, quality, degree, name or condition soever, may be within our said colony and its dependencies, that neither they nor any of them at any time during the said term, either directly or indirectly, do make, use or put in practice the said invention, or any part of the same so attained unto by the said A. B. as aforesaid, nor in anywise counterfeit, imitate or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, license or agreement of the said A. B., his executors, administrators or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders, on their contempt of this our royal command, and further to be answerable to the said A. B., his executors, administrators and assigns, according to law, for his and their damages thereby occasioned. Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall appear that this our grant is contrary to law or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said A. B. is not the true and first inventor thereof within this colony or its dependencies, these our letters patent shall forthwith cease, determine and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding. Provided also that these our letters patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said A. B., his executors, administrators or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any of our subjects whatsoever, and publicly used or exercised, or unto whom our like letters patent or privileges have been already granted for the sole use, exercise and benefit thereof within our said colony or its dependencies, it being our will and pleasure that the said A. B., his executors, administrators and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions by them invented and found out, according to the true intent and meaning of the said respective letters patent, and of these presents. Provided likewise nevertheless, and these our letters patent are upon this express condition, that if the said instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said A. B., his executors, administrators or

assigns shall not supply or cause to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the persons administering the department of our service, for the use of which the same shall be required in such manner, at such times and at and upon such reasonable prices and terms as shall be settled for that purpose by the said persons requiring the same, that then and in any of the said cases, these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding. Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted. And lastly, we do by these presents for us, our heirs and successors, grant unto the said A. B., his executors, administrators and assigns, that these our letters patent shall be in all things good, firm, valid and sufficient, and effectual in law, according to the true intent and meaning thereof, and shall be taken, construed and adjudged in the most favorable and beneficial sense for the best advantage of the said A. B., his executors, administrators and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors in our said colony and its dependencies, and amongst all and every the subjects of us, our heirs and successors whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging. In witness whereof we have caused these our letters to be made patent.

Witness our trusted and well beloved Governor and Commander-in-Chief, &c., &c., of our said colony, at on the day of 18 .

SCHEDULE B.

Petition.

I of do hereby humbly petition his Excellency the Governor for letters patent in respect of an invention [*state title of invention*].

I have furnished with this petition the necessary specifications or instruments particularly describing the nature of the said invention, and a solemn declaration that I am the true and first inventor thereof, in accordance with law.

Signed Petitioner

or agent or attorney for petitioner.

SCHEDULE C.

I of do solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as in petition*], which I believe will be of great public utility, that I am the true and first inventor thereof, and that the same is not in use by any other person or persons, to the best of my knowledge and belief, and that the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention, and the manner in which the same is to be performed.

SCHEDULE D.

In obedience to his Excellency's commands, referring to me the petition of of , to consider what may be properly done therein, I do certify as follows :—

That the said petition sets forth that the petitioner [*state briefly the allegations of the petition*].

That in support of the allegations contained in the said petition, the declaration of the petitioner has been laid before me, whereby he solemnly declares that [*state briefly the allegations of declaration*].

That there has also been laid before me a specification, or instrument in writing, particularly describing the nature of the said invention, and a certificate of the filing of the said petition, declaration and specification.

Having duly and carefully considered the same, I hereby certify that the petitioner is entitled, *prima facie*, to protection on account of his said invention, provided the said application for letters patent be duly advertised according to Ordinance No. III. of 1879, and that the petitioner do otherwise comply with the enactments of the said ordinance.

Given under my hand, this day of A. D.

SCHEDULE E.

In the matter of the application of of , for letters patent for

Notice is hereby given, that an application has been made for the issue of letters patent herein under the provisions of the "Patents Ordinance of 1879." And any person desirous of opposing such application is required to give notice of such opposition, and of the grounds thereof to the attorney-general, within three months from the date of the publication hereof.

A. B., Applicant.

SCHEDULE F.

	£	s.	d.
On depositing petition and specification	5	5	0
For provisional certificate of protection.....	3	3	0
For obtaining letters patent	10	10	0
On lodging particulars of objections	2	10	0
Every search and inspection.....	0	4	0
Registration of letters patent.....	0	5	0
Filing memorandum of alteration or amendment of specification.....	1	1	0
Registration and assignment of letters patent.....	0	10	0
Copy or extract of any writing, per folio of 72 words	0	0	8

From *Carpm. Pat. L. of World*, 174.

FINLAND.

Supreme Decree of March 30, 1876.

We, Alexander the Second, by the grace of God, Emperor and Autocrat of all the Russias, Czar of Poland, Grand Duke of Finland, &c., &c., hereby make known: that upon the representation of the finance department of our Senate for Finland, and upon the recommendation of the Governor-General for this territory, we have thought fit with regard to the mode and conditions for granting patents or privileges for the utilization and profitable working (to the exclusion of all other persons during a given period) of new inventions relating to handicraft industry and art, and also for improvements upon inventions already made—to decree as follows:—

Chapter I.

Of the rights to be conferred by a patent, and also the duration of time for which a patent will be granted.

Section 1. A patent entitles the owner of the invention to make, exercise and vend, alone or through others, everywhere in Finland, the invention to which it relates, to the exclusion of all others, during the time specified by the letters patent. It is incumbent upon the owner that he should strictly conform to whatever is prescribed by the existing laws with regard to the manufacture and the sale of wares, without being obliged in order to enjoy the advantages of the said right, to acquire the dignity of a master craftsman or the freedom of a citizen.

The patent right is to be considered as the personal property of the owner, and may in consequence be devised by will, and also, in accordance with the ordinary legal practice, be assigned to other persons, together with the rights acquired by the letters patent, but subject to the observance of what is hereinafter prescribed in sec. 2 of the succeeding chapter.

Sec. 2. A patent may be granted: (1) For new inventions relating to handicraft, industry or art.

(2) For improvements upon earlier inventions of the same kind, but without prejudice to any such previously granted patent right.

A patent cannot be granted for the preparation of medicines nor

for any invention which is of such a nature that the employment of the same would be contrary to the existing laws, to the public safety or to good morals.

Nor can any one by a patent acquire the exclusive right to make use of a new principle, but only to use the manner, method, and means for the employment of an invention which are mentioned and described in the petition for the patent.

SEC. 3. A patent will be granted for the period of at least three years, and at the utmost twelve years, according to the nature and importance of the invention.

If any person has obtained a patent in a foreign country, and has thereby been compelled to publish a description of the manner in which the invention is to be applied, a patent may nevertheless be granted to him for a given time in Finland also, but not for a longer period than that within which the patent granted in the foreign country will expire.

SEC. 4. The inventor only is entitled to the patent.

CHAPTER II.

On the manner in which patents will be granted.

SEC. 5. If an inventor wishes to obtain a patent he must present his petition to the finance department of the Senate, and the said petition must contain, together with a declaration of the object of the patent, the following particulars :—

A precise specification as to how far the invention for which the patent is desired is new, or whether it is an improvement upon an invention already in use ; the novelty of the invention or of the eventual improvement is specially to be cited ;

A declaration of the period of time for which the petitioner desires to obtain the patent right ;

A declaration whether the invention has previously been patented in any foreign country or not, and in the first case attested information is to be produced when such a privilege was granted, and for how long a time ;

A full and accurate description of the invention and of the method of using the same, and accurate drawings or models are also to be annexed to the petition in cases where such drawings or models are considered necessary ;

If the petitioner is not in a position at once to send in a full description, such fact must be mentioned in the petition, and he is

then bound within one month after the presentation of the petition to send in a description ; during this period the examination of the petition remains in abeyance. If the petitioner does not send in his description within the term named, his application will be refused. The petitioner is however, not precluded from sending in a fresh petition, together with a full description with reference to the same object.

Petitions referred to in this section are in case the petitioner has not his residence in Finland, to be presented through some person domiciled therein. The name and residence of such person are to be set out in the power of attorney to be executed in his favor by the petitioner, empowering such attorney to act for and represent him in all matters relating to the patent. This power of attorney is to accompany the petition and the documents relating to the same.

SEC. 6. After the petition, together with the supplemental documents, has been sent in to the finance department of the Senate, and after subsequent examination and approval by the said department, a patent will be issued for the invention.

In the patent are to be set out the principle contents of the petition of the applicant:—

The period for the duration of which the patent is granted ;

The privileges which are to be conferred by the patent ;

And the obligations which the holder of the patent must fulfill in order to enjoy the privileges of the patent right.

The patent must further contain expressly a declaration, in terms which cannot be mistaken, of that for which he requires protection, that the invention is new, and that it can be used with advantage.

SEC. 7. The *Manufactures-Direction* is to be informed of all petitions for patents granted by the Senate, and the whole of the collective documents belonging to the matters connected with the patent are to be made over to them.

The *Manufactures-Direction* is bound to include these documents together in a catalogue and arrange them in accordance with their nature, in such a manner as that every person who may desire to do so may be afforded an inspection of the same.

SEC. 8. If two or more persons present themselves desiring to obtain a patent for inventions of a like nature, it shall be decided upon examination whether the one of them who has first sent in the completed documents before the others shall receive the patent, or whether all the petitions are to be refused.

SEC. 9. In addition to the customary dues which are payable to the Senate for the issue of a patent, an impost duty of twenty marks per annum is to be paid into the state treasury of Finland for every year for which the patent right is granted.

CHAPTER III.

Of the obligations and rights of the owners of patents.

SEC. 10. Whoever has received a patent is obliged:—

1. To bring the patent right to public notice by means of the publication of the patent and the description three times in the official Swedish and Finnish newspapers of the country. The description must be in the same terms as that included in the petition for the patent. Such publication is to be effected within two months, to be reckoned from the day of the issuing of the patent.

2. Within two years from the last-mentioned day, to send in evidence to the *Manufactures-Direction* that he is in full working of the patented invention; the said term may be limited by the finance department of the Senate at the granting of the patent to one year, and also extended, upon petition for that purpose, to at the utmost four years, as the scope and nature of the invention merit.

3. Afterwards, in every year during the whole duration of the patent, to give evidence to the *Manufactures-Direction* that the invention is being continuously worked.

SEC. 11. If the holder of a patent wishes to assign the same to any other person, or if it comes by inheritance into the possession of another person, such fact must be notified to the *Manufactures-Direction*, whereupon the matter is to be referred by a memorandum to the finance department of the Senate. The new patent holder will have brought to his notice by the medium of the memorandum, the obligations which are to be fulfilled by him during the continuance of the patent.

If a transfer should be effected to any person not domiciled in Finland, he is obliged, in accordance with the provisions contained in the last clause of section 5, to appoint an attorney to act for him.

SEC. 12. The patent right ceases and becomes forfeited:

When the holder of a patent shall have omitted the observance of any of the provisions contained in section 10;

When, in consequence of any of the causes of complaint mentioned in section 14, the tribunal declares the patent to be annulled.

SEC. 13. When a patent has become forfeited, and also when the time for which the patent was originally granted has expired, it is incumbent upon the *Manufactures-Direction* to publish in the official Swedish and Finnish newspapers of the country the fact that the patent has become canceled.

CHAPTER IV.

Of the judicial conduct of actions relating to a patent.

SEC. 14. If a patent is granted for an invention similar to one previously patented, or which has already been discovered by some other person in Finland or elsewhere, or if the owner of the patent has falsely declared himself to be the inventor, or if it is proved that the patented invention is dangerous to the public safety or to the public health, or may lead to immorality, any person who believes his right to be prejudiced by the patent may, within one year after the patent resolution has been published for the third time in the newspapers named in section 10, and also the state attorney, so soon as the protection of the commonwealth requires it, may bring an action against the owner of the patent, before the tribunal of the place wherein the owner—or, in case of his residing out of the country, his legally appointed representative—is domiciled. The tribunal shall, in case any of the above enumerated events have happened, declare that the patent is to be revoked, in which case a copy of the judgment of the tribunal is to be forwarded to the *Manufactures-Direction* without delay. This latter shall proceed to act in the matter, after the judgment has become legally valid, in the manner prescribed in section 13.

SEC. 15. If the owner of a patent believes that after the granting of the patent another person works the patented invention illegally, he may bring his action against him by means of a citation before the public tribunal to which the person informed against belongs. If the owner of the patent is able to give proof that his rights are being infringed upon in the matter mentioned the accused person shall be subject to a fine for the first time of from one hundred to three hundred Finnish marks, and in the case of repeated infringements of from three hundred to six hundred marks, and

also be condemned each time to payment of compensation for the full amount of damages. Of the money fine, one half of the amount is to go to the owner of the patent, who alone can bring such action before the tribunal, and the other half to the poor and work-house fund of the country. If the condemned person is not in a position to pay the fine, the same shall be, in accordance with the prescriptions now in force with regard to pecuniary amercement, exchanged for imprisonment.

SEC. 16. Should it appear upon the trial of an action for the infringement of a patent right that the invention to which the patent relates has been known or used in the country or elsewhere before the petition for the patent was presented to the finance department, or that the holder of the patent has given an incorrect or incomplete description of the method and the means to be employed for working the invention, and that a trustworthy basis for forming a judgment as to the peculiar characteristics of the invention has not thereby been obtained; or if the owner of the patent has falsely held himself out as the inventor, the defendant is not answerable.

CHAPTER V.

General provisions.

SEC. 17. Whenever in this decree "months" are spoken of within which particular obligations are to be fulfilled, in the application of this term each month is to be reckoned as 30 days.

SEC. 18. This decree comes into force on the 1st June, 1876, without prejudice, however, to the legal validity of patents previously granted.

And hereto every person to whom the same relates must hereafter conform.

From *Carpm. Pat. L. of World*, 185.

FRANCE.

Law of July 5, 1844; with Notes Founded on the Commentary of M. Leopold Goirand.

TITLE I.

GENERAL PROVISIONS.

ARTICLE 1. Every new discovery or invention, in all kinds of industry, confers upon its author, subject to the conditions and for the periods hereafter determined, the exclusive right to work for his benefit the said discovery or invention. This right is evidenced by documents delivered by the government, under the name *brevets d' invention* (letters patent).

NOTE, founded on the commentary of M. Leopold Goirand.—A patent of invention in France consists of an official declaration, delivered by the government to any individual who claims to be an inventor, to the effect that on a given day, such individual deposited with the minister of agriculture and commerce, a demand, accompanied by certain documents in which he claims the invention of which he declares himself to be the author. This official declaration does no more than state a fact; it has but one object, and that is, to indicate the period from which the right of the party applying for the patent is to run, in France. The government does not at this stage examine the claim, and does not, therefore, guarantee the genuineness thereof. The formula which the law requires to be placed upon all patented articles is accordingly worded: "*Breveté sans garantie du gouvernement* (patented without government guaranty);" which in practice is abbreviated: *S. G. D. G.*

There is only one kind of patent, but it may be taken out under three different circumstances: 1. For an invention, properly so-called. 2. For an improvement or change in or an addition to an invention. A patent of this kind is called in practice a "*brevet de perfectionnement* (patent for improvement)." 3. For an invention which has been already patented abroad, and is now sought to be introduced into France. This is called a "*brevet d' importation* (patent for importation)."

ART. 2. The following are considered as inventions or new discoveries:

The invention of new industrial products.

The invention of new means, or a new application of known means for obtaining a result or an industrial product.

This enumeration must not be construed too strictly; practically it has been extended to comprise all possible inventions. The courts have gone so far as to decide that not only new applications of known means, but also the merely new combination

of known means to obtain a product or a commercial result, is an invention, within the meaning of the law. There are inventions, however, which, although new, are not patentable. Such are those belonging to pure science, and not capable of being applied to industry. Thus the discovery of a natural law, or a natural phenomenon, etc., cannot be patented. It is proper to distinguish between the simple observation of a scientific phenomenon, and the practical, commercial application to which such observation can be put. The former is not, and the latter is, patentable. (Court of Cassation, December 20, 1851, and February 9, 1853.) As a rule, every invention which has a commercial value is capable of being patented.

An "industrial product," as that term is used in Article 2, is a well defined body or material object which has a form and specific characteristics that distinguish it from all other objects. Thus, a new tissue of known materials can be patented as a new product, if the same materials have never before been combined to make a product having the same characteristics. (Court of Paris, November 19, 1857; December 6, 1859.) It is necessary to distinguish between the product and the *process*; a new result, even if the process is not new, may be patented. A distinction must also be made between a new product, and a new *result*. The latter is never a material object, but simply a new effect, or the better use of known means; as such, it is not patentable in itself; that which is patentable is the process by which the new effect is produced. The Court of Cassation has decided that an industrial result cannot be patented independently of the means employed to obtain it; also, that the object which an inventor has in view when inventing a product or process, cannot be the subject of a patent, but that invention consists only in the means by which the difficulty is overcome and the object realized. (Court of Cassation, April 17, 1870.)

"Means," in the phrase "the invention of new means," in article 2, signifies the processes employed by the inventor to obtain a product or result. They are of three sorts: 1, chemical agents; 2, mechanical forces; 3, processes, which depend on both. The novelty of the means is evidently a simple question of fact; and in France, if the process is new, the law does not go into that question with respect to the product.

The new application of known means to obtain a result or product of commercial value. The greater number of patents belong to this category of inventions: and when such patents are submitted to the courts, they must, in order to form a due estimate of them, consider, not each method or process separately, but all such methods or processes taken together. The expression "new application," &c., employed by the law, is very broad; it comprises any new combination of known means, any new combination of known substances, and all new arrangements of known forces, whether chemical or mechanical, or both. (Court of Cassation, January 17, 1852; December 2, 1359; February 12, 1854; Court of Rouen, March 1, 1860). In short, "to apply known means in a new manner" is purely and simply to employ means that are known, just as they are known, without changing them in any respect, but with a view to obtain a different result from any hitherto produced. Thus it has been decided that: "Though the mode of making boxes by a single roll of card-board is not a new invention, it is certain that such mode had never before been applied to boxes destined for lucifer matches; that by means of this system, by which many slides are manufactured simultaneously, a great saving has been effected in the manufacture of match-boxes, and moreover, that upon this point the application is new; and the patent taken is therefore valid." It has also been decided that the manufacture of a compound by the aid of known ingredients is patentable, from the fact that such elements had not before

been combined to produce the same result. (Court of Cassation, April 7, 1869.) Also, that a machine which has become public property can become once more the subject of a patent when, by new combinations, it is applied to a class of industry different from that to which it had been formerly applied; or more generally, when it is applied in a manner unknown up to the date of application (Court of Rouen, March 4, 1841; Court of Cassation, November 25, 1856; Court of Paris, July 1, 1870); also that the application of water-meters to gas, is, if new, patentable. (Court of Paris, August 1, 1861.) Evidently, when an inventor has obtained a patent for the new application of known means to produce a compound already known, any other individual who can obtain the same result or the same product, by the use of different means, can obtain a valid patent therefor. (Court of Dijon, February 9, 1876.)

The "new application of known means" must not be confounded with the employment of known means for a different purpose. The law does not protect new employment; therefore, if an apparatus, formerly applied to a certain substance, is afterwards applied to another substance, to which it renders exactly the same service, no modification of the apparatus being necessary for such new employment, the second employment will not be patentable. It is upon this ground that the Court of Appeal of Paris refused to sanction an invention to apply rollers to a kitchen range, as rollers had already been applied to stoves; neither would it sanction a patent for closing rings which had already been adapted to the closing of bracelets. (February 28, 1855.) Again, the Criminal Court of the Seine refused to uphold a patent taken for adapting to pianos the same screws which had been formerly adapted to piano stools (December 7, 1858); nor would it uphold one taken for reproducing musical works by photography, which was formerly used for the reproduction of drawings. (February 28, 1865.) So also, mere changes of form and dimensions are not patentable, at least, unless they produce a new result or a new product; in such a case they can be patented.

ART. 3. The following are not capable of being patented;—

1. Medical compositions and medicines of every kind. These remain subject to special laws and regulations, and especially to the decree of August 18, 1810, relating to secret remedies.

2. Plans and combinations of credit or finance.

ART. 4. Patents shall be valid for five, ten, or fifteen years. The following fees shall be paid for every patent taken.

For a patent of five years, 500 francs.

For a patent of ten years, 1000 francs.

For a patent of fifteen years, 1500 francs.

This fee shall be payable in annual sums of 100 francs. The patent shall be forfeited if the patentee allows a term to pass without payment thereof.

Fifteen years is the maximum duration of a patent; but a special act of the Legislature can, on exceptional grounds, prolong such duration for another fifteen years,

A patent taken out for improvement, runs also from the day on which the deposit of the papers for the improvement was made.

At the expiration of the period prescribed for patents, they fall into the public

domain or become public property. Any person can then manufacture or make use of the article patented, but the name of the inventor, if he has given his name to the object of the invention, does not fall into the public domain, and other manufacturers must respect his name, and are not allowed, under penalty of prosecution, to use the name of the inventor, except in connection with the following formula; "*Fabriqué suivant le système de* A. B. ." (Court of Paris, November 24, 1865.)

TITLE II.

FORMALITIES ATTENDING THE TAKING OF PATENTS.

SECTION I.

THE APPLICATION.

ART. 5. In order to obtain a patent, the applicant must deposit, under seal, at the office of the secretary of the *prefecture* in the department in which he is domiciled, or in any other department, after having elected domicile therein, the following, viz.:

1. His petition to the minister of agriculture and commerce.
2. A description of the discovery, invention or application that forms the object of the patent.
3. Drawings or samples necessary for the elucidation of the description.
4. A schedule of the documents deposited.

Minors, married women, and persons under legal disability can, nevertheless, become patentees. The heirs of an inventor can take out a patent, either in his name or in their own, for inventions discovered by their ancestor. Foreigners, also, can obtain patents in France.

Nothing prevents a firm or company from taking out a patent, and creditors can take out a patent on behalf of a deceased inventor, upon condition that before his death, the inventor has, by initiating the necessary steps, manifested the intention of having it patented.

When one individual is employed upon wages by another, and such employe discovers an invention, does the invention belong to him or to his master, if no agreement exists between them? This question has been submitted upon various occasions to the French courts. The civil tribunal of the Seine has decided (November 21, 1873), that if workmen or agents, either of the government or of a private undertaking, can be deprived of the right of patenting inventions which they have made, it is only in cases in which such inventions are the result of works executed by them in their relation as employes, under the orders and superintendence of their master or *chef*, and especially when they have received special instructions to examine and apply the improvements in dispute. The Court of Paris (July 2[illegible]. 1874), has confirmed the above decision.

An inventor who is abroad, and desires to take out a patent in France, without coming into France, can make such deposit of documents as is provided by article 5, by handing them to a French diplomatic representative, who will transmit the same to France.

ART. 6. The application must be limited to a single principal object, the details constituting the same, and the application thereof which may have been indicated. It shall mention the terms that the petitioners have asked for, within the limits prescribed by article 4, and shall contain no conditions, restrictions or reserves.

It shall designate a title, consisting of a summary and precise description of the object of the invention. Such description must not be written in a foreign language, and must not contain alterations or additions. Words struck out must be counted and stated, and the pages and marginal notes initialed.

Such document must not contain any other denomination of weights and measures than those specified in the tables annexed to the law of July 4, 1837.

Drawings must be traced in ink according to the metrical scale.

Duplicates of the description and of the drawings must be joined to the petition.

All the documents must be signed by the petitioner or by his attorney in fact, whose power must be annexed to the petition.

As the specification may include the details which constitute the invention claimed, and the application of the invention claimed by the inventor, it has been decided that the patentee of a patent for purifying gas by soda and alum can obtain by the same patent the right to obtain soda and alum by processes which are to be specially employed in purifying gas. (Court of Cassation, May 4, 1865.) But it is not necessary that all the applications of an object should be enumerated by the inventor. An application not enumerated is protected by the principal patent if it arises naturally from the invention. (Court of Cassation, December 17, 1837.)

The specification should also give a title to the patent, which should designate plainly the invention claimed. Patents are classed in alphabetical order at the offices of the ministry of agriculture and commerce, in order that the public may be able easily to see, on inspection, if a patent has been taken for such and such an invention or in relation to such and such a matter.

The object of the patent should also be described. The metric system alone must be used to designate weights and measures. The description is of great importance. It must be at least sufficiently detailed to enable the article invented to be manufactured therefrom; that is to say, it should indicate in a complete and straightforward manner, the various means employed by the inventor.

In default of these conditions being complied with, the patent is void and of no effect. The law does not require that the description should enumerate all the points appertaining to the invention; but the patentee acquires the exclusive property in what he describes. A drawing or sample cannot replace a description.

Finally, the drawings and samples necessary for the explanation of the description must be joined to the petition.

ART. 7. No deposit shall be received, unless accompanied by a

receipt acknowledging payment of the sum of 100 francs, on account of the whole fee due for the patent.

A certificate drawn up free of expense by the secretary-general of the *prefécture*, upon a register for that purpose, and signed by the petitioner, shall be evidence of every deposit, and shall state the day and hour of the same. A copy of such certificate shall be handed to the depositor upon payment of the stamp duty.

Art. 8. The patent shall begin to run from the day of the deposit prescribed by article 5.

Section II.

On the Delivery of Patents.

Art. 9. Upon the deposit of the application, and five days from the date of the deposit, the *prefect* shall forward the papers, under the seal of the inventor, to the minister of agriculture and commerce, and join thereto a certified copy of the certificate of registration, the receipt proving the payment of the tax, and, if there be one, the power of attorney mentioned in article 6.

Art. 10. Upon the arrival of the papers at the ministry of agriculture and commerce, they shall be opened and the demand shall be registered; and the patent shall be issued in the order of the receipt of the petitions.

Art. 11. Patents, the petitions for which have been properly made, shall be delivered, without previous examination, at the risk and peril of the petitioner, and without guarantee either of the existence, novelty or merit of the invention, or of the fidelity or exactness of the description.

A decree of the minister, proving the regularity of the demand, shall be delivered to the petitioner, and shall constitute his patent.

To such decree shall be annexed a certified duplicate of the description, and of the drawings mentioned in article 6, after they have been compared with the originals and declared to be in conformity therewith.

The first copy of patents shall be delivered without cost. For any further copy required by the patentee or his representative, a fee of 25 francs is chargeable. Drawings shall be at the expense of the applicant.

Art. 12. All petitions in which the formalities prescribed by Nos. 2 and 3, of article 5, and by article 6, have not been observed shall be rejected. Half the amount paid shall remain the property of the treasury, but the petitioner may receive back the whole of

the amount, if he repeats his demand for a patent within three months from the day upon which he received notice of the rejection of his prior petition.

ART. 13. In cases where, by the application of article 3, patents cannot be granted, the tax can be returned.

ART. 14. An ordinance in the *Bulletin des Lois* shall publish every three months all the patents delivered within that time.

ART. 15. The term of a patent can only be extended by special law.

SECTION III.

ON CERTIFICATES OF ADDITION.

ART. 16. The patentee or his representatives have the right, during the whole term of the patent, to register changes, improvements or additions thereto, upon fulfilling the formalities prescribed by articles 5, 6 and 7 as regards registration.

Such changes, improvements or additions shall be evidenced by certificates, delivered in the same form as the principal patent, and shall have, from the respective dates of petition and delivery, the same effects as the principal patent, to which they pertain.

A fee of 20 francs shall be paid for every petition for a certificate of addition.

Certificates of addition taken out by one of several parties who have an interest in the patent, shall benefit the remainder.

ART. 17. Any patentee, who, for a change, improvement or addition, desires to take out a principal patent of five, ten, or fifteen years, instead of a certificate of addition which expires with the original patent, must fulfill the formalities prescribed by articles 5, 6 and 7, and pay the tax mentioned in article 4.

The law affords two means of improving the original invention. The patentee can either take out a new patent which is called a "*brevet de perfectionnement*" (patent for improvement), or he can obtain a "*certificat d' addition*" (certificate of addition). If he takes out a patent for improvement, he must proceed in exactly the same way as when taking out the first patent. He must pay an annual tax of 100 f. and carry out all the formalities prescribed for the principal patent. By this course he will actually have a further patent, which will be absolutely independent of the prior one, and will extend to five, ten or fifteen years, according to the period fixed in the petition. As the patent for improvement is a distinct patent altogether from the principal patent, it follows that in the case of the transfer of the principal patent, the transferee, unless a contrary stipulation be made, acquires no right whatever over the patent for improvements.

It may be that the patentee, if the modification is insignificant, is unwilling to take out a new patent, which would necessitate the carrying out on his part of many form-

alities, and the payment of an annual tax of 100 francs. In this case, the law leaves him the resource of taking out a certificate of addition. Such certificate is applied for in the same way as a patent, but it has the advantage of requiring the payment of 20 francs only for the whole of its duration; but in contradistinction to the patent for improvement, the certificate of addition is absolutely dependent upon that of the principal patent. It lasts for the same period, and is liable to extinction at any time that the original patent expires, or becomes canceled for any reason whatever. (Court of Cassation, June 1, 1865, and December 14, 1868.) The same rule holds, though the certificate of addition contains, in fact, a new invention. (Court of Appeal, July 7, 1854.)

A certificate of addition depends upon the prior patent. It follows that all the parties can avail themselves of it, and that all the representatives of the inventor can profit by it. Thus, in the case of a transfer of the original patent, unless a contrary stipulation be inserted, the transferee acquires all the certificates of addition which have been taken out in relation thereto. In short, the certificate of addition is an economical way of taking out a patent for improvements; but it has also its inconveniences, the greatest of which is, that it stands or falls with the principal patent, when the latter expires or becomes annulled or canceled by law. A certificate of addition is also liable to be canceled upon the ground that it has no relation to the principal patent.

ART. 18. No person other than the patentee or his representatives acting as above mentioned can, during the space of one year, legally take out a patent for a change, improvement, or addition to the invention constituting the object of the prior patent. Nevertheless any person who desires to take out a patent for a change, addition, or improvement to a discovery already patented, can, during the said year, send in a petition, which shall be transmitted to, and shal remain deposited under seal with the minister of agriculture and commerce. When the year has expired, the seals shall be broken, and the patent delivered. Nevertheless, the principal patentee shall have a preference as to the changes, improvements and additions, for which he may himself, during the year, have demanded a certificate of addition or a patent.

A change, an improvement or an addition to a patent may be discovered by a third party. The law, however, is less favorable as regards improvements than as regards inventions. The inventor has two means of protecting his improvements, viz.: *brevet de perfectionnement* and *certificat d' addition.* A party other than the original inventor has only one means of protecting his invention, viz.: he must take out a *brevet de perfectionnement.*

Again, in order to prevent competition, which necessarily would be advantageous to the party taking out the patent for improvement, the latter cannot work such patent until after the expiration of the principal patent. This provision is a favor which the law grants to the original patentee. Another favor granted to him is, that if, within the year immediately following, he discovers any improvement on his invention, he has a priority over all others, who may, during the same year, discover the same

improvement. Thus during the year following the taking out of the patent, an immense advantage is secured to the inventor; but this does not absolutely close the door to other parties, for they can always, during such period, present petitions for patents for improvements invented by themselves, subject to the condition that if the original patentee also invents the same improvement, the preference is granted to him.

In order, however, to conciliate all interests, those of third parties as well as those of the inventor, the law requires that all demands by third parties for patents for improvements, must be deposited under seal, and such applications are not opened until the expiration of one year after the original patent was delivered. This period of one year runs from the day of the deposit of his claim. Certain authorities, however, have decided that the period runs from the date of the delivery of the patent. (Tribunal of Epernay, October 4, 1860.)

ART. 19. No person who has taken out a patent for a discovery, invention, or application attaching to the object of another patent, shall have any right to work the invention already patented; and reciprocally, the proprietor of the original patent may not work the invention which is the object of such subsequent patent.

SECTION IV.

OF THE ASSIGNMENT OF PATENTS.

ART. 20. A patentee may assign the whole or a part of his patent.

The total or partial assignment of a patent, whether gratuitous or for a valuable consideration, must be by notarial deed, and upon payment of the entire amount of the tax prescribed by article 4.

No assignment shall be legal as regards third parties, until it has been registered at the secretary's office of the *préfecture* of the department in which the deed of assignment shall have been executed.

Assignments, and all other deeds relating to the same, shall be registered upon the filing of an authenticated copy of the assignments. A copy of all certificates of registration involved, together with a copy of the assignment above mentioned, shall be forwarded by the *préfets* (prefects) to the minister of agriculture and commerce, within five days from the date of the registration.

ART. 21. A register shall be provided at the ministry of agriculture and commerce, upon which shall be inscribed every assignment of every patent; and every three months, an ordinance shall publish in the form provided by article 14, the assignments that have been registered during the previous quarter.

A patent is personal property; it can therefore be pledged in the same way as all other personal property, and the ordinary rules of law must be observed by relation

thereto. It can also be sold by the creditors of the inventor in the same way as other personalty. Such sale must be effected through a notary. A patent can be transferred wholly or in part gratuitously, or for a valuable consideration, or for the whole of its duration or for a part.

The patentee can, while preserving the property in his patent, and without transferring any part of it, grant to third parties the right of working his invention, in totality or in part. Such a concession is called in French "*tolérance*" (license). No special form is required. A license may be granted by a simple letter.

As in regard to other contracts, a deed of transfer of a patent is, in case of ambiguity, more strictly interpreted against the transferer than against the transferee.

In practice, the *préfects* do not comply as regards this registration with the provisions of article 20. They follow those of the *Instruction Ministériélle* of October 31, 1844, which are as follows:

No deed of transfer can be registered, except upon the production and the deposit of the following, viz.:

1. Of the receipt proving the payment of the last installment at the proper period;

2. Of the receipt of the *Receveur Général* in the departments, and of the *Receveur Central* in Paris, proving the payment of the whole of the taxes relating to the patent;

3. Of an authenticated extract of the notarial deed executed before a notary of the department, and proving the total or partial transfer of the patent, either gratuitously or for a valuable consideration. If the patent, however, had been previously transferred, a certificate of the registration of the said transfer, and an authentic extract of the notarial deed above mentioned would suffice for the registration. Only this document need be annexed to the *procès verbal.*

The law has not indicated a fixed period within which registers of transfers of patents must be filed, but non-compliance with the formalities of registration renders the transfer void as regards third parties. Such nullity, however, concerns third parties alone; the transfer is, nevertheless, binding between the parties themselves. (Court of Paris, March 19, 1861.) But the courts do not consider infringers as third parties. The latter cannot, therefore, plead the irregularity of the transfer. (Court of Paris, March 2, 1849.) The same may be said in regard to the necessity of a notarial deed to make a transfer of a patent. The above two propositions have been decided by the Court of Appeal of Paris, February 19, 1876.

The doctrine above stated applies to transfers for valuable consideration. As regards gratuitous transfer, it is necessary, besides the above mentioned formalities, that the special provisions of the French law relating to deeds executed gratuitously or without valuable consideration, should be observed. Again, what has been said applies to transfers made in France. It is clear that a French patentee can there make an effective transfer according to the formalities of the country in which he is residing; but as soon as he re-enters France, he should, without delay, have the deed registered at the secretary's office of the *préfecture* of one of the districts in France. Lastly, what has been said applies solely to French patents, as transfers of foreign patents can be carried into effect in the form used for the transfer of any other kind of personal property.

When a transfer of personal property takes place, the transferer guarantees to the transferee the existence of the object transferred. This general principle of law applies to transfers of patents, and that if at a future time the patent becomes void or

fails, the transfer has been made without consideration, and consequently becomes void. In order to avoid this guarantee, the transferer should insert special stipulations to this effect in the deed of transfer. Again, notwithstanding all such stipulations, it is clear that he remains responsible, if the invention be not in reality applicable, and if it cannot give the results which constituted the object of the patent. Again, although a transferer may have stipulated that he shall not be liable in the event of the patent being declared void, such a clause cannot protect him in such a case, on account of an act for which he is personally responsible. The transfer of a patent which is declared to be void on the ground of insufficiency, is of no effect.

It has been decided that although the transfer of a patent is, in a certain sense, a contract of chance, yet the transfer is, notwithstanding, a contract, and that it must be regarded as being without consideration, and consequently void, when the invention is not capable of an industrial application. (Cassation, August 22, 1861.) But if the transferee contracted with full knowledge of the facts, and if he profited by the working of the patent until the date when it was declared void, the deed of transfer will hold good. (Paris, August 6, 1855.)

When once the contract of transfer is canceled, what is the situation of the parties? Must the transferer refund the consideration to his transferee?

It has been decided that in the case of a patent being declared void, the transferer is not obliged to reimburse the transferee the installments received by him in payments except after deducting profits derived from the invention up to the date of the declaration of nullity by the transferee. (Court of Cassation, May 25, 1869.)

The fact of the inventor having granted licenses to various parties does not prevent him selling his patent to other parties, but the transferees must respect all licenses granted prior to such transfer. A licensee cannot bring an action for infringement of a patent. A patentee cannot grant power to a licensee to bring such action in his name, as in France no party can plead in the name of a third person. (Cassation, March 8, 1852; April 27, 1869.) A licensee is entitled to be secured, by his grantor, in the peaceable working and quiet enjoyment of the invention: but as long as no one disturbs his enjoyment, he has no claim against the inventor. If, however, an infringer damages his license, his right to security immediately arises.

Besides voluntary transfers of patents, there are other modes of transfer. A patent can be transmitted by succession, gift, transfer to a company, and partition, as in the case when co-proprietors cannot work a patent together. In other cases in which such voluntary transfers take place, the deed must be registered. Again, a patent can be sold by forced sale. An unpaid creditor has the right to seize and sell the patent of his debtor. The seizure of a patent is effected by means of an *opposition* lodged with the minister of agriculture and commerce. Such *opposition* must be preceded by what is called a *commandement* (summons) and can only be made pursuant to a *titre exécutoire*.

ART. 22. The assignee of a patent, and those who may have acquired from a patentee or his representatives the right to work a discovery or invention, are entitled to the benefit of all certificates of addition which may be subsequently delivered to the patentee or his representatives. Reciprocally, the patentee or his representatives shall benefit by the certificates of addition which may be subsequently delivered to assignees.

All parties who have a right to certificates of addition, may obtain delivery of a copy thereof at the ministry of agriculture and commerce, upon payment of the sum of 20 francs.

The patentee can always prevent the transferee being enriched by an important addition. He has only to take out a patent for improvement himself. In this case, he will retain, individually, his improvement, unless it be stipulated in the deed of transfer that all subsequent patents for improvements shall belong to the transferee.

Section V.

Of the Communications and Publications of Descriptions and Drawings of Patents.

Art. 23. Descriptions and drawings, samples and models of patents delivered, shall, until the expiration of such patents, remain deposited with the Ministère of agriculture and commerce, where they may be referred to by the public, free of charge.

Any person may obtain, at his expense, a copy of such descriptions and drawings upon compliance with the formalities prescribed in the *réglement* made as provided by article 50.

Art. 24. After the payment of the second annuity, the descriptions and drawings shall be published in full or in part.

At the commencement of each year a catalogue, containing the titles of patents delivered during the preceding year, shall also be published.

Art. 25. The collection of descriptions and drawings, and the catalogue published pursuant to the preceding article, shall be deposited with the Minister of agriculture and commerce, and with the secretary of the *préfecture* of each department, where they can be consulted free of expense.

Art. 26. At the expiration of the patents, the original descriptions and drawings shall be deposited with the *Conservatoire des Arts et Métiers.*

TITLE III.

OF THE RIGHTS OF FOREIGNERS.

Art. 27. Foreigners may obtain patents of inventions in France.

Art. 28. The formalities and conditions prescribed by the present law shall be applicable to patents demanded or delivered in execution of the preceding article.

Art. 29. The author of an invention or discovery already patented abroad, may obtain a patent in France, but the duration

of such latter patent cannot exceed that of the patent delivered abroad.

TITLE IV.

OF ANNULMENT AND FORFEITURE; AND OF ACTIONS RELATING THERETO.

SECTION I.

OF REPEAL AND FORFEITURE.

ART. 30. Patents delivered in the following cases are void and of no effect:

1. If the discovery, invention or application is not new;

2. If, pursuant to the terms of article 3, the discovery, invention or application is not susceptible of being patented;

3. If the patents relate to principles, methods, systems, discoveries, or theoretical or purely scientific conceptions, the commercial applications of which are not described therein;

4. If the discovery, invention or application is considered contrary to public policy and good manners, and to existing laws,—without prejudice in such case, and in that provided in the preceding paragraph, to the penalties which may be incurred for the manufacture or the sale of prohibited objects;

5. If the title under which the patent has been demanded fraudulently indicates an object other than the true object of the invention;

6. If the description joined to the patent is not sufficient for the carrying out of the invention, or if it does not indicate in an explicit and complete manner the true means employed by the inventor;

7. If the patent has been obtained contrary to the provisions of article 18.

Certificates of changes, improvements, or additions which do not relate to the principal patent, shall also be void and of no effect.

There is a great difference between the *annulment* (repeal) and the *dechèance* (forfeiture) of a patent. Annulment renders the patent void, as well for the past as for the future. Forfeiture renders it void for the future only. There is another distinction between them. Annulment may be pronounced only for a part of a patent, leaving the rest valid, whereas forfeiture affects the entire patent. Actions for either can be instituted against the inventor by individuals or by the *ministére publique* (public minister). In the first case, they are valid as between the parties only; as in France, judgments, affect only the parties thereto. In the second case, they are valid as to all

parties; the public minister represents the public. The same proceeding applies to certificates of addition. Judgments affecting the original patent affect equally all the certificates of addition pertaining thereto, because the existence of the latter depends upon the former; but the converse is not true. The civil tribunals have sole jurisdiction in both cases.

There is valid ground for annulment when the discovery, the invention, or the application is not new. If it were permitted to obtain a patent for an old invention, this would damage the interests of third parties having already taken out patents, and would also prejudice the public who have already acquired a right in such old patents. However, it is not necessary that the invention should be new as regards all its parts; an invention which comprises an assemblage of various elements is patentable, if some of such elements are new. (Court of Appeal of Paris, March 21, 1860.) When the invention patented is composite, the courts can cancel it as regards those parts that are not new, and maintain it as regards those that are new. An invention is not reputed to be new, when an anterior invention, or the fact that it has been previously divulged, can be proven.

Subdivision 7 of article 30 provides, that certificates of addition are also void that have no connection with or reference to the principal patent. It is the intention of the law to prevent the payment of a simple sum of 20 francs, instead of 5, 10, or 15 annuities of 100 francs each, under pretense of taking out a certificate of addition, and thus obtaining an actual patent for quite another invention. The question as to whether a certificate of addition is connected or not with the principal patent is a question of fact. The Court of Appeal of Paris, on July 20, 1875, confirmed a judgment of February 3, 1874, and thereby annulled the certificate of addition taken for fastening cravats without a band round the neck, when the original patent was taken for a system of fastening cravats with a band round the neck; but a sufficient relation exists between the certificate and the patent, although the certificate is only connected as an accessory to the principal operation patented, provided its object is to facilitate and complete the execution of such principal operation. (Court of Lille, July 17, 1874; Court of Douai, March 15, 1875.)

ART. 31. Any discovery, invention or application, which in France or abroad, and previously to the date of the deposit of the demand, has received sufficient publicity to enable it to be worked, shall not be reputed to be new.

In order to constitute a publicity sufficient to annul a patent, it must have been such as to render the execution thereof possible. Simple indiscretions of newspapers or general descriptions without details of special apparatus, do not constitute prior publication. (Court of Appeal of Colmar, December 7, 1864.) Also a statement in a scientific work, unaccompanied by working explanations will not be considered as a previous publication. (Court of Paris, April 16, 1866.) The fact of having divulged one's intention to a third party, does not cause it to fall into the public domain, if the third party does not reveal the secret which has been confided to him. (Court of Appeal of Paris, April 16, 1866.) Again, a communication made to a learned society does not operate as divulgation, if it is made confidentially and privately. Consequently, a confidential communication made to a jury of an exhibition, before a patent is taken out, does not constitute publication. (Court of Appeal of Paris, March 8, 1859.) As regards trials made by an inventor before taking out his patent, it has

been decided, that simple experiments, without results, do not constitute a prior working, especially when the patentee has since modified his invention in important details. There are certain inventions which can only be tried in public, such as fire-engines, guns, cannon, lifts, &c. As regards these inventions, if the trial is made in public, in the absence of any precautions to keep them secret, the inference to be drawn is, that the inventor desired to abandon his invention to the public. Such an act constitutes a divulgation. It will be otherwise, however, if a simple view of the experiment would be insufficient to reveal its nature. These principles relating to trials and public experiments have been affirmed by the Court of Appeal of Paris.

ART. 32. The following shall be deprived of all their rights:—

1. The patentee who has not paid his annual payment before the commencement of each of the years of the duration of his patent.

2. The patentee who has not worked his discovery or invention, in France within a period of two years, dating from the day of the signature of the patent; or who has ceased during the space of two consecutive years to work the patent—unless in either case he can justify his inaction.

3. The patentee who has introduced into France, objects manufactured abroad, and similar to those protected by his patent. *Nevertheless, the minister of agriculture and commerce and of public works, can authorize the introduction of the following:—1. Models of machines. 2. Objects manufactured abroad destined for public exhibitions or for trials to be made with the consent of the government.

FIRST CAUSE OF FORFEITURE. Each installment must be paid before the commencement of each year of the duration of the payment. The period within which such payment must take place, is reckoned day by day. If the year commences on the 1st of May, it terminates on the 1st of May of the following year. The day on which the patent commences is not reckoned. (Court of Cassation, January 20, 1863.) Thus a patentee who has sent in his demand for a patent on May 1, 1860, can pay his annuity up to midnight of May 1, 1861.

This rule is peremptory, and cannot be transgressed by a single hour; therefore if the date of the expiration fall on a public holiday, the patentee must pay the installment on the day preceding. (Court of Paris, July 27, 1865.)

"*Force majeure*" alone can release the patentee from a forfeiture of his patent. (Court of Cassation, March 16, 1864.) The illness of the patentee, his madness, or even his death, does not constitute a case of *force majeure*. (Court of Appeal of Paris, May 24, 1859.)

Forfeiture arises by effect of law, and the judge limits himself to giving effect to it; an ulterior payment cannot revive the patent. (Court of Paris, July 10, 1861.)

SECOND CAUSE. The reason of this forfeiture is, that the fact of the inventor not working his invention renders it useless to trade, and it even becomes hurtful to

* As modified by the law of May 31, 1856, by adding the words which follow the asterisk.

commerce and prevents commerce. The law requires that a patent should be really worked in a practical manner; a single act of working is not sufficient. (Court of Paris, March 23, 1870.) If a patent contain several modes of procedure, it suffices to comply with the law, that the inventor should have worked one of them. (Court of Paris, February 7, 1359.) If the object manufactured differ only slightly from the object for which the inventor takes out the patent, there is no ground for forfeiture. (Court of Cassation, May 23, 1859.) An inventor is allowed to explain the causes of his inaction. The court has wide power of discretion in these cases; thus it has been decided that the absence of pecuniary resources can be held to justify the default of working. (Court of Paris, January 11, 1859.) The inventor who has caused his invention to be admitted to a public exhibition, and who has sold it to a third party, has sufficiently worked it thereby to avoid forfeiture.

The provisions relating to forfeiture apply equally to the certificate of addition; but it is clear that if the certificate of addition be declared void, the original patent continues to exist. It follows that the patentee can avoid (*déchéance*) forfeiture either by working the patent himself, or by allowing it to be worked by a third party.

THIRD CAUSE. This is a clause in favor of French industry. The object of the law is to favor the national trade; therefore, if the introduction has not a commercial object in view, it cannot injure French industry, and does not, therefore, form a ground for forfeiture. And forfeiture does not follow the simple fact of the introduction in France of the manufacture abroad, of objects similar to those of the patent. It is necessary, besides, that the intention of the patentee to withdraw from the undertaking given by him to permit France to benefit solely by the manufacture and the working of his invention, should be proved. (Court of Paris, June 12, 1869.)

Evidently, no forfeiture will exist if the introduction do not take place by the act of the patentee; thus, in the case of the act of a third party, purchaser, co-proprietor, transferee, etc. In France, acts of default, together with the penalties appertaining thereto, are reputed to be personal. (Court of Paris, April 24, 1855).

The law of May 30, 1856, has modified the severities of article 32 of the former patent law, as regards introduction. This law was necessary; without it, the greater part of the patents of importation would be void.

ART. 33. Any person who, in advertisements, prospectuses, signs, publications, marks or stamps, describes himself as a patentee, without possessing a patent delivered pursuant to law, or after the expiration of a prior patent; or who, being a patentee, makes mention of his titles, without adding the words, "*Sans garantie du Gouvernement,*" shall incur a penalty of from 50 francs to 1,000 francs, and in case of repetition the penalty may be doubled.

It has been decided that the use of the abbreviation *S. G. D. G.*, alone, is not a compliance with the law; to inscribe the words in full is necessary. (Court of Nancy, February 7, 1851.) But in practice the letters *S. G. D. G.* alone are employed, and after the expiration of the patent the owner often continues to use the word "*breveté.*" Either of these acts is a misdemeanor, but the government does not interfere, unless at the instance of a party claiming to have suffered damage therefrom.

SECTION II.

OF ACTIONS FOR ANNULMENT OR FORFEITURE.

ART. 34. All parties interested can institute proceedings for the annulment or forfeiture of a patent. Such actions, as well as all contests relative to property in patents, must be brought before the civil court of first resort.

The persons having interest in the patent in question, must have a *bond fide* interest which can be recognized by the court. It has been decided that a person believing himself to be threatened with an action for infringement by a patentee, has a sufficient interest to entitle him to commence a suit for the annulment of a patent. It results in general that an action for annulment or forfeiture against a patent which has expired cannot be brought. Actions for annulment or forfeiture can be brought either as principal demands or claimed by way of set-off. This latter case arises when a person sued for infringement pleads the nullity or defect of the patent by reason of which it is proceeded against.

A person criminally prosecuted for infringement of patent can plead in the *tribunal correctionnel* that the patent is void. In this case, if he proves the nullity or the defect, he would be acquitted; but that is all the court can do; it cannot annul or forfeit the patent itself, it can only condemn or acquit the defendant. (Court of Cassation, April 1, 1870.)

ART. 35. If the action is brought simultaneously against the proprietor of the patent and against one or several assignees, such action must be brought in the court of the domicile of the owner of the patent.

When the patentee has not been summoned, and a transferee has been sued, the former can intervene in the action in order to defend his patent.

ART. 36. The proceedings must be commenced and carried through in the form prescribed for summary matters by article 405 and the Code of Civil Procedure. Notice thereof shall be given to the *procureur* of the republic.

In the event of two demands being entered with regard to the same patent before two different tribunals, the rules of the Code of Procedure relating to such cases are applied. (Code Civ. Pro. art. 171.)

In the same manner, if criminal proceedings for infringement are taken at the same time as civil proceedings for cancellation of a patent, the criminal proceedings are adjourned until the question of the nullity of the patent has been decided. (Court of Cassation, February 14, 1855.)

ART. 37. In all proceedings to obtain the repeal or forfeiture of a patent, the public minister may intervene and demand that a judgment for the same be rendered. He may even proceed immediately in a special action to obtain a judgment for the repeal of a patent in the cases provided by Nos. 2, 4 and 5 of article 30.

Judgments pronounced for the annulment or forfeiture of patents, have only a relative value (Civil Code, art. 1351); that is to say, the benefit of such annulment or forfeiture can only be invoked by the parties to the action; the patent remains good as regards persons who have taken no part in the proceedings.

It has been decided that a judgment rendered by a foreign court upon the question of the invalidity of a patent taken abroad, cannot be invoked as final in case the question is raised before a French court by the same parties, or in relation to a patent taken in France arising out of the same invention. (Court of Paris, December 13, 1860.)

ART. 38. In the cases provided by article 37, all parties interested in the patent, whose muniments of title have been registered at the ministry of agriculture and commerce, pursuant to article 21, must be cited.

ART. 39. When a final judgment for the absolute repeal or forfeiture of a patent has been rendered, notice thereof shall be given to the minister of agriculture and commerce, and the repeal or the forfeiture shall be published in the form prescribed by article 14, relating to the obtaining of patents.

The public minister cannot intervene before the *tribunal correctionnel*, as such court cannot annul or forfeit a patent (Court of Amiens, December 28, 1850); nor in the action which article 34 provides for a further action against a patentee, viz.: an action relating to the property itself of the patent. The ownership of a patent can be contested; but the public minister cannot in such cases intervene.

TITLE V.

OF INFRINGEMENT.—PROCEEDINGS AND PENALTIES RELATING THERETO.

ART. 40. Any violation of the rights of the patentee, either by the manufacture of articles, or by the employment of means patented, constitutes the misdemeanor of infringement. Such offense is punished by a fine of from 100 francs to 2,000 francs.

WHAT CONSTITUTES INFRINGEMENT IN GENERAL. It is not necessary, in order to constitute an infringement of the rights of the patentee, that the manufacture or the employment as above should cause him prejudice. (Court of Cassation, March 20, 1857.) It matters not whether the invention be important or otherwise, or whether the infringement be total or partial, or whether it be made for the sake of gain or simply for the personal use of the infringer. (Court of Paris, February 25, 1851.)

MANUFACTURE OF PATENTED OBJECTS. As regards the manufacture of an isolated piece of a machine, it is certain that if such portion is the essential contrivance or one of the essential contrivances of the machine, the fabrication thereof will constitute infringement. There may be infringement when all the portions manufactured are individually public property, only, however, when the intention exists of uniting them, later, to construct the object patented in its entirety. (Court of Cassation, July 26, 1851; Court of Paris, February 15, 1867.)

Upon the question whether a manufacturer who repairs portions of a patented object is guilty of infringement as against the patentee, the law was for a long time unsettled. A judgment of the *Tribunal Civil* of the Seine, confirmed by a judgment of the Court of Appeal of Paris, February 15, 1867, established it as follows: "Repairs do not amount to infringement, when the effect thereof does not amount to the construction of an entirely new article."

The great principle by which the judges are guided is, that in order to decide whether there has been infringement, we must examine the resemblances and not the points of difference between the product or means patented and the product or means asserted to be infringements. (Tribunal Correctionnel of Paris, January 11, 1876; Court of Appeal of Paris, February 25, 1876; Court of Cassation, June 23, 1876.) From this principle it follows that the infringer cannot, to excuse himself, contend that he has perfected the invention, because to improve, in such a case, is to infringe. (Tribunal Civil of the Seine, January 14, 1870; Court of Appeal of Paris, July 2, 1878; Court of Cassation, March 4, 1876.) To adjudicate upon questions of infringement, the judges should compare the object claimed to be infringed with the object described in the patent, and not that manufactured by the patentee. (Court of Cassation, December 30, 1843.) This is natural, as the object manufactured by the patentee does not deserve the protection of the law, unless it be covered by the patent itself.

As the law punishes the infringing manufacturer of a patented article, the person ordering such article must be placed upon the same footing; his culpability is equally great, if not greater than that of the manufacturer (Paris, February 10, 1859); but the law does not treat in the capacity of manufacturer, the workman, or even the foreman, who is only working under orders.

EMPLOYMENT OF PATENTED MEANS. The employment itself is punished, whether the infringer have acted *bonâ fide* or not. (Court of Cassation, December 3, 1841.) The rule is severe, but it follows from the text of the law. (Compare article 40 with article 41.) The word "knowingly," which is contained in article 41, which permits the infringer to be acquitted if he has not acted "knowingly," and if he has acted in good faith, does not exist in article 40, therefore the *bona fides* mentioned in article 40, can be taken in consideration of extenuating circumstances, but not as an excuse giving a right to acquittal. Evidently, the employment or use punished by law, must be a commercial user; a user purely personal does not constitute infringement. Thus a person who purchases an infringed object thoughtlessly or without an intention of commercial speculation, but for his personal use, does not commit the offense of infringement. (Court of Cassation, February 27, 1858.)

ART. 41. Parties who have knowingly concealed, sold, or exposed for sale, or introduced upon French territory one or more infringed articles, incur the same penalties as infringers.

COMPLICITY IN INFRINGEMENT. The four acts defined by above law to be separate offenses, are in reality rather acts of complicity, included by the law with cases of infringement specially punished by article 40, viz., manufacture and employment. Such acts are the sole acts of complicity punished by the law of 1844. The agent of an infringer is not his accomplice, even should he act knowingly. Thus, he cannot be prosecuted for any act of concealment, sale, or exposure for sale, or introduction. (Court of Cassation, July 26, 1850.)

A person guilty of one of the four offenses mentioned in article 41, can plead his

good faith. This arises from the word "knowingly" inserted in the text. Thus, a retailer or introducer can plead good faith. His best means of proving such good faith is to disclose the name of the manufacturer of the articles infringed, in order that the infringed articles may be seized upon his premises.

A single act of sale suffices to bring an offender within the law. Article 41 enacts a certain punishment, and must be as strictly construed as other penal enactments. Thus, the gift or exchange of a patented object cannot be punished. Again, the purchase of an infringed object is not a misdemeanor; but the possession of such object by the purchaser can be construed into an act of user or an act of sale, according to the good faith of the holder, or the contrary. As regards exposure for sale, such exposure must be made by the trader with the evident intention of sale. The placing of goods in the Universal Exhibition of 1867, did not constitute an exposure for sale within the law. (Paris, January 9, 1868.)

The introduction of counterfeit articles into France, in transit only, does not constitute a misdemeanor. (Paris, July 23, 1860.) It is otherwise if the goods are found in the custom-house or bonded warehouses, as such goods are not necessarily destined for re-exportation. (Court of Paris, May 30, 1861.)

Such are the four offenses to which the law of 1844 extends the penalties for infringement by manufacture or user, but the law makes this difference, viz., that the bona fides admitted simply as extenuating circumstances with respect to the offenses comprised in article 40 constitutes, on the contrary, an entire defense, with right of acquittal, with respect to offenses contained in article 41. With the sole exception of this difference, these two categories of offenses are subject to the same principles. The penalty is the same, viz., 100 francs to 2,000 francs. In case of repetition, the increase of the punishment is the same; one month to two months' imprisonment.

ART. 42. The penalties provided by the present law cannot be cumulated.

The heaviest penalty alone may be imposed for all acts anterior to the commencement of proceedings

ART. 43. In case the offense is repeated, a penalty of imprisonment for a term of from one to six months shall be pronounced over and above the fine provided by articles 40 and 41.

An offense is deemed to have been repeated when the defendant has been convicted of the same offense within the previous five years.

Imprisonment for from one to six months may also be inflicted, if the infringer be a workman or an employe who has worked in the factory, or in the establishment of the patentee, or if the infringer has associated himself with such workman or employe of the patentee, or acquired knowledge from the latter of the details comprised in the patent. In the latter case, the workman or employe can be prosecuted as an accomplice.

"Associated," in the third paragraph means that an agreement or fraudulent conspiracy has been formed. In order to punish the former workman and the new

employer, proof that an agreement of partnership existed between them is not required.

ART. 44. Article 463 of the Penal Code * may be applied in the cases covered by the preceding provisions.

ART. 45. Proceedings in the *tribunal correctionnel* to obtain the application of the penalties above mentioned, cannot be instituted by the public minister except upon complaint of the injured party.

PARTIES who may sue for infringement. They are: 1. The owner of the patent. He may institute proceedings, whether he be a simple individual or a company. The heirs and legatees of the patentee and the transferees of the patent can also sue. Those who have the uses of the patent can proceed, but naked ownership does not jusitfy an action, as infringement must injure the exercise of the right to work the patent, not the mere title to it.

2. The public prosecutor, in the *tribunal correctionnel.* But although infringement constitutes a misdemeanor, the public prosecutor cannot act of his own accord. He can only act upon a complaint made by the injured party. Yet, the offense is a misdemeanor, the withdrawal of the injured party does not necessarily put an end to the proceedings of the public prosecutor.

If the proprietor of the patent be under legal incapacity, such as a minor, an interdicted person, or an individual provided with a *conseil judiciaire*, or a married woman, he or she cannot proceed without the aid of parties legally capable of representing him or her, such as guardians or the *conseil judiciaire*, the husband, or the permission of a court of justice. But a bankrupt can sue for infringement without the consent of his assignee.

TIME WITHIN WHICH SUIT MAY BE BROUGHT. The duration of the right to sue dates from the day of the demand of the patent, pursuant to article 5. If the patent by virtue of which the suit is brought has expired, the action can still be brought upon two conditions: 1. That the acts of the plaintiff all took place previous to the expiration of the patent;

2. That they were not barred by lapse of time at the period of the commencement of the proceedings.

Moreover, actions for infringement are regulated by articles 637 and 638 of the Criminal Code, and are barred after three years. Acts of manufacture and of sale, although continuous, do not constitute successive offenses. It follows, therefore, that infringements by manufacture and by sale constitute a series of distinct misdemeanors, each of which can be prosecuted, and the limitation of action of three years runs, in relation to each, from the date upon which the offense was committed. (Court of Cassation, August 8, 1857.)

WHO MAY OR SHOULD BE SUED. The parties to be prosecuted are: The infringer and those included with him by law. (Articles 40 and 41.) If the infringer is in bankruptcy, the *syndic* must be sued, even if the cause be tried before a criminal court, on account of the pecuniary penalties demanded by the plaintiff. If a company is the infringer, each of the members must be proceeded against in the criminal court, as misdemeanors are personal. If a company is in liquidation, the liquidator must be sued, as above, on account of the pecuniary penalties which the plaintiff demands.

* This article authorizes the admission of "extenuating circumstances."

ART. 46. The *tribunal correctionnel*, if it has once obtained jurisdiction of an action for infringement, may decide upon the defenses put forward by the defendant, either as regards the repeal or forfeiture of the patent, or upon questions relating to property in the said patent.

ART. 47. The owners of the patent can by virtue of an order of the court of first resort, proceed by *huissier* to designate and describe in detail, with or without seizure, the objects which they assert are infringed. The order may be made upon a simple petition, or upon the production of the patent. It shall name, if necessary, an expert to assist the *huissier* in his description.

If an application is made for an order of seizure, the said order may require the plaintiff to furnish security, and to pay the money into the *Caisse de Consignations*, before proceeding further.

A foreign patentee who has recourse to seizure must always furnish security.

A copy of the articles described or seized, and of the deed proving the deposit of security when such security is required, shall be served upon the defendant, or the proceedings shall be void, and the *huissier* responsible for the damages.

EVIDENCE. In order to be successful in his suit, the plaintiff must prove the infringement. It is therefore important that he should produce evidence of its existence from the period when the infringement came to his knowledge. To this effect, the patentee has several means open to him.

He can lodge a complaint with the *procureur* of the republic. In this case, the infringement would be governed by the rules of criminal procedure, and adjudicated upon by *juges correctionnels*. Or, he can purchase of the infringer an object infringed, and obtain an invoice, indicating the source from which the retailer obtains his goods, and with such evidence he can proceed with his action; or if the infringer does not contest the evidence, he can content himself with his declaration before the judges. But in practice, as it is important that the counterfeit article should be preserved, the proceeding called "seizure with description" is employed, or the mode of "simple description by *constat d'huissier*." The patentee can supplement either of these modes by any other documentary evidence in his possession. (Court of Amiens, 1850; Court of Paris, February 2, 1856; and August 13, 1873.)

PROCESS OF DESCRIPTION WITH SEIZURE. In order to seize an object which he alleges to be infringed, the patentee must fulfill a preliminary indispensable formality,—he must present a petition to the president of the tribunal for permission to seize. This petition must be accompanied by the patent, as the patentee must prove his right. If the patent has expired, the petition can, nevertheless, be presented, but upon condition, that the facts alleged against the infringer have taken place prior to the expiration of the patent. The president is free to refuse to make the order upon the petition, as his power is discretionary. (Court of Cassation, June 15, 1866.) No appeal can be made from his decision granting or refusing the petition.

The order when made may appoint an expert to assist the *huissier* in his description. This expert is a person possessing special knowledge of the product or apparatus alleged to be infringed. The patentee himself can attend the seizure, as he is more competent than any one else to draw up a description of the infringement. The order requires in all cases the presence of the *commissaire de police*. This is indispensable, for if by chance the infringer refuse to open his premises, or if he be absent, or if no infringements be discovered upon the premises, the presence of the *commissaire de police* will prevent the alleged infringer from proceeding against the patentee for violation of his domicile. By law the president can grant a general order, viz., he can authorize the patentee to seize in all places at once, in which he believes infringements to exist, such as exhibitions, custom-houses, bonded warehouses, etc., and upon the premises of all the persons possessing infringed objects, without its being necessary for the patentee to specify in his petition the names of such persons or their addresses. (Court of Cassation, June 15, 1866.) A patentee can, by virtue of one order, issue several seizures upon the premises of the same individual. (Tribunal of St. Etienne, November 4, 1859.) The president can order that the books, correspondence and papers of the infringer be impounded, initialed or examined. He can also order that those containing proofs of the infringement be seized on the spot. (Court of Lyons, November 30, December 5, and 26, 1865, January 8, 1866; Court of Cassation, June 15, 1866.)

When the president grants the order for seizure, he can, if he thinks expedient, require the plaintiff to furnish security. In this case, such security must be deposited before the seizure takes place. Such security, demand for which is discretionary with the president, is always obligatory in the case of foreigners suing for infringement, except such as are authorized to exercise their civil rights in France, and except those belonging to States between which and France *diplomatic* treaties exist, dispensing French subjects abroad from furnishing security in similar cases. This security is quite distinct from security for costs, which a French defendant can require a foreign plaintiff to furnish at the commencement of legal proceedings. (Paris, November 14, 1860.)

Article 47 requires that a copy of the following should be left with the infringer of the objects described or seized: 1. Of the order of the president. 2. Of the document proving the deposit of the caution money in cases where such security has been ordered. Should default be made in compliance with the above enactment, the proceedings are void, and the *huissier* is liable for damages.

USUAL PROCEDURE ON THE PART OF PATENTEE. The above is the process of "description with seizure." The other remedy open to the patentee to prove infringement is the "simple description" of the object; otherwise called description without seizure. In practice, the two modes of procedure are jointly adopted: 1. Seizure is made of a sample or of articles strictly necessary to prove the infringement. 2. A description is made of the other articles which are left in the possession of the infringer.

WRIT. A writ must be issued, whether the plaintiff take proceedings in the civil court or the *Tribunaux Correctionnels*. The writ must be issued within eight days after the report of the seizure or of the simple description.

ART. 48. In case the complainant fails to prosecute, either in the civil courts, or in the *tribunal correctionnel*, within eight days from

the seizure—allowing one day for every three *myriamètres* of distance between the place in which the articles seized or described are situated and the domicile of the defendant—whether for infringing or for concealing, introducing or selling the infringing articles, such seizure or description shall be void by law, without prejudice to the damages which may be claimed in the manner prescribed by article 36.

The day of the date of the writ is not included in the eight days.

The period is increased according to distance, in the proportion of one day for each five *myriamètres* between the place in which the objects were seized or described, and the domicile of the infringer. If the seizure lasts for several days, the delay for appearance is calculated from the last day of the seizure. If the patentee proceeds against several infringers, and if he makes several seizures or descriptions, each infringer must be served within the prescribed period respectively, under penalty of the seizure being declared void. If the seizure should be declared void, it does not necessarily follow that the plaintiff's demand is canceled. This is natural, as the patentee can dispense with making a seizure, if he possesses other proofs. (Cassation, March 27, 1835; Court of Amiens, December 28, 1850.) However, when the seizure is declared void, the patentee cannot invoke it as a means of proof; therefore, if the patentee possesses other evidence he incurs no danger; but if otherwise, he loses his case by his own default. When the patentee has allowed the time for suing to pass without issuing his writ, he can make a second seizure, or a second description, by virtue of the same judge's order, as the nullity of the seizure does not affect the order of the president, nor the right of action of the patentee. (Court of Amiens, December 28, 1850.) But it is evidently necessary, in order that such second seizure should avail the plaintiff, that he should issue his fresh writ within a legally described period dated from such second seizure. It would be imprudent to rely upon the second seizure, as the nullity of the prior seizure would free the objects attached thereby, and the patentee on making a further seizure would find nothing.

Choice of Jurisdictions and Tribunals. The injured party can proceed either in the civil courts, or in the *tribunal correctionnel*. If he elects to proceed in the *tribunal correctionnel*, he can act either by direct citation or by lodging a complaint with the *procureur of the republic*. In the two cases he can only claim one thing from the tribunal, viz., the condemnation of the infringer to pay damages in reparation of the injury caused to him. As regards the sentence of imprisonment or fine, such cannot be claimed, except by the public prosecutor, who alone has a right to demand it. Advantages and disadvantages are attached to both the above modes of procedure. Advantages of the criminal proceeding are that the expenses are less heavy, and the procedure is more expeditious. The plaintiff can avail himself of witnesses to complete his documentary evidence. The disadvantages are as follows: The defendant can also call witnesses to justify his acts, which privilege he would not possess in a civil action. He can also plead good faith, which can be accepted as extenuating circumstances in the case of principal infringers; and still more so in the case of parties whom the law treats as in complicity with the infringers; such are retailers, and parties introducing the infringed objects. Such plea of good faith can, even in such latter cases, entitle the defendants to acquittal. (Article 41.) In the event of the plaintiff failing in his prosecution, he is exposed to an action for

damages, which are far heavier in relation to proceedings in the criminal courts than in a civil case. Lastly, the decision in a criminal case has far less effect than in a civil case. Thus, a criminal decision does not prevent the plaintiff, in the event of the prosecution failing, from instituting fresh proceedings against the same defendant in the event of his committing the same offense after the date of the first proceedings; on the contrary, when a decision has been rendered in a civil case in the defendant's favor, the question cannot be raised again between the same parties in relation to the same object or proceeding. In the event of such further proceedings being instituted, the defendant would simply have to plead the previous judgment in his favor.

With respect to *what tribunals* have jurisdiction in civil cases, article 59 of the Code of Civil Procedure provides as follows:—The patentee can proceed against infringers in the civil tribunal of the domicile of either of them, at his choice, in the case in which several joint defendants exist who are not strangers to each other. And in the case of several joint defendants and the institution of criminal proceedings, article 63 of the Code of Criminal Instruction applies. Thus, the patentee can proceed either in the tribunal of the domicile or residence of the infringer, or, if there are several infringers who have participated in the same act of infringement, before the court of the domicile of either of them, either in the court of the place in which the defendant resides, or in the court of the place in which the act of infringement was perpetrated.

A defendant cited criminally, can be represented by an *avoué* in the cases in which the penalty relating to the misdemeanor for which he is prosecuted does not amount to imprisonment.

Lastly, in prosecutions for infringements, as well as those relating to all other misdemeanors, the public minister must always be heard.

Proceedings against Foreigners. Inasmuch as the French tribunals are incompetent to adjudicate upon misdemeanors committed out of France by foreigners, if the offense of infringement be committed abroad, the patentee cannot proceed in France; but the rule is otherwise if the offense be committed in France by a foreigner. For instance, if after having manufactured goods abroad, he enter France to dispose of them, he can be prosecuted or proceeded against in the French courts.

Obstacles and Defenses. Apart from security for costs, limitation of actions and special pleas in bar, the defendant in civil and criminal cases can plead various defenses. For instance, he can plead that he was authorized by transfer or otherwise to act as he did; or that the infringement in question was not committed by him; or that the patent has become void; or that, assuming the patent to be valid, the object manufactured by him is not an imitation of the object patented.

When prosecuted in the *tribunal correctionnel*, the defendant, if proceedings have been commenced in the civil courts to have the patent of the plaintiff declared void, can require the criminal proceedings to be adjourned until judgment has been given in the civil courts. This proceeding is called a *sursis*. The judges of the *tribunal correctionnel* are at liberty to grant or refuse the application. (Court of Cassation, June 15, 1866.) In the civil courts, a defendant cannot demand an adjournment until the *tribunal correctionnel* has adjudicated in the same matter.

A defendant in proceedings before a *tribunal correctionnel* cannot compel a party who has sold the infringed object to him, to intervene in the proceedings to guarantee him in respect of the consequences, as misdemeanors are personal offenses. (Court of Cassation, March 5, 1872.) In the civil courts, on the contrary, a defendant can

call upon another party to pay the amount of pecuniary damages in which he may be condemned.

Whether proceedings are instituted in the civil courts or *tribunal correctionnel*, the defendant can put in a counter-claim for damages for the prejudice which such proceedings may have caused him, morally and actually.

ART. 49. A judgment for the confiscation of articles admitted to be infringements, and, if there be any, of instruments or utensils destined specially to the manufacture thereof, shall, even in the case of acquittal, be rendered against the defendant, whether for infringement, or for concealing, introducing or selling the infringing articles. The articles confiscated shall be handed to the proprietor of the patent, without prejudice to an action for further damages, and to the publication of the judgment, when so ordered.

CONFISCATION is not discretionary with the court, but obligatory. (Court of Cassation, December, 9, 1848.) It must always be pronounced as regards the object infringed, even when the defendant is acquitted upon proving his good faith. Confiscation can be ordered not only in respect of the object seized, but in respect of objects simply as described. (Court of Cassation, August 20, 1851.) Confiscation pronounced in cases of infringement is not a penalty; thus civil courts as well as *tribunaux correctionnels* can pronounce it. (Court of Cassation, May 9, 1859.)

Damages can be granted both in civil courts and in the *tribunaux correctionnels*. There are two sorts of procedure adopted by the judges in relation to damages. The amount can be decided forthwith, or it can be ordered to be calculated pursuant to a statement to be drawn up relating to the damage. The parties then come before the court again, and a further decision is rendered, which definitively fixes the amount thereof.

DAMAGES granted to a patentee should represent two kinds of prejudice caused to him, viz.: material and moral injury. Material damage represents all profits lost to the inventor by the infringements. In calculating the same, the profits realized by the infringer must not be considered alone, as such profits may have been less than those which the real inventor would have realized, but the profits which the patentee has lost through the fraudulent sales made by the infringer, calculated at the price realized by the patentee for the same goods in the ordinary course of his business. Moral prejudice consist in the fact that the rights of the patentee have been contested by the infringer, and that such rights, notwithstanding the gaining of the suit, may nevertheless have been damaged. Again, the infringer, in order to sell at a cheaper rate, may have manufactured the goods in an inferior manner, and thus brought discredit upon the invention.

ARREST has been abolished in civil cases by the law of July 22, 1867, but can still be pronounced by the *tribunaux correctionnels* in connection with damages. A civil tribunal can also pronounce it in the following case, viz.: when the patentee has contented himself with requiring the *tribunal correctionnel* simply to punish the infringer by fines or imprisonment, and when he has afterward commenced an action in the civil tribunal, to have the amount of damage ascertained and adjudged. This is the only case in which a civil tribunal can sentence to a term of imprisonment.

COSTS. The infringer can be condemned to pay the costs on one or several publi-

cations and insertions of the judgment in the newspapers. The above measure, designed to advertise legal decisions, does not constitute a penalty, but a simple reparation for the prejudice caused to the patentee; therefore civil tribunals as well as *Tribunaux correctionnels* can pronounce it.

TITLE VI.

SPECIAL AND PROVISIONAL MEASURES.

ART. 50. Royal ordinances, having the effect of *Réglements d'Administration Publique*, shall provide the necessary measures for the execution of the present law.

This law shall not take effect until three months after its promulgation.

ART. 51. Ordinances rendered in the same form shall control the application of the present law in the colonies, with the modifications that may be considered necessary.

ART. 52. The following laws shall be repealed from the date upon which the present law becomes executory, viz.:

The laws of the 7th of January and 25th of May, 1791; that of the 20th of September, 1792; the *arrêté* of the 17 *vendémiaire*, year 7; the *arrêté* of the 5th *vendémiaire*, year 9; the *Décrets* of the 25th November, 1806, and 25th January, 1807, and all provisions previous to the present law relating to patents of invention, of importation, and of improvements.

[Articles 53 and 54 omitted, because relating only to patents existing and proceedings pending when the law took effect.]

From *Goirand's French Code of Commerce*, pp. 765 and 441.

Decree of October 21, 1848, *Regulating the Application of the Patent Law of July* 5, 1844, *to the French Colonies.**

ART. 1. The patent law of the 5th July, 1844, shall be applicable in the colonies from the date of the publication of the present decree.

* A French patent extends to the colonies. *Ency. Brit.* 9 ed. tit. *Patent.*

Royal ordinances, &c. shall control the application of the present law in the colonies, with the modifications that may be considered necessary. Law of July 5, 1844, § 51.

A royal ordinance regulates the application of the law of 1844 to the colonies. The formalities requisite for obtaining patents are the same as in France, except that the documents must be deposited in triplicate instead of in duplicate. The procedure in cases of infringement is

ART. 2. Applicants for patents of invention in the colonies must deliver three copies of the documents prescribed by article 5 of the above law, at the office of the director of the interior.

The entry establishing the said delivery shall be made in a special register to be signed by the said officer and the applicant, agreeably to article 7 of the said law.

ART. 3. Before making the said entry, the director of the interior shall require the production of :

1. The receipt of the colonial treasury for the payment of 100 francs due for the first installment of the annual patent fees.

2. Three copies of each of the documents mentioned in paragraphs 1, 2, 3, and 4 of article 5 of the patent law of the 5th July, 1844.

One copy of each of these documents shall be kept under a sealed cover at the offices of the directors, to be consulted when required. The other two copies shall be enclosed in a single envelope sealed up by the applicant.

ART. 4. The governor of each colony shall with the least possible delay, after due registration of the applications, forward to the minister of agriculture and commerce, through the minister of the navy and colonies, the sealed envelope containing the two respective copies, annexing thereto a certified copy of the entry, the receipt for the payment of the first installment of the annual patent fees, and, if there be one, the power of attorney of the applicant.

ART. 5. Patents shall be forwarded with the least possible delay to their owners, through the minister of the navy and colonies.

ART. 6. The registration of assignments of patents mentioned in article 20 of the patent law of the 5th July, 1844, shall take place at the offices of the directors of the interior.

Copies of the entries of registration, accompanied with authentic abstracts of the assignments and the receipts for the payment of the total amount of the patent fees, shall be forwarded to the minister of agriculture and commerce, conformably to article 4 of the present decree.

identical. Goirand's French Code of Commerce (1880), p. 500.

The encyclopedias and geographic works in use in this country vary somewhat in the enumeration they give of the colonies of France, but the following are usually included : Cambodia, Cochin China, French Guiana, Guadeloupe, Loyalty Islands, Marquesas Islands, Martinique, Micquelon, New Caledonia, Senegambia, St. Pierre, Tahiti.

ART. 7. All patent fees prescribed by articles 4, 7, 11 and 22 of the patent law of the 5th July, shall be paid to the treasurer of each colony, who is to deposit them at the public treasury, and shall at the same time forward to the minister of agriculture and commerce, through the same channel, the returns of the payment of patent fees.

ART. 8. All actions for infringements shall be tried before the court of appeal, in the colonies.

The delay allowed with respect to distances as fixed by article 48 of said law, shall be modified conformably to the ordinances which, in the colonies, regulate proceedings in civil actions.

ART. 9. The minister of agriculture and commerce, and the minister of the navy and colonies, are respectively commissioned with the execution of the present decree.

From *Carpm. Pat. L. of World*, 205.

FRENCH GUIANA.

See FRANCE, *ante* p. 203, foot-note.

GERMAN EMPIRE.

Law of July 1, 1877.

FIRST SECTION.

Patent Rights.

§ 1. Patents are granted for new inventions which can be turned to account in trade.

The following are excepted:—

1. Inventions the use of which would be incompatible with the laws or public morals.

2. Inventions of articles of food (for nourishment or luxuries), of medicines and of substances produced by chemical process, so far as the invention does not relate to a definite method of producing such articles.

§ 2. An invention is not regarded as new, if it has already been described in any printed publication, or publicly used in Germany at the time of application for a patent in accordance with this law, in such a manner that its employment appears possible by other persons skilled in the particular trade to which it relates.

§ 3. Whosoever first applies for a patent of invention according to the provisions of this law, is entitled to the grant of the same.

The claim of the petitioner to the grant of a patent will not be allowed, if the essential contents of his application have without permission been taken from the descriptions, drawings, models, implements or contrivances of another person, or from a method of manufacture used by the latter, if such person raises opposition on that account.

§ 4. The patent has the effect that nobody is allowed without the permission of the patentee to manufacture, trade in, or offer for sale, the article to which the invention relates.

If the invention relates to a process, to a machine or other mechanical contrivance, to a tool or other implement, the patent has moreover the effect of prohibiting any one from applying such method or of using the article to which the invention relates without permission of the inventor.

§ 5. The patent has no effect against a person who, at the time

the patentee made his application, had already been using the invention in Germany, or who had made the necessary preparations for using the same.

The patent, moreover, has no effect when the invention is to be used by order of the Imperial Chancellor for the army or navy, or in the interest of public welfare. Yet the patentee has in such case the right to claim proper compensation from the Empire or the State in whose special interest a limitation of the effect of the patent has been applied for. The amount of such compensation shall be fixed by a court of law in case an agreement cannot be arrived at.

Patents do not affect arrangements in means of conveyance, which come but temporarily within the boundaries of the empire.

§ 6. The claim to the grant of a patent and the patent rights themselves pass to the heirs. The claim and the patent right may be transferred, wholly or partially, to others by agreement or in consequence of death.

§ 7. The duration of a patent is 15 years: the term commences with the day following the day of application. If an invention is an improvement upon another invention patented in favor of the applicant, the latter may apply for a patent of addition, which terminates with the patent for the original invention.

§ 8. For every patent a fee of 30 marks (£1 10*s.*) is to be paid on the issue of it.

Except in the case of patents of addition (§ 7), a further fee must be paid for each patent at the commencement of the second and every subsequent year, amounting the first time to 50 marks (£2 10*s.*), and increasing by 50 marks each succeeding year.

A patentee who proves his poverty, may delay the payment of the fees for the first and second year until the third year; and if the patent lapses in the third year, they are entirely remitted.

§ 9. A patent lapses if the patentee renounces the same, or if he fails to pay the fees within 3 months at the latest after they have become due.

§ 10. A patent will be declared void if it turns out:—

1. That the invention was not patentable according to §§ 1 and 2;

2. That the essential contents of the application were taken from descriptions, tools, contrivances, drawings, or models, of another, or from some means of working used by such other, without his consent.

§ 11. A patent can be declared void after the expiration of three years:

1. If the patentee fails to work his invention in Germany to an adequate extent, or at least to do everything that is necessary to insure its being worked;

2. Whenever the grant of license to others to use the invention appears to be demanded in the public interest, and the patentee nevertheless refuses to grant such license upon adequate compensation and good security.

§ 12. Persons not residing in the empire can only apply for a patent and claim the rights resulting therefrom by appointing a representative resident in Germany. The latter is authorized to act in all proceedings prescribed by this law, as well as in civil law-suits concerning the patent. Actions against a patentee must be brought before the tribunal of the district in which the representative resides, but if there be no representative, the court of the district in which the patent-office has its seat is competent for jurisdiction.

SECOND SECTION.

Patent-Office.

§ 13. The granting, the annulment, and the revocation of patents is performed by the patent-office.

The patent-office has its seat at Berlin. It consists of at least three permanent members, including the president, and of non-permanent members. The members are appointed by the Emperor; the other officials by the Imperial Chancellor. The appointment of the permanent members is made on the nomination of the Federal Council, and last, if they hold an office of the Empire or of a State, during the term of such office, in other cases for life. The appointment of the non-permanent members will be for five years. Of the permanent members at least three must be qualified for a judgeship, or for the higher government service; the non-permanent members must be expert in some branch of technical science. The regulations in § 16 of the law of May 31, 1873, concerning the legal position of Imperial officials do not apply to non-permanent members.

§ 14. The patent-office consists of several divisions. These are formed in advance for at least one year. A member may belong to several divisions.

The quorum of any division, when dealing with the grant of a

patent, must not be less than three, among whom there must be two non-permanent members.

For decisions relating to the nullity and the revocation of patents, a special division shall be formed. For decisions of this division, a quorum is required of two members, including the president, who are qualified for a judgeship, or for the higher government service, and of three other members.

The provisions of the code of civil law with regard to challenge or refusal of members of the court are applicable.

Experts who are not members, may be summoned to attend the deliberations, but they are not permitted to take any part in the voting.

§ 15. The resolutions and decisions of the divisions are issued in the name of the patent-office; the grounds of them must be stated; and office copies must be delivered to each of the interested parties.

Notices by which special terms are fixed, will be sent by post in registered letters against receipt. If a notice cannot be delivered within the country, it will be forwarded by the proper official of the patent-office by post, in accordance with the provisions of §§ 161 and 175 of the civil code.

An appeal lies from the decisions of the patent-office.

§ 16. If the decision of a division of the patent-office is the subject of appeal, such appeal shall be heard before another division or several divisions sitting together.

In such appeal no member must take part who voted in the decision which is the subject of appeal.

§ 17. The formation of the divisions, the fixing their duties, the forms of procedure and the order of business of the patent-office, so far as these points are not regulated by the present law, will be prescribed by the Emperor, with the consent of the Federal Council.

§ 18. The patent-office is bound, on the request of the law courts, to give opinion in all questions concerning patents. In other cases it is not authorized, without special leave of the Imperial Chancellor, to pass resolutions or give opinions outside its official sphere.

§ 19. A register will be kept at the patent-office, in which the subject and duration of patents granted will be entered, together with the name and address of the patentees and of the representatives, if any, appointed by them at the time of application. The commencement, the termination, the expiration, the decree of annulment, and the revocation of patents, are to be entered in this

register, and simultaneously published in the *Reichsanzeiger* (Gazette).

Should a change take place in the person owning the patent or his representative, such fact will likewise be entered in the register and publicly notified by the *Reichsanzeiger*, when brought to the knowledge of the patent-office in due form. As long as this is omitted, the former patentee and his former representative continue to be entitled to the benefits and subject to the provisions of this law.

The inspection of the register, and of specifications, drawings, models and specimens on the basis of which patents have been granted, is open to everybody, unless the patent has been taken out in the name of the Imperial Administration for purposes of the army or navy.

The patent-office will publish the essential parts of specifications and drawings, so far as their inspection is permitted to the public, in an official paper. In the same paper will also appear all notices which must be published by the *Reichsanzeiger* in accordance with this law.

THIRD SECTION.

Proceedings in Patent-matters.

§ 20. The application for the grant of a patent for an invention must be made in writing to the patent-office. For each invention a separate application is required. The application must contain the petition for the grant of a patent, and must point out with precision the object sought to be patented. In a separate document the invention must be described in such a manner that its practicability plainly appears to skilled persons. The necessary drawings, figures, representations, models and samples must be supplied at the same time.

The patent-office will issue regulations respecting the other requisites of the application.

Up to the time of publication of the application, alterations in the descriptions are permitted. With the application a fee of 20 marks (£1) must be paid for the costs of the proceeding.

§ 21. If an application does not fulfill all the prescribed requirements, the patent-office will point out to the applicant the defects, and demand of him the amendment within a specified time. Should this demand not be complied with within the time, the application will be rejected.

§ 22. If the patent-office finds the application in due form, and that there is no objection to the granting of a patent, it will order the application to be published. From the date of publication, the subject of the application will provisionally have the protection of a patent in favor of the petitioner (§§ 4 and 5).

If the patent-office is of opinion that, according to §§ 1 and 2, the invention is not patentable, the application will be rejected.

§ 23. The publication of the application is made by the name of the applicant and the chief points of his application being advertised once in the *Reichsanzeiger*. At the same time the application and accompanying papers will be laid open at the patent-office for public inspection, and a notice inserted to the effect that the subject of the application is provisionally protected against unauthorized use.

If the matter relates to a patent applied for in the name of the Imperial Government, the publication of the application and accompanying papers is omitted.

§ 24. After expiration of eight weeks from the day of publication (§ 23) the patent-office will decide as to the granting of the patent. Until that date objections against the granting can be lodged with the patent-office. They must be made in writing, giving the grounds, which can only be the assertion that the invention is not new, or that it comes under § 3, part 2.

Before deciding, the patent-office may summon and hear the interested parties; it may also cause the grounds of objection to be examined by persons skilled in any branch of technical science, and otherwise take steps for elucidating the matter.

§ 25. From a decision by which an application is rejected, the applicant—and from a decision relating to the granting of the patent, the petitioner or the opponent—may lodge an appeal within four weeks. On lodging the appeal, 20 marks (£1) must be paid for the cost of the proceeding; should this payment not be made, the appeal will be treated as void.

In the proceedings, § 24, part 2, applies.

§ 26. If the grant of the patent is decided upon, the patent-office will cause a notice to that effect to be published in the *Reichsanzeiger*, and issue a document to the patentee.

If the patent is refused, this will also be publicly notified. Upon the refusal, the provisional protection will be held void.

§ 27. The commencement of proceedings relating to the annulment, or the revocation of a patent is by motion. In cases provided

for by § 10, part 2, only the injured party is entitled to make the motion. The motion must be addressed to the patent-office, and must set out the facts upon which it is based.

§ 28. After the institution of proceedings, the patent-office, in communicating to the patentee that such motion has been made, will invite him to answer the same within four weeks.

If the patentee does not answer within this term, a decision may follow immediately, according to the motion, without summons or hearing, and for such decision all the facts asserted by the person making the motion will be treated as proved.

§ 29. If the patentee answers in due time, or if, in the case of § 28, part 2, the motion is not decided upon immediately, the patent-office will issue the necessary orders for investigating the matter, and moreover, in the first case, communicate the answer to the person making the motion. It may also cause witnesses and experts to be examined. In this respect the regulations of the civil code will apply. The depositions must be taken down in writing by a sworn reporter.

The decision will be given after the parties interested have been summoned and heard.

If the motion made for the revocation of the patent is based on § 11, part 2, the determination of the motion must be preceded by a warning of cancellation, giving the reasons for it, and allowing a suitable delay.

§ 30. In the decision (§§ 28 and 29) the patent-office has full power to determine in what proportions the costs of the proceedings shall be borne by the parties.

§ 31. The law courts are bound to render legal assistance to the patent-office. The imposition of fines on witnesses and experts who have failed to appear, or who decline to give evidence, or to confirm it on oath, and also the attendance of witnesses who have failed to appear, will be ordered, on application by the courts.

§ 32. An appeal is allowed against the decisions of the patent-office (§§ 28 and 29). The appeal is to the Imperial Supreme Court of Commerce. It must within six weeks after the giving of the decision be presented in writing to the patent-office, with a statement of the grounds.

The costs of the proceedings will also be determined by the court in accordance with § 30.

In other respects the proceedings in court will be determined by

a regulation which will be drawn up by the court and established by Imperial ordinance with the assent of the Federal Council.

§ 33. Regarding the official language of the patent-office, the provisions of the law concerning the organization of the courts, and the language to be used before them, are to be observed. Applications which are not made in the German language will not be considered.

FOURTH SECTION.

Fines and Indemnities.

§ 34. Whoever knowingly makes use of an invention contrary to the provisions of §§ 4 and 5, will be punished by fine up to 5,000 marks (£250), or by imprisonment not exceeding one year, and is bound to indemnify the person injured.

Prosecutions are only instituted on motion made to that effect.

§ 35. If judgment is passed in criminal proceedings, the injured party is entitled to publish the sentence at the cost of the defendant. The manner and time of publication is to be fixed in the sentence.

§ 36. Instead of an indemnity as provided by this law, the injured party may, in addition to the fine, demand an amercement not exceeding 10,000 marks (£500). For this amercement all the persons condemned are liable jointly and severally.

If such amercement is ordered, all further claims for damages are excluded.

§ 37. The competency of the Imperial Supreme Court of Commerce, as determined by paragraph 12 of the law of June 12th, 1869, concerning the establishment of a supreme court of commercial affairs, is extended to all civil cases in which a claim is advanced on the basis of the provisions of this law.

§ 38. Actions for infringement of patent right are barred with regard to each single case at the expiration of three years.

§ 39. Whether damage has been caused, and to what amount, will be decided by the court according to its conviction after due consideration of all circumstances.

§ 40. Fines not exceeding 150 marks (£7 10*s.*) or a term of imprisonment will be imposed :—

1. On any person placing on articles, or their packing, any mark calculated to cause the erroneous belief that such articles are protected by a patent in accordance with this law.

2. On any person who in public advertisements, on sign-boards,

on business cards, or in similar notifications, employs any mark calculated to cause the erroneous belief that the articles mentioned thereon are protected by a patent in accordance with this law.

FIFTH SECTION

Transitory Provisions.

§ 41. All patents in force by virtue of State laws* shall until their expiration remain valid according to such laws, but a prolongation of the term is inadmissible.

§ 42. The owner of an existing patent (§ 41) may, in respect of the invention protected by it apply for the grant of a patent according to the provisions of this law. The examination of the invention in such case is subject to the forms prescribed by this law. The patent shall be refused, if the holder of another patent in force for the same invention (§ 41) claims the grant of a patent or opposes the grant before such grant has been decided upon. For want of novelty, the grant of the patent will only be refused if the invention was not new in the sense of § 2 at the time when first patented in the country.

With the grant of a patent in accordance with this law all patents in force for the same invention (§ 41) shall become void if they are in possession of the holder of the new patent. So far as this is not the case, the legal operation of the new patent will first take effect in the district in which the existing patent is valid, on the expiration of the latter.

§ 43. From the duration of a patent granted according to § 42 will be deducted the time during which the patent has been protected in the country by the oldest of the existing patents. The owner of the patent for the remainder of the duration of the patent is bound to pay the legal fees. (§ 8.) The date of payment and

* The Kingdoms or States which, in 1871, united in forming the German Empire, had, previously to that time, patent laws of their own; but the new constitution confided patents to the general legislature of the empire. In 1877, the law given in the text was enacted as a uniform law for the nationalities composing the empire. See Baden for some further details.

For an account of the judicial system introduced under the constitution of 1871, see Constitution of Courts in the German Impire, 21 Alb. L. J. 66; Id. 167.

annual amount of the fees shall be fixed according to the time when the invention was first protected in the country.

§ 44. By the grant of a patent according to the provisions of § 42, persons who had been using the invention without infringement of a patent right at the time a patent for the same was applied for, or who made the neeessary preparations for using the same, shall not be restrained from such use.

§ 45. This law shall come into force on the 1st of July, 1877.

From *Carpm. Pat. L. of World*, 208.

GREAT BRITAIN AND IRELAND.

An act concerning monopolies, &c.* 21 *Jac.* 1, *c.* 3, 1623.

Forasmuch as your most excellent Majesty, in your royal judgment, and of your blessed disposition to the weal and quiet of your

* This act, which is fundamental to the English and American law of patents, was passed in pursuance of the decision of the great case of monopolies: Darcy v. Allen, Moore, 671; Noy., 179; 11 Co. 86. The origin of the act, briefly stated, is, that in early times, in England, exclusive rights to manufacture or trade were freely granted by the crown as a mere means of raising a revenue from the license fees exacted. The exercise of this power was at first believed to be beneficial, because ingenious foreign workmen were from time to time drawn to England by the expectation of substantial commercial advantages being secured to them by royal letters patent (these being, really, grants of monopoly); and enterprising Englishmen were also induced by the like expectation to travel abroad, and acquire a practical knowledge of trades and arts. But the crown experiencing in those days the evils of no regular taxation,—the chief of which was a perpetually recurring want of money to conduct the affairs of government,—the prerogative was exposed to, and its exercise soon became affected with, many abuses, principally of this nature, that the monopoly was sold at a ruinous price, usually to the highest bidder, whether or not he was the true and first inventor of the process of manufacture, and latterly, without any regard at all to his capacity or ability as an inventor or manufacturer, and frequently, indeed, to courtiers, who made it a means of gain exclusively, and did not assist the national industry at all. But oppressive as it became, the prerogative was freely exercised down to the accession of the Stuarts, and was carried to a very oppressive and injurious extent during the reign of Elizabeth. The validity of the grants was at length contested in the courts, which adjudged them to be mischievous to the public for three reasons: 1. The raising of the price; 2. The commodity will not be so good; 3. The impoverishing of poor artificers. This was the gist of the decision in Darcy v. Allen, supra; rendered in the 44th year of Elizabeth, Tr. term; 1602. The abrogation of the practice of making these grants was, from about the same time, agitated in parliament; and at length, in 1623, the statute 21 Jac. 1, c. 3, the portions of which material to the law of patents are reprinted in the text, was enacted. As will be seen at a glance, it declares that all monopolies, grants, letters patent for sole buying, selling, and making of goods and manufactures, shall be null and void; but it excepts future patents for fourteen years, for the sole working or making of any new manufactures within the realm, to the true and first inventors of such manufactures, not contrary to law, nor mischievous to the state.

For recent and instructive discussions

subjects, did, in the year of our Lord God one thousand six hundred and ten, publish in print to the whole realm, and to all posterity, That all grants and monopolies, and of the benefit of any penal laws, or of power to dispense with the law, or to compound for the forfeiture, are contrary to your Majesty's laws, which your Majesty's declaration is truly consonant and agreeable to the ancient and fundamental laws of this your realm : (2) And whereas your Majesty was further graciously pleased expressly to command, that no suitor should presume to move your Majesty for matters of that nature : (3) Yet nevertheless, upon misinformations and untrue pretences of publick good, many such grants have been unduly obtained, and unlawfully put into execution, to the great grievance and inconvenience of your Majesty's subjects, contrary to the laws of this your realm, and contrary to your Majesty's most royal and blessed intention so published as aforesaid: (4) For avoiding whereof, and preventing of the like in time to come, may it please your excellent Majesty, at the humble suit of the Lords spiritual and temporal, and the commons, in this present parliament assembled, That it may be declared and enacted : (5) And be it declared and enacted by authority of this present parliament, That all monopolies, and all commissions, grants, licences, charters and letters patent heretofore made or granted, or hereafter to be made or granted, to any person or persons, bodies politick or corporate, whatsoever, or for the sole buying, selling, making, working or using of any thing within this realm or the dominion of Wales, (6) or of any other monopolies, or of power, liberty or faculty, to dispense with any others, or to give license or toleration to do, use or exercise anything against the tenor or purport of any law or

on the influence of the act on the English and American law of patents, see Curtis Pat. §§ 1–4 ; McKeever v. United States, 14 Ct. of Cl. 396 ; Op. Bradley, J., 111 U. S. 761.

Patent laws in the British Colonies. Prior to 1852, British letters patent extended to all Her Majesty's colonies ; but the act of 1852 restricted the rights obtainable under it to Great Britain and Ireland, the Channel Islands, and the Isle of Man ; soon after which the colonies began to enact patent laws of their own. (See their names, throughout this work.)

As a rule, the application in a colony must be by petition, accompanied by a specification and drawings ; and must be made by the inventor, his assignee or attorney. Patents are, in all cases, assignable, and the deeds of assignment must be registered in the respective colonies. The patents are usually granted for a term of fourteen years, and the inventions must not have been used in the colony previous to the date of application. Ency Brit. 9 ed. art. Patents.

statute; (7) or to give or make any warrant for any such dispensation, licence or toleration to be had or made; or to agree or compound with any others for any penalty or forfeitures limited by any statute; or of any grant or promise of the benefit, profit or commodity of any forfeiture, penalty or sum of money, that is or shall be due by any statute, before judgment thereupon had; (8) and all proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things whatsoever, any way tending to the instituting, erecting, strengthening, furthering or countenancing of the same or any of them; (9) are altogether contrary to the laws of this realm, and so are and shall be utterly void, and of none effect, and in no wise to be put in use or execution.

II. And be it further declared and enacted by the authority aforesaid, that all monopolies, and all such commissions, grants, licences, charters, letters patents, proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things tending as aforesaid, and the force and validity of them and of every of them, ought to be, and shall be, for ever hereafter examined, heard, tried and determined by and according to the common laws of this realm, and not otherwise.

. . . . . .

V. Provided, nevertheless, and be it declared and enacted, that any declaration before mentioned, shall not extend to any letters patents and grants of privilege for the term of one and twenty years or under, heretofore made of the sole working or making of any manner of new manufacture within this realm, to the first and true inventor or inventors of such manufactures, which others at the time of the making of such letters patents and grants did not use, so they be not contrary to the law, nor mischievous to the state, by raising of the prices of commodities at home, or hurt of trade, or generally inconvenient, but that the same shall be of such force as they were or should be, if this act had not been made, and of none other: (2) And if the same were made for more than one and twenty years, That then the same for the term of one and twenty years only, to be accounted from the date of the first letters patents and grants thereof made, shall be of such force as they were or should have been, if the same had been made but for term of one and twenty years only, and as if this act had never been had or made, and of none other.

VI. Provided, also, and be it declared and enacted, that any declaration before mentioned, shall not extend to any letters pat-

ents and grants of privilege for the term of fourteen years or under, hereafter to be made of the sole working or making of any manner of new manufactures within this realm, to the true and first inventor and inventors of such manufactures, which others, at the time of making such letters patents and grants, shall not use, so as they be not contrary to law, nor mischievous to the State, by raising prices of commodities at home, or hurt of trade, or generally inconvenient; the said fourteen years to be accounted from the date of the first letters patents, or grant of such privilege hereafter to be made, but that the same shall be of such force, as they should be if this act had never been made, and of none other.

From 7 *Stat. at L., Pick.*, 255.

*An Act to amend and consolidate the Law relating to Patents for Inventions, Registration of Designs, and of Trade Marks.** 1 *Stat.* 46 *and* 47 *Vict.*, c. 57. *August* 25, 1883.

Be it enacted, &c. . . .

PART I.

Preliminary.

1. *Short title.* This Act may be cited as the Patents, Designs, and Trade Marks Act, 1883.

2. *Division of Act into parts.* This act is divided into parts, as follows :—

Part I.—Preliminary.
Part II.—Patents.
Part III.—Designs.
Part IV.—Trade Marks.
Part V.—General.

3. *Commencement of Act.* This act, except where it is otherwise expressed, shall commence from and immediately after the thirty-first day of December, one thousand eight hundred and eighty-three.

* Those provisions only of the act are given, which relate to patents for inventions or designs. With it should be compared the Patents, Designs and Trade Marks Amendments Act, 1885, post, p. 264, which is amendatory of several of the provisions of 1883.

PART II.

PATENTS.

APPLICATION FOR AND GRANT OF PATENT.

4. *Persons entitled to apply for patent.* (1) Any person, whether a British subject or not, may make an application for a patent.

(2) Two or more persons may make a joint application for a patent, and a patent may be granted to them jointly.

5. *Application and specification.* (1) An application for a patent must be made in the form set forth in the first schedule to this Act, or in such other form as may be from time to time prescribed; and must be left at, or sent by post to, the patent-office in the prescribed manner.

(2) An application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application, one or more of the applicants, claims or claim to be the true and first inventor or inventors, and for which he or they desires or desire to obtain a patent; and must be accompanied by either a provisional or complete specification.

(3) A provisional specification must describe the nature of the invention, and be accompanied by drawings, if required.

(4) A complete specification, whether left on application or subsequently, must particularly describe and ascertain the nature of the invention, and in what manner it is to be performed, and must be accompanied by drawings, if required.

(5) A specification, whether provisional or complete, must commence with the title, and, in the case of a complete specification must end with a distinct statement of the invention claimed.

6. *Reference of application to examiner.* The comptroller shall refer every application to an examiner, who shall ascertain and report to the comptroller whether the nature of the invention has been fairly described, and the application, specification and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject matter of the invention.

7. *Power for comptroller to refuse application or require amendment.* (1) If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not or have not been prepared in the prescribed manner, or that the title does not sufficiently indicate

the subject matter of the invention, the comptroller may require that the application, specification or drawings be amended before he proceeds with the application.

(2) Where the comptroller requires an amendment, the applicant may appeal from his decision to the law officer.

(3) The law officer shall, if required, hear the applicant and the comptroller, and may make an order determining whether, and subject to what conditions, if any, the application shall be accepted.

(4) The comptroller shall, when an application has been accepted, give notice thereof to the applicant.

(5) If, after an application has been made, but before a patent has been sealed, an application is made, accompanied by a specification bearing the same or a similar title, it shall be the duty of the examiner to report to the comptroller whether the specification appears to him to comprise the same invention; and, if he reports in the affirmative, the comptroller shall give notice to the applicants that he has so reported.

(6) Where the examiner reports in the affirmative, the comptroller may determine, subject to an appeal to the law officer, whether the invention comprised in both applications is the same, and if so, he may refuse to seal a patent on the application of the second applicant.

8. *Time for leaving complete specification.* (1) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within nine months from the date of application.

(2) Unless a complete specification is left within that time, the application shall be deemed to be abandoned.

9. *Comparison of provisional and complete specification.* (1) Where a complete specification is left after a provisional specification, the comptroller shall refer both specifications to an examiner for the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner, and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification.

(2) If the examiner reports that the conditions herein-before contained have not been complied with, the comptroller may refuse to accept the complete specification unless and until the same shall have been amended to his satisfaction; but any such refusal shall be subject to appeal to the law officer.

(3) The law officer shall, if required, hear the applicant and the comptroller, and may make an order determining whether and subject to what conditions, if any, the complete specification shall be accepted.

(4) Unless a complete specification is accepted within twelve months from the date of application, then (save in the case of an appeal having been lodged against the refusal to accept) the application shall, at the expiration of those twelve months, become void.

(5) Reports of examiners shall not in any case be published or be open to public inspection, and shall not be liable to production or inspection in any legal proceeding, other than an appeal to the law officer under this Act, unless the court or officer having power to order discovery in such legal proceeding shall certify that such production or inspection is desirable in the interests of justice, and ought to be allowed.

10. *Advertisement on acceptance of complete specification.* On the acceptance of the complete specification the comptroller shall advertise the acceptance; and the application and specification, or specifications with the drawings (if any) shall be open to public inspection.

11. *Opposition to grant of patent.* (1) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification give notice at the patent office of opposition to the grant of the patent, on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative; or on the ground that the invention has been patented in this country on an application of prior date; or on the ground of an examiner having reported to the comptroller that the specification appears to him to comprise the same invention as is comprised in a specification bearing the same or a similar title, and accompanying a previous application, but on no other ground.

(2) Where such notice is given, the comptroller shall give notice of the opposition to the applicant, and shall, on the expiration of those two months, after hearing the applicant and the person so giving notice, if desirous of being heard, decide on the case, but subject to appeal to the law officer.

(3) The law officer shall, if required, hear the applicant and any person so giving notice and being, in the opinion of the law officer, entitled to be heard in opposition to the grant, and shall determine whether the grant ought or ought not to be made.

(4) The law officer may, if he thinks fit, obtain the assistance of an expert, who shall be paid such remuneration as the law officer, with the consent of the treasury, shall appoint.

12. *Sealing of patent.* (1) If there is no opposition, or, in case of opposition, if the determination is in favor of the grant of a patent, the comptroller shall cause a patent to be sealed with the seal of the patent-office.

(2) A patent so sealed shall have the same effect as if it were sealed with the great seal of the United Kingdom.

(3) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, except in the cases hereinafter mentioned, that is to say—

(*a*) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct.

(*b*) If the person making the application dies before the expiration of the fifteen months aforesaid, the patent may be granted to his legal representative and sealed at any time within twelve months after the death of the applicant.

13. *Date of patent.* Every patent shall be dated and sealed as of the day of the application: Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification: Provided also, that in case of more than one application for a patent for the same invention, the sealing of a patent on one of those applications shall not prevent the sealing of a patent on an earlier application.

14. *Provisional protection.* Where an application for a patent in respect of an invention has been accepted, the invention may during the period between the date of the application and the date of sealing such patent be used and published without prejudice to the patent to be granted for the same; and such protection from the consequences of use and publication is in this Act referred to as provisional protection.

15. *Protection by complete specification. Effect of acceptance of complete specification.* After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification: Provided that an applicant shall not be

entitled to institnte any proceeding for infringement, unless and until a patent for the invention has been granted to him.

16. *Extent of patent.* Every patent when sealed shall have effect throughout the United Kingdom and the Isle of Man.

17. *Term of patent.* (1) The term limited in every patent for the duration thereof shall be fourteen years from its date.

(2) But every patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to make the prescribed payments within the prescribed times.

(3) If, nevertheless, in any case, by accident, mistake, or inadvertence, a patentee fails to make any prescribed payment within the prescribed time, he may apply to the comptroller for an enlargement of the time for making that payment.

(4) Thereupon the comptroller shall, if satisfied that the failure has arisen from any of the above-mentioned causes, on receipt of the prescribed fee for enlargement, not exceeding ten pounds, enlarge the time accordingly, subject to the following conditions :

(*a*) The time for making any payment shall not in any case be enlarged for more than three months.

(*b*) If any proceeding shall be taken in respect of an infringement of the patent committed after a failure to make any payment within the prescribed time, and before the enlargement thereof, the court before which the proceeding is proposed to be taken may, if it shall think fit, refuse to award or give any damages in respect of such infringement.

18. *Amendment of specification.* (1) An applicant or a patentee may, from time to time, by request in writing left at the patent-office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of such amendment and his reasons for the same.

(2) The request and the nature of such proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the patent-office of opposition to the amendment.

(3) Where such notice is given the comptroller shall give notice of the opposition to the person making the request, and shall hear and decide the case subject to an appeal to the law officer.

(4) The law officer shall, if required, hear the person making the request and the person so giving notice, and being in the opinion of the law officer entitled to be heard in opposition to the request,

and shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(5) Where no notice of opposition is given, or the person so giving notice does not appear, the comptroller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6) When leave to amend is refused by the comptroller, the person making the request may appeal from his decision to the law-officer.

(7) The law-officer shall, if required, hear the person making the request and the comptroller, and may make an order determining whether, and subject to what conditions, if any, the amendment ought to be allowed.

(8) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.

(9) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall in all courts and for all purposes be deemed to form part of the specification.

(10) The foregoing provisions of this section do not apply when and so long as any action for infringement or other legal proceeding in relation to a patent is pending.

19. *Power to disclaim part of invention during action, &c.* (1) In an action for infringement of a patent, and in a proceeding for revocation of a patent, the court or a judge may at any time order that the patentee shall, subject to such terms as to costs and otherwise as the court or a judge may impose, be at liberty to apply at the patent-office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

20. *Restriction on recovery of damages.* Where an amendment by way of disclaimer, correction or explanation, has been allowed under this Act, no damages shall be given in any action in respect of the use of the invention before the disclaimer, correction or explanation, unless the patentee establishes to the satisfaction of the court that his original claim was framed in good faith and with reasonable skill and knowledge.

21. *Advertisement of amendment.* Every amendment of a specification shall be advertised in the prescribed manner.

22. *Compulsory licenses.* If on the petition of any person interested it is proved to the Board of Trade that by reason of the default of a patentee to grant licenses on reasonable terms—

(*a*) The patent is not being worked in the United Kingdom; or

(*b*) The reasonable requirements of the public with respect to the invention cannot be supplied; or

(*c*) Any person is prevented from working or using to the best advantage an invention of which he is possessed, the board may order the patentee to grant licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the board, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.

23. *Register of patents.* (1) There shall be kept at the patent office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licenses under patents, and of amendments, extensions, and revocations of patents and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed.

(2) The Register of Patents shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein.

(3) Copies of deeds, licenses, and any other documents affecting the proprietorship of any letters patent, or in any license thereunder, must be supplied to the comptroller in the prescribed manner for filing in the patent-office.

24. *Fees in schedule.* (1) There shall be paid in respect of the several instruments described in the second schedule to this Act, the fees in that schedule mentioned, and there shall likewise be paid, in respect of other matters under this part of the Act, such fees as may be from time to time, with the sanction of the treasury, prescribed by the Board of Trade; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the treasury may from time to time direct.

(2) The Board of Trade may from time to time, if they think fit, with the consent of the treasury, reduce any of those fees.

25. *Extension of term of patent on petition to Queen in council.* (1) A patentee may, after advertising in manner directed by any rules made under this section, his intention to do so, present a petition to Her Majesty in Council, praying that his patent may be extended for a further term; but such petition must be pre-

sented at least six months before the time limited for the expiration of the patent.

(2) Any person may enter a caveat, addressed to the registrar of the council at the council office, against the extension.

(3) If Her Majesty shall be pleased to refer any such petition to the Judicial Committee of the Privy Council, the said committee shall proceed to consider the same, and the petitioner, and any person who has entered a caveat, shall be entitled to be heard by himself, or by counsel on the petition.

(4) The judicial committee shall, in considering their decision, have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(5) If the judicial committee report that the patentee has been inadequately remunerated by his patent, it shall be lawful for Her Majesty in Council to extend the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen years; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the judicial committee may think fit.

(6) It shall be lawful for Her Majesty in Council to make, from time to time, rules of procedure and practice for regulating proceedings on such petitions, and subject thereto such proceedings shall be regulated according to the existing procedure and practice in patent matters of the judicial committee.

(7) The costs of all parties of and incident to such proceedings shall be in the discretion of the judicial committee; and the orders of the committee respecting costs shall be enforceable as if they were orders of a division of the High Court of Justice.

26. *Revocation of patent.* (1) The proceeding by scire facias, to repeal a patent, is hereby abolished.

(2) Revocation of a patent may be obtained on petition to the Court.

(3) Every ground on which a patent might, at the commencement of this Act, be repealed by scire facias, shall be available by way of defense to an action of infringement, and shall also be a ground of revocation.

(4) A petition for revocation of a patent may be presented by—

(*a*) The attorney-general in England or Ireland, or the lord advocate in Scotland:

(*b*) Any person authorized by the attorney-general in England or Ireland, or the Lord Advocate in Scotland:

(*c*) Any person alleging that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims:

(*d*) Any person alleging that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee:

(*e*) Any person alleging that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within this realm, before the date of the patent, anything claimed by the patentee as his invention.

(5) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and no evidence shall, except by leave of the court or a judge, be admitted in proof of any objection of which particulars are not so delivered.

(6) Particulars delivered may be from time to time amended, by leave of the court or a judge.

(7) The defendant shall be entitled to begin, and give evidence in support of the patent, and if the plaintiff gives evidence impeaching the validity of the patent, the defendant shall be entitled to reply.

(8) Where a patent has been revoked on the ground of fraud, the comptroller may, on the application of the true inventor made in accordance with the provisions of this Act, grant to him a patent in lieu of, and bearing the same date as the date of revocation of the patent so revoked, but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

27. *Patent to bind Crown.* (1) A patent shall have to all intents the like effect as against Her Majesty the Queen, her heirs and successors, as it has against a subject.

(2) But the officers or authorities administering any department of the service of the crown may, by themselves, their agents, contractors, or others, at any time after the application, use the invention for the services of the crown on terms to be before or after the use thereof agreed on, with the approval of the treasury, between those officers or authorities and the patentee, or, in default of such agreement, on such terms as may be settled by the treasury after hearing all parties interested.

LEGAL PROCEEDINGS.

28. *Hearing with Assessor.* (1) In an action or proceeding for infringement or revocation of a patent, the court may, if it thinks fit, and shall on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try and hear the case wholly or partially with his assistance; the action shall be tried without a jury unless the court shall otherwise direct.

(2) The Court of Appeal or the judicial committee of the Privy Council may, if they see fit, in any proceeding before them respectively, call in the aid of an assessor as aforesaid.

(3) The remuneration, if any, to be paid to an assessor under this section shall be determined by the court or the Court of Appeal or judicial committee, as the case may be, and be paid in the same manner as the other expenses of the execution of this act.

29. *Delivery of particulars.* (1) In an action for infringement of a patent, the plaintiff must deliver with his statement of claim, or by order of the court or the judge, at any subsequent time, particulars of the breaches complained of.

(2) The defendant must deliver with his statement of defense, or, by order of the court or a judge, at any subsequent time, particulars of any objections on which he relies in support thereof.

(3) If the defendant disputes the validity of the patent, the particulars delivered by him must state on what grounds he disputes it, and if one of those grounds is want of novelty, must state the time and place of the previous publication or user alleged by him.

(4) At the hearing no evidence shall, except by leave of the court or a judge, be admitted in proof of any alleged infringement or objection of which particulars are not so delivered.

(5) Particulars delivered may be from time to time amended, by leave of the court or a judge.

(6) On taxation of costs regard shall be had to the particulars delivered by the plaintiff and by the defendant; and they respectively shall not be allowed any costs in respect of any particular delivered by them unless the same is certified by the court or a judge to have been proven or to have been reasonable and proper, without regard to the general costs of the case.

30. *Order for inspection, &c., in action.* In an action for infringement of a patent, the court or a judge may, on the appli-

cation of either party, make such order for an injunction, inspection or account, and impose such terms and give such directions respecting the same, and the proceedings thereon as the court or a judge may see fit.

31. *Certificate of validity questioned and costs thereon.* In an action for infringement of a patent, the court or a judge may certify that the validity of the patent came in question; and if the court or a judge so certifies, then in any subsequent action for infringement, the plaintiff in that action on obtaining a final order or judgment in his favor shall have his full costs, charges and expenses as between solicitor and client, unless the court or judge trying the action certifies that he ought not to have the same.

32. *Remedy in case of groundless threats of legal proceedings.* Where any person claiming to be the patentee of an invention, by circulars, advertisements or otherwise threatens any other person with any legal proceedings or liability in respect of any alleged manufacture, use, sale or purchase of the invention, any person or persons aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as may have been sustained thereby, if the alleged manufacture, use, sale or purchase to which the threats related was not in fact an infringement of any legal rights of the person making such threats: Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.

MISCELLANEOUS.

33. *Patent for one invention only.* Every patent may be in the form in the first schedule to this act, and shall be granted for one invention only, but may contain more than one claim; but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it comprises more than one invention.

34. *Patent on application of representative of deceased inventor.* (1) If a person possessed of an invention dies without making application for a patent for the invention, application may be made by, and a patent for the invention granted to, his legal representative.

(2) Every such application must be made within six months of the decease of such person, and must contain a declaration by the

legal representative that he believes such person to be the true and first inventor of the invention.

35. *Patent to first inventor not invalidated by application in fraud of him.* A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection.

36. *Assignment for particular places.* A patentee may assign his patent for any place in or part of the United Kingdom, or Isle of Man, as effectually as if the patent were originally granted to extend to that place or part only.

37. *Loss or destruction of patent.* If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the comptroller, the comptroller may at any time cause a duplicate thereof to be sealed.

38. *Proceedings and costs before law officer.* The law officers may examine witnesses on oath and administer oaths for that purpose under this part of this act, and may from time to time make, alter, and rescind rules regulating references and appeals to the law officers and the practice and procedure before them under this part of this act; and in any proceeding before either of the law officers under this part of this act, the law officer may order costs to be paid by either party, and any such order may be made a rule of the court.

39. *Exhibition at industrial or international exhibition not to prejudice patent rights.* The exhibition of an invention at an industrial or international exhibition, certified as such by the board of trade, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely,—

(*a.*) The exhibitor must, before exhibiting the invention, give the comptroller the prescribed notice of his intention to do so; and

(*b.*) The application for a patent must be made before, or within six months from the date of the opening of the exhibition.

40. *Publication of illustrated journal, indexes, &c.* (1) The comptroller shall cause to be issued periodically an illustrated journal of patented inventions, as well as reports of patent cases decided by courts of law, and any other information that the comptroller may deem generally useful or important.

(2) Provision shall be made by the comptroller for keeping on sale copies of such journal, and also of all complete specifications of patents for the time being in force, with their accompanying drawings, if any.

(3) The comptroller shall continue, in such form as he may deem expedient, the indexes and abridgments of specifications hitherto published, and shall from time to time prepare and publish such other indexes, abridgments of specifications, catalogues, and other works relating to inventions, as he may see fit.

41. *Patent Museum.* The control and management of the existing patent museum and its contents shall, from and after the commencement of this Act, be transferred to and vested in the department of science and art, subject to such directions as Her Majesty in Council may see fit to give.

42. *Power to require models on payment.* The department of science and art may at any time require a patentee to furnish them with a model of his invention on payment to the patentee of the cost of the manufacture of the model; the amount to be settled, in case of dispute, by the board of trade.

40. *Foreign vessels in British waters.* (1) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any of Her Majesty's courts in the United Kingdom or Isle of Man, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from the United Kingdom or Isle of Man.

(2) But this section shall not extend to vessels of any foreign state of which the laws authorize subjects of such foreign state, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture or prep-

aration of anything intended to be sold in or exported from the territories of such foreign state.

44. *Assignment to secretary for war of certain inventions.* (1) The inventor of any improvement in instruments or munitions of war, his executors, administrators, or assigns (who are in this section comprised in the expression "the inventor") may (either for or without valuable consideration) assign to Her Majesty's principal secretary of state for the war department (hereinafter referred to as the secretary of state), on behalf of Her Majesty, all the benefit of the invention, and of any patent obtained or to be obtained for the same; and the secretary of state may be a party to the assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the secretary of state for the time being on behalf of Her Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the secretary of state for the time being.

(3) Where any such assignment has been made to the secretary of state, he may at any time before the application for a patent for the invention, or before publication of the specification or specifications, certify to the comptroller his opinion that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the secretary of state so certifies, the application and specification or specifications, with the drawings (if any), and any amendment of the specification or specifications, and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the patent-office, be delivered to the comptroller in a packet sealed by authority of the secretary of state.

(5) Such packet shall, until the expiration of the term or extended term during which a patent for the invention may be in force, be kept sealed by the comptrollor, and shall not be opened save under the authority of an order of the secretary of state, or of the law officers.

(6) Such sealed packet shall be delivered at any time during the continuance of the patent to any person authorized by writing under the hand of the secretary of state to receive the same, and shall if returned to the comptroller be again kept sealed by him.

(7) On the expiration of the term or extended term of the

patent, such sealed packet shall be delivered to any person authorized by writing under the hand of the secretary of state to receive it.

(8) Where the secretary of state certifies as aforesaid, after an application for a patent has been left at the patent-office, but before the publication of the specification or specifications, the application, specification or specifications, with the drawings (if any), shall be forthwith placed in a packet, sealed by authority of the comptroller, and such packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the secretary of state.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which the secretary of state has certified as aforesaid.

(10) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, save as in this section otherwise directed, the provisions of this part of this Act shall apply in respect of any such invention and patent as aforesaid.

(11) The secretary of state may at any time, by writing under his hand, waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the secretary of state, or to any person or persons authorized by him to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.

EXISTING PATENTS.

45. (1) The provisions of this Act relating to applications for patents and proceedings thereon shall have effect in respect only of applications made after the commencement of this Act.

(2) Every patent granted before the commencement of this Act, or on an application then pending, shall remain unaffected by the provisions of this Act relating to patents binding the Crown, and to compulsory licenses.

(3) In all other respects (including the amount and time of payment of fees) this Act shall extend to all patents granted before

the commencement of this Act, or on applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.

(4) All instruments relating to patents granted before the commencement of this Act required to be left or filed in the great seal patent-office shall be deemed to be so left or filed if left or filed before or after the commencement of this Act in the patent-office.

Definitions.

46. In and for the purposes of this Act—

"Patent" means letters patent for an invention :

"Patentee" means the person for the time being entitled to the benefit of a patent :

"Invention" means any manner of new manufacture the subject of letters patent and grant of privilege within section six of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chapter three, intituled "An Act concerning Monopolies and dispensations with penal laws and the forfeiture thereof" [*see ante*, p. 3]), and includes an alleged invention.

In Scotland "injunction" means "interdict."

PART III.

Designs.

Registration of Designs.

47. *Application for registration.* (1) The comptroller may, on application by, or on behalf of any person claiming to be the proprietor of any new or original design not previously published in the United Kingdom, register the design under this part of this Act.

(2) The application must be made in the form set forth in the first schedule to this act, or in such other form as may be from time to time prescribed, and must be left at, or sent by post to, the patent-office in the prescribed manner.

(3) The application must contain a statement of the nature of the design, and the class or classes of goods in which the applicant desires that the design be registered.

(4) The same design may be registered in more than one class.

(5) In case of doubt as to the class in which a design ought to be registered, the comptroller may decide the question.

(6) The comptroller may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal therefrom to the board of trade.

(7) The board of trade shall, if required, hear the applicant and the comptroller, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

48. *Drawings, &c., to be furnished on application.* (1) On application for registration of a design the applicant shall furnish to the comptroller the prescribed number of copies of drawings, photographs or tracings of the design sufficient, in the opinion of the comptroller, for enabling him to identify the design; or the applicant may, instead of such copies, furnish exact representations or specimens of the design.

(2) The comptroller may, if he thinks fit, refuse any drawing, photograph, tracing, representation or specimen which is not, in his opinion, suitable for the official records.

49. *Certificate of registration.* (1) The comptroller shall grant a certificate of registration to the proprietor of the design when registered.

(2) The comptroller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, grant a copy or copies of the certificate.

Copyright in Registered Designs.

50. *Copyright on registration.* (1) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this act, have copyright in the design during five years from the date of registration.

(2) Before delivery on sale of any articles to which a registered design has been applied, the proprietor must (if exact representations or specimens were not furnished on the application for registration), furnish to the comptroller the prescribed number of exact representations or specimens of the design; and if he fails to do so, the comptroller may erase his name from the register, and thereupon his copyright in the design shall cease.

51. *Marking registered designs.* Before delivery on sale of any articles to which a registered design has been applied, the proprietor of the design shall cause each such article to be marked with the prescribed mark, or with the prescribed word or words or figures,

denoting that the design is registered ; and if he fails to do so, the copyright in the design shall cease, unless the proprietor shows that he took all proper steps to ensure the markings of the article.

52. *Inspection of registered designs.* (1) During the existence of copyright in a design, the design shall not be open to inspection except by the proprietor, or a person authorized in writing by the proprietor, or a person authorized by the comptroller or by the court, and furnishing such information as may enable the comptroller to identify the design, nor except in the presence of the comptroller, or an officer acting under him, nor except on payment of the prescribed fee ; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof.

(2) When the copyright in a design has ceased the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

53. *Information as to existence of copyright.*—On the request of any person producing a particular design, together with its mark of registration, or producing only its mark of registration, or furnishing such information as may enable the comptroller to identify the design, and on payment of the prescribed fee, it shall be the duty of the comptroller to inform such person whether the registration still exists in respect of such design, and if so, in respect of what class or classes of goods, and stating also the date of registration, and the name and address of the registered proprietor.

54. *Cesser of copyright in certain events.*—If a registered design is used in manufacture in any foreign country and is not used in this country within six months of its registration in this country, the copyright in the design shall cease.

Register of Designs.

55. *Register to be kept.* (1) There shall be kept at the patent-office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may from time to time be prescribed.

(2) The register of designs shall be *prima facie* evidence of any matters by this act directed or authorized to be entered therein.

Fees.

56. There shall be paid in respect of applications and registration and other matters under this part of this Act such fees as may

be from time to time, with the sanction of the treasury, prescribed by the board of trade; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the treasury shall from time to time direct.

INDUSTRIAL AND INTERNATIONAL EXHIBITIONS.

57. *Exhibition at them not to prevent or invalidate registration.* The exhibition at an industrial or international exhibition, certified as such by the Board of Trade, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof, provided that both the following conditions are complied with: namely,—

(a) The exhibitor must, before exhibiting the design or publishing a description, give the comptroller the prescribed notice of his intention to do so; and

(b) The application for registration must be made before or within six months from the date of the opening of the exhibition.

LEGAL PROCEEDINGS.

58. *Penalty on Piracy of registered design.* During the existence of copyright in any design—

(a) It shall not be lawful for any person without the license or written consent of the registered proprietor to apply such design or any fraudulent or obvious imitation thereof, in the class or classes of goods in which such design is registered, for purposes of sale to any article of manufacture or to any substance, artificial or natural or partly artificial and partly natural; and

(b) It shall not be lawful for any person to publish or expose for sale any article of manufacture or any substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

Any person who acts in contravention of this section shall be liable for every offense to forfeit a sum not exceeding fifty pounds to the registered proprietor of the design, who may recover such sum as a simple contract debt by an action in any court of competent jurisdiction.

59. *Action for damages.* Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the registered proprietor of any design may (if he elects to do so) bring an action for the recovery of any damages arising from the application of any such design, or of any fraudulent or obvious imitation thereof for the purpose of sale, to any article of manufacture or substance, or from the publication, sale or exposure for sale by any person of any article or substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, such person knowing that the proprietor had not given his consent to such application.

DEFINITIONS.

60. "*Design.*" In and for the purposes of this Act—

"Design" means any design applicable to any article of manufacture, or to any substance, artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined, not being a design for a sculpture, or other thing within the protection of the Sculpture Copyright Act of 1814 (fifty-fourth George the Third, chapter fifty-six).

"*Copyright*" means the exclusive right to apply a design to any article of manufacture or to any such substance as aforesaid in the class or classes in which the design is registered.

61. "*Proprietor.*" The author of any new and original design shall be considered the proprietor thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case such person shall be considered the proprietor, and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person, or otherwise, and also every person on whom the property in such design or such right to the application shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise.

PART V.*

General.

Patent-Office and proceedings thereat.

82. *Patent-office.* (1) The treasury may provide for the purposes of this Act an office with all requisite buildings and conveniences, which shall be called, and in this Act is referred to as, the patent-office.

(2) Until a new patent-office is provided, the offices of the commissioners of patents for inventions and for the registration of designs and trade-marks existing at the commencement of this act shall be the patent-office within the meaning of this Act.

(3) The patent-office shall be under the immediate control of an officer called the comptroller-general of patents, designs, and trade-marks, who shall act under the superintendence and direction of the board of trade.

(4) Any act or thing directed to be done by or to the comptroller may, in his absence, be done by or to any officer for the time being in that behalf authorized by the board of trade.

83. *Officers and clerks.* (1) The board of trade may at any time after the passing of this act, and from time to time, subject to the approval of the treasury, appoint the comptroller-general of patents, designs, and trade-marks, and so many examiners and other officers and clerks, with such designations and duties as the board of trade think fit, and may from time to time remove any of those officers and clerks.

(2) The salaries of those officers and clerks shall be appointed by the board of trade, with the concurrence of the treasury, and the same and the other expenses of the execution of this Act shall be paid out of money provided by parliament.

84. *Seal of patent-office.* There shall be a seal for the patent-office, and impressions thereof shall be judicially noticed and admitted in evidence.

85. *Trusts not to be entered in registers.* There shall not be entered in any register kept under this Act, or be receivable by the

* Part IV. is omitted because relating to trade-marks only. Sections 87, 91, 92, 101, in Part V. contain clauses relating to designs and trade-marks, which are omitted; but are in general germane to the provisions relative to patents.

comptroller, any notice of any trust expressed, implied or constructive.

86. *Refusal to grant patent in certain cases.* The comptroller may refuse to grant a patent for an invention, design, &c., of which the use would, in his opinion, be contrary to law or morality.

87. *Entry of assignments and transmissions, in registers.* Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, the comptroller shall on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, in the register of patents. The person for the time being entered in the register of patents as proprietor of a patent shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with the same, and to give effectual receipts for any consideration for such assignment, license, or dealing: Provided that any equities in respect of such patent may be enforced in like manner as in respect of any other personal property. [The like as to designs, &c.]

88. *Inspection of and extracts from registers.* Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed; and certified copies, sealed with the seal of the patent-office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

89. *Sealed copies to be received in evidence.* Printed or written copies or extracts, purporting to be certified by the comptroller and sealed with the seal of the patent-office, of or from patents, specifications, disclaimers and other documents in the patent-office, and of or from registers and other books kept there, shall be admitted in evidence in all courts in Her Majesty's dominions, and in all proceedings, without further proof or production of the originals.

90. *Rectification of registers by court.* (1) The court may, on the application of any person aggrieved by the omission without sufficient cause of the name of any person from any register kept under this Act, or by any entry made without sufficient cause in any such register, make such order for making, expunging or varying the entry as the court thinks fit; or the court may refuse the application; and in either case may make such order with respect to the costs of the proceedings as the court thinks fit.

(2) The court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for

the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3) Any order of the court rectifying a register shall direct that due notice of the rectification be given to the comptroller.

91. *Power for comptroller to correct clerical errors.* The comptroller may, on request in writing accompanied by the prescribed fee,—

(*a.*) Correct any clerical error in or in connection with an application for a patent; or

(*b.*) Correct any clerical error in the name, style, or address of the registered proprietor of a patent.

93. *Falsification of entries in registers.* If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders, or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanor.

94. *Exercise of discretionary power by comptroller.* Where any discretionary power is by this Act given to the comptroller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

95. *Power of comptroller to take directions of law officers.* The comptroller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to either of the law officers for directions in the matter.

96. *Certificate of comptroller to be evidence.* A certificate purporting to be under the hand of the comptroller as to any entry, matter, or thing which he is authorized by this Act, or any general rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

97. (1) *Applications and notices by post.* Any application, notice, or other document authorized or required to be left, made or given at the patent-office or to the comptroller, or to any other person under this Act, may be sent by a prepaid letter through the post; and if so sent shall be deemed to have been left, made, or

given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

(2) In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

98. *Provision as to days for leaving documents at office.* Whenever the last day fixed by this Act, or by any rule for the time being in force, for leaving any document or paying any fee at the patent-office shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or any day observed as a holiday at the Bank of England, or any day observed as a day of public fast or thanksgiving, herein referred to as excluded days, it shall be lawful to leave such document or to pay such fee on the day next following such excluded day, or days if two or more of them occur consecutively.

99. *Declaration by infant, lunatic, &c.* If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act, or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purposes of this Act be as effectual as if done by the person for whom he is substituted.

100. *Transmission of certified printed copies of specifications, &c.* Copies of all specifications, drawings and amendments left at the patent-office after the commencement of the Act, printed for and sealed with the seal of the patent-office, shall be transmitted to the Edinburgh Museum of Science and Art, and to the enrollments office of the chancery division in Ireland, and to the rolls office in the Isle of Man, within twenty-one days after the same shall respectively have been accepted or allowed at the patent-office; and certified copies of or extracts from any such documents shall be given to any person requiring the same on payment of the prescribed fee; and any such copy or extract shall be admitted in evidence in all courts in Scotland and Ireland, and in the Isle of Man without further proof or production of the originals.

101. *Power for board of trade to make general rules for regulating business of patent-office.* (1) The board of trade may, from time to time, make such general rules and do such things as they think expedient, subject to the provisions of this Act—

(*c*) For making or requiring duplicates of specifications, amendment, drawings, and other documents:

(*d*) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the board of trade think fit, of specifications, drawings, amendments, and other documents.

(*e*) For securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the patent-office; and providing for the inspection of indexes and abridgments and other documents:

(*f*) For regulating (with the approval of the treasury) the presentation of copies of patent-office publications to patentees and to public authorities, bodies and institutions at home and abroad:

(*g*) Generally for regulating the business of the patent-office, and all things by this Act placed under the direction or control of the comptroller, or of the board of trade.

(2) Any of the forms in the first schedule to this Act may be altered or amended by rules made by the board as aforesaid.

(3) General rules may be made under this section at any time after the passing of this Act, but not so as to take effect before the commencement of this Act, and shall (subject as hereinafter mentioned) be of the same effect as if they were contained in this Act, and shall be judicially noticed.

(4) Any rules made in pursuance of this section shall be laid before both houses of Parliament, if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the next session of Parliament, and they shall also be advertised twice in the official journal to be issued by the comptroller.

(5) If either house of Parliament, within the next forty days after any rules have been so laid before such house, resolve that such rules, or any of them, ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule or to the making of any new rules or rule.

102. *Annual reports of comptroller.* The comptroller shall before the first day of June in every year, cause a report respecting

the execution by or under him of this Act to be laid before both houses of Parliament, and therein shall include for the year to which each report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this act.

INTERNATIONAL AND COLONIAL ARRANGEMENTS.

103. *For protection of inventions, &c.* (1) If Her Majesty is pleased to make any arrangement with the government or governments of any foreign State or States for mutual protection of inventions, designs, and trade-marks, or any of them, then any person who has applied for protection for any invention, design or trade-mark, in any such State, shall be entitled to a patent for his invention or to registration of his design or trade-mark (as the case may be) under this Act, in priority to other applicants; and such patent or registration shall have the same date as the date of the protection obtained in such foreign State.

Provided that his application is made in the case of a patent within seven months and in the case of a design or trade-mark within four months, from his applying for protection in the foreign State with which the arrangement is in force.

Provided that nothing in this section contained shall entitle the patentee or proprietor of the design or trade-mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification, or the actual registration of his design or trade-mark in this country, as the case may be.

(2) The publication in the United Kingdom, or the Isle of Man during the respective periods aforesaid of any description of the invention, or the use therein, during such periods, of the invention or the exhibition or use therein, during such periods, of the design, or the publication therein during such periods of a description or representation of the design or the use therein during such periods, of the trade-mark, shall not invalidate the patent which may be granted for the invention, or the registration of the design or trade-mark.

(3) The application for the grant of a patent or the registration of a design or the registration of a trade-mark under this section, must be made in the same manner as an ordinary application under this act. [Proviso as to trade-marks.]

(4) The provisions of this section shall apply only in the case of those foreign States with respect to which Her Majesty shall from time to time by order in council declare them to be applicable, and so long only in the case of each State as the order in council shall continue in force with respect to that State.

104. *Provision for colonies and India.* (1) Where it is made to appear to Her Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions designs and trade-marks patented or registered in this country, it shall be lawful for Her Majesty from time to time, by order in council, to apply the provisions of the last preceding section, with such variations or additions, if any, as to Her Majesty in council may seem fit, to such British possession.

(2) An order in council under this Act shall, from a date to be mentioned for the purpose in the order, take effect as if its provisions had been contained in this act; but it shall be lawful for Her Majesty in Council to revoke any order in council made under this Act.

OFFENSES.

105. *Penalty on falsely representing articles to be patented.* (1) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, or describes any design or trade-mark applied to any article sold by him as registered which is not so, shall be liable for every offense on summary conviction to a fine not exceeding five pounds.

(2) A person shall be deemed, for the purposes of this enactment, to represent that an article is patented or a design or a trade-mark is registered, if he sells the article with the word "patent," "patented," "registerad," or any word or words expressing or implying that a patent or registration has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to, the article.

106. *Penalty on unauthorized assumption of royal arms.* Any person who, without the authority of Her Majesty, or any of the royal family, or of any government department, assumes or uses in connection with any trade, business, calling, or profession, the royal arms, or arms so nearly resembling the same as to be calculated to deceive, in such a manner as to be calculated to lead other persons to believe that he is carrying on his trade, business, calling, or profession by or under such authority as aforesaid, shall be

liable on summary conviction to a fine not exceeding twenty pounds.

SCOTLAND, IRELAND, ETC.

107. *Saving for courts in Scotland.* In any action for infringement of a patent in Scotland the provisions of this Act, with respect to calling in the aid of an assessor, shall apply, and the action shall be tried without a jury, unless the court shall otherwise direct, but otherwise nothing shall affect the jurisdiction and forms of process of the courts in Scotland in such an action or in any action or proceeding respecting a patent hitherto competent to those courts.

For the purposes of this section "court of appeal" shall mean any court to which such action is appealed.

108. *Summary proceedings in Scotland.* In Scotland any offense under this Act declared to be punishable on summary conviction may be prosecuted in the sheriff court.

109. *Proceedings for revocation of patent in Scotland.* (1) Proceedings in Scotland for revocation of a patent shall be in the form of an action of reduction at the instance of the Lord Advocate, or at the instance of a party having interest with his concurrence, which concurrence may be given on just cause shown only.

(2) Service of all writs and summonses in that action shall be made according to the forms and practice existing at the commencement of this Act.

110. *Reservation of remedies in Ireland.* All parties shall, notwithstanding anything in this Act, have in Ireland their remedies under or in respect of a patent as if the same had been granted to extend to Ireland only.

111. *General saving for jurisdiction of courts.* (1) The provisions of this Act conferring a special jurisdiction on the court as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Scotland or Ireland in any proceedings relating to patents or to designs or trade-marks; and with reference to any such proceedings in Scotland, the term "the court" shall mean any Lord Ordinary of the Court of Session, and the term "Court of Appeal" shall mean either division of the said court; and with reference to any such proceedings in Ireland, the terms "the court" and "The court of Appeal" respectively mean the High Court of Justice in Ireland and Her Majesty's Court of Appeal in Ireland.

(2) If any rectification of a register under this Act is required in pursuance of any proceeding in a court in Scotland or Ireland, a copy of the order, decree, or other authority for the rectification, shall be served on the comptroller, and he shall rectify the register accordingly.

112. *Isle of Man.* This Act shall extend to the Isle of Man, and—

(1) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man, in proceedings for infringement or in any action or proceeding respecting a patent design or trade-mark competent to those courts;

[(2) (3) The punishment for offenses under this Act committed in the Isle of Man, prescribed.]

REPEAL; TRANSITIONAL PROVISIONS; SAVINGS.

113. *Repeal, and saving for past operation of repealed enactments, &c.* The enactments described in the third schedule to this act are hereby repealed. But this repeal of enactments shall not—

(*a*) Affect the past operation of any of those enactments, or any patent, &c., granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act; or

(*b*) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or

(*c*) Take away or abridge any protection or benefit in relation to any such action or proceeding.

114. *Former registers to be deemed continued.* (1) The registers of patents and of proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of patents kept under this Act. (2) [The like as to designs, &c.]

115. *Saving for existing rules.* All general rules made by the Lord Chancellor or by any other authority under any enactment repealed by this Act, and in force at the commencement of this Act, may at any time after the passing of this Act be repealed, altered or amended by the board of trade, as if they had been made by the board under this Act, but so that no such repeal,

alteration or amendment shall take effect before the commencement of this Act; and subject as aforesaid, such general rules shall, so far as they are consistent with and are not superseded by this Act, continue in force as if they had been made by the board of trade under this Act.

116. *Saving for prerogative.* Nothing in this Act shall take away, abridge, or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof.

GENERAL DEFINITIONS.

117. (1) In and for the purposes of this Act, unless the context otherwise requires,—

"Person" includes a body corporate;

"The court" means (subject to the provisions for Scotland, Ireland, and the Isle of Man) Her Majesty's High Court of Justice in England;

"Law officer" means Her Majesty's attorney-general or solicitor-General for England;

"The Treasury" means the commissioner of Her Majesty's treasury.

"Comptroller" means the comptroller general of patents, designs, and trade-marks;

"Prescribed" means prescribed by any of the Schedules to this Act, or by general rules under or within the meaning of this Act;

"British possession" means any territory or place situate within Her Majesty's dominions, and not being or forming part of the United Kingdom, or of the Channel Islands, or of the Isle of Man; and all territories and places under one legislature, as hereinafter defined, are deemed to be one British possession for the purposes of this Act;

"Legislature" includes any person or persons who exercise legislative authority in the British possession; and where there are local legislatures as well as a central legislature, means the central legislature only.

In the application of this Act to Ireland, "summary conviction" means a conviction under the summary Jurisdiction Acts, &c.

THE FIRST SCHEDULE.

FORMS OF APPLICATION, &c.

[£1 *Stamp.*]

FORM A.

Form of Application for Patent.

I [*here insert name, address, and calling of inventor*], do solemnly and sincerely declare that I am in possession of an invention for [*here insert title of invention*]; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of my knowledge and belief; and I humbly pray that a patent may be granted to me for the said invention.

And I make the above solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

[*Signature of inventor.*],

Declared at , in the County of , this day of , 18 .

Before me,

[*Signature and title of the officer before whom the Declaration is made.*]

NOTE.—*Where the above declaration is made out of the United Kingdom, the words "and by virtue of the Statutory Declarations Act, 1835," must be omitted; and the declaration must be made before a British consular officer, or where it is not reasonably practicable to make it before such officer, then before a public officer duly authorized in that behalf.*

[NOTE.—*The following Form A 1 was added by the rules.*]

[£1 *Stamp.*]

FORM A 1.

Application for Patent for Inventions communicated from abroad.

I [*here insert name, full address, and calling of applicant*], do solemnly and sincerely declare that I am in possession of an invention for [*here insert title of invention*], which invention has been communicated to me from abroad by [*here insert name, address, and calling of communicant*]; that I claim to be the true and first inventor thereof; and that the same is not in use within this realm by any other person or persons to the best of my knowledge and belief; and I humbly pray that a patent may be granted to me for the said invention.

And I make the above solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

[*Signature of applicant.*]

Declared at , in the County of , this day of , 18 .

Before me,

[*Signature and title of the officer before whom the declaration is made.*]

NOTE.—*Where the above declaration is made out of the United Kingdom, the words, "and by virtue of the Statutory Declarations Act, 1835," must be omitted, and the declaration must be made before a British consular officer, or, where it is not reasonably practicable to make it before such officer, then before a public officer duly authorized in that behalf.*

FORM B.

Form of Provisional Specification.

[*Here insert title as in declaration.*]

I [*here insert name, address, and calling of inventor as in declaration*], do hereby declare the nature of my invention for [*here insert title as in declaration*] to be as follows:—[*here insert short description of invention.*]

[*Signature of inventor.*]

Dated this day of , 18 .

NOTE.—*No stamp is required on this document.*

[£3 *Stamp.*]

FORM C.

Form of Complete Specification.

[*Here insert title as in declaration.*]

I [*here insert name, address, and calling of inventor as in declaration*], do hereby declare the nature of my invention for [*here insert title as in declaration*], and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement:—[*here insert full description of invention.*]

Having now particularly described and ascertained the nature of my said invention, and in what manner the same is to be performed, I declare that what I claim is:—

1. [*Here state distinctly the features of novelty claimed.*]
2.
3. &c.

[*Signature of inventor.*]

Dated this day of , 18 .

FORM D.

Form of Patent.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith: To all to whom these presents shall come, greeting:

Whereas , hath, by his solemn declaration, represented unto us that he is in possession of an invention for ; that he is the true and first inventor thereof; and that the same is not in use by any other person, to the best of his knowledge and belief:

And whereas the said inventor hath humbly prayed that we would be graciously pleased to grant unto him (herein-after together with his executors, administrators, and assigns, or any of them, referred to as the said patentee), our royal letters patent for the sole use and advantage of his said invention:

And whereas the said inventor hath, by and in his complete specification, particularly described the nature of his invention:

And whereas we being willing to encourage all inventions which may be for the public good, are graciously pleased to condescend to his request:

Know ye, therefore, that we, of our especial grace, certain knowledge, and mere motion, do by these presents, for us, our heirs and successors, give and grant unto the said patentee our especial license, full power, sole privilege and authority, that the said patentee by himself, his agents, or licensees, and no others, may at all times

hereafter during the term of years herein mentioned, make, use, exercise, and vend the said invention within our United Kingdom of Great Britain and Ireland, and Isle of Man, in such manner as to him or them may seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the date hereunder written of these presents: And to the end that the said patentee may have and enjoy the sole use and exercise, and the full benefit of the said invention, we do by these presents, for us, our heirs and successors, strictly command all our subjects whatsoever within our United Kingdom of Great Britain and Ireland, and the Isle of Man, that they do not at any time during the continuance of the said term of fourteen years, either directly or indirectly make use of or put in practice the said invention, or any part of the same, nor in any wise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent license or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal command, and of being answerable to the patentee according to law, for his damages thereby occasioned: Provided that these our letters patent are on this condition, that, if at any time during the said term it be made to appear to us, our heirs or successors, or any six or more of our Privy Council, that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof within our United Kingdom of Great Britain and Ireland, and Isle of Man, or that the said patentee is not the first and true inventor thereof within this realm as aforesaid, these our letters patent, shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained: Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these letters patent, or in respect of any matter relating thereto at the time or times, and in manner for the time being by law provided; and also, if the said patentee shall not supply or cause to be supplied, for our service, all such articles of the said invention as may be required by the officers or commissioners administering any department of our service in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided; then, and in any of the said cases, these our letters patent, and all privileges and advantages whatever hereby granted, shall determine and become void, notwithstanding anything hereinbefore contained: Provided also, that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted: And lastly, we do by these presents, for us, our heirs and successors, grant unto the said patentee that these our letters patent, shall be construed in the most beneficial sense for the advantage of the said patentee. In witness whereof we have caused these our letters to be made patent this one thousand eight hundred and , and to be sealed as of the one thousand eight hundred and

[*Seal of patent-office.*]

THE SECOND SCHEDULE.

Fees on Instruments for Obtaining Patents and Renewal.

(*a*) *Up to sealing.*

	£	s.	d.	£	s.	d.
On application for provisional protection....	1	0	0			
On filing complete specification.....	3	0	0			
				4	0	0
or						
On filing complete specification with first application.....				4	0	0

(*b*) *Further before end of four years from date of patent.*

On certificate of renewal.....				50	0	0

(*c*) *Further before end of seven years, or in the case of patents granted after the commencement of this Act, before the end of eight years from date of patent.*

	£	s.	d.
On certificate	100	0	0

Or in lieu of) *and £100 the following annual fees :—*

Before the			...on of the fourth year from the date of the patent.	10	0	0
	"	fifth	" "	10	0	0
	"	sixth	" "	10	0	0
	"	seventh	" "	10	0	0
	"	eighth	" "	15	0	0
	"	ninth	" "	15	0	0
"	"	tenth	" "	20	0	0
"	"	eleventh	" "	20	0	0
"	"	twelfth	" "	20	0	0
"	"	thirteenth	" "	20	0	0

THE THIRD SCHEDULE.

Enactments repealed [*omitting trade-marks laws*].

21 James I. c. 3. [1623.]	The Statute of Monopolies. In part; namely,— Sections ten, eleven, and twelve.
5 & 6 Will. 4. c. 62. [1835.] In part.	The Statutory Declarations Act, 1835. In part; namely,— Section eleven.
5 & 6 Will. 4. c. 83. [1835.]	An Act to amend the law touching letters-patent for inventions.
2 & 3 Vict. c. 67. [1839.]	An Act to amend an Act of the fifth and sixth years of the reign of King William the Fourth, intituled "An Act to amend the law touching letters-patent for inventions."

5 & 6 Vict. c. 100. [1842.]	An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
6 & 7 Vict. c. 65. [1843.]	An Act to amend the laws relating to the copyright of designs.
7 & 8 Vict. c. 69. [1844.] In part.	An Act for amending an Act passed in the fourth year of the reign of His late Majesty, intituled: "An Act for the better administration of justice in His Majesty's Privy Council, and to extend its jurisdiction and powers." In part; namely,— Sections two to five, both included. NOTE.—Sections six and seven of this Act are repealed by the Statute Law Revision (No. 2) Act, 1874.
13 & 14 Vict. c. 104. [1850.]	An Act to extend and amend the Acts relating to the copyright of designs.
15 & 16 Vict. c. 83. [1852.]	The Patent Law Amendment Act, 1852.
16 & 17 Vict. c. 5. [1853.]	An Act to substitute stamp duties for fees on passing letters-patent for inventions, and to provide for the purchase for the public use of certain indexes of specifications.
16 & 17 Vict. c. 115. [1853.]	An Act to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of letters patent and specifications to certain offices in Edinburgh and Dublin, and otherwise to amend the said Act.
21 & 22 Vict. c. 70. [1858.]	An Act to amend the Act of the fifth and sixth years of Her present Majesty, to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
22 Vict. c. 13. [1859.]	An Act to amend the law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war.
24 & 25 Vict. c. 73. [1861.]	An Act to amend the law relating to the copyright of designs.
28 & 29 Vict. c. 3. [1865.]	The Industrial Exhibitions Act, 1865.
33 & 34 Vict. c. 27. [1870.]	The Protection of Inventions Act, 1870.
33 & 34 Vict. c. 97. [1870.]	The Stamp Act, 1870,— In part; namely,— Section sixty-five, and in the schedule the words and figures; "Certificate of the registration of a design.....£5 0 0 And see section 65."

38 & 39 Vict. c. 93. [1875.]	The Copyright of Designs Act, 1875.
43 & 44 Vict. c. 10. [1880.]	The Great Seal Act, 1880. In part; namely, Section five.

From 123 *Pub. Gen. Stat.* 370.

An Act to amend the Patents, Designs, and Trade-Marks Act, 1883. *August* 14, 1885, *Stat.* 48 *and* 49 *Vict. c.* 63.*

Be it enacted, &c.

1. This Act shall be construed as one with the Patents, Designs, and Trade-Marks Act, 1883, (in this Act referred to as the principal Act.)

This Act may be cited as the "Patents, Designs, and Trade-Marks (Amendment) Act, 1885," and this Act and the principal Act may be cited together as the "Patents, Designs and Trade-Marks Acts, 1883 and 1885."

2. Whereas, subsection 2 of section 5 of the principal Act requires a declaration to be made by an applicant for a patent to the effect in that subsection mentioned, and doubts have arisen as to the nature of that declaration, and it is expedient to remove such doubts: Be it therefore enacted that the declaration mentioned in subsection 2 of section 5 of the principal Act may be either a statutory declaration under the Statutory Declarations Act, 1835, or not, as may be from time to time prescribed.

3. Whereas, under the principal Act a complete specification is required (by section 8) to be left within nine months, and (by section 9) to be accepted within twelve months from the date of appli-

* Territorial application of the Acts of Parliament of the United Kingdom. The Act of 1883 is, by its terms, extended and made applicable to the Isle of Man; and the Act of 1885, of course, has the same operation. It is understood that the Act of 1883 was not applicable to the Channel Islands nor to the "British possessions," (meaning places within Her Majesty's dominions, but not within the United Kingdom, the Isle of Man, and the Channel Islands). Most of the colonies have patent-laws of their own, which are given in this work, under their several names. Arrangements for extending the Act to the Channel Islands are said to have been under consideration during 1884, but no final agreement was reached. 2nd Rep. of Compt. Gen. of Pat., in Off. J. Pat. Off. No. 160, July, 1885.

cation, and a patent is required by section 12 to be sealed within fifteen months from the date of application, and it is expedient to empower the comptroller to extend in certain cases the said times: Be it therefore enacted as follows:

A complete specification may be left and accepted within such extended times, not exceeding one month and three months, respectively, after the said nine and twelve months, respectively, as the comptroller may on payment of the prescribed fee allow, and where such extension of time has been allowed a further extension of four months after the said fifteen months shall be allowed for the sealing of the patent; and the principal Act shall have effect as if any time so allowed were added to the said periods specified in the principal Act.

4. Where an application for a patent has been abandoned, or become void, the specification or specifications and drawings (if any) accompanying or left in connection with such application shall not at any time be open to public inspection or be published by the comptroller.

5. Whereas, doubts have arisen whether under the principal Act a patent may lawfully be granted to several persons jointly, some or one of whom only are or is the true and first inventors or inventor: Be it therefore enacted and declared that it has been and is lawful under the principal Act to grant such a patent.

6. In subsection 1 of section 103 of the principal Act the words "date of the application" shall be substituted for the words "date of the protection obtained."

From 125 *Pub. Gen. Stat.* 334.

GREECE.

According to a report by Mr. William A. C. Barrington, of the British Legation, published October 7, 1873, 4 *Pat. Off. Gaz.* 371, there was not, at the time of his writing, any special law in Greece affecting patents for inventions. He states that "the practice of the country places all inventors on the same footing as a person seeking a monopoly; and in either case a special Act is required to secure the individual in the possession of the rights which he claims. A bill for the purpose may be introduced in the chamber by any deputy, and is treated like any other bill; and, if it passes, it defines, according to the circumstances of the case, the limits both as to time and place within which exclusive privileges are accorded to the party on whose behalf the motion is made."

GUADELOUPE.

See FRANCE.

GUATEMALA.

Decree No. 148 *of* (*May* 21), 1886.

The Legislative Assembly of the Republic of Guatemala having considered the necessity of developing the interests of the country in an efficient manner and in harmony with the liberal principles laid down in the twentieth section of the constitution, which, in one of its clauses, secures the full rights to an author or inventor, and at the same time to regulate and define in a clear and precise manner the power, functions and extent of authority which the said section concedes to the executive, do hereby decree, as follows:

SEC. 1. Any discovery or invention in whatsoever branch of industry gives its originator an exclusive right to avail himself of his invention or improvement for the term and under the conditions established by this law.

SEC. 2. Every citizen of Guatemala, or foreigner domiciliated in Guatemala, who invents or improves some machine, instrument or mechanical apparatus, manufacture of whatsoever description, or process of useful application in the arts and sciences, may obtain from the Executive power a "patent for invention," or a "patent for improvement," which secures to him, for a term of from five to fifteen years, the right to his invention or improvement.

SEC. 3. To obtain a patent the interested party shall apply in his own name, or through his representative at the ministry of the interior, setting forth with precision the character of his invention, and soliciting the privilege.

SEC. 4. If the patent is granted, the favored party shall be under the obligation to present within a term of forty days an exact design of the respective machine, mechanical apparatus, or a detailed description of the new process, to which should be added if practicable, a specimen of the manufacture or product, which, if it can be preserved, shall be deposited in the bureau of the legislative chamber, under the responsibility of the officer who has charge of it, for the purpose of serving as evidence in case any controversy should arise respecting the privilege.

SEC. 5. Letters patent can be obtained for an invention that has been patented abroad, when it does not already appear to be a public property, and if there subsists an agreement between the gov-

ernment of the nation from which it proceeds, and the government of Guatemala.

Patents of this character expire at the date indicated in the foreign letters patent. Should however, the term extend beyond fifteen years, the concession granted shall not exceed this period of time.

SEC. 6. The privilege granted shall be recorded in a special book kept in the bureau of the secretary.

SEC. 7. In the letters patent granted shall be inserted the decision relating to the concession, with references to the present law, the nature or character of the invention or improvement, the term of the patent, and the declaration of the right to the privilege. The letters patent shall be stamped with the seal of the ministry of the interior.

SEC. 8. The executive, in granting a patent, shall not declare either that the discovery or invention is the property of the person who appears as the inventor or author; or that it is of any utility, or founded on fact. An interested party is at liberty to prove before the law, the contrary.

SEC. 9. All applications for patents shall be published four times in the course of one month in the official journal; and the patents granted shall be published at the least twice in the same periodical.

SEC. 10. Besides the case referred to in section 4, patents become void under the following circumstances, viz.:

1. When patents have been issued to the prejudice of the rights of a third party (*tercero*), in accordance with the decision of a competent court of justice.

2. When the patentee has allowed one year to elapse without having put into practice the industry or improvement for which the concession was made.

3. When the patentee, after he has brought the industry or improvement into practice, abandons it for more than a year.

4. When the products manufactured are inferior to the specimens presented, in consequence of adulteration or admixture of baser materials.

SEC. 11. Patents shall not be granted in the following cases, viz.:

1. When the invention or improvement is contrary to prior rights, to public health and safety, and to good customs.

2. When the conditions established by this law have not been properly complied with.

SEC. 12. The privilege granted applies only to the *modus operandi* or means of execution and of procedure, and not to products which can be manufactured by another method, and therefore may be freely elaborated and brought upon the market.

SEC. 13. Any person has right to improve the invention of another, but not to make use of the principal invention, without the permission of the inventor; the inventor in his turn can as little avail himself of the improvements made by another person without his consent.

SEC. 14. For each patent granted a duty or tax varying from five to fifty pesos shall be paid annually in advance by the patentee to the national treasury during the term for which the privilege has been granted.

SEC. 15. When the term for a patent expires, the descriptions of the author or inventor shall be published, and copies of the drawings or models may be furnished to persons who apply for them, at their own cost. From that time forward the respective process or method shall be considered as public property.

SEC. 16. *Violation of the privileges of the patentee through* falsification, imitation, etc., of the articles patented, shall be punished in conformity with the directions contained in the Penal Code.

SEC. 17. The executive has right to make concessions in favor of undertakings (*empresas*) of a useful public character, or of such undertakings as have for object the introduction of new industries or improvements in those which are already practiced.

SEC. 18. These concessions can be of the following description: Exemption from, or reduction in, payment of duty for the introduction of machinery or material; free use of buildings or public land during the term of the concession; exemption from the military service for operatives engaged in industries to which the concession refers; subventions and bounties in money, when the circumstances of the treasury may permit.

In case of immunity from or reduction in the duties, the directors or managers of the favored undertaking, in order to obtain the despatch of the commodities, shall present an application to the respective custom-house containing the following points of facts:

1. That the undertaking belongs to the distinct class for which concessions have been made.

2. That the articles for the despatch of which application is made, do not exceed in quantity the requirements or conditions of the undertaking itself.

3. To state the name of the vessel that carries the commodities, and to indicate the marks and number of the packages.

4. To present a list of the merchandise laid up in their magazines, stating also what has been previously introduced and deposited.

[The residue of section 18 and the whole of section 19 prescribe the methods and proceedings by which such concessions as are mentioned in sections 17 and 18 may be obtained; but do not affect the law of patents.]

SEC. 20. Special concessions cannot be granted for the introduction of machines for domestic use (*uso domestico*), and other common commercial articles.

SEC. 21. The concession granted in favor of a certain undertaking shall be annulled if it becomes known that commerce is carried on with the raw material introduced.

SEC. 22. In the case provided against in the preceding section the interested party, besides the loss of the concession, shall pay the duty corresponding to all the commodities imported and 40 per cent. on the total amount.

SEC. 23. Concessions become also void in the following cases:

1. When the term has expired within which the directors of the undertaking had bound themselves to establish the proposed industry or improvement and to put it in operation.

2. When, after having been established, an undertaking is abandoned for more than a year.

SEC. 24. Sections 436 and 437 of the chapter 2, title X, of the Fiscal Code, book 1 are abolished.

This law shall be transmitted to the executive for publication and execution.

Done in the Chamber of the Legislative Assembly at Guatemala, May 21, 1886.

Furnished for this work from the collection of Patent Laws, of Mr. W. E. Richards.

HAWAIIAN KINGDOM.

*Civil Code.**

SECTION 255. The minister of the interior may, with the approval of the King, issue a patent to the inventor or improver of any machine, manufacture, or other work of art calculated to promote the interests of science, agriculture, or manufactures, and may therein grant to such inventor or improver the exclusive use and benefit of his invention or improvement for any term of years, not exceeding ten, that may be specified in such patent.

SEC. 256. Every such inventor or improver shall, before receiving a patent, deliver to the minister of the interior a full and clear description in writing of his invention or improvement, together with the mode of using or applying the same to the purpose for which it is intended, and the manner and process of making, constructing, or compounding the same, and in case of any machine he shall also furnish, in addition to the written description, accurate drawings and a complete model thereof.

Act to regulate the Issuing of Patents. August 29, 1884.

Be it enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:

SECTION 1. All patents shall be issued in the name of his Majesty the King, under the seal of the interior department, and shall be signed by the minister of the interior and countersigned by the commissioner of patents, and they shall be recorded, together with the specifications, in the office of the interior department in books kept for that purpose.

SEC. 2. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns for the

* The exhibit of the Hawaiian Patent Laws given in Carpmaels' Patent Laws of the World, presents only sections 255, 256, and 256*a*, of the Civil Code, as amended (or added), by subsequent legislation. But section 9 of the act of 1884, given in the text, as will be seen, repeals the amendatory legislation; the effect of which repeal obviously is, to restore sections 255 and 256 in their original form, so that these sections, with the act of 1884, constituted, after the passage of the latter act, the patent law of the kingdom.

term of ten years, of the exclusive right to make, use, and vend the invention or discovery throughout the Hawaiian Islands, referring to the specification for particulars thereof. A copy of the specifications and drawings shall be annexed to the patent and be a part thereof.

SEC. 3. Any person who has invented or discovered any new and useful art, machine, manufacture, process, or composition of matter, or any new and useful improvement thereof not known or used by others in this country, and not patented (or described in any printed publication) in this or any foreign country before his invention or discovery thereof, may, upon payment of the fees required by law and other due proceedings had, obtain a patent therefor: Provided, however, That any person who has invented or discovered any new and useful art, machine, manufacture, process, or composition of matter, or any new and useful improvement thereof, and has received a patent or patents therefor from any foreign government, may also obtain a patent therefor in this country as provided above, unless the thing patented has been introduced into public use in the Hawaiian Islands for more than one year prior to the application for a patent. But every patent granted for an invention which has been previously patented in a foreign country shall be so limited that it shall not continue longer than the time of the expiration of such foreign patent, or if there are several foreign patents it shall not continue longer than the time of the expiration of the one with the shortest unexpired term, and in no case shall it be in force more than ten years.

SEC. 4. Before any inventor or discoverer shall receive a patent for his invention or discovery he shall apply therefor in writing to the minister of the interior, and shall file in the office of the interior department a written description of the same and of the manner and process of making, compounding, and using it, in clear, concise, and exact terms, and in case of a machine he shall explain the principle thereof and of the manner in which he has applied that principle so as to distinguish it from other inventions, and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery. When the nature of the case admits of drawings, the applicant shall furnish them, as set forth in section 2. When the invention or discovery is of composition of matter, the applicant shall furnish a specimen of ingredients and of the composition, sufficient in quantity for the purpose of experiment. In all cases which admit of

representation by model the applicant shall, if required, furnish a model of convenient size to exhibit advantageously the several parts of his invention.

SEC. 5. The applicant shall make oath that he believes himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent, and that he does not know or believe that the same was ever before known or used, and shall state of what country he is a citizen.

SEC. 6. On filing of any such application and the payment of the fees required by law, the commissioner of patents shall examine the alleged new invention or discovery, and if upon such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, he shall report accordingly to the minister of the interior, who shall cause a patent to be issued therefor.

SEC. 7. Any person who makes any new invention or discovery and desires further time to mature the same, may on payment of the fee required by law file in the interior department a caveat setting forth the design thereof and its distinguishing characteristics, and praying protection of his right until he shall have matured the invention. Such caveat shall be preserved in secrecy and shall be operative for the term of one year from the filing thereof.

SEC. 8. The commissioner of patents shall be appointed by the minister of the interior, and shall examine and report on all applications for patents, and shall receive for such services a fee of twenty dollars for each application examined and reported by him, which fee shall be paid by the applicant in advance. In addition to this fee the following fees shall be charged all applicants for patents; upon filing each original application for a patent, five dollars; and upon issuing a patent, five dollars; and five dollars shall be charged for the filing of a caveat.

SEC. 9. This Act shall take effect and become a law from and after its publication, and "An Act to amend sections 255 and 256 of the Civil Code, and add a new section to the Civil Code to be numbered Section 256 A," approved the 22d day of June, A. D. 1868, is hereby repealed.

Approved this 29th day of August, A. D. 1884.

KALAKAUA REX.

From 32 *Pat. Off. Gaz.* 771.

HAYTI.

According to a report of Mr. St. John, of the British Legation, published October 7, 1873, in 4 *Pat. Off. Gaz.* 373, the Republic of Hayti had not, at the time of his writing, any law or practice in regard to granting patents for inventions.

HERZEGOVINA.

See AUSTRIA-HUNGARY.

HOLLAND.

See NETHERLANDS.

HONGKONG.

Ordinance No. 14 *of* 1862.

Title. An ordinance for granting patents for inventions within this colony.

Preamble. Whereas patents for inventions granted in England are not usually extended to the colonies, and it is expedient that power should be vested in his Excellency the Governor, with the advice of the Executive Council to grant letters patent for the exclusive use of inventions within this colony, for which letters patent have already been granted in England. Be it therefore enacted by his Excellency the Governor of Hongkong, with the advice of the Legislative Council thereof, as follows :—

I. *Authority to owners of inventions to petition for letters patent.* It shall be lawful for the inventor, or for the owner by assignment or otherwise, from any inventor of any invention or of the exclusive right thereto within this colony, to petition His Excellency the Governor for letters patent for any invention for which letters patent have already been granted in England ; and such petition may be in the form set forth in schedule A, hereto. Every such petition shall be accompanied by a specification of the said invention, identical as far as practicable with the specification filed on the petition for letters patent for the said invention in England, and by a declaration which may be in the form set forth in schedule B, or in such other form not being less specific as to the governor shall appear proper.

II. *Petition, specification and declaration to be filed in office of colonial secretary, and to be advertised.* Such petition, specification and declaration shall be filed in the office of the colonial secretary, and notice thereof, and of any intention to apply for such letters patent, and of the time of the sitting of the Executive Council before which the matter of the petition will come for decision, together with such other particulars as the governor shall require, shall be inserted twice in the Hongkong Government Gazette, and shall be otherwise advertised as the governor shall direct.

III. *Governor in council to grant letters patent.* His Excellency the Governor, with the advice of the said Executive Council,

shall, at the sitting to be so appointed for deciding on such petition for letters patent as aforesaid, or at any adjournment thereof, determine on such application for letters patent, and grant or refuse the prayer of the said petition as shall appear expedient, and for such time or times not exceeding the then duration of the letters patent for the said invention, or for any less period, and subject to such conditions in all respects as to His Excellency the Governor, with the advice of the said Executive Council shall seem fit. The said letters patent may be in such form as is prescribed by the Patent Law Amendment Act, 1852, of the Imperial Parliament, or as near thereto as circumstances will permit.

IV. *Effect of such grant.* Letters patent to be granted under this ordinance shall confer all the rights and privileges, and shall subject the grantees thereof to all the provisions affecting letters patent in England, as fully as if the same had been granted with an extension thereof to this colony by Her Majesty, under the provisions of the statutes now in force in England, or as near thereto as the circumstances of this colony will admit of.

V. *When and how letters patent may be granted for an extended period.* In case Her Majesty shall, by the advice of the judicial committee of Her Majesty's Privy Council, extend the privileges of any letters patent in England for any invention for any period, it shall be lawful for His Excellency the Governor, with the advice of the Executive Council, to extend in like manner such letters patent, if already granted for this colony, or otherwise to grant original letters patent for a like extended period for the same invention.

SCHEDULE A.

Form of Petition.

The humble petition of A. B. [*or, as the case may be, of C. D., as agent for A. B.*], &c.

That your petitioner [*or, as the case may be, that A. B., of whom your petitioner is the agent, assignee, executor or administrator*], has obtained Her Majesty's letters patent, dated the day of , 18 , for [*state the title of the invention as granted*], and that such letters patent are to continue in force for years from the day of , 18 .

That your petitioner believes that the said invention is not now, and has not hitherto been publicly used in this colony.

That the following is the description of the said invention [*here state the particu-*

ars shortly in accordance with the specification on which the letters patent in England were granted.]

Your petioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Ordinance No. 14 of 1862.

And your petitioner will ever pray, &c.

SCHEDULE B.

I [*here insert name, condit on, and place of residence*] do solemnly and sincerely declare that I am [*or if made by an agent, that A. B., of is*] in possession absolutely [*or if made in respect of a locally confined interest, then within the colony of Hongkong, or according to fact*] of an invention for [*state the nature of the invention in terms of the English patent*], and which invention I believe will, in all probability, be of great public utility within Hongkong; and that the same is not publicly used within the said colony; and that to the best of my knowledge and belief, the instrument in writing under my hand hereunto annexed, particularly describes and ascertains the nature of the said invention, and in what manner the same is to be performed.

Dated the day of , 18 .

(Signed)

From *Carpm. Pat. L. of World*, p. 284.

HUNGARY.

See AUSTRIA-HUNGARY.

INDIA.

Act No. 15 *of* (*May* 17,) 1859.

It is enacted, &c.

I. *Inventor may petition for leave to file specification. Form, &c., of petition.* The inventor of any new manufacture may petition the Governor General of India in council, for leave to file a specification thereof. Every such petition shall be in writing in the form or to the effect mentioned in the schedule hereunto annexed, and shall be signed by the petitioner or (in case the petitioner shall be absent from India), by an authorized agent, and shall state the name, addition, and place of residence of the petitioner, and the nature of the invention.

1a. *For the purposes of this act, a new manufacture shall be deemed to include any new and original pattern or design, or application of such pattern or design to any substance or article of manufacture.*

[Note.*—This clause was introduced by Act No. 13 of 1872.]

II. *Order to file specification.* Upon such petition the Governor General of India in council may make an order authorizing the petitioner to file a specification of the invention.

III. *Power to refer petition for inquiry and report.* Before making such order, the Governor General of India in council, may refer the petition to any person or persons for inquiry and report, and such person or persons shall be entitled to a reasonable fee for such inquiry and report, to be paid by the petitioner, the amount of such fee, in case of dispute, to be settled by a judge of one of Her Majesty's courts of judicature in a summary manner.

IV. *Petitioner entitled to exclusive privilege for fourteen years from filing specification.—Extension of term.* If, within the space of six calendar months from the date of such order the petitioner cause a specification of his invention to be filed in manner hereinafter mentioned, the petitioner, his executors, administrators, or assigns, shall be entitled to the sole and exclusive privilege of making, selling, and using the said invention in India, and of authorizing others so to do, for the term of fourteen years from the time of filing such specification, and for such further term (if any)

* The notes thus printed are from Carpmaels' edition.

not exceeding fourteen years from the expiration of the first fourteen years, as the Governor General of India in Council may think fit to direct, upon petition to be presented by such inventor, at any period not more than one year, and not less than six calendar months, before the expiration of the exclusive privilege hereby granted.

4a. *Provided that in the case of patterns and designs, or the application thereof to any substances or articles of manufacture, such privilege shall be granted for the term of three years and no more.*

[NOTE.—This clause was introduced by Act No. 13 of 1872.]

V. *Order to file specification may be conditional.* An order authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to any such conditions and restrictions as the Governor General of India in council may think expedient.

VI. *Specification to be in writing and to describe the intention.* Every specification of an invention filed under this Act shall be in writing, and shall be signed by the petitioner, and shall particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed.

VII. *Petition and specification to be left with secretary.—To be accompanied by declaration.—Date of delivery to be indorsed.* Every petition for leave to file a specification and every specification filed under this act shall be left with the secretary to the government of India in the home department, and every petition and specification shall be accompanied by a declaration in writing, signed by the petitioner, in the form or to the effect mentioned in the schedule hereunto annexed, marked A and B respectively; and if the inventor be absent from India, the petition and specification shall also be accompanied by a declaration signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration, purporting to be the declaration of the inventor, was signed by him, and that the contents thereof are true, which declaration shall be in the form, or to the effect mentioned in the said schedule. The date of the delivery of every such petition and specification shall be indorsed on the same respectively, and shall also be recorded at the office of the said secretary.

VIII. *False statement in declaration, punishable as perjury.* If any person who shall make a declaration under this act shall willfully and corruptly make any false statement therein, he shall be

deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

IX. *Specification not to be filed before payment of fees.* No specification shall be filed until the petitioner shall have paid all fees payable under this Act, including the fees (if any) of the person or persons to whom the petition shall have been referred for inquiry and report.

X. *Copies of specification to be delivered and distributed.—To be open to inspection.* At the time of delivering the specification for the purpose of being filed, the petitioner shall caused to be delivered to the said secretary five copies thereof, of which,—

One shall be sent to and filed by one of the secretaries to the government of Bengal;

One shall be sent to and filed by one of the secretaries to the government of Fort St. George;

One shall be sent to and filed by one of the secretaries to the government of Bombay; and

One shall be sent to and filed by one of the secretaries to the government of the North-Western Provinces.

A copy of such specification shall be open at all reasonable times at the office of each of the said secretaries to public inspection upon payment of a fee of one rupee.

XI. *Book for the registry of petitions, specifications, &c.* A book shall be kept in the office of the said secretary to the government of India, wherein shall be entered and recorded every such petition and specification, and every order made upon such petition or relating to the invention therein mentioned. Every specification shall be numbered according to the order in which it is entered in such book; and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention, and to every petition, memorandum, or amended specification, which shall be filed under the provisions of section 14.

XII. *Inspection of registry book.—Certified copy of entry to be given.* Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person upon payment of one rupee; and the said secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same on payment of the expense of copying.

XIII. [*Repealed by Act No.* 12 *of* 1876.]

XIV. *In what cases petitioner may apply to file amended specifications.—Effect.* If after the filing of the specification the

petitioner shall have reason to believe that, through mistake or inadvertence he has erroneously made any mis-statement in his petition or specification, or included therein something which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient he may petition the Governor General in Council for leave to file a memorandum, pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or in case of any defect or insufficiency of the specification for leave to file an amended specification. The petition shall state how the error, defect or insufficiency occurred, and that it was not fraudulently intended, and shall be accompanied by a declaration in writing signed by the petitioner, and if he be absent from India, by his agent, stating that the contents of such petition are true, to the best of his knowledge and belief. Upon such petition the Governor General in Council may make an order allowing such memorandum or amended specification to be filed. All the provisions of sections X., XI., XII., and XIII., applicable to the specifications, shall be applicable to the petitions, orders, and memoranda or amended specifications referred to in this section. An amended specification filed under the provisions of this Act shall, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such amended specification, have the same effect as if it had been the specification first filed; provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

XV. *No person entitled to exclusive privilege, when.*—No person shall be entitled to any exclusive privilege under the provisions of this Act—

If the invention is of no utility, or

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention, or within the meaning of this Act, or

If the petitioner is not the inventor thereof, or

If the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed, or

If the original or any subsequent petition relating to the invention or the original or any amended specification contain a willful or fraudulent mis-statement.

XVI. *Exclusive privilege to cease if government declare that it is*

mischievous, &c., or (upon breach of condition) that it shall cease. Every exclusive privilege under this Act shall cease if the Governor General of India in Council shall declare that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the petitioner shall be authorized to file a specification, or upon which the term of the exclusive privilege shall be extended, shall be proved to the satisfaction of any of Her Majesty's courts of judicature, and if the Governor General of India in Council shall thereupon declare that such exclusive privilege shall cease.

XVII. *Importer not inventor.* The importer into India of a new invention shall not be deemed an inventor within the meaning of this Act, unless he be the actual inventor.

XVIII. *Foreign inventor.* A foreigner, whether resident abroad or not, may petition for leave to file a specification under this Act.

XIX. *An invention not publicly used or known deemed a new invention.—Knowledge of invention fraudulently acquired.—Proviso.—Public use by actual inventor.* An invention shall be deemed a new invention within the meaning of this Act, if it shall not, before the time of applying for leave to file the specification, have been publicly used in India or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in any part of India or of the United Kingdom by means of a publication, either printed or written, or partly printed and partly written. The public use or knowledge of an invention, prior to the application for leave to file a specification, shall not be deemed a public use or knowledge within the meaning of this section, if the knowledge shall have been obtained surreptitiously or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor or in breach of confidence: provided the inventor shall within six calendar months after the commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use; provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing, for a period not exceeding one year prior to the date of his petition, shall not be deemed a public use thereof within the meaning of this Act.

XX. *Inventor having obtained English letters patent to petition within twelve months.—Invention, not publicly known, or used to be deemed new.— What to be stated in such petition.—Duration of exclusive privilege.* If an inventor who, prior to the time of

applying for leave to file a specification of an invention under this Act, shall have obtained Her Majesty's letters patent for the exclusive use of such invention in the United Kingdom, or any part thereof, shall, within twelve calendar months from the passing of this Act, or within twelve calendar months from the date of such letters patent, petition the Governor General of India in Council for leave to file specification of such invention (which petition shall be in writing, in the form or to the effect mentioned in the schedule), the invention shall be deemed a new invention within the meaning of this Act, if it was not publicly known or used in India at or before the date of the petition for such letters patent, notwithstanding it may have been publicly known or used in some part of the United Kingdom or in India before the time of his petitioning, under this Act, for leave to file the specification: Provided the petition for leave to file the specification shall state that such letters patent have been granted, and shall also state the date thereof and the term during which the same are to continue in force: Provided also, that an exclusive privilege obtained under the provisions of this Act by an inventor who has obtained Her Majesty's letters patent for the exclusive use of such invention, shall cease to have effect, if such letters patent be revoked or canceled; and that no such exclusive privilege shall extend beyond the term granted by such letters patent unless the same shall be renewed, in which case the exclusive privilege may be renewed under this Act for the extended term or any part thereof.

XXI. *Saving of rights, before* 1855. No exclusive privilege obtained under this Act shall entitle the owner of such privilege to exclude any person from using the invention, who, prior to the 7th day of July, 1855, used the same in India.

XXII. *Action for infringement.* An action may be maintained by an inventor against any person who, during the continuance of an exclusive privilege granted by this Act, shall, without the license of the said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same. Provided that no such action shall be maintained in any court other than the principal court of original jurisdiction in civil cases within the local limits of whose jurisdiction the cause of action shall accrue or the defendant shall reside as a fixed inhabitant.

XXIII. *Defect in specification or petition, or want of novelty in invention, &c., no defense to action for infringement.—Actual use of before petition, a defense.* No such action shall be defended

upon the ground of any defect or insufficiency of the specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a willful or fraudulent mis-statement; nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor, or has obtained a right from him to use the invention either wholly or in part. Any such action may be defended upon the ground that the invention was not new if the person making the defense, or some person through whom he claims shall before the date of the petition for leave to file the specification, have publicly or actually used in India or in some part of the United Kingdom, the invention, or that part of it of which the infringement shall be proved, but not otherwise.

XXIV. *Application to courts to annul exclusive privilege because invention of no utility; or not new; or petitioner not the inventor; or invention not described in specification; or fraud, &c., in petition or specification; or insufficient description of part of invention in specification.* It shall be lawful for any person to apply by motion to any of Her Majesty's courts of judicature for a rule to show cause why the court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this Act by reason of all or any of the objections following (to be specified in the rule); that is to say:—

That the said invention is of no utility, or,

That the said invention was not, at the time of presenting the petition for leave to file the specification a new invention within the meaning of this Act, or,

That the petitioner was not the inventor thereof, or,

That the specification filed, or the amended specification (if any) does not particularly describe and ascertain the nature of the invention, or in what manner the same is to be performed, or,

That the petitioner has knowingly or fraudulently included in the petition or specification, or amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or,

That the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a willful or fraudulent mis-statement, or,

That some part of the invention, or the manner in which that part is to be performed, as described in the specification filed, or the amended specification, is not thereby sufficiently described and ascertained, and that such defect or insufficiency was fraudulent and is injurious to the public.

XXV. *Like application as to part of an invention.* Any person may, in like manner, apply to any of Her Majesty's courts of judicature for a rule to show cause why the court should not declare that an exclusive privilege has not been acquired under the provisions of this Act in respect of any part of the invention to be specified in the rule by reason of all or any of the objections following (to be specified in the rule), that is to say,—

That such part of the invention is wholly distinct from the other part thereof, and is of no utility, or

That such part of the invention was not, at the date of the petition for leave to file the specification, a new invention within the meaning of this act, or

That the petitioner was not the inventor of that part of the invention, or

That that part of the invention, and the manner in which it is to be performed, is not sufficiently described and ascertained in the specification filed or the amended specification, and that such defect or insufficiency is injurious to the public.

XXVI. *Application by advocate general on breach of special condition.* It shall be lawful for the advocate general at any of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, or any other person, by order of the Governor General in council, to apply to any of the said courts of judicature for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor General in council under the power hereinbefore reserved may, in the judgment of the said Governor General in council, depend, should not be tried in the form of an issue directed by the said court; and if the rule be made absolute, the court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor General in council; the costs of such trial, and also the costs of any proceedings in any of the said courts of judicature

under the provisions of this Act, shall be in the discretion of the court.

XXVII. *Service of proceedings on all persons interested.* Notice of any rule obtained or proceeding taken under either of the last three preceding sections shall be served on all persons appearing to be proprietors or to have shares or interests in the exclusive privilege under the provisions of section XXXV. of this act, and it shall not be necessary to serve such notice on any other persons.

XXVIII. *Supreme court may direct issue for trial to other courts.—New trial.* Any of the said courts of judicature, if it think fit, may direct an issue for the trial, before the same court or any other court of judicature, or any principal court of original jurisdiction in civil cases of any question of fact arising upon an application under sections XXIV., XXV., or XXVI., of this act, and such issue shall be tried accordingly in a summary manner, and if the issue be directed to another court, the finding shall be certified by the court before which the same was tried, to the court directing the issue. If the issue be directed to any courts of judicature, the court by which the issue is tried may, before the finding is certified, direct a new trial of such issue according to the usual course and practice of such court. If the issue be directed to any court other than a court of judicature, the finding shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the judge, shall be transmitted, together with any remarks he may think fit to make thereon, to the court by which the issue was directed; and such court may either act upon the decision of the court which tried the issue, or direct a new trial if it should appear necessary.

XXIX. *Judgment.—Costs.* If it shall appear to any of the said courts of judicature at the hearing of any application under the provisions of sections XXIV. or XXV. of this act that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the court shall give judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just; and thereupon the petitioner, his executors, administrators, and assigns shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

XXX. *Amendment of specification by court.—Proviso.* If the court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the description of his invention in

the petition or specification, or amended specification (if any) included something which at the date of the petition was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to part thereof affected by such error, defect or insufficiency, or if the court shall think that the error, defect, or insufficiency can be amended without injury to the public, they may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his executors, administrators, or assigns, shall, within the time limited by the said court for the purpose, file a specification amended according to such order: Provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

XXXI. *Mis-statement in the petition, if not fraudulent, not to defeat the privilege.* An exclusive privilege shall not be defeated upon the ground that the petition contains a mis-statement, unless such mis-statement was willful or fraudulent.

XXXII. *Entry in Registry Book, of judgment, &c., declaring privilege not to have been acquired.* Whenever it shall be adjudged byany of the said courts or judicature that an exclusive privilege as to the whole or any part of an invention has not been acquired, the said secretary to the government of India shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

XXXIII. *In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.* If, upon proceedings instituted within two years from the date of a petition to file a specification the actual inventor shall prove to the satisfaction of the principal court having jurisdiction in civil cases, within the local limits of whose jurisdiction the defendant shall reside as a fixed inhabitant, that the petitioner was not the actual inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person, surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inven-

tor to him, or to any person through whom he derived such knowledge, the court may compel the petitioner to assign to the actual inventor any exclusive privilege obtained under this Act, and to account for and pay over the profits thereof.

XXXIV. *Particulars to be delivered.* In any action for the infringement of such exclusive privilege the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action; and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to any of the said courts of judicature under sections XXIV., XXV., or XXVI. of this Act, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any such action or issue, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such exclusive privilege which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used shall be stated in such particulars. Provided always that it shall be lawful for any court in which the action or proceeding is pending or in which the issue is tried to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

XXXV. *Service of proceedings.* A book shall be kept in the office of the secretary to the government of India in the home department (such book to be open to inspection without fee) wherein every person filing a specification under this Act, or any person to whom the exclusive privilege may be assigned, shall cause to be stated some place in India where service of any rule or proceedings for the purpose of cancelling or revoking his exclusive privilege may be made, and shall cause a reference to such entry to be made in the margin of the entry of the specification; and may from time to time cause any other place in India to be substituted by similar entry and reference. All such rules and proceedings as aforesaid shall be deemed sufficiently served if a copy thereof be left at the place entered in such book or (if any other place be substituted for the same by entry in the said book) at the place last substituted, by delivering the same to any person resident at, or in charge of, such place: or, if there be no person resident at, or in

charge of, such place, or if such place be not within the local limits of the jurisdiction of the court, by causing such rule or proceeding to be sent by post, by a registered letter, directed to such person, at such place; and if any such person shall neglect to make or cause to be made such entry, then service of such rule or proceeding may be affected by affixing a copy thereof to some conspicuous part of the court house, or in such other manner as the court may direct.

XXXVI. *What effect Act VI. of* 1856 *to have.* Act VI. of 1856 shall be of the same force and effect in respect to every petition and specification filed under the provisions thereof before the Act was repealed, and in regard to all proceedings consequent thereon or in relation thereto, and for the purpose of everything done under that Act while it continued in force, as if previously to the passing of the said Act the sanction of Her Majesty to the passing thereof had been obtained and signified in pursuance of the statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India," and as if the said Act had not been repealed, and the term of every exclusive privilege obtained under the said Act is hereby extended, and shall continue until the expiration of fourteen years from the time of the passing of this Act. No exclusive privilege obtained under the said Act by an importer, not being the actual inventor, shall cease to have effect by virtue of the provisions of section XVI. of the said Act, if the invention be put in practice in India within the period of two years from the time of the passing of this Act.

XXXVII. *Stamp on petition.* Every petition for leave to file a specification under the provisions of this Act, or for the extension of the term of an exclusive privilege, shall be written or printed on stamped paper of the value of one hundred rupees.

37a. *Whenever by any law for the time being in force in the United Kingdom, any person shall be entitled in the United Kingdom to an exclusive right in any pattern or design or the application of such pattern or design to any substance or article of manufacture, such person shall be entitled in British India to the sole and exclusive right in such pattern or design or in such application thereof, and shall be entitled in British India to the same civil remedies in respect of infringement thereof in British India as those to which he would be entitled in the United Kingdom in respect of the infringement thereof in the United Kingdom.*

[NOTE.—This clause was introduced by Act No. 13 of 1872.]

XXXVIII. *Interpretation.* In the construction of this Act,

the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction. *Number.* Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. *Gender.* Words importing the masculine gender shall include females. "*Invention.*" The word "invention" shall include an improvement. "*Manufacture.*" The word "manufacture" shall be deemed to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture. "*Printed.*" The word "printed" shall include "lithographed." "*Inventor*" *and* "*Actual inventor.*" The words "inventor" and "actual inventor" shall include the executors, administrators, or assigns of an inventor or actual inventor, as the case may be. "*Assigns.*" The word "assigns" shall include grantees of the sole use or benefit in India of an invention, or of the sole use of an exclusive privilege for a limited time. "*India.*" The word "India" shall mean the territories which are or may become vested in Her Majesty by the statute 21 and 22 Vict. c. 106, entitled "An Act for the better Government of India." "*Governor General in Council.*" The words "Governor General in Council" shall include the "President in Council." "*Secretary to the Government of India.*" The words "Secretary to the Government of India" shall include any under-secretary to the said Government. "*Her Majesty's Courts of Judicature.*" "*Courts of Judicature.*" The expressions "Her Majesty's Courts of Judicature" and "Courts of Judicature" shall mean the courts established by Royal Charter.

SCHEDULE OF FORMS.

Form of Petition.

(*See* Section 1.)

To the Governor General of India in Council.

The petition of [*here insert name, addition, and place of residence*] for leave to file a specification under Act No.

Sheweth,

That your petitioner is in possession of an invention for [*state the title of the invention*], which invention he believes will be of public utility; that he is the inventor thereof [*or, as the case may be, the assignee or executor or administrator of the*

inventor]; and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland, to the best of his knowledge and belief.

The following is a description of the invention [*here describe it*].

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No.

And your petitioner, &c.

The day of

(Signed)

FORM OF DECLARATION TO ACCOMPANY PETITION.

(*See* Section 7.)

I [*here insert name, addition, and place of residence*] do solemnly and sincerely declare that I am in possession of an invention for [*state the title of the invention as in the petition*]; that I believe the said invention will be of public utility; that I am the inventor thereof [*or, as the case may be, the assignee or executor or administrator of the inventor*]; and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said invention is truly described in my petition for leave to file a specification thereof.

The day of

(Signed)

FORM OF DECLARATION TO ACCOMPANY SPECIFICATION.

(*See* Section 7.)

I [*here insert name, addition, and place of residence*] do solemnly and sincerely declare that I am in possession of an invention for [*state the nature of the invention*], which invention I believe will be of public utility; that I am the inventor thereof [*or, as the case may be, the assignee or executor or administrator of the inventor*]; and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland, to the best of my knowledge and belief; and that, to the best of my belief, the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention and in what manner the same is to be performed.

The day of

(Signed)

FORM OF DECLARATION BY AGENT, WHERE AN INVENTOR IS ABSENT FROM INDIA.

(*See* Section 7.)

I , of , do solemnly and sincerely declare that I have been appointed by the said , his agent for the purpose of ; and I verily believe that the declaration purporting to be the declaration of the said , marked ( ), was signed by him, and that the contents thereof are true.

The day of

(Signed)

FORM OF PETITION.

(*See* Section 20.)

That your petitioner [*or, as the case may be, that A. B., of whom your petitioner is the assignee or executor or administrator*] has obtained Her Majesty's letters patent dated the day of , for [*state the title of the invention*], and that such letters patent are to continue in force for years, that your petitioner believes that the said invention is not now and has not hitherto been publicly known or used in India.

The following is a description of the invention [*here describe it*].

Your petitioner therefore prays for leave to file a specification of the said invention, pursuant to the provisions of Act No.

And your petitioner, &c.

The day of

(Signed)

From *Carpm. Pat. L. of World*, 267.

INTERNATIONAL CONVENTION.

See close of Vol. II.

IRELAND.

See GREAT BRITAIN AND IRELAND.

ISLE OF MAN.

See GREAT BRITAIN AND IRELAND.

ITALY.

[NOTE.*—*The Italian Law and Regulations of the 31st of January, 1864, extended the Sardinian Law of the 30th October, 1859, to the whole Kingdom of Italy. Certain sections were repealed, and all matters concerning patents were placed under the direction of the minister of agriculture, industry and commerce. The following is the law thus amended, transitory provisions being omitted.*]

PART I.

RIGHTS DERIVED FROM INVENTIONS OR INDUSTRIAL DISCOVERIES, AND TITLE THERETO.

CHAPTER I.

Rights of Inventors.

ART. 1. The author of a new invention or discovery in industry has the exclusive right of working the same for his own profit during the time, within the limits, and under the condition, prescribed by the present decree.

This exclusive right constitutes a patent privilege.

ART. 2. An invention or discovery is said to belong to industry whenever the immediate object is,—

1. A product or result relating to industrial pursuits;

2. An instrument, machine, tool, engine, or any mechanical arrangement;

3. A process or method of manufacture;

4. A motor, or the application of any known power to industrial purposes;

5. Finally, the technical application of a scientific principle, provided immediate results in industry are obtained thereby.

In the latter case the patent is limited solely to those results which are expressly pointed out by the inventor.

ART. 3. An invention or discovery in industry shall be considered as new when not before known; or even when a general notion of it existed, without the particulars necessary for putting it into practice.

* Notes thus printed are from Carpmael's edition.

ART. 4. A new invention or discovery in industry already patented abroad, although it may have been published pursuant to the provisions of foreign legislation, confers on its author, or on his assigns, the right of obtaining a patent in the kingdom, provided such patent be applied for before the expiration of the term of the foreign patent, and before other parties have freely imported and worked the same invention or discovery in the kingdom.

ART. 5. Any modification of a patented invention or discovery gives the right to a further patent, but without prejudice to the patent which already exists for the original invention.

ART. 6. The following are not patentable:—

1. Inventions or discoveries relating to trades which are contrary to law, morals, or public safety;

2. Inventions or discoveries not relating to the manufacture of material objects;

3. Inventions or discoveries of a mere theoretical nature;

4. All kinds of medicines.

CHAPTER II.

Patents, their Force and Duration, and the Fees to be paid.

ART. 7. The legal title to the exclusive use of an invention is contained in a certificate [patent] delivered by the government.

The patent does not guarantee the utility or reality of the invention or discovery as claimed by the petitioner, nor does it prove the existence of those properties which, according to law, an invention or discovery must possess in order to render the patent valid.

ART. 8. Patents granted for new articles comprise the exclusive right of manufacturing and selling such articles.

Patents obtained for the application to any breach of industry of a chemical agent, process, method, instrument, machine, tool, apparatus, or mechanical arrangement of any kind which has been invented or discovered, confer on their holders the right of preventing others from making a like application.

But whenever the patentee himself has supplied to others the preparations or mechanical means whose exclusive use forms the subject of his patent, it is to be presumed that he has at the same time given to them the permission to use them, provided there exists no agreement to the contrary.

ART. 9. The patentee, and those interested through him, may

obtain a certificate of addition for any modification made by them in the original discovery or invention. Such certificate extends the effect of the patent to the modification for the whole term of the patent.

ART. 10. Patents take effect with respect to third parties from the date and in the order of application.

The duration of a patent can never exceed fifteen years, nor be less than one year, always reckoning from the last day of one of the months of March, June, September, or December, whichever next follows the day whereon the application is made, no account being taken of any fraction of a year.

ART. 11. The duration of a patent for an invention or discovery already patented abroad shall not exceed that of the foreign patent having the longest term, nor in any case shall the duration exceed fifteen years.

ART. 12. Patents granted for less than fifteen years may be prolonged for one or more years; the duration, however, of the prolongation added to the duration of the original patent shall in no case exceed fifteen years.

ART. 13. The prolongation of a patent includes the certificates of addition.

ART. 14. Patents granted in respect of applications made after the publication of the present decree, shall take effect in the whole territory of the kingdom, and be subject to a proportional tax, payable at the time of the application, and to an annual tax.

The proportional tax shall consist of as many times ten lire as there are years in the duration of the patent applied for.

The annual tax shall be 40 lire for the first three years, 65 lire for the following three years, 90 lire for the seventh, eighth, and ninth years, 115 lire for the tenth, eleventh, and twelfth years, and 140 lire for the remaining three years.

ART. 15. The first annuity and the proportional tax are to be paid at the time of the application for a patent.

The other annuities are to be paid in advance on the first day of each year of the duration of the patent, and shall likewise be subject to the triennial increase in the case of a prolongation of the patent.

ART. 16. The delivery of a certificate of addition shall be subject only to the payment in advance of twenty lire.

ART. 17. Certificates of prolongation shall be subject to the payment of 40 lire, besides the proportional tax and annuities. The

annuity corresponding to the first year of the prolongation shall be paid at the time of application, and the subsequent annuities shall be paid in advance, conformably to article 15.

ART. 18. In cases of patents of importation, whose term ends with that of the foreign patent, every fraction of a year is to be considered as an entire year with respect to the payment of the tax.

PART II.

CONDITIONS AND FORMALITIES ATTENDANT ON APPLICATIONS FOR PATENTS.

CHAPTER I.

The Application and its Conditions.

ART. 19. All matters concerning patents are placed under the direction of the minister of agriculture, industry and commerce.

ART. 20. All applications for patents must be made to the minister of agriculture, industry and commerce, through the local prefecture or subprefecture.

The application must be made by the inventor or his attorney, and must contain,—

1. The name and christian name, as well as the birth-place and residence of the applicant, and of his attorney, if there be one;

2. A statement of the discovery or invention in the form of a title which expresses shortly, but with precision, its characteristics and scope.

3. A statement of the duration which the applicant desires to be assigned to his patent within the limits fixed by law.

An application must be limited to one patent, and to one invention or discovery.

ART. 21. Every application must be accompanied by,—

1. The description of the invention or discovery;

2. The drawings, if any can be made, as well as the models, which the inventor may deem useful for the comprehension of his invention or discovery;

3. The receipt for the payment into the public treasury of the fees due for the required patent;

4. In cases of patents of importation, the original foreign patent, or a legalized copy of the same;

5. If there be an attorney, the power in public or private form; provided that in the latter case the signature of the principal is certified by a public notary, or by the syndic of his place of residence;

6. A memorandum of the documents and objects delivered.

ART. 22. The description mentioned in the foregoing article is to be written in the Italian or French language, and must contain a clear and complete account of the details necessary for enabling a competent person to put the invention or discovery into operation.

The application must be accompanied by three copies of the description and drawings, the applicant alone being responsible for the conformity of these copies.

Whenever the description is accompanied by a model, the applicant is not exempt from annexing to the application, a drawing, or drawings, in duplicate of the entire model, or at least of those parts which constitute the invention.

ART. 23. During the first six months of the duration of a patent, reckoning from the last day of the March, June, September, or December next after the date of application, proprietors of patents may require the same to be reduced to part of the invention forming the subject of the description annexed to the original application, distinctly pointing out those parts they intend to disclaim.

The parts disclaimed shall be considered as having never been comprehended in the patent.

ART. 24. Applications for disclaimers must be accompanied by—

1. The receipt for the payment of 40 lir[illegible];

The description in triplicate to be substituted for that previously filed;

3. The drawings in triplicate which it may be necessary to substitute for those previously filed.

ART. 25. The certificate delivered on such applications shall be called certificates of reduction [disclaimers], and their duration shall be that of the original patent.

ART. 26. During the six months mentioned in article 23, a patent for a modification shall only be granted to the author of the patented invention or discovery, or to those interested through him. The applications of other persons for such certificates and the accompanying documents are to be delivered under sealed covers, and deposited as hereinafter stated.

At the expiration of the six months the seal shall be broken, and the patent shall be delivered, unless the interested party notifies his intention to withdraw the application, in which case the fees paid shall be returned to him.

The patent thus granted shall take effect relatively to patents of addition, from the day after the expiration of the six months; but with respect to persons not interested in the original patent and applications founded thereon they shall take effect from the date of application.

ART. 27. An application for a certificate of addition shall not mention any term for its duration.

In other respects the provisions of the twentieth and following articles shall be observed.

ART. 28. Applications for prolongations must be accompanied by—

1. The deed proving the ownership of the patent sought to be prolonged;

2. The receipt for the payment of the fees mentioned in article 17.

3. The power of attorney and memorandum mentioned in paragraphs 5 and 6 of article 21.

CHAPTER II.

Delivery of the Application and accompanying Documents.

ART. 29. Applications of all sorts, with the documents and objects which may or ought to accompany the same, must be delivered, in Turin, at the office appointed by the minister, elsewhere at the prefecture.

ART. 30. The public officer appointed to receive the application shall draw up a report, stating the day and hour of the delivery, and the object of the application.

The official report must show the real or elected domicile of the applicant or his attorney in the town where the delivery takes place, otherwise the municipality shall be legally considered as the elected domicile.

ART. 31. With regard to the applications mentioned in article 26, the official report must contain the statement of the applicant, that he wishes to obtain in due time a patent for a modification in an original invention or discovery, as described in the specification

under sealed cover, the title of which original invention shall be mentioned in the official report.

ART. 32. Each such official report shall be recorded in a special register and be signed by the applicant or his attorney.

A copy of such official report shall be delivered to the applicant without charge, except for the stamp on the paper on which it is written.

ART. 33. Within the five days following, the documents and objects left at the provincial offices, shall be transmitted to the ministry of agriculture, industry and commerce, at the same time there shall be sent an unstamped copy of the official report.

ART. 34. All official reports from the provinces shall be copied into the registers of the Ministry.

ART. 35. If the legal formalities have been fulfilled, the applications shall be registered with the date of presentation, and the patents shall be granted.

ART. 36. Each patent shall be recorded in the register and signed by the chief of the office.

A copy, signed as aforesaid, shall be delivered to the interested party, together with one of the originals of the drawings, description and memorandum, initialled on each sheet by the said officer. This first copy of the patent shall be delivered free of cost; all other copies shall bear the consecutive number of the delivery, and for each 15 lire shall be paid.

ART. 37. With regard to inventions and discoveries relating to all kinds of beverages or eatables, the said office shall transmit the description and other related documents to the superior board of health, to obtain its advice before delivering a patent.

ART. 38. If the board of health advise that the invention or discovery is injurious to health, or if there be the least doubt about it, the application for a patent shall be rejected.

If the advice be favorable, the following clause shall be inserted in the patent: "The superior board of health having been consulted."

Such patents do not exempt their holders who but practice the invention from fulfilling all other provisions of the sanitary laws.

ART. 39. Patents shall be refused:—

1. If the invention or discovery belong to one of the four classes mentioned in article 6;

2. If there is no written application, or if, in the application, the title of the invention or discovery is wanting;

3. If there be no description ;

4. If a single patent is demanded for different inventions or discoveries, or if several patents of the same nature or of different kinds are demanded in the same application ;

5. If the fees paid do not correspond with the kind of patent applied for.

ART. 40. The grant of the patent shall be suspended in default of the fulfillment of any of the other conditions prescribed by the present decree, or when the description does not present the required features.

ART. 41. The refusal or suspension, and the reasons which have determined the same, shall be communicated to the applicant or his attorney, through one of the government officers, and by a notice left at his elected or real domicile, mentioned in the official report of the deposit.

ART. 42. Within fifteen days after such notice, the applicant or his attorney, may supply the deficiencies or appeal against the refusal or suspension.

The documents intended to supply such deficiencies, or the notices of appeal, shall be left at the provincial, or chief office. An official report of the same shall be drawn up, and a stamped copy thereof be delivered to the interested party without any other charge than the stamp duty.

If within this term of fifteen days no documents have been deposited, and no appeal been lodged, the application shall be considered as not having taken place, the inventor preserving the right to renew his application.

ART. 43. The minister shall submit these appeals to a commission composed of fifteen members, three of whom shall be magistrates for life, or members of the faculty of law at the Royal University of Turin, and the remaining twelve chosen from:—

1. The members of the section of physical and mathematical sciences at the Royal Academy of Sciences ;

2. The professors and doctors of the faculty of said sciences at the Royal University ;

3. The professors at the Polytechnic schools.

The members of the said commission shall be nominated every year by the minister.

The commission shall be divided into three sections (mechanics, physics, and chemistry), each of which sections shall be composed of one legal member and four technical members.

Each appeal shall be heard by that section which corresponds with the nature of the patent applied for.

If the verdict of the section is not obtained unanimously, it shall be revised by the whole commission.

If it relates to an invention deemed contrary to law, morals or public safety, the public prosecutor shall be consulted, and his opinion shall be submitted to the commission which hears the appeal.

ART. 44. Appeals shall be considered as null and void unless they be accompanied by the deposit of 50 lire.

ART. 45. If the verdict mentioned in article 43 is in favor of the applicant, the appointed officer shall deliver the patent and return the deposit mentioned in the foregoing article.

In the contrary case the patent shall be positively refused, and the deposit shall be paid into the treasury.

PART III.

ASSIGNMENTS OF PATENTS.

ART. 46. Assignments of patents must be registered at the ministry, and published in the Official Gazette of the kingdom at the expense of the applicant.

Assignments take effect with respect to third parties only from the date of registration.

To effect this registration, the person in whose favor the assignment has been made must produce the deed and two memoranda on stamped paper, containing—

1. The name, christian name, and domicile of both the assignor and assignee;

2. The date and nature of the deed presented, and the name of the notary who received it, in case of its being a public act;

3. The date of registry, if any;

4. An exact statement of the rights assigned;

5. The date of delivery of these notes, which shall be that of the registration.

ART. 48. Such deliveries may be made either at a provincial office or at the chief office.

In either case the deed shall be returned to its owner after having been *visé* for registration and signed by the secretary or head of the office.

At the provincial office, where delivery takes place, there shall

be transcribed in a special register, the contents of the memoranda mentioned in the preceding article and one memorandum shall be returned and the other shall be transmitted immediately to the chief office.

At the latter office all these memoranda, whether received directly or transmitted from the provinces, shall be recorded and kept.

ART. 49. The total assignment of patent rights to a single person obliges the latter to pay the fees; if the assignment is made to several persons collectively, they are conjointly bound to make that payment. In case of a partial assignment to several distinct persons, or a partial alienation of the rights, the deed relating thereto cannot be registered unless it be accompanied by a receipt, proving the payment of the annuities due for the whole duration of the patent.

PART IV.

PRESERVATION AND PUBLICATION OF DOCUMENTS RELATING TO PATENTS.

ART. 50. The registers for recording patents, their progressive stages, annulments, disclaimers, forfeitures, and expirations; and the registers in which are inscribed assignments of patent rights, are public registers.

ART. 51. Whoever requires extracts therefrom must make an application on stamped paper; and the extracts shall be written on stamped paper at the expense of the applicant.

ART. 52. A copy of the specification and drawings shall be deposited at the chief office, but no person shall be allowed to inspect the same before the expiration of three months from the delivery of the patent.

Any person may, after the lapse of three months, inspect the description, drawings, and models, and make, at his own expense, one or several copies, in the manner and under the conditions determined by regulations.

ART. 53. Every three months a list of the patents delivered during the preceding quarter shall be published in the Official Gazette.

ART. 54. Every six months the specifications and drawings

relating to inventions and discoveries patented during the preceding half-year shall be published in full.

The head of the office may, nevertheless, order that certain specifications shall be published only in the form of extracts, examined and deemed sufficient by him for the comprehension of the invention to which they relate. The drawings, likewise, may be reduced to their essential parts.

ART. 55. A copy of the subject-matter, indexes, descriptions and drawings published, shall be transmitted to each provincial office and chamber of commerce for public inspection.

PART V.

NULLITY AND ANNULMENT OF PATENTS.

CHAPTER I.

Causes of Nullity and Annulment.

ART. 56. The preliminary examination and adjudication does not guarantee validity.

ART. 57. Patents are null and void,—

1. If they refer to inventions or discoveries mentioned in article 6.

2. If they relate to one of the inventions or discoveries mentioned in article 37, and the patent has by mistake been delivered against the advice of the sanitary authority. If granted in error without consulting the aforesaid authority, the patent will become void when the advice on being taken is adverse.

3. If by the fraud of the applicant the title of the invention or discovery indicates other than its real object.

4 If the description annexed to the application is insufficient, or conceals some of the means necessary for working the patent invention or discovery.

5. If the invention or discovery is not new, or does not relate to industrial pursuits.

6. If a patent is granted to a third party for a modification in an invention within the six months allowed to the original inventor, and persons interested through him.

7. A certificate of addition is also null and void whenever the modification is not connected with the original invention.

8. A prolongation is likewise null and void whenever it has been

applied for after the expiration of the patent, or after its absolute annulment has been pronounced.

ART. 58. A patent ceases to be valid,—

1. If in a single instance the annual tax is not paid within the term of three months from the date of expiration.

2. If in the case of a patent granted for five years or less, the invention or discovery has not been worked within the first year of the grant, or has ceased to be worked during a whole year.

3. If in the case of a patent granted for more than five years, it has not been worked before the expiration of the second year, or if the working has been discontinued for two years.

In either case the patentee shall not forfeit his rights if his inaction arose from causes beyond his control. The want of pecuniary means is not included in these causes.

CHAPTER II.

Actions for Nullity and Annulment.

ART. 59. The action to obtain a declaration of nullity or to annul a patent is brought before the provincial tribunal.

The cause is to be proceeded with and decided by summary process.

The documents are to be communicated to the public prosecutor.

ART. 60. If at the instance of interested parties the partial nullity or annulment of a patent has been twice pronounced, the public prosecutor of the place, or one of the places where the invention or discovery is worked, may demand, *ex officio*, the absolute and peremptory annulment of the patent.

The same power belongs to him without any civil action having been brought in all cases coming under the provisions of paragraphs 1, 2, 3, and 8 of articles 57 and 58.

In the two annulments mentioned in the first paragraph of the present article there shall not be reckoned any that apply to those parts of the invention or discovery which have been cut out by disclaimer within the term of six months accorded by the present law.

ART. 61. In each of the two cases mentioned all persons are to be summoned who have a legal interest in the patent, and who are entered in the register of the chief office.

ART. 62. Except the case mentioned in paragraph 8 of article

57, the court, before pronouncing the annulment, must, on the demand of one of the parties, take the advice of three experts; and in case of appeal, the revision of such an opinion must be ordered whenever one of the parties demands it.

In all cases however the tribunal or court of appeal may order *ex efficio* an examination, or the revision of an examination.

ART. 63. The public prosecutor is to transmit to the minister of agriculture, industry, and commerce, through the minister of justice, an extract on unstamped paper of judgments declaring nullity or pronouncing absolute annulment. The operative part of these judgments shall be entered in a special register, and be published in the Official Gazette.

PART VI.

Infringement of Patent Rights and Actions relating thereto.

ART. 64. Whoever fraudulently and in contravention to a patent right, manufactures products, uses a machine or any other industrial means, trades in, sells, exposes for sale, or imports into the kingdom infringing articles, commits an offense, which offense shall be published with a fine not exceeding 500 lire.

ART. 65. Besides in cases where a civil action is carried on conjointly with a penal action, or where it is carried on separately, all machines and other industrial objects used contrary to the patent right, all infringing objects, and the instruments for producing them, shall be seized, to the loss of the infringing party, and given over to the patentee.

The same shall take place with respect to dealers, traders, sellers or importers of infringing articles.

ART. 66. The injured party shall, besides, be entitled to claim damages.

If the owner of the objects mentioned in the preceding article acted with honesty of purpose, he shall only be subject to the loss of these objects to the profit of the injured party.

ART. 67. Civil action shall be carried on in the form prescribed for summary process.

Correctional actions against the offenders mentioned in article 64 can only be carried on at the complaint of the injured party.

ART. 68. The president of the provincial tribunal may, on the demand of the patentee, order the seizure or inventory of the

objects supposed to be infringements, or used contrary to the patent right, provided they be not destined for mere personal use.

By the same order the president shall delegate an officer to execute it, and, if required, can nominate one or more experts to assist the officers in drawing up the inventory.

He, moreover, shall cause the plaintiff to give security before proceeding to seizure.

ART. 69. The plaintiff may, if authorized by the president of tribunal, be present at the seizure or at the drawing up of the inventory. In all cases he may convert the seizure into the taking of an inventory, on condition that he expresses his wish to that effect, either in the official report of the seizure, or in a separate document, notified through a public officer both to the adverse party, and to the executive officer.

ART. 70. A copy of the order of the president, of the deed proving the deposit of the security and of the official report of the seizure or inventory, shall be left with the holder of the objects seized or inventoried.

ART. 71. In default of the plaintiff pursuing his action within a week the seizure or inventory shall be null and void, and the party against whom the proceeding was brought shall be entitled to damages.

From *Carpm. Pat. L. of World*, 286.

See also INTERNATIONAL CONVENTION.

JAMAICA.

An Act for amending the Law for granting Patents for Inventions. 1857. *Stat.* 21 *Vict.* c. xxx.

Preamble. Whereas it is expedient to amend the law concerning letters patent for inventions :

Be it enacted by the Governor, Legislative Council and Assembly of this Island, &c.

I.—As to the Manner of Applying for and Obtaining Letters Patent.

First. *Patents for invention may be granted by the Governor on Petition.—Proviso.* From and after the publication of this Act, whenever any person whosoever shall, by himself, or if he be an absentee, by his attorney, apply to the Governor, by way of petition, to be lodged at the office of the Executive Committee, and alleging that he hath invented or discovered some new and useful art, machine, manufacture, or composition of matter, not theretofore known or used within this island, or some improvement in any such invention or discovery, and praying to obtain an exclusive property in such new invention and discovery or improvement, and that letters patent be granted for the same, it shall be lawful for the Governor, in the name, and on behalf, of Her Majesty, her heirs and successors, by and with the advice and consent of the Executive Committee, to direct letters patent, under the broad seal of this island, to be issued, which letters patent shall recite the allegations and suggestions of the said petition, so to be referred as aforesaid, and shall therein give a short description of the said invention or discovery or improvement, and thereupon shall grant to such person so applying for the same, his executors, administrators or assigns, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing and using, and vending to others to be used, the said new invention or discovery or improvement; and such letters patent shall be signed by the Governor, and shall be good and available to the grantee therein named by force of this Act ; provided that it shall be lawful for the Governor in Executive Committee, if they should deem it expedient,

to insert in any such letters patent a provision extending the operation thereof for a further term of seven years.

Second. *Petition to be first referred to the Attorney-General, who shall grant his fiat, or certify his refusal.* Before any letters patent shall be signed and issued, the petition, specification, and declaration delivered therewith shall be referred to Her Majesty's attorney-general of this Island, who shall examine the same, and shall be at liberty to call to his aid such scientific or other person as he may think fit, and to cause to be paid to such person, by the applicant, such remuneration as the attorney-general shall appoint, not exceeding five pounds; and if the attorney-general shall be satisfied that the application is such as may properly be granted under the provisions of this Act, and that the specification describes the nature of the invention, discovery, or improvement, he shall allow the same, and give a certificate of his allowance, and return the same petition, specification, and declaration, together with his certificate, into the office of the Executive Committee; and if the attorney-general shall not allow such application, he shall certify to the Governor his reasons for not so doing.

Third. *Petitioner to make declaration that he is the true inventor, &c.* Before any person shall obtain or receive any letters patent under this Act, such person, or if he be an absentee, his attorney, shall make solemn declaration, in writing, before a justice of the peace in this island, that the doth verily believe that he is the true inventor or discoverer of the art, machine, composition of matter, or improvement for which he solicits letters patent, and that such invention or discovery, or improvement hath not, to the best of his knowledge or belief, been known or used in this island, which declaration shall be delivered, together with the petition for such letters patent.

Fourth. *And deliver specification of invention, &c.—Proviso.* Before any person shall receive or obtain any letters patent as aforesaid, such person, or his attorney, shall also deliver, together with such petition and declaration as aforesaid, a written description or specification of his invention, and of the manner of using, or process, or compounding the same, in such full, clear, and exact terms as to distinguish the same from all other things before known or used in this island, and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected, to make, compound, and use the same, and in case of any machine shall deliver a model thereof, and shall explain the prin-

ciple and the several modes in which such person hath contemplated the application of that principle, or character, by which it may be distinguished from other inventions, and shall accompany the whole with drawings and written references where the nature of the case admits of drawings, or with specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter, which description or specification shall be signed by such person, or his attorney, as aforesaid, so applying for such letters patent, and attested by two witnesses: Provided that, where from the complicated nature of any machinery the cost of a model thereof may be so great as to prevent any ingenious but poor persons from obtaining patents for their useful inventions, it shall and may be lawful for the Governor, by and with the advice and consent of the Executive Committee, if they shall see fit and proper under all the circumstances so to do, to dispense with the delivery of such model previous to the granting any such patent; and in such case, the requisitions of this Act being in all other respects complied with, the person applying for any patent shall be entitled thereto in the same manner as if such model had been so lodged as aforesaid.

Fifth. *Five pounds to be deposited by petitioner.* That together with the said petition, the applicant for such letters patent shall pay and deposit a sum of five pounds, to be paid by way of fee to the attorney-general, on such reference of such petition as aforesaid.

Sixth. *Notice to be given of application, in Gazette.* No letters patent shall be granted under or by virtue of this Act until notice shall be published in the Jamaica Gazette by authority, and one other of the newspapers of this colony, for at least four weeks, of the intention of the applicant to apply for such letters patent; and such notice shall contain, in general terms, the description of invention or improvement for which such letters patent shall be desired.

II. Limitation of Time for bringing Letters Patent into Operation.

Seventh.—*Patent must be brought into operation within two years.* If any letters patent, which may be taken out under or by virtue of this Act, shall not have been brought into operation within two years next ensuing from and after the date thereof, such

letters patent shall, at the expiration of the said period of two years, be deemed to be forfeited, and shall thence be and become void and of no effect.

III. As to the Sealing, Date, Time of Issue, and Renewal of Letters Patent.

Eighth. *Patents to be sealed and dated as of the day of application.* It shall be lawful to cause any letters patent to be issued, under this Act, to be sealed, and bear date, as of the day of the application for the same, or where the attorney-general, or the governor in executive committee may think fit, any such letters patent as aforesaid may be sealed and bear date as of the day of the sealing thereof, or of any other day, between the day of such application and the day of such sealing.

Ninth. *And be of legal force.* Any letters patent issued under this Act, sealed and bearing date as of any day prior to the day of the actual sealing thereof, shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date.

Tenth. *They must be applied for within three months after filing of petition.* Provided that no letters patent, save in the case of letters patent destroyed or lost, shall issue, unless the same shall be applied for within three months after the date of the filing of the applicant's petition.

Eleventh. *And in case of death of applicant, within three months after his death.* Provided that, where the applicant for letters patent dies during the pendency of his application, such letters patent may be granted to the executors or administrators of such applicant at any time within three months after his death, and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during his life-time.

Twelfth. *Patents lost or mislaid may be renewed.* Provided that in case any letters patent to be issued under this Act shall be destroyed or lost, other letters patent, of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the governor in executive committee may direct to be issued, under the authority of the grant in pursuance of which the original letters patent were issued.

Thirteenth. *Patents obtained by fraud not to invalidate that of true inventor.* In case of any letters patent for any invention being

obtained in fraud of the true and first inventor, any letters patent granted to the true and first inventor of such invention shall not be invalidated by reason of such other letters patent as aforesaid, or of any use or publication of the invention, subsequent to the granting of such other letters patent as last mentioned.

IV. Mutual Rights in Invention, and in any Improvement therein.

Fourteenth. *Patents granted for improvements; how mutual rights to be regulated.* Where any letters patent shall be obtained by any person under this Act for any new and useful invention or discovery in any art, machine, or composition of matter, and thereafter any other person shall discover or make any improvement in the principle or process of any such art, machine, or composition of matter for which such patent hath been granted, and shall make application for and obtain letters patent under this Act for the exclusive right of such improvement, it shall not be lawful for the person who shall obtain and procure letters patent for any such improvement to make, use, or vend the original invention or discovery, nor for the person who shall have procured letters patent for the original invention or discovery to make, use, or vend any such improvement; provided that simply changing the form or the proportions of any machine or composition of matter, in any degree, shall not be deemed a discovery or improvement within the meaning of this Act.

V. Right of Patentee elsewhere to proceed under this Act for Letters Patent.

Fifteenth. *Applicant may receive a patent in this island although he may possess a patent elsewhere.—Proviso.* No applicant shall be deprived of his right to a patent in this colony, upon the like proceedings being had in all respects as in case of an original application for his invention, by reason of his having previously taken out letters patent therefor in any other country: Provided that such invention shall not have been introduced into public and common use in this colony prior to the application for a patent therein, and that the patent granted in this colony shall not continue in force after the expiration of the patent granted elsewhere, and that where more than one such patent or like privilege is obtained abroad, then,

immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges, the patents granted in this colony shall cease to be in force: Provided further, that no letters patent for or in any respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained elsewhere, and which shall be granted in this colony after the expiration of the term for which such patent or privilege was granted, or was in force, shall be of any validity.

VI. Power of Assignment.

Sixteenth. *Patentees may assign their rights.* Any patentee under letters patent issued under this Act, his executors, administrators, or assigns, may assign and transfer [the whole or] any part of his right, title and interest in the said invention and discovery in the letters patent to him granted, to any person whomsoever, and the assignee thereof, having recorded the said assignment in the office of the island secretary, shall thereafter stand in the place and stead of the original patentee, as well as to all or the part assigned of the right, privilege, and advantage, as also in respect of all or proportionate liability or responsibility as to the said letters patent, and the invention and discovery thereby secured; and in like manner shall the assignees of any such assignee stand, and be considered to be in the place and stead of the original patentee or inventor.

VII. Right of Assignee of Patentee elsewhere to apply under this Act for Letters Patent.

Seventeenth. *Rights of assignees.—Proviso.* Letters patent may, upon the like proceedings being had in all respects as in the case of an original application, be issued by the Governor in Executive Committee to the assignee of any person who may have taken out letters patent for his invention or discovery in any other country, but not for any invention or discovery made abroad for which no letters patent have been there obtained: Provided, that the invention or discovery so assigned shall not have been introduced into public and common use into this colony prior to the application for a patent; and that the assignee of such foreign patent shall file with his application the assignment duly proved, under which he claims a patent in this colony, and an affidavit setting forth the date of the

patent abroad, that the article thereby patented has not been in public and common use in this colony, and that he is the assignee for a good consideration.

VIII. As to Claim for larger Invention than actually invented, or defective or insufficient Specification.

Eighteenth. *Patents to be valid in law only for so much as shall be proved to be of new invention.* If in any suit or action it shall be proved, or specially found by the verdict of a jury, that by mistake, accident, or inadvertence, and without any willful default or intent to defraud or mislead the public, a patentee under this Act shall in his specification have claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, but of which part he was not the original or first inventor, and shall have no just or legal right to claim the same, his patent in such case shall be deemed good and valid for so much of the invention or discovery or improvement as shall be actually his own, provided it is a material and substantial part of the thing patented, and be plainly distinguishable from other parts patented without right; and every such patentee, and his legal representatives or assignees, whether holding the whole or a particular interest in the patent, may maintain suits at law or in equity for any infringement of such part of the same as is actually the invention or discovery of such patentee, although his specification may embrace more than he has a legal right to claim; but if in such case the plaintiff shall obtain a verdict or judgment, he shall not be entitled to costs, unless before the commencement of the suit he shall have filed in the office of the island secretary a disclaimer, attested by one or more than one witness, of that part of the thing patented which was claimed without right: Provided, that no person bringing a suit shall be entitled to the benefits of this section, if he shall, in the opinion of the court before which any such matter shall be tried, have unreasonably neglected or delayed to record his disclaimer.

Nineteenth. *Patents void by defective description, arising from error, may be renewed.* If any patent shall become inoperative or invalid by reason of a defective or insufficient description, or specification, or by reason of the patentee claiming in his specification as his own invention more than he had a right to claim; and the error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the

Governor in Executive Committee, upon the surrender of such patent, and upon petition therefor, cause a new patent to be issued to the patentee for the residue of the term mentioned in the first patent, in accordance with the patentee's amended description and specification; in case of his death, or the assignment by him of the original patent, or any fractional interest therein, the right shall vest in his legal representatives to the extent of their respective interests in such patent; and the patent so reissued, together with the amended description and specification, shall have the same effect and operation in law as though the same had been originally filed in such amended form before the the issuing of the original patent.

IX. As to mode of Entering Disclaimers and Alterations or adding to Specifications.

Twentieth. *Disclaimers of any part of patents may be recorded.* —*Proviso.* Every patentee under this Act, or his legal representative or assignee, whether holding the whole or any particular interest, may conjointly or separately, as the case may require, enter and record at the island secretary's office, having first obtained the leave of Her Majesty's attorney's general, certified by his fiat and signature, a disclaimer of any part of either the title of the invention or improvement, or of the specification, stating the reason for such disclaimer, or may, with such leave as aforesaid, enter and record at the said office a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said letters patent; and such disclaimer or memorandum of alteration being recorded by the said island secretary, shall be deemed and taken to be part of such letters patent or such specification in all courts whatever: Provided, that any person may enter a caveat at the said office of the island secretary against such disclaimer or alteration, which caveat being so entered, and a copy thereof being left with the attorney-general, shall give the party entering the same right to have notice of the application being heard by the attorney-general: Provided also, that no such disclaimer or alteration shall be receivable in evidence in any action or suit (save and except in any proceeding by scire facias) pending at the time when such disclaimer or alteration was entered; but in every such action or suit the original title and specification alone shall be given in evidence, and deemed and taken to be the title and specification of

the invention for which the letters patent have been or shall have been granted: Provided also that it shall be lawful for the attorney-general, before granting such fiat, to require the party applying for the same to advertise his disclaimer or alteration in such manner as to such attorney-general shall seem right, and shall, if he so require such advertisement, certify in his fiat that the same has been duly made.

Twenty-first. *How costs on alteration or disclaimer to be paid.* It shall be lawful for the attorney-general, if he see fit, by certificate under his hand, to order by or to whom the costs of any hearing or inquiry for any such alteration or disclaimer shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid, be not paid within four days after the amount thereof shall be so ascertained, it shall be lawful for the attorney-general to make an order for the payment of the same, and every such order may be made a rule of the supreme court of this island.

Twenty-second. *Additions may be made to specification.* If an original patentee shall be desirous of adding a description and specification of an improvement upon his original invention or discovery, made or discovered by him subsequent to the date of his patent, he may upon the like proceedings being had in all respects [as] in the case of an original application, have the same annexed to his original description and specification; and the island secretary shall certify, upon such annexed description and specification, the time of its being annexed and recorded, and thereafter it shall have the same effect in law as if it had been embraced in the original description and specification, and had been recorded therewith.

X. As to Filing and Recording Proceedings, Office Copies, Drawings, &c.

Twenty-third. *How petitions, to be presented and filed.—Proceedings thereon to be recorded.* Every petition for the grant of letters patent under this Act, and the declaration and specification required to accompany such petition, and every certificate or warrant thereon, shall be left at the office of the Executive Committee, and the day of the delivery of every such petition, declaration, and specification, certificate, or warrant, and the date of every reference,

shall be indorsed or written thereon respectively by the secretary of the Executive Committee, and an acknowledgment of receipt therefor, either separately or together, as the same may be delivered, shall be given to the petitioner or person delivering the same respectively, or his agent; and all such petitions, declarations, and specifications, references, certificates, or warrants, when letters patent shall be granted, and all letters patent, disclaimer, and memoranda of alteration and assignments, shall be lodged, filed, and preserved in the office of the secretary of this island, and shall be there recorded in or in continuation of the books of records of patents hitherto kept at such office, and a receipt therefor shall be given by the island secretary, and a registry of such petitions, declarations, specifications, references, certificates, warrants, letters patent, disclaimers, and memoranda of alteration, and of all proceedings thereon, shall be kept at such office; and for recording every such petition, declaration, specification, reference, certificate, or warrant, letters patent, disclaimer, and memorandum of alteration, and for every receipt granted therefor, as aforesaid, there shall be paid to the island secretary, by the person lodging the same, the like respective fee, or at the like rate, as is payable in the case of every deed recorded in the said office, and as is payable for every receipt granted by the island secretary for every deed there recorded.

Twenty-fourth. *Office copies may be obtained from island secretary.* It shall and may be lawful for any person to obtain and receive from the office of the island secretary, any copy or copies, certified by him, of any such letters patent, or of the petition, declaration, specification, reference, certificate, or warrant, wherever the same were granted or issued, or of any disclaimer, memorandum, document, or paper connected therewith, or any drawing relating to the same, on payment for such copy or copies of the like fees as are now payable at the office of the island secretary for copies of other documents, and every such certified copy shall be evidence in all courts.

Twenty-fifth. *Drawings connected with specifications to be furnished and bound up.* In case reference is made to drawings in any specification deposited or filed under this Act, an extra copy of such drawings shall be left with such specification, and the same shall be bound up in a suitable book, to be kept for such purpose, and plain, accurate, and sufficient notes of reference to the specification wherewith such drawing shall have been been deposited shall be made on or annexed to such drawings, and bound up with the

same, in such manner as that such reference may be easily seen and understood.

Twenty-sixth. *Island secretary to supply indexes to the records of patents, &c.* The island secretary shall cause indexes to all petitions, declarations, specifications, letters patent, disclaimers, and memoranda of alterations enrolled or recorded as aforesaid, to be prepared in the form of the indexes now used in the said office; and such indexes and the books of record of such documents respectively shall be open to the inspection of the public at the usual times, and on payment of the usual fees, in cases of searches or reference to other records at the said island secretary's office.

XI. As to Pleadings and Costs in Actions.

Twenty-seventh. *In action for infringement, particulars of breaches to be delivered.—Particulars of objections on scire facias to repeal.—Proviso.* In any action for the infringement of letters patent, the plaintiff shall deliver with his declaration, concise particulars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his plea, and the prosecutor in any proceedings by scire facias to repeal letters patent, shall deliver with his declaration, concise particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration in the proceedings by scire facias, and at the trial of such action or proceeding by scire facias, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such letters patent, which shall not be contained in the particulars delivered as aforesaid: Provided that the place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars: Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff, or defendant, or prosecutor respectively to amend the particulars delivered as aforesaid upon such terms as to such judge shall seem fit; Provided also, that at the trial of any proceeding by scire facias to repeal letters patent, the defendant shall be entitled to begin and to give evidence in support of such letters patent; and in case evidence shall be adduced on the part of the prosecutor, impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

Twenty-eighth. *General issue to be pleaded.—Proviso.* In any action for the infringement of letters patent, the defendant shall not plead any other plea than the general issue, which shall put the plaintiff to such proof in support of his action, and let in such evidence for the defendant, as in any action under such plea the defendant may, or the plaintiff at present is required to adduce; nevertheless the defendant shall be at liberty, along with such plea, to give notice by indorsement thereon or annexed to such plea of any special defense which he might by the present practice offer under a special plea, and for which he would be required to plead specially: Provided, that the defendant shall at the trial be bound by such notice, and not be at liberty to go into evidence of any other defense which by the present rules of pleading he would be restricted from giving, except under some plea for that purpose specially pleaded; and if the plaintiff would under the present rules of pleading be entitled to set up one of two answers to such special defense, he shall be required to indorse upon his similiter to the defendant's plea the nature of such answer, and shall at the trial be precluded from entering into evidence in support of any other answer: Provided further, that nothing herein contained shall be construed to prevent any party to an action or suit from filing a general or a special demurrer.

Twenty-ninth. *The court or a judge in chambers may grant injunctions, &c.* In any action in any of Her Majesty's courts of record in this island for the infringement of letters patent, it shall be lawful for the court in which such action is pending, if the court be then sitting, or if the court be not sitting, then for a judge of such court, on the application of the plaintiff or defendant respectively to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such court or judge may seem fit.

Thirtieth. *As to costs in actions for infringement of patent rights.* In taxing the costs in any action, in any of Her Majesty's courts of record in this island, commenced after the passing of this Act, for infringing letters patent, regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particulars, unless certified by the judge before whom the trial was had, to have been proved by such plaintiff or defendant respectively without regard to the general costs of the cause; and it shall be

lawful for the judge before whom any such action shall be tried, to certify on the record that the validity of the letters patent in the declaration mentioned came in question, and the record with such certificate being given in evidence in any suit or action for infringing the said letters patent, or in any proceeding by scire facias to repeal the letters patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by scire facias, on obtaining a decree, decretal order, or final judgment, to his full costs, charges and expenses, taxed as between attorney and client, unless the judge, making such decree or order, or the judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

XII. Penalty for user or for Imitation or Counterfeit without Consent.

Thirty-first. *Treble damages to be paid to patentee for the unlawful use of his patented invention.* Whenever in any case any letters patent shall be, or shall or may have been granted to any person under and by virtue of this Act, and any person without the consent of the patentee, his executors, administrators, or assigns, first had and obtained in writing, shall make, devise, use, or sell the thing, invention, or discovery whereof the exclusive right is secured to the said patentee by such letters patent, such persons so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns, a sum equal to three times the actual damage sustained by such patentee, his executors, administrators, or assigns, from or by reason of such offense, which sum shall and may be recoverable, together with costs of suit, by action on the case founded on this Act in the Supreme Court of this island.

Thirty-second. *Using the name of a patentee for the sale of an unpatented invention, declared subject to a penalty.* If any person shall write, paint, or print, or mould, cast, or carve, or engrave or stamp upon any thing made, used, or sold by him, for the sole making or selling of which he hath not or shall not have obtained letters patent, the name, or any imitation of the name, of any other person who hath or shall have obtained letters patent for the sole making and vending of such thing, without leave in writing of such patentee, or his assigns; or if any person shall, upon such thing not having been purchased from the patentee, or some person who pur-

chased it from or under such patentee, or not having had the license or consent in writing of such patentee, or his assigns, write, paint, print, mould, cast, carve, engrave, stamp or otherwise mark the words "patent," the words "Letters Patent," or the words "By the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee or shall in any other manner imitate or counterfeit the stamp, or mark, or other device of the patentee, he shall for every such offense be liable to a penalty of fifty pounds, to be recovered by action of debt, bill, plaint, process or information in Her Majesty's Supreme Court of this island, one half to Her Majesty, her heirs and successors, and the other to any person who shall sue for the same; provided that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping, or in any way marking, the words "Patent" upon any thing made for the sole making or vending of which a patent before obtained shall have expired.

XIII. As to Forms and Stamps.

Thirty-third. The forms of this Act may be varied. The several forms in the schedule to this Act may be used for and in respect of the several matters therein mentioned, and the same may be varied as occasion may require.

Thirty-fourth. Stamps stated in schedule to be impressed. The respective stamp duties set forth in the schedule hereunto annexed, shall be charged on letters patent, and the other instruments therein stated under this Act respectively, and no other stamp duties shall be chargeable thereon respectively.

XIV. As to the Writ of scire facias.

Thirty-fifth. *Scire facias for the repeal of patents.* Provided that the writ of scire facias shall lie for the repeal of any letters patent issued under this Act, in the like cases as the same would lie for the repeal of letters patent which may now be issued under the Great Seal in England.

XV. Construction of Act.

Thirty-sixth. *Doubts as to construction to be construed by analogy.* If any doubt should arise in the construction of this Act, the same may be construed by analogy to the laws now or hereafter to be in force in England relating to the granting of letters patent for inventions, so far as the provisions of such laws shall be applicable

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XVI. Commissioners to be associated.

Thirty-seventh. *The governor to appoint commissioners under this Act.* It shall be lawful for the Governor from time to time, by warrant under his sign manual, which shall be free from stamp duty, to appoint such persons as he may think fit to be commissioners under this Act ; and every person so appointed shall continue such commissioner during the Governor's pleasure, and may be summoned to attend any meeting, and take part in any proceedings of the Governor in executive committee in any matter or proceeding arising under this Act.

XVII. Miscellaneous Clauses.

Thirty-eighth. *Interpretation of words.* In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context ; that is to say, "the expression, invention, discovery, and improvement" respectively, shall mean any manner of new manufacture or new mode of manufacture, the subject of letters patent and grant of privilege within the meaning of the Act of the twenty-first year of the reign of King James the First, chapter three ; the expressions "petition," "declaration," "reference," "certificate," or "warrant," and "letters patent" respectively, shall mean instruments in the form and to the effect in the schedule hereto annexed, subject to such alterations as may from time to time be made therein, under the powers and provisions of this Act.

Thirty-ninth. *Short title of Act.* In citing this Act in other Acts, instruments, and proceedings, it shall be sufficient to use the expressions "The Patent Law Amendment Act, 1857."

Fortieth. 16*th Vict. cap.* 12, *repealed.* A certain Act of the

legislature of this island, made and passed in the sixteenth year of the reign of Her present Majesty, for ascertaining and declaring the law with regard to patents, of exclusive privileges in trade, manufacture, and inventions in connection therewith, is hereby repealed.

Forty-first. *Patents granted in Great Britain to trade in this Island, unless granted in pursuance of this Act.* No letters patent heretofore obtained, or hereafter to be obtained, in Great Britain, or elsewhere, for the exclusive privilege of trade or manufacture, or any invention in connection therewith, shall be of any validity or effect in this island, unless letters patent for the privilege or invention, in respect of which such foreign letters patent may have been obtained, shall be granted and issued in pursuance of this Act, nor until all the provisions and requirements of this Act shall have been complied with in respect to letters patent.

SCHEDULE OF STAMP DUTIES.

	£	s.	d.
Letters patent	5	0	0
Petition	0	1	6
Declaration	0	1	6
Specification	0	5	0
Reference	0	0	0
Certificate or warrant of attorney-general	0	0	0
Disclaimer or memorandum of alteration	0	1	6
Assignment	0	10	0

FORMS.

Petition.

To his Excellency, &c., &c. [*here insert name and title of Governor.*]

The humble petition of [*here insert name and address of petitioner*], for, &c.

Showeth,

That your petitioner is in possession of an invention for [*the title of the invention*], which invention he believes will be of great public utility; that he is the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of his knowledge and belief.

Your petitioner, therefore, humbly prays that your Excellency will be pleased, in the name and on behalf of Her Majesty the Queen, to grant unto him, his executors, administrators, and assigns, Her Majesty's letters patent for this island, for the term of fourteen years, pursuant to the statute in that case made and provided.

And your petitioner will ever pray, &c.

Declaration.

I , of , in the county of , do solemnly and sincerely declare that I am in possession of an invention for, &c., &c. [*the title as in petition*], which invention I believe will be of great public utility; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of my knowledge and belief; and that the instrument in writing, under my hand and seal, hereunto annexed, particularly describes and ascertains the nature of the said invention and the manner in which the same is to be performed; and I make this declaration, conscientiously believing the same to be true, and by virtue of the provisions of an act made and passed.

A. B.

Declared at , this day of , A. D., before me, , Justice of the Peace.

Specification.

To all to whom these presents shall come, I , of , send greeting:—

Know ye, that I, the said , do hereby declare the nature of my invention for [*insert title as in petition*], and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement; (that is to say)—

[*Here describe the invention.*]

In witness whereof I, the said A. B., have hereunto set my hand this day , A. D. .

We attest:—

C. D., of , &c.

E. F., of , &c.

Reference.

(To be indorsed on the petition.,

His Excellency is pleased to refer this petition to Her Majesty's Attorney-General, to consider what may be properly done therein.

Secretary to the Executive Committee.

Warrant.

In obedience to his Excellency's command, referring to me the petition of , of , to consider what may be properly done therein, I do hereby certify as follows, that the said petition sets forth that the petitioner,

[*Allegations of the petition.*]

And the petitioner most humbly prays

[*Prayer of the petition.*]

That in support of the allegations contained in the said petition, the declaration of the petitioner has been laid before me, whereby he solemnly declares that,

[*Allegations of the declaration.*]

That there has also been laid before me a specification signed , and attested by two witnesses, and also a certificate of the filing thereof.

That it appears that the said application was duly advertised. Upon consideration of all the matters aforesaid, and as it is entirely at the hazard of the said petitioner whether the said invention is new, or will have the desired success, and as it may be reasonable for his Excellency to encourage all arts and inventions which may be for the public good, I am of opinion that his Excellency may grant letters patent

unto the petitioner, his executors, administrators, and assigns, for his said invention within this island, for the term of fourteen years, according to the statute in that case made and provided, if his Excellency shall be graciously pleased so to do, to the tenor and effect following :—

(*See* Forms, Letters Patent.)

Given under my hand this day of , A. D.

Attorney-General, Jamaica.

Letters Patent.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, and of Jamaica, Lady, Defender of the Faith : to all to whom these presents shall come, greeting :—

Whereas hath, by his petition, humbly represented unto Our Captain-General and Governor-in-Chief of our Island of Jamaica that he is in possession of an invention for [*insert title of invention*], which the petitioner conceives will be of great public utility ; that he is the true and first inventor thereof ; and that the same is not in use by any other person or persons to the best of his knowledge and belief. The petitioner, therefore, most humbly prayed that We would be graciously pleased to grant unto him, his executors, administrators, and assigns, Our Royal letters patent for the sole use, benefit, and advantage of his said invention within Our said Island of Jamaica for the term of fourteen years, pursuant to the statute in that case made and provided :

And whereas the said hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed, by an instrument in writing under his hand, and has caused the same to be duly filed in the office of the Island secretary :

And We, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the request :

Know ye, therefore, that We, of Our special grace, certain knowledge, and mere motion, have given and granted, and by these presents, for Us, Our heirs and successors, do give and grant unto the said , his executors, administrators, and assigns, Our especial license, full power, sole privilege, and authority that he, the said , his executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as he, the said , his executors, administrators, and assigns, shall at any time agree with, and no others, from time to time and at all times hereafter during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within Our said island of Jamaica, in such manner as to him, the said , his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet, and that he, the said , his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, and enjoy from time to time coming, growing, accruing, and arising by reason of the said invention, for and during the term of years herein mentioned, to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages herein-before granted or mentioned to be granted unto the said , his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years from the day of , A. D. next and immediately ensuing, and according to the statute in such case made and provided, and to the end that he, the said , his executors, administrators and assigns, and every of

them, may have and enjoy the full benefit, and the sole use and exercise of the said invention, according to our gracious intention herein-before declared, We do by these presents, for Us, Our heirs and successors require and strictly command all and every person and persons, bodies politic and corporate, and all other Our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within Our said island of Jamaica, that neither thay nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said , as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereto or subtraction from the same, whereby to pretend himself or themselves the inventor or Inventors, devisor or devisors thereof, without the consent, license, or agreement of the said , his executors, administrators, or assigns, in writing under his or their hands and seals, first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this Our Royal command; and further, to be answerable to the said , his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned; and moreover, we do by these presents, for Us, Our heirs and successors, will and command all and singular the justices of the peace, constables, and all other officers and ministers whatsoever, Our heirs and successors for the the time being, that they, or any of them, do not nor shall at any time during the said term hereby granted, in anywise molest, trouble, or hinder the said , his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always, and these Our letters patent are, and shall be upon this condition, that if, at any time during the said term hereby granted, it shall be made appear to Us, Our heirs or successors, or any six or more of Our, or their, Privy Council of Our said island of Jamaica, that this Our grant is contrary to law, or prejudicial or inconvenient to Our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said is not the true and first inventor thereof within this island as aforesaid, these Our letters patent shall forthwith cease, determine, and be utterly void, to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided also, that these Our letters patent, or anything herein contained, shall not extend, or be construed to extend, to give privilege unto the said , his executors, administrators, and assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of Our subjects whatsoever, and publicly used or exercised, unto whom Our letters patent or privileges have been already granted for the sole use, exercise, and benefit thereof; it being Our will and pleasure that the said , his executors, administrators, and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions by them invented and found out, according to the true intent and meaning of the same respective letters patent, and of these presents: Provided likewise, nevertheless, and these Our letters patent are upon this express condition, that if the said instrument in writing, filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also, if the said , his executors, administrators, or assigns, shall not supply, or cause to be supplied, for Our

service, all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of Our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same, that then, and in any of the said cases, these Our letters patent, and all liberties and advantages hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted; and lastly, We do, by these presents, for Us, Our heirs and successors, grant unto the said , his executors, administrators, and assigns, that these Our letters patent, on the filing thereof, shall be, in and by all things good, firm, valid, sufficient, and effectual in the law according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said , his executors, administrators, and assigns, as well as in all Our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of Us, Our heirs and successors, in Our said island of Jamaica, and amongst all and every the subjects of Us, Our heirs and successors, within Our said island of Jamaica, notwithstanding the not full and certain describing the nature and quality of the said invention, or of the materials thereunto conducing and belonging: Provided further, that if the said , his heirs, administrators, or assigns, shall, upon petition, presented to Our Captain-General and Governor-in-Chief, or officer administering the government of Our said island, before the expiration of the term of years hereby granted, show that he or they has or hath been unable to obtain a due remuneration for his or their expense or labor in perfecting the aforesaid invention, and Our Captain-General and Governor-in-Chief, or officer administering the government as aforesaid, in Executive Committee, shall be of opinion that an extension of the term of years aforesaid should be granted, it shall be lawful for Our Captain-General and Governor-in-chief, or officer administering the government as aforesaid, to extend the term of years aforesaid for any further period not exceeding seven years, and to sign and issue in the name and on the behalf of Us, Our heirs or successors, new letters patent, in the form or of the tenor or effect aforesaid, unto the said , his executors, administrators, or assigns, for the aforesaid invention for any such further period not exceeding seven years as aforesaid accordingly; and to the end aforesaid, We have caused these, Our letters patent to be sealed with the broad seal of Our said island of Jamaica.

(Seal.) Witness, his Excellency, &c., &c., &c., Captain-General and Governor-in-Chief [*or administering the government*] of Our said island of Jamaica, and the territories thereon depending, Chancellor and Vice-Admiral of the same, at Saint Jago de la Vega, this day of annoque domini, and in the year of Our reign.

From *Carpm. Pat. L. of World*, 304.

JAPAN.

Imperial Proclamation No. 7 of (*April* 18,) 1884; *and Appendix.*

It is hereby notified that the following regulations as to patents have been published and will be enforced on and after July 1, 1885.

N. B.—The rules respecting patents published on April 7, 1871, and Imperial Proclamation No. 105, published in March, 1872, have been repealed.

By order of H. I. M. the MIKADO.

Prince SANJO SANEYOSHI,
Prime Minister of State.
Count MATSUKATA MASAYOSHI,
Minister of Agriculture and Commerce.

April 18, 1885.

ARTICLE 1. Inventors of useful articles desirous of having the exclusive sale of the same shall apply to the minister of agriculture and commerce, and obtain his special permission. The minister of agriculture and commerce shall, if advisable, deliver certificates of special permission for their exclusive sale.

ART. 2. In applying for a patent a detailed statement of the invention and the necessary diagrams will be affixed to the written application. The invented article or a specimen, shall, if necessary, be ordered to be submitted.

ART. 3. The terms of a patent right may not exceed fifteen years, reckoning from the date of its certificate.

ART. 4. Patents cannot be applied for in the case of articles of the nature specified below:

(1.) Articles that have previously been invented by others.

N. B.—This provision does not extend to patents that have been transferred by their owners.

(2.) Articles that have been publicly used or known before the patents have been applied for.

(3.) Articles that tend to disturb social tranquillity or demoralize customs and fashions, or are injurious to health.

(4.) Medicines.

ART. 5. For inventions deemed necessary for war purposes or those the general use of which is deemed important, the minister of

agriculture and commerce will not grant patents, and in the case of those for which patents have previously been granted he may cancel the same. In the case of inventions described above, the minister of agriculture and commerce will grant appropriate sums of money to the inventors by way of compensation.

ART. 6. Privileges by securing patents, as well as the patents, may be hereditary. When a successor has inherited a patent he shall report the fact to the minister of agriculture and commerce within three months.

ART. 7. Persons desirous of transferring to or acquiring from another person, patents, must apply for the permission of the minister of agriculture and commerce.

ART. 8. When a patentee effects improvements upon his invention he may apply for a fresh patent.

N. B.—The effect of additional patents may not exceed that of the original patents.

ART. 9. Persons desirous of obtaining patents for articles that are improvements upon other patented inventions must secure the consent of the original patentees. If the original patentee should refuse his consent and the minister of agriculture and commerce deem the refusal obstructive to the improvement of the invention, he may grant the improver special permission to use the original invention together with the improved part. In such cases as have been mentioned above the minister of agriculture and commerce shall cause the improvers to give appropriate sums of money to the original inventors by way of compensation.

ART. 10. Patentees must indicate on their inventions the date and term of the patents. In the case of articles, the nature of which precludes such indication, the date and term must be marked on the cover or otherwise.

ART. 11. The register of patentees, with other details, shall be submitted for public inspection by the minister of agriculture and commerce.

ART. 12. When patentees change the places of their registration or their residences or names, they must report the fact to the department of agriculture and commerce within three months.

ART. 13. When certificates of patents have been lost or damaged, the patentees must apply to the minister of agriculture and commerce for the delivery of fresh certificates.

ART. 14. In cases mentioned below, patents shall be declared void and the return of the certificates of the patents shall be ordered:

(1.) When any contravention of the provisions of article 4 has been discovered.

(2.) When any misrepresentation of facts has been discovered in the written applications and details of the inventions.

ART. 15. Patents will become void in the following cases:

(1.) When the inventions have not been practically publicly applied within two years after the date of the certificates of the patents, or when their execution has been suspended for two years without any representation of the circumstances of the case to the authorities.

(2.) When patented inventions have been imported from abroad and sold.

ART. 16. When certificates of patents are granted or canceled, or when any loss of patent right has occurred, the department of agriculture and commerce will publicly notify the fact.

ART. 17. Persons applying for patents shall pay the undermentioned fees.

N. B.—Should the written applications be dismissed, the fees shall be returned.

(1.) For persons applying for patents lasting for five years, 10 yen.

(2.) For persons applying for patents lasting for ten years, 15 yen.

(3.) For persons applying for patents lasting for fifteen years, 20 yen.

(4.) For persons applying for the transfer of patents, 5 yen.

(5.) For persons applying for additional patents, 5 yen.

(6.) For persons applying for fresh certificates of patents, 1 yen.

ART. 18. Officials concerned in the granting of patents may not apply for patents.

ART. 19. If the marks described in article 10 are not made, no appeal for any claim of damage may be made.

ART. 20. Persons who have counterfeited patented inventions, or imported them from abroad, or clandestinely used any patent, shall be liable to imprisonment with labor for a period not less than one month and not exceeding one year and a fine of not less than 4 yen and not exceeding 40 yen.

ART. 21. Persons who have applied to articles of the same kind as others manufactured under patents, marks that bear a close resemblance to those used by the owners of such patents, shall be liable to imprisonment with labor for a period of not less than fifteen days

and not exceeding six months, and a fine not less than 2 yen and not exceeding 20 yen.

ART. 22. Persons who have sold articles in contravention of articles 20 and 21, with previous knowledge of the fact, shall be liable to a fine not less than 4 yen and not exceeding 40 yen.

ART. 23. In the cases mentioned in articles 20, 21 and 22, the infringing articles and the apparatus used for the perpetration of the offenses shall be confiscated and handed over to the patentees, and in the case of articles previously sold, their price shall be exacted from the offender and also given to the patentees.

ART. 24. Persons who have obtained rights by fraudulent means or sham patents shall be liable to imprisonment for a period not less than fifteen days and not exceeding six months, and a penalty of not less than 2 yen and not exceeding 20 yen.

ART. 25. Persons who have failed to make the reports mentioned in the second clause of article 6 and article 12 within the prescribed periods shall be liable to a penalty of not less than 1 yen and not exceeding 1.95 yen.

ART. 26. To contraventions of these regulations the provisions in the criminal code for the simultaneous commission of several crimes shall not be applied.

ART. 27. The offenses mentioned in articles 20, 21, and 22 shall be dealt with at the instance of the patentees.

ART. 28. When patentees have made appeals, judges may temporarily suspend the sale of the articles to which such appeals relate.

Appendix.

Persons desirous of obtaining the exclusive sale of articles invented after the publication of the patent rules of April 7, 1871, and before the publication of these regulations, and which were reported to the authorities according to the additional provisions of notification No. 105, published in March, 1872, may apply to the minister of agriculture and commerce for their patents within six months after the date of the enforcement of these regulations, even though they be such as are generally used or known.

Persons who have made use of the inventions described above before the publication of these regulations may apply to the minister of agriculture and commerce for special permission for their use within one year after the date of the enforcement of these regula-

tions. In such cases they shall pay fees to the same amount as those for the granting of patents mentioned in article 17.

From 31 *Pat. Off. Gaz.* 1445.

Notification No. 5 Council of State.

It is hereby notified, that, the Patent Regulations having been published, the following Regulations are issued as to the mode of procedure to obtain patents.

Prince SANJO SANEYOSHI,
Prime Minister.
Count MATSUKATA MASAYOSHI,
Acting Minister of the Agricultural and Commercial Department.

April 18, 1885.

ARTICLE 1. Applications and reports in connection with patents shall be sent to the agricultural and commercial department through the prefectural authorities.

ART. 2. When application is made for a patent, there must be two letters of application and three statements of details and diagrams sent in, together with the patent fee. When more than one person is connected with the invention, they shall all sign the documents sent to the department.

ART. 3. Written statements, details, and diagrams are to be sent to the prefectural authorities in a sealed form, and in that form they will be forwarded to the minister of the agricultural and commercial department.

ART. 4. The following must be stated in all applications for patents:

(1.) The name of the invention.

(2.) The duration of the patent applied for.

(3.) A declaration that it is not contravening the regulations.

(4.) A declaration that there are no misrepresentations of facts made in the written application and statement.

ART. 5. In the details the following must appear:

(1.) The object of the invention and explanation of its nature.

(2.) An explanation of the diagrams, when such are submitted.

(3.) A detailed description of the manufacture, structure, composition and the way of employing the invention.

(4.) The uses to which the invention may be applied.

(5.) The social rank, name and address of the inventor.

ART. 6. The diagram must be numbered, and their respective

parts shall be marked with letters or numerical figures to correspond with the explanations.

ART. 7. Any one applying for the transfer of the whole or part of the patent, in accordance with the 7th article of the regulations, must send in two letters of application, a copy of the agreement between the parties, and the certificate of patent, together with the fee.

ART. 8. Any person applying for additional patent rights should do so as provided in articles 2 and 3.

ART. 9. Any person desirous of obtaining the special permission stated in the second part of article 9 of the regulations, shall send in two applications, stating the circumstances of the case.

ART. 10. When it is reported, as stated in articles 6 and 12 of the regulations, that the name of the patentee is altered, the minister of the agricultural and commercial department shall indorse the fact on the certificate of patent.

ART. 11. When any one applies for a fresh certificate, a detailed account of the circumstances of the case must be sent in.

ART. 12. In a case where a patentee has discovered omissions or mis-statements in the letters of applications and diagrams, he shall send in two applications with a detailed account of the circumstances of the case. But when by addition to or alteration of some important part the invention is completely changed, no application will be received.

ART. 13. When patentees allow others by mutual consent to use the invention, the fact should be reported and the document signed by both parties.

ART. 14. When, after a patent has been declared void through a contravention of the provisions of the first part of article 4 of the regulations, and the original inventor applies again for the patent, its term shall not exceed that granted to the original patent.

ART. 15. Any person who desires to obtain permission to use articles, as provided for in the second clause of the regulations, shall send in two applications containing a detailed account of their previous employment.

From 31 *Pat. Off. Gaz.* 1445.

LEEWARD ISLANDS.

An Act for amending the Law for granting Patents for Inventions. *No.* 12 *of* 1876.

Whereas it is expedient to amend the law concerning letters patent for inventions,

Be it enacted by the Governor and General Legislative Council of the Leeward Islands, as follows :

[*Section* 1, *relating to commissioners of patents, has been repealed.* See, sections 1 & 5 of Act No. 16, 1878, *post.*]

2. *Seal of the commissioners.* It shall be lawful for the commissioners to cause a seal to be made for the purposes of this Act, and from time to time to vary such seal, and to cause to be sealed therewith all the warrants for letters patent under this Act, and all instruments and copies proceeding from the office of the commissioners, and all courts, judges and other persons whomsoever, shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the Great Seal of the Colony are received in evidence, and shall also take notice of and receive in evidence, without further proof or production of the originals, all copies or extracts certified under the seal of the said office, of or from documents deposited in such office.

3. *Power of commissioners to make rules and regulations to be approved by governor in council.* It shall be lawful for the commissioners from time to time to make such rules and regulations (not inconsistent with the provisions of this Act) respecting the business of their office, and all matters and things which under the provisions herein contained are to be under their control and direction, as may appear to them necessary and expedient for the purposes of this Act, and all such rules when approved by the Governor in Council shall have the force and effect of law.

4. *Office of the commissioners.* It shall be lawful for the Governor to provide and appoint from time to time a proper place for an office for the purposes of this Act.

5. *Commissioners, with consent of Governor, to appoint clerk.* It shall be lawful for the commissioners, with the consent and approval of the Governor, from time to time to appoint a clerk for the purposes of this Act, and it shall be lawful for the commission-

ers from time to time, with the approval of the Governor, to remove such clerk so appointed.

6. *Petition, &c. to be accompanied by a provisional specification.* Every petition for the grant of letters patent for an invention, and the declaration required to accompany such petition, shall be left at the office of the commissioners; and there shall be left there, with it, a statement in writing, hereinafter called the provisional specification, signed by or on behalf of the applicant for letters patent, describing the nature of the said invention; and the day of the delivery of every such petition, declaration, and provisional specification shall be recorded at the said office, and indorsed on such petition, declaration, and provisional specification, and a certificate thereof given to such applicant or his agent; and all such petitions, declarations, and provisional specifications shall be preserved in such manner as the commissioners may direct, and a registry thereof, and of all proceedings thereon, kept at the office of the commissioners.

7. *Every application to be referred to attorney-general.* Every applicant for letters patent made under this Act shall be referred by the commissioners according to such regulations as they may think fit to make, to the attorney-general.

8. *Provisional specification to be referred to attorney-general, who may give certificate of allowance.* The provisional specification shall be referred to the attorney-general, who shall be at liberty to call to his aid such scientific, or other person as he may think fit, and to cause to be paid to such person by the applicant, such remuneration as the attorney-general shall appoint; and if the attorney-general be satisfied that the provisional specification describes the nature of the invention, he shall allow the same, and give a certificate of his allowance, and such certificate shall be filed in the office of the commissioners, and thereupon the invention therein referred to may, during the term of six months from the date of the application for letters patent for the said invention be used and published without prejudice to any letters patent to be granted for the same, and such protection from the consequences of use and publication is hereinafter referred to as provisional protection. Provided always that in case the title of the invention or the provisional specification be too large or insufficient, it shall be lawful for the attorney-general to allow or require the same to be amended.

9. *Inventor may deposit a complete specification, to confer for a limited time the like rights as letters patent.* The applicant for letters patent for an invention instead of leaving with the petition

and declaration a provisional specification as aforesaid, may, if he think fit, file with the said petition and declaration an instrument in writing under his hand and seal (hereinafter called a complete specification) particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, which complete specification shall be mentioned in such declaration, and the day of the delivery of every such petition, declaration and complete specification shall be recorded at the office of the commissioners, and indorsed on such petition, declaration, and specification, and a certificate thereof given to such applicant or his agent, and thereupon subject and without prejudice to the provisions hereinafter contained, the invention shall be protected under this Act for the term of six months from the date of the application, and the applicant shall have during such term of six months the like powers, rights, and privileges, as might have been conferred upon him by letters patent for such invention issued under this Act, and duly sealed as of the day of the date of such application, and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any letters patent to be granted for the same; and where letters patent are granted in respect of such invention, then in lieu of a condition for making void such letters patent in case such invention be not described and ascertained by a subsequent specification, such letters patent shall be conditioned to become void, if such complete specification filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed; and a copy of every such complete specification shall be open to the inspection of the public as hereinafter provided, from the time of depositing the same, subject to such regulations as the commissioners may make.

10. *Letters patent granted to first inventor not invalidated by protection obtained in fraud.* In case of any application for letters patent for any invention, and the obtaining upon such application of provisional protection for such invention, or of protection for the same, by reason of the deposit of a complete specification, as aforesaid, in fraud of the true and first inventor, any letters patent granted to the true and first inventor of such invention shall not be invalidated by reason of such application or of such provisional or other protection as aforesaid, or of any use or publication of the invention, subsequent to such application, and before the expiration of the term of such provisional or other protection.

11. *Commissioners to cause protection to be advertised.* Where any invention is provisionally protected under this Act, or protected by reason of the deposit of such complete specification as aforesaid, the commissioners shall cause such provisional protection, or such other protection, as aforesaid, to be advertised in such manner as they may see fit.

12. *Application for letters patent to be advertised; also oppositions.* The applicant for letters patent, so soon as he may think fit after the invention shall have been provisionally protected under this Act, or where a complete specification has been deposited with his petition and declaration, then so soon as he may think fit after such deposit, may give notice at the office of the commissioners of his intention of proceeding with his application for letters patent for the said invention, and thereupon the said commissioners shall cause his said application to be advertised in such manner as they may see fit, and any person having an interest in opposing the grant of letters patent for the said invention, shall be at liberty to leave particulars in writing of their objections to the said application at such place, and within such time, and subject to such regulations as the commissioners may direct.

13. *Specification and objections to be referred to attorney-general.* So soon as the time for the delivery of such objections shall have expired, the provisional specification or complete specification (as the case may be), and particulars of objection (if any) shall be referred to the attorney-general.

14. *Power to attorney-general to order costs paid.* It shall be lawful for the attorney-general, if he see fit, by certificate under his hand, to order by or to whom the cost of any hearing or inquiry upon any objection or otherwise, in relation to the grant of such letters patent, or in relation to provisional (or other) protection acquired by the applicant under this Act shall be paid, and in what manner, and by whom such costs are to be ascertained, and if any costs so ordered to be paid be not paid within four days after the amount thereof shall be so ascertained, it shall be lawful for the attorney-general to make an order for the payment of the same, and every such order may be made a rule of the supreme court to the effect that execution may pass thereupon in common form.

15. *Attorney-general to cause warrant for sealing letters patent.* It shall be lawful for the attorney-general after such hearing, if any, as he may think fit, to cause a warrant to be made for the sealing of letters patent for the said invention, and such warrant

shall be sealed with the seal of the commissioners, and shall set forth the tenor and effect of the letters patent thereby authorized to be granted, and the attorney-general shall direct the insertion in such letters patent of all such restrictions, conditions, and provisos as he may deem usual and expedient in such grants, or necessary in pursuance of the provisions of this Act; and the said warrant shall be the warrant for making and sealing of letters patent under this Act according to the tenor of said warrant.

16. *Nothing to affect the prerogative of the Crown.* Provided always that nothing herein contained shall extend to abridge or affect the prerogative of the Crown in relation to the granting or withholding the grant of any letters patent, and it shall be lawful for the Governor by warrant under his hand, to direct the attorney-general to withhold such warrant as aforesaid, or that any letters patent for the issuing whereof he may have issued a warrant as aforesaid shall not issue, or to direct the insertion in any letters patent to be issued in manner herein provided of any restrictions, conditions, or provisos, which he may think fit, in addition to, or in substitution for, any restrictions, conditions or provisos which would otherwise be inserted therein under this Act, and it shall also be lawful for the Governor by like warrant to direct any complete specification, which may have been filed under the provision hereinbefore contained, and in respect of the invention described, in which no letters patent may have been granted, to be canceled, and thereupon the protection obtained by the filing of such complete specification shall cease.

17. *Letters patent to be for* 14 *years, subject to conditions.* All letters patent for inventions granted under the provisions hereinbefore contained shall be for fourteen years, and shall be made subject to the condition, that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid before the expiration of the said three and seven years respectively, the sum or sums of money in the schedule to this Act annexed; and the payment of the said sums of money shall be indorsed on the warrant for the said letters patent, and the clerks of the commissioners shall issue under the seal of the commissioners a certificate of such payment, and shall indorse a receipt for the same on any letters patent issued under the authority of the said warrant; and such certificate duly stamped, shall be evidence of the payment of the several sums respectively.

18. *Letters patent to be sealed with the Great Seal of the Colony.* The commissioners so soon after the sealing of the said warraut as required by the applicant for the letters patent, shall cause to be prepared letters patent for the invention according to the tenor of the said warrant, and it shall be lawful for the Governor to cause such letters patent to be sealed with the Great Seal of the Colony.

19. *No letters after three months from warrant.* Provided always that no letters patent, save as hereinafter mentioned in the case of letters patent destroyed or lost, shall issue on any warraut granted as aforesaid, unless application be made to seal such letters patent within three months after the date of the said warraut.

20. *No letters (except, &c.,) to be issued after expiration of protection.* Provided also that no letters patent (save letters patent issued in lieu of others destroyed or lost) shall be issued or be of any force or effect, unless the same be granted during the continuance of the provisional protection under this Act, or where a complete specification has been deposited under this Act, nor then unless such letters patent be granted during the continuance of the protection conferred under this Act by reason of such deposit; save that where the application to seal such letters patent has been made during the continuance of such provisional or other protection as aforesaid, and the sealing of such letters patent has been delayed by reason of a caveat or an application to the Governor against or in relation to the sealing of such letters patent, then such letters patent may be sealed at such time as the Governor shall direct.

21. *Letters patent may be granted to personal representatives.* Provided also that where the applicant for such letters patent dies during the continuance of the provisional protection, or the protection by reason of the deposit of a complete specification (as the case may be), such letters patent may be granted to the executors or administrators of such applicant during the continuance of such provisional or other protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such provisional or other protection, and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such provisional or other protection.

22. *If letters be destroyed or lost, others may be issued.* Provided also that in case any such letters patent shall be destroyed

or lost, other letters patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the commissioners may direct, be issued under the authority of the warrant in pursuance of which the original letters patent were issued.

23. *Letters patent may be dated as of the day of the application.* It shall be lawful to cause any letters patent to be issued in pursuance of this Act to be sealed and bear date as of the day of the application for the same, or where the attorney-general or the Governor thinks fit and directs, any such letters patent as aforesaid may be sealed and bear date as of the day of the sealing of such letters patent or of any other day between the day of such application for provisional registration and the day of such sealing.

24. *Letters patent antedated to be of the same validity.* Any letters patent issued under this Act, sealed and bearing date as of any day prior to the day of the actual sealing thereof shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date. Provided always that save where such letters patent are granted for any invention in respect whereof a complete specification has been deposited upon the application for the same under this Act, no proceeding at law or in equity shall be had upon such letters patent in respect of any infringement committed before the same were actually granted.

25. *Letters for foreign inventions not in force after expiration of foreign patent.* Where upon any application made after the passing of this Act, letters patent are granted in this colony for or in respect of any invention first invented in any foreign country, or by the subject of any foreign power or State, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any foreign country is there obtained before the grant of such letters patent in this colony, all rights and privileges under such letters patent shall (notwithstanding any term in such letters patent limited) cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such foreign country shall continue in force, or where more than one such patent or like privilege is obtained abroad immediately upon the expiration or other determination of the term which shall first expire or be determined of such several patents or like privileges, provided always that no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained in any

foreign country, and which shall be granted in this colony after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

26. *Use of inventions in foreign ships, &c.* No letters patent for any invention (granted after the passing of this Act) shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel, which may be in any port of this colony, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from this colony, provided always that this enactment shall not extend to the ships or vessels of any foreign State of which the laws authorize subjects of such foreign State, having patents or like privileges for the exclusive use or exercise of inventions within its territories to prevent or interfere with the use of such inventions in British ships or vessels while in the ports of such foreign State or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from the territories of such foreign State.

27. *Requirement that specifications be filed.* All letters patent to be granted under this Act (save only letters patent granted after the filing of a complete specification) shall require the specification thereunder to be filed in the office of the commissioners.

28. *Filing.* Every specification to be filed in pursuance of the condition of any letters patent shall be filed in the office of the commissioners.

29. *Copies of specifications to be open to inspection.* The commissioners shall cause true copies of all specifications (other than provisional specifications), disclaimers and memoranda of alterations filed under or in pursuance of this Act, and all provisional specifications after the term of the provisional protection of the invention has expired, to be open to the inspection of the public at the office of the commissioners at all reasonable times, subject to such regulations as the commissioners may direct.

30. *Specification and other documents to be printed, &c.* The commissioners shall cause to be printed, published, and sold at such prices and in such manner as they may think fit, all specifications, disclaimers and memoranda of alterations deposited or filed under this Act, and such specifications (not being provisional specifications), disclaimers and memoranda respectively shall be so printed and published as soon as conveniently may be after the filing thereof

respectively, and all such provisional specifications shall be so printed and published as soon as conveniently may be after the expiration of the provisional protection obtained in respect thereof, and it shall be lawful for the commissioners to present copies of all such publications to such public libraries and museums as they may think fit, and to allow the person depositing or filing any such specification, disclaimer or memoranda 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.

31. *Copies of specifications, &c., to be evidence.* Printed copies, certified by the commissioners or one of them, of specifications, disclaimers, and memoranda of alterations shall be admissible in evidence and deemed and taken to be *primâ facie* evidence of the existence and contents of the documents to which they purport to relate, in all courts and in all proceedings relating to letters patent.

32. *Register of patents to be kept.* There shall be kept at the office of the commissioners under this Act a book or books to be called "The Register of Patents," wherein shall be entered and recorded in chronological order all letters patent granted under this Act, the deposit of filing of specifications, disclaimers and memoranda of alterations, filed in respect of such letters patent, all amendments in such letters patent and specifications, all confirmations and extensions of such letters patent, the expiry, vacating, or canceling such letters patent, with the dates thereof respectively, and all other matters and things affecting the validity of such letters patent, as the commissioners may direct, and such register or a copy thereof shall be open at all convenient times to the inspection of the public, subject to such regulations as the commissioners may make.

33. *Registers of proprietors to be kept.* There shall be kept at the office of the commissioners a book or books entitled "The Register of Proprietors," wherein shall be entered in such manner as the commissioners shall direct the assignment of any letters patent, or of any share or interest therein, any license under letters patent; and the district to which such license relates, with the name or names of any person having any share or interest in such letters patent or license, the date of his or their acquiring such letters patent, share and interest, and any other matter or thing relating to or affecting the proprietorship in such letters patent or license, and a copy of any entry in such book, certified under the seal of the commissioners, shall be given to any person requiring the same on pay-

ment of the fees hereinafter provided, and such copies so certified shall be received in evidence in all courts and in all proceedings, and shall be *prima facie* proof of the assignment of such letters patent or share or interest therein or of the license of the proprietorship, as therein expressed, provided always that until such entry shall have been made the grantee or grantees of the letters patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such letters patent and of all the licenses and privileges thereby given and granted, and any writ of scire facias to repeal such letters patent may be issued to the provost marshal of the presidency in which the grantee or grantees resided at the time when the said letters patent were granted, and in case such grantee or grantees do not reside in the Leeward Islands, it shall be sufficient to file such writ in the usual manner in which writs are filed, and serve notice thereof in writing at the last known residence or place of business of such grantee or grantees, and such register or a copy shall be open to the inspection of the public at the office of the commissioners, subject to such regulations as the commissioners may make.

34. *Falsification or forgery of entries a misdemeanor.* If any person shall willfully make or cause to be made any false entry in the said Register of Proprietors, or shall willfully make or forge or cause to be made or forged any writing falsely purporting to be a copy of any entry in the said book, or shall produce or tender or cause to be produced or tendered in evidence any such writing knowing the same to be false or forged, he shall be guilty of misdemeanor, and shall be punished by fine and imprisonment accordingly.

35. *Entries may be expunged.* If any person shall deem himself aggrieved by any entry made under color of this Act in the said Register of Proprietors, it shall be lawful for such person to apply by motion to the Supreme Court or any judge thereof for an order that such entry may be expunged, vacated or varied, and upon any such application the said court or judge may make such order for expunging, vacating or varying such entry, and as to the costs of such application as to the said court or judge may seem fit, and the officer having the care and custody of such register, on the production to him of any such order for expunging, vacating or varying any such entry, shall expunge, vacate or vary the same, according to the requisitions of such order.

36. *Provisions of* 5 & 6 *W.* 4, *c.* 83, *and of* 7 & 8 *Vict. c.* 69,

as to disclaimers and memoranda of alterations, to apply.—Application for disclaimers and caveats. All the provisions of the Imperial Acts of the session holden in the fifth and sixth years of King William the Fourth, chapter eighty-three, and of the session holden in the seventh and eighth years of Her Majesty, chapter sixty-nine, respectively relating to disclaimers and memoranda of alterations in letters patent and specifications, except as hereinafter provided, shall be applicable and apply to any letters patent granted and to any specification filed under the provisions of this Act, provided always that all applications for leave to enter a disclaimer or memorandum of alteration shall be made, and all caveats relating thereto, shall be lodged at the office of the commissioners, and shall be referred to the attorney-general, provided that every such disclaimer or memorandum of alteration shall be filed in the office of the commissioners with the specifications to which the same relates, provided also that such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the law officer in the first recited Act mentioned certified as therein mentioned shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under the Acts aforesaid and this Act, and no objection shall be allowed to be made in any proceeding upon or touching such letters patent, specification, disclaimer or memorandum of alteration, on the ground that the party entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf, provided also that no action shall be brought upon any letters patent in which or on the specification of which any disclaimer or memorandum of alteration shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the attorney-general shall certify in his fiat that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration.

37. *Provisions of* 5 *&* 6 *W.* 4, *c.* 83, 2 *&* 3 *Vict. c.* 67, *and* 7 *&* 8 *Vict. c.* 69, *as to confirmation and prolongation, to apply.* All the provisions of the said Act of the fifth and sixth years of King William the Fourth for the confirmation of any letters patent and the grant of new letters patent, and all the provisions of the said Act, and of the Acts of the session holden in the second and third years of Her Majesty, chapter sixty-seven, and of the session holden in the seventh and eighth years of Her Majesty, chapter sixty-nine, respectively relating to the prolongation of the term of

letters patent and to the grant of new letters patent for a further term, shall extend and apply to any letters patent granted under the provisions of this Act, and it shall be lawful to grant new letters patent as in the said Acts mentioned, provided always that such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the original letters patent which may first expire.

38. *Actions for infringement to be regulated by "Code of Civil Procedure."* All actions for the infringement of letters patent granted under the authority of this Act shall be regulated by the provisions of "The Code of Civil Procedure."

39. *Supreme Court may grant injunctions, &c.* In any action in the Supreme Court for the infringement of letters patent, it shall be lawful for the court if it be then sitting, or, if the court be not sitting, for a judge of such court, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such court or judge may seem fit.

40. *Fees on letters patent to be as in schedule.* There shall be paid to the clerk of the commissioners in respect of letters patent applied for or issued, as herein mentioned, the filing of specifications and disclaimers, certificates, entries and searches, and all other matters and things mentioned in the schedule to this Act, such fees as are mentioned in the said schedule, and such fees shall be payable into the public treasury of the presidency where such letters patent shall be applied for or issued, save and except such portions thereof as may be allotted under section 42 of this Act.

41. *Fees to attorney-general, in cases of opposition, &c.* In cases of opposition to the granting of letters patent, and in case of disclaimers and memoranda of alterations, such fees shall be paid to the attorney-general as may be appointed by the commissioners as the fee to be paid on the hearing of such oppositions, and in the case of disclaimers and memoranda of alterations respectively, and such reasonable sums for office or other copies of documents in the office of the commissioners, as the commissioners may from time to time appoint to be paid for such copies, and the commissioners are hereby authorized and empowered to appoint the fees to be so paid in respect of such oppositions, disclaimers and memoranda of alterations respectively, and for such office and other copies.

42. *Fees of clerk.* It shall be lawful for the commissioners to

allot to the clerk such portions of the fees received by them as they may deem right.

43. *Forms in schedule may be used.* The several forms in the schedule to this Act may be used for and in respect of the several matters therein mentioned, and the commissioners may where they think fit vary such forms as occasion may require, and cause to be printed and circulated such other forms as they may think fit to be used for the purposes of this Act.

44. *Interpretation of terms.* In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context. That is to say :—The expression "Governor" shall mean the officer administering the general government of the colony ; the expression "the commissioners" shall mean the commissioners for the time being acting in execution of this Act ; the expression "invention" shall mean any manner of new manufacture, the subject of letters patent and grant of privilege within the meaning of the existing law of England governing this subject ; the expressions "petition," "declaration," "provisional specification," "warrant," and "letters patent," respectively, shall mean instruments in the form and to the effect in the schedule hereto annexed, subject to such alterations as may from time to time be made therein under the powers and provisions of this Act.

45. *Short title.* This Act may be cited as the "Patent Law Act, 1876."

46. *Commencement of Act.* This Act shall commence and take effect on such day as shall hereafter be fixed by proclamation under the hand of the Governor, to be published in the Gazette.

THE SCHEDULE TO WHICH THIS ACT REFERS.

Fees to be paid.

	£	s.	d.
On leaving petition for grant of letters patent.....	2	10	0
On notice of intention to proceed with the application.....	2	10	0
On sealing of letters patent.....	5	0	0
On filing specification.....	5	0	0
At or before the expiration of the third year.....	10	0	0
At or before the expiration of the seventh year.....	20	0	0

	£	s.	d.
On leaving notice of objections....	2	0	0
Every search and inspection....	0	1	0
Entry of assignment or license....	0	5	0
Certificate of assignment or license....	0	5	0
Filing application for disclaimer....	3	0	0
Caveat against disclaimer....	1	0	0
The following fees shall be paid to the attorney-general:—			
On every application for letters patent referred to attorney-general under section 7....	3	0	0
Examining provisional specification under section 8....	5	0	0
" amended " "	1	0	0
" complete specification under sections 9 and 13....	5	0	0
Perusing particulars of objections under section 13....	2	0	0
Certificate of allowance....	3	0	0
Every certificate under section 14....	1	0	0
" order for costs "	1	0	0
" warrant for the sealing of letters patent under section 15....	5	0	0
Considering application for disclaimer or memorandum of alteration under section 36....	2	0	0
Every certificate or fiat that action may be brought under section 36.....	3	0	0

FORMS.

Petition.

No.

To

The humble petition of [*here insert name and address of petitioner*] for, &c.

SHOWETH,

That your petitioner is in possession of an invention for [*title of the invention*], which invention he believes will be of great public utility; that he is the true and first inventor thereof, and that the same is not in use by any other person or persons, to the best of his knowledge and belief.

Your petitioner therefore humbly prays that will be pleased to grant unto him, his executors, administrators, and assigns, letters patent for the Leeward Islands for the term of fourteen years, pursuant to the statute in that case made and provided.

And your petitioner will ever pray, &c.

Declaration.

No.

I of , do solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as in petition*] which invention I believe will be of great public utility; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons, to the best of my knowledge and belief [*where a complete specification is to be filed with the petition and declaration, insert these words:* "and that the instrument in writing under my hand and seal hereunto annexed, par-

ticularly describes and ascertains the nature of the said invention, and the manner in which the same is to be performed "], and I make this declaration, conscientiously believing the same to be true.

A. B.

Declared at this day of A. D. before me,

Provisional specification.

No.

I do hereby declare the nature of the said invention for [*insert title as in petition*] to be as follows [*here insert description*].

Dated this day of A. D.

[To be signed by applicant or his agent.]

Reference.

(*To be indorsed on the petition.*)

The governor is pleased to refer this petition to the attorney-general, to consider what may be properly done therein.

Clerk of the commissioners.

Warrant.

In humble obedience to command referring to me the petition of of , to consider what may be properly done therein; I do hereby certify as follows: that the said petition sets forth that the petitioner [*allegations of the petition*] And the petitioner most humbly prays [*prayer of the petition*].

That in support of the allegations contained in the said petition, the declaration of the petitioner has been laid before me, whereby he solemnly declares, that [*allegations of the declaration*].

That there has also been laid before me [*a provisional specification signed and also a certificate*] or [*a complete specification, and a certificate of the filing thereof*] whereby it appears that the said invention was provisionally protected [*or protected*] from the day of A. D. in pursuance of the statute.

That it appears that the said application was duly advertised:

Upon consideration of all the matters aforesaid, and as it is entirely at the hazard of the said petitioner whether the said invention is new, or will have the desired success, and as it may be reasonable for Her Majesty to encourage all arts and inventions which may be for the public good, I am of opinion that the Governor may grant letters patent unto the petitioner, his executors, administrators and assigns, for his said invention within the Leeward Islands, for the term of fourteen years, according to the statute in that case made and provided, if his Excellency shall be graciously pleased so to do, to the tenor and effect following [*see next form*].

Given under my hand and seal this day of A. D.

[Seal of the commissioners.]

Letters patent.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith;

To all to whom these presents shall come, greeting:

Whereas hath, by his petition, humbly represented to Us that he is in possession of an invention for

which the petitioner conceives will be of great public utility; that he is the true and first inventor thereof; and that the same is not in use by any other person or persons, to the best of his knowledge and belief; the petitioner therefore most humbly prayed that We would be graciously pleased to grant unto him, his executors, administrators, and assigns, Our royal letters patent for the sole use, benefit, and advantage of his said invention within Our Leeward Islands, for the term of fourteen years, pursuant to the statutes in that case made and provided:

[*And whereas the said hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed, by an instrument in writing under his hand and seal, and has caused the same to be duly filed in*].

And We, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioner's request: Know ye, therefore, that We, of Our especial grace, certain knowledge, and mere motion, have given and granted and by these presents, for Us, Our heirs and successors, do give and grant unto the said his executors, administrators, and assigns, Our especial license, full power, sole privilege and authority, that he, the said his executors, administrators, and assigns, and every of them by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as he the said his executors, administrators, or assigns, shall at any time agree with and no others from time to time, and at all times hereafter during the term of years herein expressed, shall and lawfully may, make, use, exercise, and vend, his said invention within Our said Leeward Islands, in such manner as to him the said his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet, and that he the said his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity and advantage from time to time coming, growing, accruing, and arising, by reason of the said invention for and during the term of years herein mentioned; to have, hold, exercise, and enjoy the said licenses, powers, privileges and advantages hereinbefore granted or mentioned to be granted unto the said his executors, administrators, and assigns, for and during, and unto the full end and term of fourteen years from the day of A. D. next, and immediately ensuing according to the statute in such case made and provided; and to the end, that he the said his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention according to Our gracious intention hereinbefore declared. We do by these prerents, for Us, Our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other Our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within Our said Leeward Islands, that neither they nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly to make, use, or put in practice the said invention, or any part of the same so attained unto by the said as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, license, or agreement of the said his executors, administrators, or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be

justly inflicted on such offenders, for their contempt of this Our Royal command, and further to be answerable to the said his executors, administrators and assigns, according to law for his and their damages thereby occasioned: and, moreover, We do by these presents for Us, Our heirs and successors, will and command all and singular the magistrates, justices of the peace, and all other officers and ministers whatsoever of Us, Our heirs, and successors, for the time being, that they or any of them do not nor shall at any time during the said term hereby granted, in anywise molest, trouble, or hinder the said his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always and these Our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted, it shall be made to appear to Our governor of Our said Leeward Islands in council that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said is not the true and first inventor thereof within the Leeward Islands as aforesaid, these Our letters patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein contained to the contrary thereof in anywise notwithstanding; Provided also that these our letters patent, or anything herein contained, shall not extend, or be construed to extend, to give privilege unto the said his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of Our subjects whatsoever and publicly used or exercised unto whom Our like letters patent or privileges have been already granted for the sole use, exercise and benefit thereof: It being Our will and pleasure that the said his executors, administrators, and assigns, and all and every other person and persons to whom the like letters patent and privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions, by them invented and found out, according to the true intent and meaning of the same respective letters patent, and of these presents, provided likewise nevertheless, and these our letters patent are upon this express condition, that if the said shall not particularly describe and ascertain the nature of his said invention, and in what manner the same is to be performed by an instrument in writing under his hand and seal, and cause the same to be filed in within calendar months next and immediately after the date of these Our letters patent [*and also of the said instrument in writing filed as aforesaid does not particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed*], and also if the said his executors, administrators, or assigns, shall not pay, or cause to be paid, at the office of Our commissioners of patents for inventions the sums following, that is to say, the sum of pounds on or before the day of A. D. , and the sum of pounds on or before the day of A. D.; and also if the said his executors, administrators, or assigns, shall not supply, or cause to be supplied for Our service, all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of Our service for the use of which the same shall be required in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same; that then and in any of the said cases these Our letters patent and all liberties and advantages whatsoever

hereby granted shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof notwithstanding, Provided that nothing herein contained shall prevent the granting of licenses in such manner and for all such considerations as they may by law be granted; and lastly, We do by these presents for Us, Our heirs and successors, grant unto the said his executors, administrators, and assigns, that these Our letters patent on the filing thereof shall be in and by all things good, firm, valid, sufficient, and effectual in the law according to the true intent and meaning thereof; and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said his executors, administrators, and assigns, as well in all Our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of Us, Our heirs and successors in Our said Leeward Islands, and amongst all and every the subjects of Us, Our heirs and successors whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging.

In witness whereof We have caused these Our letters to be made patent this day of A. D. , and to be sealed and bear date as of the said day of A. D. in the year of Our reign.

Specification.

To all to whom these presents shall come, I , of , send greeting.

Whereas His Excellency , Governor of the Leeward Islands, by letters patent bearing date the day of A. D. in the year of Her Majesty's reign, did for Her Majesty, her heirs and successors, give and grant unto me, the said , his special license that I the said my executors, administrators, and assigns, or such others as I the said my executors, administrators, and assigns, should at any time agree with and no others, from time to time, and at all times thereafter during the term therein expressed, should, and lawfully might make, use, exercise and vend, within the colony of the Leeward Islands, an invention for [*insert title as in letters patent*] upon the condition (amongst others) that I the said by an instrument in writing under my hand and seal, should particularly describe and ascertain the nature of the said invention, and in what manner the same was to be performed, and cause the same to be filed in within calendar months next, and immediately after the date of the said letters patent: Now know ye that I, the said , do hereby declare the nature of my said invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement (that is to say) [*describe the invention*].

In witness whereof I, the said *A. B.*, have hereto set my hand and seal this day of A. D *A. B.*

From *Carpm. Pat. L. of World*, 330; condensing some lengthy section captions.

An Act to amend the Act No. 12 *of* 1876, *entitled "An Act for Amending the Law for Granting Patents for Inventions." No.* 16 *of* 1878.

Whereas it is expedient to amend the law concerning letters patent for inventions.

Be it enacted by the Governor and General Legislative Council of the Colony of the Leeward Islands as follows:—

1. *Certain persons constituted commissioners of patents for inventions, three of whom may act, the attorney-general being one.* Her Majesty's attorney-general, the auditor-general, and the treasurer of the presidency of Antigua for the time being respectively, together with such other person or persons as may be from time to time appointed by the Governor, shall be commissioners of patents for inventions, and every person so appointed shall continue to hold office during Her Majesty's pleasure; and all the powers vested in the commissioners by the Act No. 12 of 1876 may be executed by any three or more of them, of whom the attorney-general shall be one.

2. *Applications for letters patent, &c., to be advertised.* Every provisional protection, every protection on deposit of a complete specification, and every application for letters patent, shall be advertised in the Royal Gazette and in one of the public newspapers in each presidency of the Colony, or where there shall be no such newspaper, then by being attached to the door of the court-house in the principal town of the presidency.

3. *Copies of specifications, &c., to be enrolled in each presidency.* In addition to the copies prescribed by the above recited Act to be kept at the office of the commissioners, true copies of all specifications (other than provisional specifications), disclaimers, and memoranda of alterations filed in pursuance of the said Act, and of all provisional specifications after the expiration of the term of protection, shall be enrolled in the registrar's office in every presidency of the Colony (Antigua excepted), and shall be open to the inspection of the public at all reasonable times, subject to such regulations as the commissioners may think necessary.

4. *Registers of patents and proprietors to be kept in each presidency.* A true copy of the "Register of Patents" and of the "Register of Proprietors" prescribed by sections 32 and 33 of the above recited Act, shall be kept at the registrar's office in each

presidency of the Colony, and shall be open to the inspection of the public at all reasonable times, subject to such regulations as the commissioners may think necessary.

5. *Section* 1 *of Act* 12, 1876, *repealed.* The first section of the Act No. 12 of 1876 is hereby repealed.

From *Carpmaels' Pat. L. of World*, 351.

The act for the federation and general Government of the Leeward Islands, 21 August, 1871, Stat. 34 & 35 Vict. c. 107, recites that the several legislative bodies of these islands have, by certain resolutions, signified their desire for a union of the islands under one Government; and it enacts that they shall form one colony consisting of six presidencies, namely: the several islands of Antigua, Montserrat, Saint Christopher, Nevis and Dominica, with their respective dependencies, and the Virgin Islands. The Act authorizes the Governor, with the consent of the General Legislative Council (subject to provisions making the Royal assent necessary to the validity of such laws), to make laws for the Leeward Islands or any part thereof, upon many subjects specified, among which are: "16. Copyrights and Patents."

LIBERIA.

An Act to Promote the Progress of the Arts, Manufactures, Agriculture, and Commerce, December 23, 1864.

It is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled:

SECTION 1. That there shall be established an office to be termed the patent-office, which shall be under the control of the secretary of state, whose duty it shall be to superintend, execute, and perform all such acts and things touching and respecting the granting and issuing of letters patent for new and useful discoveries, inventions, and improvements, as are hereby provided for, or shall hereafter be by law directed to be done and performed, and shall have charge and authority of all books, records, papers, and all other things belonging to the said office.

SEC. 2. It is further enacted that all patents, issuing from the said office shall be issued in the name and under the seal of the Republic of Liberia, and be signed by the President of the Republic, and countersigned by the secretary of state, and shall be recorded, together with descriptions, specifications, and drawings in the said office, in books to be kept for that purpose. Every such patent shall contain a short title of the invention or discovery, correctly indicating its nature and design, and its terms, grant to the applicant or applicants, his or their heirs, administrators, executors, or assigns, for a term not exceeding twenty years, the full and exclusive right and liberty of making, using, and vending to others to be used, the said invention or discovery, referring to the specifications for the particulars thereof, a copy of which specifications with the illustrative drawings shall be annexed to the patent specifying what the patentee claims as his invention or discovery.

SEC. 3. It is further enacted that any citizen or citizens having discovered or invented any new and useful art, machine, manufacture, process, composition of matter, or any new and useful improvement in any art, machine, manufacture, process or composition of matter, or having invented or discovered a new and useful application of any known substance or matter, or composition of matter, or any new and useful application of any known article of manufacture, device, or apparatus, to any art, manufacture

machine, process, or composition of matter, such invention or discovery, or such application not being known or used by others within the limits of this republic, and not being described in any book or other publication in this country, before his or their discovery thereof, may make application in writing to the secretary of state, expressing such desire, and the secretary of state may on due proceedings had, grant a patent therefor; but before any inventor shall receive a patent for any such invention, discovery or new application, he shall deliver a written description thereof, and of the manner and process of making, constructing, using, applying, and compounding the same, in such full, clear, and exact terms as to enable any person skilled in the art or science to which it appertains or with which it is most nearly connected to make, construct, apply, compound, and use the same, and shall particularly specify and point out the part, improvement, or combination which he claims as his own invention or discovery. He shall furthermore accompany the whole with a drawing or drawings and written references, where the nature of the case admits of drawings. The applicant shall furthermore make oath or affirmation that he does verily believe that he is the original and first inventor or discoverer of the art, machine, composition, application, or improvement for which he solicits a patent, and that the same was not known or used within the limits of the Republic of Liberia prior to his said invention, and that he is a citizen of this republic, the said oath or affirmation to be taken before any person authorized by law to administer oaths.

SEC. 4. It is further enacted that on filing such application, description, and specifications, and the payment of the fees hereinafter provided, the secretary of state shall make or cause to be made an examination of the alleged new invention or discovery, and if it should appear to the secretary of state that the same had not been invented or discovered, or known by any other person in this country, and had not been described in any book or other publication in this country prior to the discovery thereof of the applicant, then it shall be the duty of the secretary of state to issue a patent therefor; but whenever it shall appear to the secretary of state that the applicant was not the first inventor or discoverer thereof, or that what is claimed as new had been known to others in this country, or had been described in some publication in this country prior to the time of the alleged invention or discovery of

the applicant, then it shall be the duty of the secretary of state to refuse the grant of letters patent to the applicant therefor.

SEC. 5. It is further enacted that if any alien or aliens shall have invented or discovered any new art, machine, manufacture, process, or composition of matter, or any new and useful improvement of any art, machine, manufacture, process, or composition of matter, or has invented or discovered a new and useful application of any known substance or machine or composition of matter, or any new and useful application of any known article of manufacture, device, or apparatus to any art, manufacture, machine, process, or composition of matter, such invention or discovery, or such application, not having been known or used by others within the limits if this republic, or if any alien or aliens shall be the legal owner or owners of such invention or discovery, on application, and shall express a desire to introduce the same and put it into active operation in this country, then it shall be the duty of the secretary of state, on due proceedings held, as provided for in third section of this act, to issue letters patent therefor; but before letters patent can be granted to such applicant he shall deliver, with the description of the invention or discovery claimed, a certificate signed and sealed by the mayor or governor of the city or state in which he resides, or by a duly authorized notary public, which certificate shall set forth that the applicant is the original and first discoverer of the thing claimed, or that he has purchased the right, title, and interest in this country to the said invention or discovery.

SEC. 6. It is further enacted that when any alien or aliens shall have obtained letters patent for any invention or discovery it shall be his or their duty to put the same in active operation in this republic within three years from the date of the said patent, and any refusal or neglect on the part of the patentee to do this shall be considered as an abandonment by him of his patent to the public.

SEC. 7. It is further enacted that before any application for a patent shall be considered by the secretary of state the applicant shall pay into the treasury or into the office of the secretary of state, to the credit of the treasury, if he be a citizen of this republic, the sum of twenty-five dollars; if he be an alien, the sum of fifty dollars; and the moneys received under this act shall constitute a fund for the payment of salaries of such assistants as the

secretary of state may deem necessary for carrying this act into effect.

SEC. 8. It is further enacted that every patent shall be assignable in law, either as to the whole interest or any individual part thereof, by any instrument of writing, which assignment, and also every grant and conveyance of the exclusive right under any patent to make and use, and to grant to others to make and use the thing patented, within and throughout the whole or any specified [illegible] the Republic of Liberia, shall be recorded in the office of [illegible]y of state within one year from the execution the[illegible]

[illegible] is further enacted that all actions for damages for [illegible], using, or selling the thing whereof the exclusive right is [illegible] by any patent, and all suits, controversies, and cases arising [illegible]er this act shall be cognizable, as well in equity as at law, by [illegible] Supreme Court of the Republic of Liberia.

SEC. 10. It is further enacted that it shall be the duty of the secretary of state to make, or cause to be made, exact copies of all patents issued, and also of all drawings appertaining to the said patents, which copies shall be properly classified and shall be retained as permanent records in the office of the secretary of state, and the said copies shall be open for inspection at reasonable hours to all who may desire to peruse the same. And it shall furthermore be the duty of the secretary of state to furnish, on reasonable terms, certified copies of any patents or documents relating thereto.

From 31 *Pat. Off. Gaz.* 1446.

LICHTENSTEIN.

See AUSTRIA-HUNGARY.

LOYALTY ISLANDS.

See FRANCE.

LUXEMBURG.

Law of June 30, 1881.*

We, William the 3d, by the grace of God, King of the Low Countries, Prince of Orange, Nassau, Grand Duke of Luxemburg, &c.

Our Council of State heard, &c., &c., have ordered and do order:

CHAPTER I.

General Dispositions.

Article 1. Patents for new inventions susceptible of being worked industrially shall be granted, with the following exceptions: First. Inventions the working of which would be contrary to the law or good morals. Second. Those inventions which have for their object food or other objects of consumption, pharmaceutical products, or substances obtained by chemical means. Nevertheless this exception does not apply to any special process for manufacturing these objects.

Art. 2. An invention is not considered new when at the moment the declaration is made under the present law (date of application for a patent) it is found to be already so clearly described in any printed matter open to the public, or so openly worked in either the Grand Duchy or any of the States of the German custom-house union, as to render it possible for execution by other persons expert in the trade to which it refers.

Art. 3. The right of obtaining a patent appertains to the one who first declares to the invention in accordance with the present law, subject, however, to what is enacted herein, article 16, No. 2.

Art. 4. The effect of a patent shall be that without the authority of the patentee or owner no one shall be allowed industrially to make, put into commerce, or expose for sale the object of the invention. If the object of the invention be a process, a machine, or any industrial engine, a tool or other instrument of labor, the effect of the patent will be, further, that without authorization of the patentee

* A slightly differing translation of the same law may be found in Carpm. Pat. L. of World, 341.

or owner no one can industrially apply the process or make use of the object of the invention.

Art. 5. The effect of the patent does not apply to any one who at the moment when the applicant made his declaration had already worked the invention in the Grand Duchy, or who had already made the necessary arrangements to this end. The effect of the patent does not extend to locomotive rolling-stock which only enter to pass through the Grand Duchy. A patent will cease to be effective as soon as a royal Grand Ducal decree, upon the advice of the Council of State, shall have declared that it is to the public interest that the patent shall be worked. In this case the patentee has a right, at the expense of the state, to an indemnity which, in default of agreement, shall be fixed judicially.

Art. 6. The right of obtaining a patent like the rights to the patent itself, shall extend to the heirs or legal representatives of the person having such right. These rights can be transferred in whole or in part by deed or by will. The act of transmission by will is free of all duty. Deeds of assignment are registered at a fixed tax of 1 franc 70 centimes.

Art. 7. The duration of the patent is fifteen years. This period runs from the morrow of the day on which the invention has been declared, conformably to article 10 of the present law. If the invention consists in an improvement on another invention, for which latter the applicant has already protection in the Grand Duchy, he can apply for the grant of a certificate of addition which expires with the principal patent. The certificates of addition taken by one of the persons interested in the principal patent profit all the others.* It will be open to the patentee to take a principal patent for the changes or improvements in his invention. The third party who shall have taken a principal patent for an invention or an application relating to the object of another patent, shall not have the right to exploit the invention already patented; and, on the other hand, the patentee or owner of the primary patent shall not work the invention, the object of the new patent, except by their mutual consent.

Art. 8. An annual and progressive tax, as follows, shall be paid for each patent: First year, 10 francs; second year, 20 francs; third year, 30 francs; and so on till the fifteenth year, for which the

* This has been held to mean that all those interested in the principal patent have an exactly corresponding interest in the patent of improvement.

tax will be 150 francs. The tax will be paid in advance to the receiver at the registry. It will not in any case be reimbursed.* For certificates of addition one tax only of 10 francs will be required.

ART. 9. No one can obtain a patent or exercise the rights of the patent if he have not chosen a domicile in the Grand Duchy. If he be a foreigner, he must choose as his domicile the house of a proxy, who will represent him, and to whom all communications will legally be made. Whatever domicile be chosen will be subject to jurisdiction, and will be a valid one as long as it is not replaced by a new election of domicile, according to article 13.

CHAPTER II.

ON THE DELIVERY OF PATENTS.

ART. 10. Whoever would secure a patent must file his declaration in writing with the functionary, who will be appointed for this purpose by the government. A special declaration is required for each invention. The declaration must contain the full name, address, calling, and chosen domicile of the declarant, and also of his representative, if the case requires such. It must give a title containing a summary and precise description of the object of the invention. The declaration must be accompanied by, first, a description, in the French or German language, of the object invented; second, drawings, models, or samples that may be necessary for the comprehension of the description. The description and the drawings must be in duplicate. The description should be written without alteration or addition; words struck out or erased must be counted and certified, the pages and the references initialed. It should describe the invention in a clear and complete manner, and end with a precise statement of its characteristics. The drawings must be traced with ink to a metrical scale. All the papers must be signed by the declarant, or by his representative, whose power of attorney must be annexed to the declaration.

ART. 11. An application will only be received on the production of the receipt of the payment of the first annual tax. An official statement made without charge, on a register for this purpose, and signed by the declarant, shall authenticate the application while stating the day and the hour of filing of the papers. A

* In the case of two owners of one patent each paying the tax, both payments are retained.

duplicate of the official statement will be transmitted without charge to the deponent.

ART. 12. The patents whose application shall have been in regular form will be delivered, without preliminary examination, at the risk and peril of the applicants, and without guarantee either of the reality of the novelty, or of the meritoriousness of the invention, or of the fidelity or exactness of the description. A certificate of the government official who has charge of the department of commerce and industry certifying the regularity of the application will be delivered without charge to the applicant, and will constitute the patent of invention. To this notice will be added the certified duplicate of the description and of the drawings mentioned in article 10. The same certificate will be inserted in abstract form in the memorial. The refusal of the government to deliver a patent may be appealed against to the litigation committee of the State Council, who will decide on the matter.

ART. 13. Any changes that occur in the ownership of the patent or in the representative or chosen domicile of the patentee, as well as any partial assignment of the patent, should be brought in an authentic form to the notice of the government official who has charge of the department of commerce and of industry, and will be published in the memorial. As long as these formalities are not fullfilled, the person who has been previously designated as the patentee or his representative remains invested with the rights and subservient to the obligations of the present law, and all notifications and announcements will be validly sent to the previously-chosen domicile.

ART. 14. The public will be allowed to inspect in the government bureaus descriptions of granted patents, and copies may be obtained on payment of fees.

CHAPTER III.

EXPIRATION OF PATENTS, NULLITY, AND FORFEITURE.

ART. 15. The patent becomes extinct, first, by the expiration of the time for which it has been allowed; second, by the renunciation of the titulary owner; third, by a single failure of payment of the annual tax within the three months from when it becomes due; fourth, if a patent for the same object be not applied for within the space of three months after the application in Luxemburg in the States with which the Grand Duchy may be allied by a custom-house

union, or if, being applied for within this space, the patent be refused, or if, having been allowed, it be revoked, annulled or becomes extinct in any other manner. Nevertheless, in the case where the forfeiture of the patent may be decreed in a country in this union by reason of the patent not being worked, it will be lawful for the government to maintain the patent in the Grand Duchy.

ART. 16. The patent will be null and of no effect if it be proved, first, that according to the terms of articles 1 and 2 the invention was not susceptible of being patented; second, that the essential contents of the declaration were derived from the descriptions, designs, models, instruments, tools, or processes of another party without his consent; third, if the title under which the patent is applied for indicates fraudulently an object other than the veritable object of the invention; fourth, if the description annexed to the patent be not sufficient for the carrying out of the invention, or if it does not show in a loyal and complete manner the true means employed by the inventor.

ART. 17. An action for annulment may be instituted by any interested person. This action, as well as all litigations relative to the property of the patent, will be heard before the civil tribunal of the arrondissement. If the action be directed simultaneously against the titulary owner of the patent and against one or more partial assignees, it will be heard before the tribunal for the domicile chosen by the titulary owner of the patent. Patent cases will be heard and judged in accordance with the form prescribed for summary proceedings by the article 405 *et seq.* of the Code of Civil Procedure. Notice of the case is to be given to the public minister. The public minister can interfere in the action and take steps to effect a complete declaration of nullity of the patent. He himself may for the same purposes institute an action. In the cases provided for by the two preceding paragraphs all those having a pecuniary interest in the patent whose titles have been registered at the government in conformity with article 13 should be sued. The charges for the interference of the public minister and the proceedings of the office will be taxed, discharged, and collected as in the case of fines. When the absolute nullity of a patent shall have been pronounced by a judicial decree or sentence, notice thereof shall be given to the government, in view of the publication prescribed by article 19.

ART. 18. The patent can be revoked after three years by a royal Grand Ducal decree, subject to an appeal to the litigation commit-

tee of the Council of State, if the patentee neglect to put his invention into operation in the Grand Duchy to a suitable extent, or at least to do everything necessary to insure this working. Likewise, after three years a royal Grand Ducal decree may declare, on the advice of the Council of State, that the public interest requires that the right to work a patented invention may also be conceded to one or several others who have made application therefor. In this case the indemnity and the guarantees due to the patentee by the new claimants will be, in case of non-accord, settled by judicial decision.

ART. 19. The expiration of patents, their annulments, or revocation will be brought to the knowledge of the public by an insertion in the Memorial.

CHAPTER IV.

INFRINGEMENT, PROSECUTION, AND PENALTIES.

ART. 20. Whosoever shall have knowingly made use of an invention contrary to the provisions of the articles 4 and 5 shall be punished by a fine of one hundred francs to two thousand francs without prejudice to the damages that may be obtainable by a civil action. In the case of the repetition of the offense an imprisonment, in addition to the fine, of one month to six months shall be pronounced. A repetition of the offense exists when a first condemnation for the same offense has been given within the five previous years against the defendant. The prosecution shall only be entered on the plaint of the injured party. The tribunal can order the publication of the judgment at the cost of the condemned. The judgment shall direct the mode and the length of time of the publication. The sentence can direct either the destruction or the confiscation, for the profit of the State or for the profit of the injured party, on assessment of damages, of the objects which have been used in, or were destined for, the committal of the offense, and objects which have been produced thereby.

ART. 21. The court for the trial of misdemeanors, before which the action is brought, shall refer the parties to the proper civil judge to decide upon the pleas that shall be advanced by the defendant, either concerning the expiration, the nullity, or the forfeiture of the patent, or concerning any questions relative to the ownership of the patent.

ART. 22. Any person, without having a valid patent, who shall have applied to objects or their packing a notification to the pur-

port that these objects have been patented in conformance with the present law, or who shall have made use of a similar notification in announcements, placards, advertisements, prospectus or signs shall be punished with a fine of from twenty-six francs to two hundred francs.

ART. 23. The penalties established by the present law shall not be cumulative. The highest penalty will only be pronounced for the entire set of infringements made prior to the action.

ART. 24. The provisions in vigor relative to extenuating circumstances can be applied to offenses coming within the preceding provisions.

ART. 25. Civil actions on account of the violation of the patent rights must be commenced within three years from the date of the infringements on which the actions are founded.

CHAPTER. V.

TRANSITORY PROVISIONS.

ART. 26. The law of January 25, 1817, and all provisions anterior to the present law relative to patents of invention, of importation, and of improvements are abrogated. Nevertheless, the patents actually in force will continue to be governed by the provisions in vigor at the moment of their delivery, unless their holders conform to the provisions that follow.

ART. 27. The holders of patents actually in force shall be allowed to convert them into patents governed by the present law, if they, within three months from the publication of the present law, make their declaration to this effect in conformance with what is prescribed by article 10, saving that it will suffice for them to join thereto the original patent and its annexes. The term of fifteen years, fixed by article 7, shall run from the date of the original patent. The annual taxes will be counted as due on the same date, on which date also the annual expirations (in default of payment) will be regulated. The tax paid for the original patent shall be placed to the account of the annuities already due or to become due. If it be not sufficient to cover the annuities already due, the difference must be paid before the deposit of the declaration.

ART. 28. The applications for patents filed previous to the present law, and about which we have not yet decided, must be changed by their inventors within three months from the publication of the present law into applications, according to the provisions of the

foregoing chapter II., under pain of forfeiture of the original application. The patents whose delivery is to take place shall be governed by the present law, still the time elapsed since the original application will be deducted from the term of fifteen years fixed by article 7.

ART. 29. The publication of descriptions and the open working mentioned in article 2 can only be urged against those to whom patents have been delivered in accordance with the preceding articles 27 and 28, if the publication of such descriptions or such working was anterior to the date of the original patent, and if at the date of the deposit of the (renewed) application the matter had not previously been adjudicated upon.

ART. 30. A Royal Grand Ducal decree, issued in due order by the administration, will fix the provisions that the execution of the present law will render necessary.

Commanded and ordained that the present law be inserted in the "Memorial," to enable it to be carried out and observed by all those whom it may concern.

Signed at Loo, June 30, 1881.* WILLIAM.

F. DE BLOCHAUSEN,

The Minister of State, President of the Government.

PAUL EYSCHEN,

The Director-General of Justice.

From 34 *Pat. Off. Gaz.* 341.

MANITOBA.

See CANADA.

MARQUESAS ISLAND.

See FRANCE.

MARTINIQUE.

See FRANCE.

* Messrs. Carpmael give the date of this law as June 30, 1880.

MAURITIUS.

Ordinance No. 16 *of* 1875.

Whereas it is expedient that certain privileges be granted to inventors, and that the same be regulated and protected: Be it enacted by his Excellency the Governor [of Mauritius and its Dependencies] with the advice and consent of the Council of Government, as follows:

1. *Privilege granted to inventors.* Every inventor of any manufacture shall be entitled, under the conditions and restrictions hereinafter enacted, to the sole exclusive right of and in such new invention.

2. *Definitions of words.* Within the meaning of the word "invention" are included discoveries, and also the invention of new chemical products; also every new mode of application of known processes or forces whereby a new product or preparation is obtained or made; and also every new process or force whereby an old product or preparation is obtained or made.

Improvements are also included within the word "invention."

The word "manufacture" shall be deemed to include any art, process, or manner of producing, preparing, or making an article; and also any article prepared or produced by manufacture.

The words "inventor" and "actual inventor" shall include the heirs, executors, administrators, or assigns of an inventor or actual inventor, as the case may be.

The word "assigns" shall include grantees of the sole use or benefit in Mauritius of an invention, or of the sole use of an exclusive privilege for a limited period.

3. *Financial schemes not entitled to privileges.* Financial schemes and operations of credit, whether commercial or industrial, shall not entitle the inventors or promoters thereof, or parties interested therein, to obtain any exclusive right or privilege.

4. *Patents may be granted, and extended, when.* The right and privilege granted to inventors shall be conferred by a patent under the seal of the colony, whereby the inventor shall be entitled to the sole and exclusive privilege of making, selling, and using his said invention in the Colony of Mauritius, and of authorizing others so to do, for the term of fourteen years from the date of the patent,

and for such further term, if any, not exceeding fourteen years from the expiration of the first fourteen years, as the Governor in Executive Council may think fit to direct, upon petition to be presented by such inventor, at any period not more than one year and not less than six calendar months before the expiration of the exclusive privilege first granted.

5. *Petition and specification to be filed.* Every inventor desirous of obtaining a patent as aforesaid shall file in the office of the colonial secretary a petition signed by him, or, if he be absent from this Colony, by an authorized agent; such petition shall state the names, additions, place of abode of the petitioner, and the nature of the invention. To the petition shall be annexed a specification in writing; such specification shall be signed by the petitioner or authorized agent as aforesaid, and shall particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed. With the specification shall be filed all diagrams, plans, and drawings whereby the nature of and the mode of working the invention can be best described and ascertained.

6. *Declaration to accompany petition.* Every petition or specification shall be accompanied by a declaration in writing, signed by the petitioner or authorized agent as aforesaid, in the form and to the effect mentioned in schedule A. hereunto annexed.

7. *Consequences of willfully false statements.* If any person who shall make a declaration under this ordinance shall willfully and corruptly make any false statement, he shall be deemed guilty of perjury, and upon conviction be liable to imprisonment not exceeding two years, without prejudice to any action or suit which the injured party or parties may bring against him.

8. *Procureur general's certificate and interim protection.* When any applicant has filed his petition and specification with the view of obtaining a patent, the same shall be referred to the procureur general, and if he approve of them as *primâ facie* entitled to protection, he shall issue his certificate to that effect, and the inventor shall be provisionally protected.

Provided that, should the procureur general refuse to issue his certificate, the party aggrieved may apply to the Governor in Executive Council, who shall have the power to decree that the certificate do issue; and it shall then be issued by the secretary of the Executive Council.

It shall then be the duty of the applicant to cause, within two months of the certificate, the application to be advertised in the

government Gazette, with a view of giving persons who have an opposite interest the opportunity of objecting to the patent being granted. If no opposition be made within one calendar month of the advertisement, the patent shall issue; if there be opposition made, the matter will be referred to the procureur general, who, if the applicant and opposing party or parties are satisfied that his decision shall guide them, shall decide finally; but who shall otherwise refer the matter to the Supreme Court for decision.

The Supreme Court may hear and determine the case upon a motion to show cause why the patent applied for should not issue.

Upon the fiat of the procureur general, or, as the case may be, the rule of the Supreme Court, the patent shall issue, or the interim protection cease and determine.

9. *Opposition how lodged; grounds of objection.* Any party or parties intending to oppose the issuing of the patent shall be bound within the above mentioned delay to notify his or their opposition to the colonial secretary. The opposition shall contain the grounds of objection, and no other objections than those specified in the opposition shall be taken notice of either by the procureur general or the Supreme Court, as the case may be.

10. *Form and cost of certificate.* The certificate of the procureur general to entitle the applicant to interim protection shall be in the form in schedule B. hereunto annexed. When from any cause prevented from acting, the procureur general may delegate the substitute procureur general to act in his stead.

Every certificate shall issue upon payment of a fee of ten pounds sterling to be paid to the receiver general.

11. *Government gives no warranty; seal.* Every patent shall as heretofore be granted without any warranty of any kind or nature whatsoever on the part of the government; and every person entitled to a patent shall, before his patent is sealed, pay the sum of two pounds sterling to the receiver general.

12. *Printed copies to be filed, and a book to be kept.* Before the patent is sealed, the person entitled to the patent shall deposit in the office of the colonial secretary a printed copy of every such petition and specification.

A book shall also be kept in the office of the said colonial secretary wherein shall be filed and recorded every such original petition and specification, and every order made upon such petition or relating to the invention therein related. Every specification shall be numbered according to the order in which it is entered in such

book, and a reference shall be made in such book, in the margin of the entry of such specification, to every order relating to the invention, and to every petition, memorandum, or amended specification which shall be filed under the provisions of article 15.

13. *Book open to all persons.* Such book or printed copy as aforesaid shall be open at all convenient times for the inspection of any person, upon payment of a fee of four shillings, and the said colonial secretary shall cause a copy of any entry therein, certified under his hand, or the hand of the assistant colonial secretary, to be an examined copy, to be given to any person requiring the same, on payment of the expense of copying, at the rate of fourpence sterling per folio of ninety words.

14. *Copies to be evidence.* Printed or manuscript copies, certified to be examined copies by the colonial secretary or assistant colonial secretary, of letters patent, specifications, disclaimers, *memoranda* of alterations, and all other documents filed in the colonial secretary's office, shall be received in evidence, in all proceedings relating to letters patent, in all courts whatever in the colony of Mauritius, without further proof or production of the originals.

15. *Amended specification to be filed, when and how.* If after the filing of the specification the petitioner shall have reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his petition or specification, or included therein something which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor in Executive Council for leave to file a memorandum pointing out such error, defect or insufficiency, or disclaiming any part of the alleged invention ; or, in case of any defect or insufficiency in the specification, for leave to file an amended specification. The petition shall state how the error, defect, or insufficiency occurred, and that it was not fraudulently intended, and shall be accompanied by a declaration in writing, signed by the petitioner or authorized agent as aforesaid, stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition the Governor in Executive Council may make an order allowing such memorandum or amended specification to be filed. All the provisions of article 7, 8, 12, 13, and 14, shall be applicable to petitions, memoranda, amended specifications, or orders referred to in this article. An amended specification under the provisions of this

ordinance shall, except as to suits and proceedings relative to the exclusive privilege which shall be pending at the time of such amended specification, have the same effect as if it had been the specification first filed; provided that nothing in an amended specification shall extend or enlarge any exclusive privilege before acquired.

16. *Patents not to be granted, in what cases.* No person shall be entitled to a patent under this ordinance,—

(*a*) If the invention is of no utility;

(*b*) If the invention at the time of presenting the petition was not a new invention within the meaning of this ordinance;

(*c*) If the petitioner is not the inventor thereof;

(*d*) If the specification filed, or the amended specification if any, does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed;

(*e*) If the original or any subsequent petition relating to the invention, or the original or amended specification, contain a wilfully fraudulent statement.

17. *Patents, if prejudicial to the public, to be withdrawn.* Every patent for an exclusive privilege under this ordinance shall be invalid and of no effect if it be proved to the satisfaction of the Governor in Executive Council that the same or the mode in which it is exercised is mischievous to the Colony or generally prejudicial to the public; or if the patentee shall to the satisfaction of the Governor in Executive Council be proved guilty of the breach of any special condition under which the patent originally issued or was extended. Notice of the withdrawal of the patent, and the cause thereof, shall be inserted in the government Gazette.

18. *No patent when foreign patent has expired.* No patent shall be granted for an invention in respect whereof a patent has been granted out of this Colony and has expired.

19. *Assignments to be registered and transcribed.* No patent shall be held as to third parties to have been duly assigned unless the assignment be registered and transcribed at the mortgage office.

20. *Patents in joint names of several inventors.* When more persons than one have been concerned in making an invention the patent must be taken out in their joint names.

21. *Patents, what they may include.* No patent will be allowed to include several distinct and separate inventions, but where one invention is applicable to the improvement of several manufactures, or where several inventions are applicable to the improvement of

one and the same manufacture, the whole may be included in one patent.

22. *No patent except to actual inventor for imported inventions.* The importer into Mauritius of a new invention shall not be deemed an inventor within the meaning of this ordinance, unless he be the actual inventor.

23. *Foreigners entitled to patents.* A foreigner, whether resident abroad or not, may obtain a patent under this ordinance, provided he comply with the provisions of this ordinance.

24. *Inventions deemed new inventions, when.* An invention shall be deemed a new invention within the meaning of this ordinance, if it shall not, before the time of filing the petition as aforesaid, have been publicly used in Mauritius or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in Mauritius or the United Kingdom by means of a publication either printed or written, or partly printed and partly written.

The public use or knowledge of an invention prior to the filing of the petition as aforesaid shall not be deemed a public use or knowledge within the meaning of this article if the knowledge shall have been obtained surreptitiously or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor, or in breach of confidence; provided the inventor shall, within six calendar months after the commencement of such public use, file his petition for a patent, and shall not previously have acquiesced in such public use.

Provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person with his license in writing, for a period not exceeding one year prior to the date of the petition, shall not be deemed a public use thereof within the meaning of this ordinance.

25. *Holders of letters patent to take a patent, when and how.* If an inventor has obtained Her Majesty's letters patent for the exclusive use of an invention in the United Kingdom, he may obtain a patent in Mauritius under this ordinance for such invention, provided the application be made within twelve calendar months from the passing of this ordinance, or within twelve calendar months from the date of the letters patent, although previous to the time of his petitioning, such invention may have been publicly known or used in Mauritius; provided such invention was not publicly known or used in Mauritius before the date of the letters

patent, and provided the patent obtained in Mauritius shall cease to have effect if the letters patent are revoked or canceled, and provided the privilege obtained in Mauritius shall not extend beyond the period assigned to the letters patent in the United Kingdom.

26. *Who can use the invention nevertheless.* No privilege obtained under this ordinance shall entitle the owner of such privilege to exclude any person from using the invention who prior to the passing of this ordinance used the same in this Colony.

27. *Actions for infringement; writ of injunction.* An action may be maintained by an inventor against any person who, during the continuance of any exclusive privilege granted under this ordinance, shall without the license of such inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same; provided such action be brought before the Supreme Court, and provided the said Supreme Court or a judge in chambers shall have the right, before action brought or pending the action, to issue a writ of injunction restraining the defendant from making use of, selling or putting in practice, the said invention, for such time and under such conditions as to the said court or judge shall seem fit.

28. *Actions; how they may not be defended.* No such action shall be defended upon the ground of any defect or insufficiency of the invention; nor upon the ground that the original petition, or any subsequent petition relating to the invention, or the original or any amended specification, contains willful mis-statements; nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor, or has obtained the right from him to use the said invention wholly or in part.

But any such action may be defended upon the ground that the invention was not new.

29. *Motion to be made before infringement to cancel patent.* It shall, however, be lawful for any person to apply by motion to the Supreme Court for a rule to show cause why the court should not declare that an exclusive privilege in respect to an invention shall be canceled or revoked under the provisions of this article, by reason of all or any of the objections following, to be specified in the rule; that is to say,

1. That the said invention is of no utility;

(2.) That the said invention was not, at the time of filing the petition, a new invention within the meaning of this ordinance;

(3.) That the patentee was not the inventor thereof;

(4.) That the patentee did not, in his petition and specification, particularly describe and ascertain the nature of the invention, or in what manner the same is to be performed;

(5.) That the petitioner has in the petition or specification or amended specification made willful or fraudulent mis-statements;

(6.) That some part of the invention, or the manner in which that part is to be performed, as described in the specification filed or the amended specification, is not thereby sufficiently described or ascertained, and that such defect or insufficiency was fraudulent or is injurious to the public;

(7.) That some part of the invention is wholly distinct from the other part, and is of no utility or is not new as aforesaid, or that the petitioner was not the inventor of such part.

30. *Procureur-general may move.* It shall be lawful for the procureur-general to make or direct to be made the application in article 29 mentioned, whenever he shall think it necessary on behalf of the public.

31. *Notice, how served.* Notice of any rule obtained or proceeding taken under articles 29 and 30 shall be served on the patentee; or, if the patent have been assigned, upon all persons appearing to be proprietors or to have shares or interests in the exclusive privilege conferred by the patent; and it shall not be necessary to serve such notice on any other person.

32. *What the Supreme Court may not take cognizance of.* It shall not be lawful for the Supreme Court to take cognizance, either in actions for infringement or in motions made to cancel and revoke a patent, of any breaches or grounds of defense but those specified in the declaration and plea, or of any objections but those specified in the rule to show cause.

33. *Supreme Court to hear and determine.* If it shall appear to the Supreme Court that by any of the objections in article 29 mentioned the said exclusive privilege in the invention, or any part thereof, ought to be canceled, the court shall make the rule absolute, with such order as to costs of and consequent upon the application as it may think just; and thereupon the patentee, his heirs, executors, administrators, or assigns, shall, so long as the judgment continues in force, cease to be entitled to the said exclusive privilege. A copy of the rule certified by the registrar of the Supreme Court

shall be forwarded to the colonial secretary, and annexed to the original petition and specification.

34. *Supreme Court may allow amendments, when and how.* It shall be lawful for the court to adjudge that the exclusive privilege shall not be canceled, save as to the part thereof affected by error, defect, or insufficiency; and also if satisfied that no fraudulent practices were intended, and that the error, defect, or insufficiency can be amended without injury to the public, to order, upon such terms as to the court may appear reasonable, the specification or amended specification to be amended in any particular; and the patentee, his heirs, executors, administrators, or assigns, shall, within the time limited by the said court for the purpose, file a specification amended according to such order; provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

35. *Short title.* This ordinance may be cited as "the Patents Ordinance."

36. *Repeal clause.* Ordinance No. 11 of 1835 is hereby repealed.

SCHEDULE A.

I of in the district of do solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as in petition*], which invention I believe will be of great public untility; that I am true and first inventor thereof; and that the same is not in use by any other person or persons, to the best of my knowledge and belief [*where a complete specification is to be filed with the petition and declaration, insert these words:* "and that the instrument in writing under my hand, hereunto annexed, particularly describes and ascertains the nature of the said invention and the manner in which the same is to be performed."]

SCHEDULE B.

In humble obedience to his Excellency's commands referring to me the petition of of , to consider what may be properly done therein, I do hereby certify as follows: That the said petition sets forth that the petitioner [*state briefly the allegations of the petition*].

And the petitioner most humbly prays [*state briefly the prayer of the petition*]. That in support of the allegations contained in the said petition the declaration of the petitioner has been laid before me, whereby he solemnly declares that [*state briefly the allegations of the declaration*].

That there has also been laid before me (a provisional specification signed and also a certificate), *or* (a complete specification, and a certificate of the Sling thereof), whereby it appears that the said invention may be provisionally pro-

tected (*or* protected) from the day of A. D. in pursuance of the ordinance:

I hereby certify that the petitioner is entitled to interim protection on account of his said invention, provided the said application for letters patent be duly advertized according to the ordinance, and that the petitioner do otherwise comply with the enactments of ordinance No. 16 of 1875.

Given under my hand, this day of A. D.

From *Carpm. Pat. L. of World*, 364.

MEXICO.

Law of May 7, 1832.

ARTICLE 1. To protect the right of property of inventors or improvers of any branch of industry, an exclusive right shall be given them, to use the invention or improvement in all the states of the federation for the time and under the conditions that are expressed in this law.

ART. 2. The inventor or improver of any industry in the Mexican Republic who wishes the government to secure to him the possession thereof, shall present to it or to the city council of the place in which he desires to establish his project, or to that of his residence, or to the governor of the state or territory, to which that place pertains, an exact description,* accompanied by drawings, models, and as much more as is judged necessary for the explanation of the proposed object, and the above named authorities shall give him a legal instrument according to form number one.

ART. 3. The local authority, in case the applicant does not present himself directly to the governor of the state, shall remit to the latter the papers in the case with all the documents, and the governor shall decide; and in case the applicant has not done so himself, shall forward the application by the first regular mail to the minister of the interior.

ART. 4. The government, on receiving a petition to obtain a patent, shall publish it three times in the newspapers, and a term of two months (counting from the day of publication) shall be allowed for opposition to be entered by any who claim priority.

ART. 5. The government, through the secretary of the interior, shall issue to the improver or inventor a patent according to form number two.

ART. 6. In granting the patent mentioned in the previous article, the government is not to examine whether or not the inventions or improvements are useful, but only if they are contrary to public safety or health, to good morals, or to law, or to the orders and regulations, and if it is not so, they cannot refuse the protection solicited.

* The documents must be in Spanish. Pat. Off. Gaz. April 10, 1883, p. 1448.

ART. 7. Patents of invention shall remain in force for ten years, and those of improvement for six, counting from the date when the privileged project is established in the Republic.

ART. 8. A project of invention or improvement is understood to be established from the day the patent is issued.

ART. 9. When an inventor or improver desires that his privilege should be limited to one State only, he must apply for the concession to the authorities of that State.

ART. 10. When any one has obtained a privilege for an invention or improvement already established without patent by another, the privilege shall be void, even if it be not claimed by that party as his invention or improvement.

ART. 11. When the invention or improvement is of such nature that it may be worked in secret, and the inventor or improver obtains a patent, when the term of the patent has expired, he must make the invention or improvement public.

ART. 12. A patent having been issued for an invention, if a privilege for an improvement is solicited, the privilege granted to the improver shall not affect the rights of the original inventor.

ART. 13. When the inventor or improver desires the privilege for a longer time than that expressed in article 7, he must apply to the government, which shall report to Congress.

ART. 14. An inventor or improver shall not use his industry as patented until he has obtained from the government the patent which establishes his title.

ART. 15. In case of dispute as to the possession of an invention or improvement, it shall be decided by the common laws.

ART. 16. When it is proved that a privilege has been obtained by fraud, the applicant representing as an invention or improvement that which is no more than an introduction, the patent which has been obtained shall be void.

ART. 17. The government shall publish in the Gazette the grant of each patent immediately it is issued, and shall designate a convenient place where the designs, plans, and models named in article 2 may be open to public inspection.

ART. 18. When the invention or improvement is to remain secret, the designs, plans, &c., shall not be published until the expiration of the term of privilege.

ART. 19. The fees for a patent will be from 10 to 300 dollars (*pesos*).

ART. 20. At least one half of the persons employed in mechani-

cal labor by the workers of a patent, must if possible be actually natives of the United Mexican States.

ART. 21. The introducer of any branch of industry that in the judgment of the government is of great importance, may obtain an exclusive privilege by applying through the government to the General Congress.

FORM No. I.

Certificate delivered by the Local Authority or Governor of a Province.

I, *N.*, mayor or governor of , certify herewith that this day, month, and year, *N. N.* has [*or* have] delivered to me a closed and sealed packet, which he [*or* they] declare to contain all the descriptive documents [*insert the precise object in view*], and for that purpose the packet has been labeled with the number of the inventor or improver, and the day and hour of its delivery. Having declared that he [*or* they] is [*or* are] the inventor [*or* inventors], improver [*or* improvers], he has [*or* they have] signed the present in duplicate with me, keeping one for himself [or themselves], and leaving the other at this office.

[Certificates may also be delivered by the secretaries of governors, if the latter should find it convenient.]

FORM No. II.

Letters Patent.

The President of the United States of Mexico informs all those present that having found N. [*or* N. N.] to be an inventor [*or* inventors], or an improver [*or* improvers], according to the documents, plans, drawings, descriptions, or models delivered, he by these presents secures his [*or* their] right of property of his [*or* their] invention [*or* improvement], according to the terms and for the time prescribed by law, the present decree establishing his [or their] title.

Dated

From *Carpm. Pat. L. of World*, 375.

Decree of September 28, 1843.

In every patent which is issued, a prudent term shall be fixed, within which the use of the privileged object shall be commenced, and if not accomplished in said time, the privilege will be held to have expired, and free action granted to any other individual to apply for it again.

From *Carpm. Pat. L. of World*, 380.

Regulation of July 12, 1852, *for the Better Observance of the Law of May* 7, 1832.

ARTICLE 1. The inventor or perfecter of any industry, to make use of the right given by article 2 of the law of May 7, 1832, shall present to any of the authorities named by the said article his petition (*solicitud*), accompanied by duplicates of his designs (or models), and what is judged necessary for explanation of what is proposed.

ART. 2. Every petition made according to the previous article shall pass immediately after its first publication for the information of the directing committee of industry, which shall extend that which it may deem proper within the term specified by article 4 of said law.

ART. 3. The directory shall give information upon those points which are comprehended under article 6 of said law.

ART. 4. If before the term specified in article 4 of said law expires there shall be any opposition, the directing committee shall hear verbally the interested parties, and consult with experts on doubtful points according to right, and shall obtain an agreement between the parties, provided that it does not prejudice the public interests nor conflict with the laws. If the parties should agree, an act shall be made, signed by the president and secretary of the committee, showing the agreement made. The directive committee shall send it to the government with the proper information.

ART. 5. If no agreement be arrived at, the directive committee shall send the papers in the case to the government, giving its opinion upon the controverted point.

ART. 6. Providing that the opposer shall found his objection upon an alleged better right to the privilege which is asked, because personally it may have been conceded to him and guaranteed by the issue of the respective patent, the government shall examine the opposition, and within thirty days grant or deny the patent which is solicited, the rights of the party who considers himself injured remaining in full force in order that he may use them before the competent federal courts, according to law.

ART. 7. Should the dispute turn upon the possession or ownership of the privilege, or this should be impugned for the reasons expressed in the 16th article of said law, the judicial notice shall be

passed to the competent federal tribunal in order that, the parties being heard according to law, it may decide the contest. The party gaining the case shall present testimony of the sentence given, that it may, passing to the directing committee of industry, inform it with reference to the concession of the decision, if the judicial decision shall have been favorable to him who asks it.

ART. 8. If the opposition should be founded in that the privilege cannot be conceded according to what is provided in article 6, or that the innovation or perfection is not a matter of privilege on account of being comprehended in article 10 of said law, the government shall decide upon the concession, and from the decision made there shall be no opportunity for judicial recourse, provided that the opposition is founded upon the mentioned article 6; but if it should turn upon the application of article 10, and the government decision should concede the patent, there will remain in force the judicial recourse to him who may consider himself prejudiced.

ART. 9. The competent federal tribunals, upon the petition of the attorney-general, in default of a party who should make the decision, shall declare the nullity of the privileges comprehended in articles 10 and 16 of the Law of May 7, 1832. The attorney-general cannot take this public action unless directed by the government.

ART. 10. The government, upon issuing the patent mentioned in article 5 of said law, shall return one exemplar of the designs, models, and descriptions, which, according to article 1 of this law, must accompany the petition in duplicate. This exemplar, if it be design or description, will go signed by the chief clerk of the ministry of relations. If it be a model which cannot be written upon, there shall be placed a suitable mark or sign, making written note of this fact on the patent, as also of the return of the duplicates. In the cases comprehended in the article 18 of the law of May 7, 1832, the signatures and signs shall be placed on the cover of the box that contains the designs, plans, &c.

ART. 11. The patent of which the previous article of the said law speaks forms the title of privilege, and, when produced to establish or define a right, there shall be exhibited therewith the designs, descriptions, or models authorized in the form provided in the preceding article.

ART. 12. The concession of a patent does not guarantee the

utility of the invention or perfection nor prejudge (*prejuzga*) the questions relating to it which may arise.

ART. 13. A copy of this law shall accompany every patent issued hereafter, under seal of the ministry of relations stamped over wafer.

From 23 *Pat. Off. Gaz.* 1447

MICQUELON.

See FRANCE.

MONTSERRAT.

See LEEWARD ISLANDS.

NATAL.

An Act "to provide for the granting in this Colony, of Patents for Inventions." No. 4 of 1870.

Preamble. Whereas it is expedient that the making of new and useful inventions should be encouraged by securing to their inventors, for a limited time, the exclusive enjoyment thereof :

Be it therefore enacted, by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows :

1. *Interpretation clause.* In the interpretation of this law the term "invention" shall bear and have the same meaning as the term "invention" bears and has in the Act of the Imperial Parliament, the 15th and 16th of Her Majesty, c. 83, entitled "An Act for Amending the Law for Granting Patents for Inventions ;" and the term "letters patent" shall mean authorizations granted by the Lieutenant Governor, under the public seal of the colony ; and the term "proceedings in the nature of a *scire facias*," shall mean and have a like signification with, or as nearly as may be, what the same term would mean if used in an Act of the Imperial Parliament.

2. *Issue of letters patent authorized.* It shall be lawful for the Lieutenant Governor, to make and issue, in manner hereinafter mentioned, letters patent, granting to the true and first inventor of any invention the privilege of the sole and exclusive working, making, and enjoyment of such invention within this colony, for any term not exceeding fourteen years from the date of such letters patent.

3. *Rules and regulations for carrying out this law.* It shall be lawful for the Lieutenant Governor, with the advice of his Executive Council, from time to time, to make such rules and regulations, not inconsistent with the provisions hereof, as may appear to be necessary and expedient for the purposes of this law ; and all such rules and regulations shall be laid before the Legislative Council within fourteen days after the making thereof, if the Legislative Council be sitting, and if the Legislative Council be not sitting, then within fourteen days after the next meeting thereof.

4. *Application ; deposit of provisional specification ; fee ; term of protection ; amendment.* All applications under this law, for the grant of letters patent, shall be made, as near as may be, as

follows, that is to say : The applicant shall deposit in the office of the attorney-general, an instrument in writing, under his signature, describing the nature of his invention ; and the day of the deposit of every such specification shall be recorded at the said office, and indorsed upon such specification, and a certificate thereof given to such applicant or his agent, who shall thereupon deposit and pay a fee as per schedule 8 hereunto annexed ; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this law for the term of six months next after the said deposit ; and the applicant shall have, during such term, the like powers, rights, and privileges as might have been conferred upon him by letters patent issued under this law, and duly sealed as of the day of the date of such deposit ; and during the continuance of such powers, rights, and privileges, such invention may be used and published, without prejudice to any letters patent to be granted for the same ; and the contents of such specifications shall not be inspected by any person but the attorney-general, or such person as he may appoint in that behalf, and its contents shall not be published until after the expiration of the said six months: Provided that in case the title of the invention or the said specification be too large or insufficient, it shall be lawful for the attorney-general, during the said term, and before the grant of letters patent, to allow or require such specification to be amended. Such amended specification shall be considered a complete specification, and shall be liable to the conditions imposed upon complete specification by this law.

5. *Complete specification ; fee ; protection ; insufficient description.* The applicant for an invention, instead of depositing a "provisional specification," as aforesaid, may, if he think fit, deposit an instrument in writing under his hand and seal (hereinafter called a complete specification), particularly describing and ascertaining the nature of the said invention, in what manner the same is to be performed, and also such drawings as may be required to explain the same, and the day of the deposit of every such specification shall be recorded at the aforesaid office and indorsed upon such specification, and a certificate thereof given to such applicant, or his agent, who shall thereupon deposit and pay a fee as provided in schedule 8 of this law ; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this law for the term of six months next after the said deposit, and the applicant shall have during such term the

like powers, rights, and privileges ; such invention may be used and published without prejudice to any letters patent to be granted for the same, and where letters patent are granted in respect of such invention, such letters shall be conditioned to become void if such specification does not sufficiently describe and ascertain the nature of the said invention and in what manner the same is to be performed, and in case the invention is an improvement on any existing invention, if such specification does not sufficiently show in what the improvement consists.

6. *Deposit of specification in fraud of true inventor, not to invalidate.* In case of the depositing of any such specification as aforesaid, in fraud of the true and first inventor, any letters patent granted to the true and first inventor of any such invention shall not be invalidated by reason of such deposit, or of any use or publication of the invention subsequent to such deposit, and before the expiration of the said term of protection.

7. *Mode of proceeding ; notice to attorney-general ; appointment ; publication ; filing objections.* The applicant, as soon as he shall think fit after the deposit of such specification as aforesaid, and of the drawings accompanying the same, if any, may give notice in writing, at the office of the attorney-general, of his intention to proceed with his application for letters patent for the said invention, stating in such notice the title of the said invention, and the day on which the specification thereof was deposited at the office of the attorney-general, and at the time of giving such notice shall produce the said certificate of deposit and receipt for the said fee or fees, and th reupon the said attorney-general, shall deliver to the applicant, or his agent, an appointment in the form contained in the second schedule to this law, or to the like effect ; and such applicant or agent shall cause the said appointment to be published once in the Government Gazette, once in some newspaper published in the city of Pietermaritzburg, and twice in some newspaper published in the town or place at or near which the applicant uses or exercises the said invention, or (in case he does not use or exercise the same) in or near to which he resides ; or if there shall be no newspaper published in such town or place, then twice in some newspaper circulating in the neighborhood where he uses or exercises the said invention, or (in case he does not exercise or use the same) where he resides ; and any person having an interest in opposing the grant of letters patent for the said invention, shall be at liberty, upon payment therefor of a fee as provided by schedule

8, to leave particulars in writing of the objections to the said application at the office of the attorney-general within such time, not less than one month, as the attorney-general by such appointment may direct.

8. *Hearing of application and objections; costs.* At the time and place named in the said appointment, the applicant shall produce the newspapers containing the same, and the attorney-general shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and may call to his aid scientific or other person or persons, as he may think fit, and the Lieutenant Governor therefor appoint, and may, by writing, under his hand, order to be paid to such person or persons, by the said applicant or objector, some remuneration for his or their attendance, and may also in like manner order that the costs of any hearing upon any objection or otherwise in relation to the grant of such letters patent, or the protection acquired by the applicant under this law, shall be paid, and in and by such writing shall fix the amount of such remuneration or costs, and by or to whom the same respectively shall be paid; and every such order shall be in the form contained in the third schedule to this law, or to the like effect, and may be made a rule of the Supreme Court; provided that the applicant, the objectors, and their respective witnesses and evidence, shall be respectively heard, examined, and considered separately and apart from, and in the absence of, the other, and his witnesses and evidence.

9. *Issue of warrant for granting letters patent.* The attorney-general, if no objections have been made, or after such hearing and consideration as the case may be, may issue a warrant under his hand for the granting of letters patent for the said invention, and by such warrant shall direct the insertion in such letters patent of all such restrictions, conditions, and provisos as he may deem usual and expedient in such grants, or necessary in pursuance of this law, and the said warrant shall be the warrant for the making and sealing of letters patent under this law, according to the tenor of the said warrant, and every such warrant shall be in the form contained in the fourth schedule to this law, or to the like effect, and for the granting thereof the applicant shall pay to the colonial treasurer, and produce his receipt therefor, a fee as in schedule No. 8 hereunto annexed.

10. *Scire facias for repeal of patent; Governor may order to withhold warrant.* A writ of the Supreme Court of the nature of

a writ of scire facias in England shall lie for the repeal of any letters patent granted under this law, and it shall be lawful for the Lieutenant Governor, with the advice aforesaid, to order such attorney-general to withhold such warrant as aforesaid, or that any letters patent, for the granting whereof he has issued a warrant, shall not issue; or to order the insertion in any such letters patent of any restrictions, conditions, and provisos in addition to, or in substitution for, any restrictions, conditions, or provisos which would otherwise be inserted therein under this law; and it shall also be lawful for the Lieutenant Governor, with the advice aforesaid, to order any specification in respect of the invention described, in which no letters patent may have been granted, to be canceled, and thereupon the protection obtained by the deposit of such specification shall cease.

11. *Form and condition of letters patent.* All letters patent granted under this law shall be in the form contained in the fifth schedule to this law, or to the like effect, and be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid to the colonial treasurer within the said three and seven years respectively, the sum or sums of money in that behalf hereby required to be paid, and the colonial treasurer shall issue under his hand a certificate of such payment, and shall indorse a receipt for the same on the letters patent.

12. *Preparation of letters patent; sealing same.* The attorney-general, so soon after the issue by him of the warrant aforesaid as required by the applicant, shall cause to be prepared letters patent of the invention, according to the tenor of the said warrant; and it shall be lawful for the Lieutenant Governor, with the advice of the Executive Council, to cause letters patent to be sealed with the public seal of the colony, and such letters patent shall be made applicable to the said colony, and shall be valid and effectual as to the whole of the same; but, except as hereinafter mentioned, no letters patent shall issue on any warrant granted as aforesaid, unless application be made to seal such letters patent within three months after the date of the said warrant, nor unless such letters patent be granted during the continuance of the protection conferred under this law by reason of such deposit as aforesaid.

13. *Delay in sealing; death of applicant; destruction or loss of patent.* Where the application to seal such letters patent has been

made during the continuance of such protection as aforesaid, and the sealing of such letters patent has been delayed from accident, and not from the neglect or willful default of the applicant, then such letters patent may be sealed at such time, not being more than one month after the expiration of such protection as the Lieutenant Governor, with the advice aforesaid, shall direct; and where the applicant for such letters patent dies during the continuance of such protection as aforesaid, such letters patent may be granted to the executors testamentary or dative of such applicant during the continuance of such protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such protection; and in case any letters patent shall be destroyed or lost, other letters patent, of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the Lieutenant Governor, with the advice aforesaid, may direct, be issued under the authority of the warrant in pursuance of which the original letters patent were issued.

14. *Date of patent; after issue appointment not to be questioned.* All letters patent to be issued in pursuance of this law, shall be sealed and bear date as of the day of the deposit of any such specification as aforesaid, and shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date; and after any letters patent shall have been granted or issued under this law, it shall not be necessary or admissible to inquire or ascertain whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

15. *Extension to colony of patent granted elsewhere.* Where, upon any application made under this law, letters patent are granted for or in respect of any invention, first invented in parts out of this colony, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any parts out of this colony is obtained before the grant of such letters patent in this colony, all rights and privileges under such letters patent shall, notwithstanding any term in such letters patent limited, cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such part out of such colony shall continue in force, or where more than one such

patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges: Provided always, that no letters patent for or in respect of any invention, for which any such patent or like privilege as aforesaid shall have been obtained abroad, granted in this colony after the expiration or determination of the term for which such patent or privilege was granted or was in force, shall be of any validity.

16. *Patent not to apply to foreign ships.* No letters patent for any invention, granted after the passing of this law, shall extend to prevent the use of such invention in any foreign ship or vessel,* or for the navigation of any foreign ship or vessel which may be in any port of Natal, in case such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the same.

17. *Specifications and drawings, where to be kept.* Every specification deposited at the office of the attorney-general, as aforesaid, and the drawings accompanying the same, if any, shall forthwith, after the grant of the letters patent, or if no letters patent be granted, then immediately on the expiration of six months from the time of such deposit, be transferred to and kept in such office as the Lieutenant Governor with the advice aforesaid, shall from time to time appoint for that purpose.

18. *Disclaimer.—Appointment; publication; objections.* Any person who shall obtain letters patent under this law, or in case such person shall part with the whole or any part of his interest by assignment, such person, together with the assignee (if part only hath been assigned), or the assignee alone (if the whole hath been assigned), may apply to the attorney-general for leave to enter a disclaimer of any part of either the title of the invention or of the specification, or a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration, as shall extend to the exclusive right granted by the said letters patent; and thereupon the attorney-general shall deliver to such patentee and assignee, or either of them, or to their or either of their agents, an appointment in the form contained in the sixth schedule to this law, or to the like effect, and such patentee or assignee shall thereupon

* By Law No. 5 of 1871, Carpm. Pat. L. of World, 404, the terms "foreign ship or vessel" in section 16 in the text are declared to "include all ships and vessels used in navigation not propelled by oars, not being registered in or hailing from this Colony."

cause such disclaimer (stating the reason for the same), or such memorandum or alteration to be written at the foot of such appointment, and shall cause the same respectively to be published in the manner hereinbefore required, with respect to the said first mentioned appointment, and any person having an interest in opposing the said application shall be at liberty to leave particulars, in writing, of their objections to the same, at the office of the attorney-general, within such time, not being less than one month, as the said attorney-general by such appointment may direct: Provided that where such application as aforesaid shall be for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the attorney-general may dispense with such appointment and publication, and in that case shall certify, in the fiat hereinafter mentioned, that he has dispensed with the same.

19. *Hearing application and objections.* At the time and place named in such appointment, the said patentee and assignee, or one of them, shall produce the newspapers containing the same, and the said disclaimer or memorandum of alteration at the foot thereof; and the attorney-general shall thereupon hear and consider the said application, and all objections to the same, mentioned in the said particulars, if any, and all such power and authority shall and may be exercised on such occasion by the attorney-general, as by virtue of the provisions hereinbefore contained, can and may be exercised in relation to the hearing and considering any application for letters patent, and objections to the same, and shall and may be enforced in the same manner.

20. *Entry of disclaimer; attorney-general's fiat.* After such hearing and consideration, or without such hearing and consideration, where the said appointment and publication shall have been dispensed with, as aforesaid, such patentee and assignee, or either of them, may, by leave of the attorney-general, to be certified by a fiat under his hand (to be written at the foot of the same parchment with the said disclaimer or memorandum), enter such disclaimer, stating the reason for the same, or such memorandum of alteration; and at the time of entering such disclaimer or memorandum of alteration, shall deposit a copy thereof in the office next hereinbefore mentioned; and such disclaimer or memorandum of alteration being filed in such office as the Lieutenant Governor, with the advice aforesaid, shall from time to time appoint for that purpose, shall be deemed and taken to be part of such letters patent, or such

specification, and subject to the several incidents thereof in all courts of this Colony, and shall be valid and effectual in favor of any person in whom the rights under the said letters patent may then be, or hereafter become legally vested; and no objection shall be allowed to be made in any proceeding upon, or touching such letters patent, specification, disclaimer, or memorandum of alteration, on the ground that the person entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf: Provided always, that no action shall be brought upon any letters patent in which, or on the specification of which, any disclaimer or memorandum of alteration shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration (unless the attorney-general shall certify in his said fiat that any such action may be brought), notwithstanding the entry or filing of such disclaimer or memorandum of alteration; and no such disclaimer or alteration shall be receivable as evidence in any action or suit (save and except in any proceeding as aforesaid, in the nature of a scire facias), pending at the time when such disclaimer or alteration was filed as aforesaid, but in every such last mentioned action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the letters patent have been or shall have been granted: Provided also, that when any such fiat shall have been granted or issued under this law, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this law: and such filing of any disclaimer or memorandum of alteration, in pursuance of the leave of the attorney-general, certified as aforesaid, shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this law.

21. *Specifications, drawings, &c.; public after issue of patent.* The copies of all specifications, and the drawings accompanying the same, if any, and of all disclaimers and memoranda of alterations, respectively deposited under or in pursuance of this law, shall be open to the inspection of the public at all reasonable times after the grant of letters patent, or if no letters patent be granted, then immediately on the expiration of six months from the time of such deposit, but subject to such regulations as the Lieutenant Governor, with the advice aforesaid, may make in that behalf.

22. *Petition to Governor for extension of patent.* If any person having obtained letters patent under this law, or in case such person shall have parted with his whole or any part of his interest by assignment, if such person, together with the assignee (where part only hath been assigned), or if the assignee alone (where the whole hath been assigned), shall, six months before the expiration or other termination of such letters patent, present to the Lieutenant Governor a petition for the extension of the term in such letters patent mentioned, and shall set forth in such petition that he or they has or have been unable to obtain a due remuneration for his or their expense or labor in perfecting such invention, and that an exclusive right of using and vending the same for some further period to be named in such petition, in addition to the said term, is necessary for his or their reimbursement and remuneration, it shall be lawful for the Lieutenant Governor, with the advice aforesaid, to refer the consideration of the said petition to the Supreme Court.

23. *Petition for confirmation or renewal of patent.* If in any suit or action it shall be proved or specially found by the verdict of a jury or by the court, that any person who shall have obtained letters patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented or used the same, or some part thereof, before the date of such letters patent, or if such patentee or his assigns shall discover that some other person had, unknown to such patentee, invented or used the same or some part thereof before the date of such letters patent, such patentee or his assigns may petition the Lieutenant Governor to confirm the said letters patent, or to grant new letters patent, and it shall be lawful for the Lieutenant Governor, with the advice aforesaid, to refer the consideration of the said petition to the Supreme Court.

24. *Petition to be advertised; entering caveat.* Two months at least before the time named for the consideration of any such petition as aforesaid, the petitioner shall cause to be published, in the same manner as is hereinbefore required with respect to the first-mentioned appointment, an advertisement of the contents of the said petition in the form contained in the seventh schedule to this law, or to the like effect; and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the attorney-general, at any time, not being less than one week before the time named for the consideration of the said petition.

25. *Hearing petition; court to report to Lieutenant Governor on prayer for extension; on prayer for confirmation or renewal, to decide.* The petitioner shall be heard by his counsel and witnesses, to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this law; and the persons entering caveats shall likewise be heard by their counsel and witnesses; and all such witnesses shall be examined upon oath or affirmation, and thereupon, and upon hearing and inquiry of the whole matter, in case such petitioner shall have prayed for an extension as aforesaid, the said court may report whether any, and, if any, what further extension of the said term should be granted; and the Lieutenant Governor is hereby authorized and empowered, if he, with the advice aforesaid, shall think fit, to grant to the petitioner new letters patent for the said invention, for a term not exceeding fourteen years after the expiration of the first term, anything hereinbefore contained to the contrary thereof notwithstanding; and such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the first letters patent; or, in case such petitioner shall have prayed for a confirmation or grant as aforesaid, the court, upon examining the said matter, and being satisfied that such patentee, as aforesaid, believed himself to be the first and original inventor, and being satisfied that such invention, or part thereof, had not been publicly and generally used before the date of such first letters patent, shall decide whether the prayer of such petition ought to be complied with, whereupon the Lieutenant Governor may, if he, with the advice aforesaid, shall think fit, grant such prayer; and the said letters patent shall be available at law and in equity to give such petitioner the sole right of using, making, and vending such invention, as against all persons whatsoever, anything hereinbefore contained to the contrary thereof notwithstanding: Provided that any person, party to any former action or suit touching such first letters patent as last aforesaid, shall be entitled to have notice in writing from the petitioner or his attorney of the time and place fixed for the hearing of the said petition; and after any such decision and order shall have been made, it shall not be material to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner hereinbefore directed in that behalf. The expenses of such hearing and all costs connected therewith, shall be paid as the court may direct.

26. *Indices of specifications, &c.* The Lieutenant Governor, with the advice aforesaid, may cause indices to all specifications, disclaimers and memoranda of alterations heretofore or to be hereafter enrolled or deposited as aforesaid, to be prepared in any such form as may be thought fit, and such indices shall be open to the inspection of the public at such places as the Lieutenant Governor with the advice aforesaid, shall appoint, and subject to the regulations to be made as hereinbefore provided.

27. *The Register of Patents.* There shall be kept at the office to be appointed, as aforesaid, a book or books to be called The Register of Patents, wherein shall be entered and recorded in chronological order all letters patent granted under this law, the deposit and filing of specifications, disclaimers and memoranda of alterations filed in respect of such letters patent, all amendments in such letters patent and specifications, all confirmations and extensions of such letters patent, the expiry, determination, vacating, or canceling such letters patent, with the dates thereof respectively, and all other matters and things affecting the validity of such letters patent as the Lieutenant Governor, with the advice aforesaid, may direct, and such register, or a copy thereof, shall be open at all convenient times to the inspection of the public, subject to such regulations as the Lieutenant Governor, with the advice aforesaid, may make in that behalf.

28. *Register of Proprietors.* There shall be kept at the same office a book or books entitled the Register of Proprietors, wherein shall be entered, in such manner as the Lieutenant Governor, with the advice aforesaid, shall direct, the assignment of any letters patent, or of any share or interest therein, any license under letters patent, and the district to which such license relates, with the name or names of any person having any share or interest in such letters patent or license, the date of his or their acquiring such letters patent, share and interest, and any other matter or thing relating to or affecting the proprietorship in such letters patent or license, and a copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same on payment of the fee provided in schedule 8, and shall be *prima facie* proof of the assignment of such letters patent or share or interest therein, or of the license or proprietorship as therein expressed, provided always that, until such entry shall have been made, the grantee or grantees of the letters patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such letters

patent, and of all the licenses and privileges thereby given and granted, and such register or a copy shall be open to public inspection, subject to such regulations as the Lieutenant Governor, with the advice aforesaid, may make.

29. *Punishment for making false or forged entries.* If any person shall willfully make, or cause to be made, any false entry in the said register, or shall willfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in the said book, or shall produce or tender, or cause or suffer to be produced or tendered, in evidence, any such writing, knowing the same to be false or forged, he shall be guilty of the crime of contravening this section of this law, and shall upon conviction be liable to imprisonment, with or without hard labor, for any period not exceeding five years.

30. *Entries in registers—how expunged, vacated or varied.* If any person shall deem himself aggrieved by any entry made under color of this law in the said register, it shall be lawful for such person to apply by motion to the Supreme Court for an order that such entry may be expunged, vacated, or varied, and upon any such application such court may make such order for expunging, vacating or varying such entry, and as to the costs of such application as to such court may seem fit, and the officer having the care and custody of such register, on the production to him of any such order, shall expunge, vacate or vary the said entry according to such order.

31. *Punishment for imitating a patentee's marks or device.* If any person shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark, upon anything made, used, or sold by him, for the sole making or selling of which he hath not, or shall not, have obtained letters patent, the name or any imitation of the name of any other person who hath or shall have obtained letters patent for the sole making or vending of such thing, without leave in writing of such patentee or his heirs or assigns, or if any person shall, upon such thing not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having had the license or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "Patent," the words "Letters Patent," or the words "By the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, he shall for

every such offense forfeit and pay the sum of fifty pounds, one half to the colonial government, and the other half, with full costs of suit, to any person who shall sue for the said penalty by action of debt.

32. *Inventor's action for infringement of patent.* An action may be maintained in the Supreme Court by an inventor against any person who, during the continuance of the letters patent granted under this law, shall, without the license of said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same.

33. *Grounds of defense to any such action.* No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor shall any such action be defended upon the ground of a misdescription of the invention in the petition, nor upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor or derives title from him. Any such action may be defended upon the ground that the invention was not new, if the person making the defense, or some person through whom he claims, shall, before the date of the petition for leave to file any such specification, have publicly or actually used in Natal the invention or that part of it, of which the infringement shall be proved, but not otherwise.

34. *Court may allow amendment of specification.* If the court at the hearing of the cause shall think the patentee has in the description of his invention in the petition or specifications included something which at the date of the petition was not new, or whereof he was not the inventor, or that the complete specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the court may adjudge the said exclusive privilege to have been acquired and the letters patent to be valid, save as to the part thereof affected by such error, defect, or insufficiency, or if the court shall think that the error, defect, or insufficiency can be amended without injury to the public, they may adjudge the exclusive privilege and letters patent in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars, and adjudge and make such further order as to costs or otherwise as may be necessary and expedient, and thereupon the patentee, his executors, administrators, or assigns, shall, within the time limited by said

court for the purpose, file a specification amended according to such order.

35. *Action for infringement; pleadings; proceedings for repeal.* In any action for the infringement of letters patent, the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action, and the defendant on pleading thereto, shall deliver with his pleas, and the prosecutor in any proceedings in the nature of scire facias to repeal letters patent, shall deliver with his declaration particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration respectively, and at the trial of such action or proceedings no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such letters patent which shall not be contained in the particulars delivered as aforesaid, provided always that the place or places at, or in which, and in what manner, the invention is alleged to have been used or published prior to the date of the letters patent, shall be stated in such particulars, provided also that it shall and may be lawful for any judge at chambers to allow such plaintiff or defendant, or prosecutor respectively, to amend the particulars delivered as aforesaid, upon such terms as to such judge may seem fit, provided also that at the trial of any proceeding to repeal letters patent, the defendant shall be entitled to begin and give evidence in support of such letters patent, and in case evidence shall be adduced on the part of the prosecutor, impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

36. *Costs in such action or proceedings.* In taxing the costs in any action for infringing letters patent, regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular unless certified by the court before which the trial was had to have been proved by such plaintiff or defendant respectively, and it shall be lawful for the court before which any such action shall be tried to certify on the record that the validity of the letters patent in the declaration mentioned came in question, and the record with such certificate being given in evidence in any suit or action for infringing the said letters patent, or in any proceeding in the nature of scire facias, to repeal the letters patent, shall entitle the plaintiff in any such suit or action, or the defendant in any such proceeding, on obtaining a decree or judgment, to his full costs

charges and expenses, to be taxed as between attorney and client, unless the court making such judgment, decree or order, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

37. *Payment of fees specified in schedule.* There shall be paid in respect of letters patent applied for or issued as herein mentioned, the depositing of specifications, disclaimers and memoranda of alterations, warrants, certificates, entries, searches, and other matters and things respectively mentioned in the eighth schedule to this law, such fees as are enumerated in such schedule, and such of the said fees as are thereby made payable shall be payable to the persons and in the manner provided in such schedule, and shall form part of the colonial revenue.

38. *Patent granted in United Kingdom after* 1870, *not to extend to Natal.* All letters patent which shall be granted in the United Kingdom of Great Britain and Ireland, after the first day of January, in the year of our Lord one thousand eight hundred and seventy-one, for any invention shall, so far as the same relate to this colony, be utterly void and of none effect, and in no wise be put in execution, but all such letters patent granted in the said United Kingdom on or before that day, and which, if this law had not been passed, would have been valid in this colony, shall be deemed and taken to have been granted under this law, and may be dealt with accordingly.

39. *Effect from promulgation.* This law shall take effect from the promulgation thereof in the Government Gazette.

SCHEDULE 1.

To all to whom these presents shall come, I, of [*engineer, &c., as the case may be*], send greeting: Whereas I am desirous of obtaining letters patent for securing unto me Her Majesty's special license that I, my executors, and assigns, and such others as I or they should at any time agree with, and no others, should and lawfully might, from time to time, and at all times during the term of fourteen years 'to be computed from the day on which this instrument shall be left at the office of the attorney-general), make, use, exercise, and vend, within the colony of Natal, an invention for [*insert the title of the invention*]; and in order to obtain the said letters patent, I must, by an instrument in writing under my hand, particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and must also enter into the covenant hereinafter contained: Now know ye, that the nature of the said invention, and the manner in which the same is to be per-

formed, are particularly described and ascertained in and by the following statement, that is to say [*describe the invention*]. And I do hereby, for myself, my heirs and executors, covenant with Her Majesty, her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, and that I do not know or believe that any person other than myself is the true and first inventor of the said invention, and that I will not deposit these presents at the office of the attorney-general with any such knowledge or belief as last aforesaid.

In witness whereof, I have hereunto set my hand at , this day of 18 .

SCHEDULE 2.

Patent for [*insert the title as in the specification*].

This is to notify that , of &c., did, on the day of instant [*or* last], deposit at the office of the attorney-general, Pietermaritzburg, a specification or instrument in writing under his hand, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, and that by reason of such deposit the said invention is protected and secured to him exclusively for the term of six months thence next ensuing. And I do further notify that the said has given notice in writing, at my office, of his intention to proceed with his application for letters patent for the said invention, and that I have appointed day the day of next, at o'clock in the noon, at my office, to hear and consider the said application, and all objections thereto: and I do hereby require all persons having an interest in opposing the grant of such letters patent, to leave before that day, at my office in Pietermaritzburg, particulars in writing of their objections to the said application, otherwise they will be precluded from urging the same.

Given under my hand, this day of 18 .

Attorney-General.

SCHEDULE 3.

Upon hearing the objection of A. B. to the grant to , of letters patent for [*insert the title as in the specification*], I do by this writing under my hand, order that the said A. B. shall pay to the said , the sum of for the costs of such hearing [or to E. F. the sum of as a remuneration for his attendance at such hearing].

Given under my hand, this day of 18 .

Attorney-General.

SCHEDULE 4.

I have heard and considered the application of , for letters patent for [*insert the title as in the specification*]; and also all objections to the same, and, having perused the specification and the usual and necessary advertisements, am of opinion that, as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, Her Majesty's royal letters patent may be

issued in the form contained in the fifth schedule of the patent law, with the following additional clauses, that is to say [*here set them out, if any*].

Given under my hand, this day of 18 .

Attorney-General.

SCHEDULE 5.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to all to whom these presents shall come, greeting: Whereas , of , in the county of [engineer, &c., *as the case may be*], hath represented that he is desirous of obtaining our royal letters patents, for securing unto him our special license that he, his executors and assigns, and such others as he or they should agree with, and no others, should and lawfully might, make, use, vend, and exercise within our Colony of Natal, an invention for [*insert the title of the invention*], and by an instrument in writing under his hand, deposited in the office of the attorney-general, the said hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed: And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said the privileges hereinafter mentioned; Know ye, therefore, that we of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents, for us our heirs and successors, do give and grant unto the said , his executors, and assigns, our especial license, full power, sole privilege and authority, that he, the said , his executors, administrators, and assigns, and every of them, by himself and themselves, or his and their deputy or deputies, servants or agents, or such others as he or they shall at any time agree with, and no others, during the term herein expressed, shall and lawfully may make use of, exercise, and vend his said invention within our said colony, in such manner as to him, his executors and assigns, or any of them, shall seem meet; and that he, his executors and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention, during the said term; to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages, unto and by the said , his executors and assigns, for and during, and unto the full end and term of years, now next ensuing. And to the end that he, his executors and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention, according to our gracious intention, we do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons whatsoever, of what estate, quality, degree, name, or condition soever they be, within our said colony, that neither they, nor any of them, at any time during the said term, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, license, or agreement of the said , his executors or assigns, in writing under his or their hands first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this

our royal command; and further, to be answerable to the said , his executors and assigns, according to law, for his and their damage thereby occasioned; provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted, it shall appear that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said is not the first and true inventor thereof within this colony, these our letters patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding; provided also, that these our letters patent or anything herein contained, shall not extend, or be construed to extend, to give privilege unto the said , his executors and assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use and exercise and benefit thereof within our said colony; it being our will and pleasure that the said , his executors and assigns, and all and every person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions by them invented and found out, according to the true intent and meaning of the same respective letters patent, and of these presents; provided likewise, nevertheless, and these our letters patent are upon this express condition, that if the said instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said , his executors or assigns, shall not pay at the office of the colonial treasurer of our said colony the sum of pounds within three years next after the date of these presents, and the sum of pounds within seven years next after such date, then, and in any of the said cases, these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as may by law be granted: And, lastly, we do by these presents, for us, our heirs and successors, grant unto the said , his executors and assigns, that these our letters patent shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense, for the best advantage of the said , his executors and assigns.

In witness whereof we have caused these our letters to be made patent, and to be sealed and bear date as of the day of 18 .

SCHEDULE 6.

Patent for [here insert the title].

This is to notify to all whom it may concern, that of, &c., has applied to me for leave to enter a disclaimer of part [*or* memorandum of alteration, *as the case may be*] of the said invention, the particulars whereof are stated below; I do therefore

appoint day the day of next, at o'clock in the noon, to hear and consider the said application and all objections to the same. And I do hereby require all persons having an interest in opposing the said application, to leave, before that day, at my office in Pietermaritzburg, particulars in writing of their objection to the same, otherwise they will be precluded from urging such objections.

Given under my hand this day of 18 .

Attorney-General.

The following is the disclaimer [*or as the case may be*] which I desire to make in, &c. [*The applicant must here set forth what he wishes to enter, and sign it.*]

SCHEDULE 7.

Patent for [*insert the title*].

Notice is hereby given that I have presented a petition to his Excellency the Lieutenant Governor, praying for the confirmation of [*or* extension of the term in] the said patent, and that the said petition has been referred to the supreme court for consideration and decision; and that on the day of next, at o'clock in the noon, or so soon thereafter as counsel can be heard, the said court will be moved thereon. All persons objecting to the said confirmation [or extension] must enter a caveat against the same at the office of the attorney-general in Pietermaritzburg, otherwise they will be precluded from objecting to it.

Dated this day of 18 .

SCHEDULE 8.

Fees to be paid to Treasurer on account of general revenue.

	£	s.	d.
On depositing provisional specification	1	1	0
Notice to proceed	0	5	0
Alteration of specification	0	10	6
For any appointment	1	1	0
Fee for warrant (in terms of clause 9)	1	1	0
Complete specification	1	1	0
Particulars of objection	1	1	0
On presenting petition for extension of confirmation	1	1	0
Every search and inspection	0	1	0
Entry of assignment or license	0	5	0
Certificate of assignment or license	0	5	0
Filing memorandum of alteration or disclaimer	1	1	0
Entering caveat	1	1	0
Copy, or extract of any writing, per common law folio	0	1	0

	£	s.	d.
Sealing letters patent	1	10	0
At or before the expiration of three years	5	0	0
At or before the expiration of seven years	10	0	0

From *Carpm. Pat. L. of World*, 381; shortening some lengthy section captions.

See APPENDIX OF RECENT LAWS, near end of Vol. II.

NETHERLANDS.

According to a report by Mr. J. Walsham, of the British Legation, published October 7, 1873, 4 *Pat. Off. Gaz.* 373, the law of January 25, 1817,—which allowed issue of patents for terms not exceeding fifteen years,—was repealed by a law taking effect July 18, 1869, which prohibited issue of patents except upon applications made prior to that date. He also says: "It may be as well to correct a somewhat prevalent idea that the Crown, notwithstanding the law for the abolition of patents, has still the power in special cases of conferring exclusive rights upon inventors. No such royal prerogative, however, exists; and no exceptions whatever are or can be made, beyond those specified in the abolition law." [Referring to provisions allowing patents granted under the former law for five or ten years to be extended not exceeding fifteen years in all, and allowing applications made before the abolition to be granted.] It follows that no patents for the Netherlands are obtainable, and none are existing. Mr. Walsham's report explains the effect of this legislation; and publishes the Act of January 25, 1817, and the regulations for carrying it out. 4 *Pat. Off. Gaz.* 374, 375.

NEVIS.

See LEEWARD ISLANDS.

NEW BRUNSWICK.

See CANADA.

NEW CALEDONIA.

See FRANCE.

NEWFOUNDLAND.

The Consolidated Statutes, Title XV., Ch. 54, *Sec.* 1, *entitled "of Patents."*

I. *Patents to be granted in certain cases.* Whenever any person shall apply to the Governor, alleging that he hath invented and discovered any new and useful art, machine, manufacture, or composition of matter not theretofore known or used, and shall, by petition to the Governor, signify his desire to obtain an exclusive property in such new invention and discovery, and shall pray that a patent be granted for the same, the Governor in Council may direct letters patent, under the Great Seal of this Island, to be issued, which letters patent shall recite the allegations and suggestions of the said petition and shall therein give a short description of the said invention and discovery, and thereupon shall grant to such person, his executors, administrators, or assigns, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing, and using, and vending to others to be used, the said new invention or discovery ; which letters patent shall be good and available to the grantee therein named, by force of this chapter, and shall be recorded in the office of the colonial secretary in a book to be kept for that purpose, and shall be delivered to the patentee : and the Governor in Council may insert in any such letters patent a provision extending the operation thereof for a further term of seven years. Before the Great Seal of this Island shall be affixed to any such letters patent, or the same shall be issued and signed as aforesaid, such letters patent shall be delivered to Her Majesty's attorney-general, who shall examine the same, and shall, if he finds the same conformable to this chapter, certify accordingly, and return the same within fifteen days into the office of the colonial secretary, to be issued and signed.

II. *Improvement on patented invention.* Where any such letters patent shall be obtained by any person, and thereafter any other person shall discover or make any improvement in the principle or process of any such art, machine, or composition of matter, for which such patent hath been granted, and shall make application for and obtain letters patent under this chapter for the exclusive right of such improvement, the person who shall obtain and

procure letters patent for any such improvement, shall not make use, or vend the original invention or discovery, nor shall the person who shall have procured letters patent for the original invention or discovery, make, use, or vend any such improvement: Provided, that simply changing the form or the proportions of any machine or composition of matter, in any degree, shall not be deemed a discovery or improvement within the meaning of this chapter.

III. *Right to copies.* Any person may obtain from the office of the colonial secretary a copy of any such letters patent, or of the petition whereon the same were issued, or of any paper connected therewith, or any drawing relating to the same, on payment, for such copy, of such fees as are now payable at the office of the colonial secretary for copies of other documents.

IV. *Oath required.* Before any person shall receive any letters patent under this chapter, such person shall make oath, in writing, before one of the justices of Supreme Court, a stipendiary magistrate, or commissioner of affidavits, that he doth verily believe that he is the inventor or discoverer of the art, machine, composition of matter, or improvement for which he solicits letters patent, and that such invention or discovery hath not, to the best of his knowledge or belief, been known or used in this island or in any other country, which oath shall be delivered with the petition for such letters patent.

V. *Description, model, and drawing to be filed.* Together with such petition and oath, before any person shall obtain any letters patent as aforesaid, such person shall also deliver into the office of the colonial secretary a written description of his invention, and of the manner of using or process of compounding the same in such full, clear, and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected to make, compound, and use the same, and in case of any machine, shall deliver a model thereof into the office of the colonial secretary, and shall explain the principle and the several modes in which such person hath contemplated the application of that principle or character by which it may be distinguished from other inventions, and shall accompany the whole with drawings and written references, where the nature of the case admits of drawings, or with specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter; which description,

signed by such person, and attested by two witnesses, shall be filed in the office of the colonial secretary, and copies thereof, certified under his hand, shall be evidence in all courts where any matter or thing, touching or concerning the said letters patent, shall come into question : Provided, that where, from the complicated nature of any machinery, the cost of a model thereof may be so great as to prevent any ingenious but poor person from obtaining patents for his useful inventions, the Governor in Council may dispense with the delivery of such model into the office of the colonial secretary previous to the granting of any such patent; and the requisitions of this chapter being in all other respects complied with, such person shall be entitled to such patent as if such model had been so lodged.

VI. *Patentee may assign.* Any patentee, his executors or administrators, may assign all his right, title, and interest in the said invention and discovery in the letters patent to him granted, to any person ; and the assignee thereof, having recorded the said assignment in the office of the colonial secretary, shall thereafter stand in the place and stead of the original patentee, as well as to all right, privilege, and advantage, as also in respect of all liability and responsibility as to the said letters patent, and the invention and discovery thereby secured ; and in like manner shall the assignees of any such assignee stand in the place and stead of the original patentee or inventor.

VII. *Forfeiture in case of infringement.* Whenever, in any case, any letters patent, shall be, or shall or may have been, granted to any person under and by virtue of this chapter, and any person, without the consent of the patentee, his executors, administrators, or assigns, first had and obtained in writing, shall make, devise, use, or sell the thing, invention, or discovery, whereof the exclusive right is secured to the said patentee by such letters patent, such person so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns, a sum equal to three times the actual damage sustained by such patentee, his executors, administrators, or assigns from or by reason of such offense, which sum may be recovered, together with costs, by action on the case, founded on this chapter, in the Supreme Court.

VIII. *Pleading.* The defendant in such action may plead the general issue, and give this chapter, and any special matter in evidence, tending to prove that the specification filed by the plaintiff does not contain the whole truth relative to the invention or discov-

ery therein alleged to have been made by the said plaintiff, or that it contains more than is necessary to produce the described effect (which concealment or addition shall fully appear to have been made for the purpose of deceiving the public), or that the thing, invention, or discovery, thus secured by letters patent, as aforesaid, was not originally discovered by the patentee, but had been in use, or had been described in some public work, anterior to the supposed invention or discovery of the said patentee, or that he had surreptitiously obtained letters patent as aforesaid, for the invention or discovery of some other person; in either of which cases, upon proof thereof, a verdict shall be returned and a judgment shall be entered for the said defendant with costs, and the said letters patent shall thereupon be and shall by the said court be adjudged void.

IX. *Applicant not deprived of right by having obtained patent elsewhere.* No applicant shall be deprived of his right to a patent in this colony for his invention, by reason of his having previously taken out letters patent therefor in any other country: Provided, that such invention shall not have been introduced into public and common use in this colony prior to the application for a patent therein, and the patent granted in this colony shall not continue in force after the expiration of the patent granted elsewhere, and where more than one such patent or like privilege is obtained abroad, then immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges, the patent granted in this colony shall cease to be in force; and no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained elsewhere, and which shall be granted in this colony, after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

X. *Letters issuable to assignee.* Letters patent may be issued by the Governor in Council to the assignee of any person who may have taken out letters patent for his invention or discovery in any other country, but not for any invention or discovery made abroad for which no letters patent have been there obtained: Provided, that the invention or discovery so assigned shall not have been introduced into public and common use in this colony prior to the application for a patent; and that the assignee of such foreign patent shall file, with his application, the assignment duly proved under which he claims a patent in this colony, and an affidavit, setting forth the date of the patent abroad, that the article thereby

patented has not been in public and common use in this colony, and that he is the assignee for a good consideration.

XI. *Forfeiture for failure to operate.* Any letters patent which may be taken out under or by virtue of this chapter, and which shall not have been brought into operation within two years next ensuing from and after the date thereof, such letters patent shall, at the expiration of the said period of two years, be void.

XII. *Notices.* No letters patent shall be granted under or by virtue of this chapter until notice shall have been published in the Royal Gazette and one other of the newspapers of this colony, for at least four weeks, of the intention of the applicant to apply for such letters patent; and such notice shall contain, in general terms, the description of invention for which such letters patent shall be desired.

XIII. *Remedy where patentee takes larger interest than entitled to.* If by mistake, accident, or inadvertence, and without any willful default, or intent to defraud or mislead the public, a patentee shall in his specification have claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, but of which he was not the original or first inventor, and shall have no just or legal right to claim the same, his patent in such case shall be valid for so much of the invention or discovery as shall be actually his own, provided it is a material and substantial part of the thing patented, and be plainly distinguishable from other parts patented without right; and every such patentee and his legal representatives, whether holding the whole or a particular interest in the patent, may maintain suits at law or in equity, for any infringement of such part of the same as is actually the invention or discovery of the patentee, although his specification may embrace more than he has a legal right to claim; but if in such case the plaintiff shall obtain a verdict or judgment, he shall not be entitled to costs, unless before the commencement of the suit he shall have filed in the office of the colonial secretary a disclaimer, attested by a witness, of that part of the thing patented which was claimed without right; and no person bringing a suit shall be entitled to the benefits of this section, if he shall have unreasonably neglected or delayed to record his disclaimer.

XIV. *Disclaimer of surplus when specification too broad.* If through inadvertence, accident, or mistake, a patentee shall have made his specification too broad by claiming more than that of which he was the original or first inventor (some material and sub-

stantial part of the thing patented being justly and truly his own), the disclaimer shall be in writing, and shall state the extent of interest in the patent held by the party making the same ; it shall be attested by a witness, and be recorded in the office of the colonial secretary ; thereafter, such disclaimer shall be considered as part of the original specification, to the extent of the interest possessed by the party making the same, or by those claiming under him ; but no such disclaimer shall affect any action or suit pending at the time of its being recorded, except so far as may relate to the question of unreasonable neglect or delay in recording the same.

XV. *Reissue for want in the description, &c.* If any patent shall become inoperative or invalid by reason of a defective or insufficient description or specification, or by reason of the patentee claiming in his specification, as his own invention, more than he had a right to claim, and the error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Governor in Council, upon the surrender of such patent, and upon petition therefor, may cause a new patent to be issued to the patentee, for the residue of the term mentioned in the first patent in accordance with the patentee's amended description and specification : in case of his death, or the assignment by him of the original patent or any fractional interest therein, the right shall vest in his legal representatives to the extent of their respective interests in such patent; and the patent so re-issued, together with the amended description and specification, shall have the same effect and operation in law as though the same had been originally filed in such amended form before the issuing of the original patent.

XVI. *Right of patentee to patent improvements.* If an original patentee shall be desirous of adding a description and specification of an improvement upon his original invention or discovery, made or discovered by him subsequent to the date of his patent, he may, upon the like proceedings being had in all respects as in the case of an original application, have the same annexed to his original description and specification ; and the colonial secretary shall certify upon such annexed description and specification the time of its being annexed and recorded, and thereafter it shall have the same effect in law as if it had been embraced in the original description and specification, and had been recorded therewith.

XVII. *No patent granted elsewhere, valid in Newfoundland until, &c.* No patent for any invention or discovery, granted in England or elsewhere out of the colony, and extending to the col-

onies, shall be of force and effect in this colony, until copies of the original specification and drawings filed, or duplicates of the models lodged, in England or elsewhere out of the colony, upon which such patent was there obtained, shall be filed or lodged in the office of the colonial secretary, who shall grant a certificate of the lodging or filing of the same.

XVIII. *Affirmations and oaths.* All oaths required by this chapter, unless otherwise directed, may be taken in this colony before a judge of the Supreme Court, or a commissioner for taking affidavits in the same; or in Great Britain or Ireland, before the mayor of a city or borough, and shall be certified under the corporate seal; or, in a foreign country, before a British consul or vice-consul, and shall be certified under his seal of office.

XIX. *Patentee to pay fees of office and twenty-five dollars.* Any person who may take out letters patent under this chapter shall pay for the same such fees as are charged on documents issued under the Great Seal of this Island, and shall, in addition, deposit with the colonial secretary the sum of twenty-five dollars, to be by him paid to the receiver-general for the use of the colony.

From *Carpm. Pat. L. of World*, 405.

NEW SOUTH WALES.

An Act to authorize the Governor General, with the advice of the Executive Council, to grant letters of registration for all Inventions and Improvements in the Arts or Manufactures, to have the same effect as Letters Patent in England, so far as regards this Colony. No. XXIV., December 6, 1852.

Preamble. Whereas it is expedient that the exclusive benefit of inventions and improvements in the arts or manufactures should be secured for limited periods to the author or authors, or designer or designers thereof, or to his or their agents or assignees: And whereas it is doubtful whether the laws of the United Kingdom respecting patents extend to or have effect in the Colony of New South Wales: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, as follows:—

I. *Governor may grant letters of registration for improvements in arts or manufactures.* From and after the passing of this Act it shall and may be lawful for His Excellency the Governor of the said colony, with the advice of his Executive Council, to grant letters of registration under his sign manual and the seal of the colony for the exclusive enjoyment and advantage, for a period of not less than seven nor more than fourteen years, for all inventions or improvements in the arts or manufactures, to the author or authors, or designer or designers thereof, or to his or their agents or assignees, as soon as such proceedings shall have been taken by such author or authors, or designer or designers respectively as are in that behalf hereinafter mentioned.

II. *Deposit to be paid to colonial treasurer.* Every person who upon claiming to be the author or designer, by his agent or assignee, of any invention in or improvement to the arts or manufactures shall be desirous of obtaining such a letter of registration as is hereinbefore mentioned shall deposit with the colonial treasurer the sum of twenty pounds sterling, and shall, after such deposit, present a petition to His Excellency the Governor, setting forth that he is the author or designer, or the agent or assignee of such author or designer, as the case may be, of a certain invention in or improvement to the arts or manufactures, and specifying the particulars of such invention or improvement, and that he has

deposited with the colonial treasurer the sum of twenty pounds for defraying the expense of granting the letters of registration required by this Act, it shall be lawful for the said Governor for the time being to refer the said petition to one or more competent person or persons, to be appointed by the said Governor, to examine and consider the matters stated in such petition, and to report thereon for the information of his Excellency; and if the report of the person or persons to whom the said petition shall have been referred by the Governor shall be favorable to its prayer, it shall be lawful for his Excellency with the advice of his Executive Council, to grant the letters of registration hereinbefore mentioned, and such letters of registration shall, within three days after the granting thereof, be registered in the proper office in the Supreme Court, otherwise such letter of registration shall be void and of no effect.

III. *Grantee of any such letter may assign the same.* Every grantee of such letter of registration shall be at liberty to assign the same, and all the benefits and advantages derivable therefrom, to any person or persons, by an instrument in writing under his hand and seal, to be registered in the Supreme Court in the same manner and within the same period after the execution thereof as the original letters of registration are hereinbefore directed to be registered.

IV. *Limit as to grantee's liability.* No grantee of any such letter of registration shall be liable in respect thereof for any higher charge than the said sum of twenty pounds, except for such costs and charges as he shall voluntarily incur, after the deposit of the said sum of twenty pounds with the colonial treasurer, as hereinbefore mentioned.

V. *Any such letter may be repealed for certain causes.* Any letter of registration granted by virtue of this Act shall be liable to be repealed by writ of scire facias for the same causes and in the same manner as other grants of the Crown are liable to be repealed.

VI. *Commencement of Act.* That this Act shall come into operation so soon as and not until the same shall have received the royal approbation, and the notification of such approbation shall have been made by order of His Excellency the Governor General in the New South Wales Government Gazette, and that such notification shall be sufficient evidence of such approbation.

From *Carpm. Pat. L. of World*, 413.

See also, AUSTRALASIA.

NEW ZEALAND.

Act to consolidate the Law relating to Letters Patent for Inventions. September 8, 1883.

1. *Short title.* The short title of this Act is "The Patents Act, 1883."

It shall come into operation on the first day of January, one thousand eight hundred and eighty-four.

2. *Division of Act.* This Act is divided into Parts as follows:—

Part I.—Mode of obtaining Letters Patent.

Part II.—Disclaimers and Alterations.

Part III.—Extension of Term and Confirmation of Invalid Patents.

Part IV.—Miscellaneous Provisions.

3. *Interpretation.* In this Act—

"Invention" means and includes any manner of new manufacture the subject of letters patent and grants of privilege within the meaning of the fourth section hereof.

"Patent-Office" means the patent-office appointed under this Act, but does not include any local patent-office;

"Patent-Officer" means the person appointed to be patent-officer under this Act;

"Regulations" means regulations made under this Act.

PART I.

MODE OF OBTAINING LETTERS PATENT.

1.—For what, Patent may issue.

4. *Power to grant patents. Monopolies forbidden.* It shall be lawful to make and issue, in the manner hereinafter mentioned, letters patent and grants of privilege, for any term not exceeding fourteen years from the date thereof, of the sole working or making of any manner of new manufactures within New Zealand, to the true and first inventor of such manufactures, which others, at the time of making such letters patent and grants, shall not use, so as

also they be not contrary to the law nor mischievous to the State, by raising prices of commodities or hurt of trade, or generally inconvenient.

And all other monopolies, commissions, grants, licenses, charters, and letters patent hereafter to be made or granted to any person of or for the sole buying, selling, making, working, or using of anything within New Zealand or of any other monopolies or of power, liberty or faculty to dispense with any others, and all matters and things whatsoever in anywise tending to the instituting, erecting or countenancing of the same or any of them, shall be utterly void and of none effect, and in no wise to be put in execution.

2.—Regulations.

5. *Governor in Council to make regulations.* The Governor in Council from time to time may make such regulations not inconsistent with the provisions hereof, as may appear to be necessary and expedient for the purposes of this Act, and all such regulations shall be gazetted.

All regulations in force under any Act hereby repealed shall remain in force as if made under this Act until other regulations are made as hereinbefore provided.

6. *Patent-officer; patent-office.* The Governor may from time to time appoint such person as he thinks fit to be patent-officer, and in like manner may appoint a place to be the "patent-office."

The person who, at the commencement of this Act, holds the office of patent-officer under the Acts hereby repealed, shall be the patent-officer under this Act, without any further appointment.

The place at the commencement of this Act used as the patent-office shall be deemed to have been appointed under this Act.

7. *Deputy patent-officer.* The Governor at any time may appoint a fit and proper person to be deputy patent-officer, to act in case of the death, illness, or unavoidable absence of the patent-officer, and such deputy shall, during the time he shall so act, have all the powers and privileges, and shall perform all the duties, and be subject to the responsibilities of the patent-officer.

Whenever the patent-officer shall die, the deputy patent-officer shall act as such from the day of such death, and, in the case of illness or absence, shall act as such from such day as the patent officer shall certify under his hand to the deputy patent-officer that he is ill and unable to peform his duties, or that he is about to be absent; and such deputy patent-officer shall cease to act as such on

the day on which he shall receive from the patent-officer a certificate under his hand to the effect that he has resumed his duties.

3.—Procedure to obtain Patent.

8. *Appointment of local offices and officers; saving of existing appointments.* The Governor may, for all such purposes as he may deem necessary for the public convenience, appoint local patent-offices, and patent-office agents in the various centers of population throughout the colony, and from time to time alter or revoke the appointment of such offices and agents respectively.

The local patent-offices and the patent-office agents appointed under "The Patents Act Amendment Act, 1882," shall be deemed to have been appointed under this Act without further appointment.

Such agents shall not demand or receive from the applicant, or any one on his behalf, any fees or charges whatever other than such as are payable under this Act.

9. *Mode of application; first schedule; receipt.* Every application under this Act for the grant of letters patent for an invention shall be made as follows, that is to say:

(1.) The applicant shall deposit at the patent-office, or at any local patent-office, a specification, written in a plain legible hand or printed in fair legible type upon parchment or paper, and under his hand and seal, in the form or to the effect in the first schedule hereto, particularly describing and ascertaining the nature and details of the said invention with precision, and in what manner the same is to be performed, and containing a distinct claim for the especial novelty thereof, and accompanied by drawings, if necessary, for the full description and understanding of the said invention, and also a copy of such specification and drawings.

(2.) The title of the invention must state distinctly and specifically the nature and object of the invention, and every specification must be limited to one invention.

(3.) If such deposit be made at any local office the patent-office agent shall give the applicant or his agent a receipt therefor in the form contained in the second schedule hereto, or to the like effect, and shall forthwith transmit the documents and a copy of his receipt to the patent-officer.

10. *Protection of invention; third schedule.* (1.) The exact time of the deposit of every specification which, upon examination by the patent-officer, is found to be in accordance with this Act and the

regulations shall be recorded at the patent-office, and indorsed upon such specification, and a certificate thereof, under the hand of the patent-officer and in the form contained in the third schedule hereto, shall be given or transmitted to such applicant or his agent.

(2.) And thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act for the term of twelve months next after the said deposit, and the applicant shall have during such term the like powers, rights and privileges as might have been conferred upon him by letters patent for such invention issued under this Act and duly sealed as of the day of such deposit.

(3.) During the continuance of such powers, rights and privileges under this provision, such invention may be used and published without prejudice to any letters patent to be granted for the same.

11. *Patent not affected by specification of pretended inventor.* In case of the deposit of any such specification as aforesaid in fraud of the true and first inventor, any letters patent granted to the true and first inventor of such invention shall not be invalidated by reason of such deposit, or of any use or publication of the invention subsequent to such deposit and before the expiration of the said term of protection.

12. *Hearing of application; fourth schedule; objections.* The patent-officer shall make an appointment for the hearing of every application, in the form contained in the fourth schedule to this Act or to the like effect; and shall publish a notification of the said appointment once in the Gazette, not less than sixty clear days prior to the day appointed.

Any person having an interest in opposing the grant of letters patent shall be at liberty, not less than fourteen clear days before the day so appointed, to leave particulars in writing of his objections to the said application at the patent-office.

13. *Patent officer to hear applications and objections.* At the place and time named in the said appointment the patent-officer shall hear and consider the said application, and all objections to the same, if any, mentioned in the said particulars, and may call to his aid such scientific or other person as he may think fit.

The applicant, the objectors, and their respective witnesses and evidence shall be respectively heard, examined and considered separately and apart from and in the absence of the other, his witnesses and evidence.

The patent-officer shall have full power to examine applicant, objectors, and witnesses upon oath, and to administer an oath to any or all of them.

14. *Hearing may be adjourned.* The patent-officer may adjourn from time to time the hearing of any application for letters patent.

15. *Award of expenses and costs; fifth schedule.* The patent-officer may require that the applicant and the objector shall deposit such sums as the patent-officer may think fit to meet any costs of or incident to the hearing, and may, by writing under his hand, order to be paid to any person he may call to his aid as aforesaid, some remuneration for his attendance, and may also, in like manner, order that the costs of any hearing upon any objections, or otherwise in relation to the grant of such letters patent, or the protection acquired by the applicant under this Act, shall be paid; and, in and by such writing, shall fix the amount of such remuneration or costs, and by or to whom the same respectively shall be paid.

Every such order shall be in the form contained in the fifth schedule, or to the like effect, and may be made a rule of the Supreme Court.

16. *Patent-officer may issue warrant for letters patent; sixth schedule.* If there shall be no objection to the grant of letters patent and he is satisfied that this Act and the regulations have been complied with, the patent-officer may, on the day appointed, or as soon thereafter, and, when there are objections, after such hearing and consideration, issue a warrant under his hand for the granting of letters patent for the said invention; and, by such warrant, shall direct the insertion in such letters patent of all such restrictions, conditions, and provisos, as he may deem usual and expedient in such grants, or necessary in pursuance of this Act.

Such warrant shall be the authority for the making and sealing of letters patent under this Act, according to the tenor of the said warrant.

Every such warrant shall be in the form set forth in the sixth schedule or to the like effect.

17. *Amendments.* In case the title of the invention or the specification be too large or insufficient, or clerical errors exist therein, the patent-officer, on the hearing of the application for the grant of the letters patent, may allow or require such specification to be amended, or another and sufficient specification to be deposited in lieu thereof, and every such amended, or new

specification shall have the same force, effect, and operation as if it had been originally deposited in its amended or new state.

When an applicant desires to amend his specification or drawings, or to substitute an amended specification, he must deposit particulars of such amendment or such amended specification at the patent-office at least fifteen days before the day of hearing.

18. *Letters patent to be issued on application and during the protection.* (1.) The patent-officer, after the issue by him of the said warrant, and on application in writing by the applicant or his agent, with payment of the fee thereon, shall cause to be prepared letters patent for the invention according to the tenor of the said warrant, and the Governor may cause such letters patent to be sealed with the public seal of the colony.

(2.) Such letters patent shall be made applicable to the colony and its dependencies, and shall be valid and effectual as to the whole of the same respectively; but, except as hereinafter mentioned, no letters patent shall issue on any warrant granted as aforesaid, unless application be made to seal such letters patent during the continuance of the protection conferred under this Act, by reason of such deposit as aforesaid.

19. *Letters patent may issue after that time in certain cases.* (1.) When the application to seal such letters patent has been made during the continuance of such protection as aforesaid, and the sealing of such letters patent has been delayed from accident, and not from the willful default of the applicant, then such letters patent may be sealed at such time after the expiration of such protection as the Governor may direct.

(2.) Where the applicant for such letters patent dies during the continuance of such protection as aforesaid, such letters patent may be granted to the executors or administrators of such applicant during the continuance of such protection or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the term of such protection.

20. *Duplicate letters patent may be issued.* In case any letters patent shall be lost or destroyed, duplicate letters patent of the like tenor and effect, and sealed and dated as of the same day as such lost or destroyed letters patent, may be issued upon evidence of such loss or destruction being produced to the satisfaction of the patent-officer.

21. *Letters patent to bear date of deposit of specification, and to be conclusive as to preliminary steps.* Notwithstanding any enactment to the contrary, all letters patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such specification as aforesaid, and shall be of the same force and validity as if they had been sealed on the day as of which they are expressed to be sealed and bear date.

After any letters patent shall have been issued in pursuance of this Act, it shall not be necessary or material to inquire whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

4.—Form and Conditions of Patent.

22. *Conditions for granting letters patent; seventh schedule.* All letters patent for inventions granted under this Act shall be in the form contained in the seventh schedule, or to the like effect, and shall be made subject to the provisions of this Act, and to the conditions and restrictions that may be inserted in such patent by virtue thereof, or that are imposed by this Act, that is to say :—

(1.) That the powers and privileges thereby granted shall cease and determine at the expiration of five years from the date thereof, unless there be paid within such five years the sum or sums of money required to be paid under this Act, and the patent-officer shall indorse a receipt for the same on the letters patent.

(2.) No letters patent shall extend to entitle the patentee to use or imitate any invention or work which, before the date of such patent, had been found out or invented by any other person, and publicly used or exercised, or to whom like letters patent or privileges have been already granted for the sole use, exercise and benefit thereof within the colony.

(3.) The patentee, and all and every other person and persons to whom letters patent or privileges have been granted shall distinctly use and practice their several inventions by them invented and found out according to the true intent and meaning of the same respective letters patent.

(4.) Nothing contained in any letters patent shall prevent the patentee from granting licenses in such manner and for such considerations as they may by law be granted.

23. *Matters rendering letters patent void.* All letters patent and all privileges and advantages whatsoever thereby granted shall utterly cease and become void—

(1.) If the specification does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed.

(2.) If at any time during the term for which such letters patent are granted it appears that the grant is contrary to law or prejudicial or inconvenient to the public good, or that the invention therein mentioned is not a new invention, or that the patentee is not the true and first inventor thereof within this colony.

(3.) If the patentee shall not supply or cause to be supplied for the government of the colony all such articles of the said invention as he is required to supply by the persons administering the department of the public service for the use of which the same are required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said persons requiring the same.

24. *Invention to be brought into actual and public use.* Every invention protected by letters patent issued under this Act shall be brought into actual and public use within the colony within the space of two years from the date of such letters patent, or in default thereof such letters patent shall at the expiration of such period of two years cease and be of no effect.

5.—Repeal of Patent.

25. *Letters patent may be repealed, &c., or specification may be canceled.* (1.) An action shall lie for the repeal of any letters patent granted under this Act, and may be commenced in any district of the Supreme Court, in such form as may be authorized by its rules in substitution for the process by writ of scire facias; and in case the grantee does not reside in New Zealand, it shall be sufficient to file the writ in the Supreme Court, and to serve notice of such action in writing at the last known place of residence or business of such grantee.

(2.) The Governor in Council, upon the issue of the writ in such action, may order such patent-officer to withhold such warrant as aforesaid, or that any letters patent, for the granting whereof he may have issued a warrant as aforesaid, shall not issue; or may order the insertion, in any such letters patent, of any restrictions, conditions or provisos in addition to or in substitution for any restrictions, conditions or provisos which would otherwise be inserted therein under this Act.

(3.) The Governor in Council may also order any specification

in respect of the invention described, in which no letters patent may have been granted, to be canceled, and thereupon the protection obtained by the deposit of such specification shall cease.

26. *Patent not to prevent use of invention in foreign ships.* No letters patent granted for any invention shall extend to prevent the use of any such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of New Zealand, or in any of the waters within the jurisdiction of any of Her Majesty's courts in New Zealand, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the same.

But this enactment shall not extend to the ships of vessels of any foreign state the laws of which authorize subjects of such foreign state, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British ships or vessels or in or about the navigation of British ships or vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from such foreign state.

6.—Letters of Registration.

27. *Registration for foreign patents; tenth schedule.* The Governor in his discretion, on the application of any person being the holder or assignee of any letters patent or like protection issued in Great Britain or any other country or colony for an invention or discovery, and upon such proof as the Governor may by regulations require that such person is the *bonâ fide* holder or assignee thereof, and that the same are or is in full force, and upon payment of the sum of ten pounds, may grant letters of registration to such applicant.

(2.) Such letters of registration shall be in the form contained in the tenth schedule or to the like effect, and shall have the same force and effect as letters patent granted under this Act, and shall inure to the benefit of the grantee thereof, his executors, administrators, and assigns, during the continuance of the original letters patent or other protection in the country or colony where the same was or were granted, and no longer; and all the provisions of this Act shall apply to such letters of registration in the same way, *mutatis mutandis*, and as fully as to letters patent granted under this Act.

(3.) A copy of all such letters of registration shall be filed in the patent-office.

PART II.

DISCLAIMERS AND ALTERATIONS.

28. *Notice to disclaim; alter; procedure; eighth schedule; opposition.* (1.) Any person who shall obtain letters patent under this Act, his executors or administrators, or, in case he or they shall part with the whole or any part of his or their interest by assignment, he or they together with the assignee if part only has been assigned, or the assignee alone if the whole has been assigned, may apply to the patent-officer for leave to enter a disclaimer of any part of either the title to the invention, or the specification, or a memorandum of any alterations in the said title or specification, not being such disclaimer as shall extend the exclusive right granted by the said letters patent.

(2.) Thereupon the patent officer shall deliver to the person or persons applying, or to their agent, or to one of them, or the agent of one of them, an appointment in the form contained in the eighth schedule or to the like effect, and the person or persons so applying shall cause such disclaimer (stating the reason for the same), or such memorandum of alteration, to be written at the foot of the said appointment, and shall cause the same respectively to be published forthwith in the Gazette.

(3.) Any person having an interest in opposing the said application, shall be at liberty to leave particulars, in writing, of his objections to the same at the patent-office within such time not less than fourteen clear days prior to the day so appointed.

(4.) Where such application shall be for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the patent-officer may dispense with such appointment and publication, and in that case shall certify in the fiat hereinafter mentioned that he has dispensed with the same.

29. *Application for disclaimer to be heard.* At the time and place named in such appointment the patent-officer shall hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and all such powers and authority shall and may be exercised upon that occasion by the patent-officer

as, by virtue of the provisions herein contained, can and may be exercised in relation to the hearing and considering an application for letters patent and objections to the same, and shall and may be enforced in like manner.

30. *How disclaimer entered and alterations; effect.* (1.) After such hearing and consideration, or without such hearing or consideration, where the said appointment and publication shall have been dispensed with as aforesaid, the person or persons applying, or one of them, may by leave of the patent-officer, to be certified by a fiat under his hand, to be written at the foot of the same paper or parchment with the said disclaimer or memorandum, enter such disclaimer (stating the reason for the same), or such memorandum of alteration, and at the time of entering such disclaimer or memorandum of alteration, shall deposit a copy thereof in the office next hereinafter mentioned.

(2.) Such disclaimer or memorandum of alteration, being filed in the patent-office, shall be deemed and taken to be part of such letters patent or such specification, and subject to the several incidents thereof, in all courts whatever, and shall be valid and effectual in favor of any person in whom the rights under the said letters patent may then be, or thereafter become, legally vested.

31. *Actions not brought, when; proceedings conclusive.* (1.) No action shall be brought upon any letters patent in respect of which, or the specification of which, any disclaimer or memorandum of alteration shall have been filed, in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration (unless the patent-officer shall certify, in his said fiat, that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration), and no such disclaimer or alteration shall be receivable as evidence in any action or suit (save any proceedings for the repeal of letters patent) pending at the time when such disclaimer or alteration was filed as aforesaid; but in every such action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the letters patent have been or shall have been granted.

(2.) When any such fiat shall have been granted under this Act, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act, and such filing of any disclaimer or memorandum of alteration, in pur-

suance of the leave of the patent-officer, certified as aforesaid, shall (except in cases of fraud) be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Act.

PART III.

EXTENSION OF TERM.

32. *Mode of obtaining extension; petition.* (1.) Any person who has obtained letters patent under this Act or any other Act relating to letters patent heretofore in force in New Zealand, or the executors or administrators of such person, or (in case such person shall have parted with the whole or any part of his interest in such patent by assignment) he or they together with the assignee when part only has been assigned, or the assignee alone when the whole has been assigned, may, six months before the expiration or other determination of such letters patent, present to the Governor a petition for the extension of the term in such letters patent mentioned.

(2.) Such petition shall set forth that the petitioner has been unable to obtain a due remuneration for his expense and labor bestowed in perfecting such invention, and that an exclusive right of using and vending the same for some further period, to be named in such petition, in addition to the said term, is necessary for his reimbursement and remuneration, and the Governor may refer the consideration of the said petition to one or more commissioners to be appointed for that purpose in the manner hereinafter mentioned.

33. *Appointment of commissioners.* For the purpose of considering any such petition, the Governor, if he shall think fit, may issue and direct, in the name of Her Majesty, to one or more persons a commission reciting such petition, and requiring and authorizing such person, or some stated number of such persons, to meet at some time, not being less than two months from the publication of such commission in the Gazette, and at some place to be respectively fixed in the said commission, and then and there to consider the said petition, and to report to the Governor (in case such petitioner shall have prayed for an extension of the term in the letters patent mentioned) whether any, and if any, what further extension of the said term should be granted, according to the prayer of the said petition.

34. *Notice of commission; ninth schedule; caveat.* (1.) Two

months at least before the time fixed in the said commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published, in the same manner as is hereinbefore required with respect to the first mentioned appointment, an advertisement of the contents of the said commission in the form contained in the ninth schedule, or to the like effect.

(2.) Any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the patent-office, at any time not less than one week before the time named in the said commission for the consideration thereof.

35. *Commissioners to hear all parties, and report.* (1.) At the time and place fixed in the said commission the commissioners, or some of them not less than the said stated number, shall proceed to consider such petition, and the petitioner shall be heard by his counsel and witnesses, to prove his case as stated in such petition, and the publication of the said last mentioned advertisement as required by this Act, and the persons entering caveats shall likewise be heard by their counsel and witnesses, and all such witnesses shall be examined upon oath, which oaths such commissioners are hereby authorized to administer.

(2.) Thereupon, and on hearing and inquiry of the whole matter (in case such petitioner shall have prayed for an extension as aforesaid), the said commissioners may report whether any, and, if any, what, further extension of the said term shall be granted, and the Governor is hereby authorized and empowered, if he shall think fit, to grant to the petitioner new letters patent for the said invention, not exceeding three years after the expiration of the first term, anything herein contained to the contrary notwithstanding.

Such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the first letters patent.

PART IV.

MISCELLANEOUS PROVISIONS.

1.—Records of Office.

36. *Specification, &c., of invention to be open to inspection.* Every specification deposited at the patent-office, and the drawings and models accompanying the same, if any, and all other documents so deposited, shall be kept in the patent office, and shall be open to the inspection of the public at all reasonable times, as well

before as after the grant of letters patent, and whether such letters patent be granted or not, but subject to regulations.

37. *Indices to specifications, disclaimers, &c.* Indices to all specifications, disclaimers and memoranda of alterations, heretofore or to be hereafter enrolled or deposited as aforesaid, shall be prepared and shall be open to the inspection of the public at the patent-office, subject to regulations.

38. *Register of patents to be kept.* There shall be kept at the patent-office a book, to be called The Register of Patents, wherein shall be entered and recorded in chronological order—

All letters patent and letters of registration granted under this Act or the Patents Act, 1870.

The deposit and filing of specifications, disclaimers and memoranda of alterations, filed in respect of such letters patent.

All amendments in such letters patent and specifications.

All confirmations and extensions of such letters patent.

The expiry, determination, vacating, or canceling of such letters patent, with the dates thereof respectively; and

All other matters and things affecting the validity of such letters patent as the Governor may direct.

Such register or a copy thereof shall be open at all convenient times to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

39. *Register of proprietors, and of assignments and licenses.* There shall be kept at the patent-office a book entitled The Register of Proprietors, wherein shall be entered—

The assignment of any letters patent or letters of registration, or of any share or interest therein.

Any license under letters patent or letters of registration, and the district to which such license relates, with the name of any person having any share or interest in such letters patent or letters of registration or license.

The date of his acquiring such letters patent or letters of registration, share or interest; and

Any other matter or thing relating to or affecting the proprietorship in such letters patent or letters of registration, or license.

2.—Assignments.

40. *Conditions for registering assignment.* Before any assignment or license shall be registered, the assignee or licensee shall furnish—

(1.) A statutory declaration by one of the attesting witnesses to the said assignment or license of the due execution of the said assignment or license:

Provided that, if it be proved to the satisfaction of the said patent-officer that the attesting witness to any such assignment or license is dead or cannot be found, the execution of the said assignment or license may be proved by a statutory declaration of any other person capable of declaring to the same:

(2.) A certified copy or copies of the assignment or license, and other intruments or documents of title.

41. *Assignment or license to be made by separate deed.* No assignment or license of two or more letters patent or letters of registration included in one deed or instrument shall be registered, and no certificate of assignment or license shall be granted, unless a fee for such registration or certificate be paid in respect of each such letters patent or letters of registration in respect of which such registration or certificate is desired.

42. *Register of proprietors to be open to inspection; copies.* (1.) A copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be *primâ facie* proof of the assignment of such letters patent or letters of registration, or share or interest therein, or of the license or proprietorship as therein expressed.

(2.) Until such entry shall have been made, the grantee of the letters patent or letters of registration shall be deemed to be the sole and exclusive proprietor thereof, and of all the licenses and privileges thereby given.

(3.) Such register, or a copy, shall be open to public inspection subject to regulations.

3.—Seal.

43. *Seal to be noticed judicially; certified copies, evidence.* (1.) The Governor may cause a seal to be made for the purposes hereinafter mentioned, and all courts, judges, and other persons whosoever shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the seal of the Supreme Court are received in evidence.

(2.) All copies or extracts, certified by the patent-officer and sealed with such seal, of letters patent, letters of registration, specifications, disclaimers, memoranda of alterations, and all other documents or books recorded, filed, and kept in pursuance of this

Act, shall be received in evidence in all proceedings relating to letters patent for inventions and letters of registration in all courts and by all judges and other persons whomsoever.

4.—OFFENSES.

44. *Falsification or forgery of entries.* If any person shall willfully make or cause to be made any false entry in any such register, or shall willfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry therein, or shall produce or tender, or cause or suffer to be produced or tendered, any such writing, knowing the same to be false, he shall be guilty of a misdemeanor, and shall be liable, on conviction, to be kept in penal servitude for any term not exceeding five years, or to be imprisoned and kept to hard labor for any term not exceeding two years.

45. *Entries may be expunged.* If any person shall deem himself aggrieved by any entry made under color of this Act in any such register, such person may apply by motion to the Supreme Court, or by summons to a judge of such court, for an order that such entry may be expunged, vacated, or varied; and upon any such application such court or judge may make such order for expunging, vacating, or varying such entry, and as to the costs of such application, as to such court or judge may seem fit; and the patent officer, on the production to him of any such order, shall expunge, vacate, or vary the said entry according to such order.

46. *Penalty for unauthorized use of the word "patent."*

(1.) If any person:—

Shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark upon anything made, used, or sold by him, for the sole making or selling of which he has not or shall not have obtained letters patent, the name or any imitation of the name of any other person who has or shall have obtained letters patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns; or

Shall upon any such thing, not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having had the license or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "patent," the words "letters patent," or the words "by the Queen's patent," or any words of the like kind, meaning, or import, with a view of imita-

ting or counterfeiting the stamp, mark, or other device of the patentee, he shall for every such offense forfeit and pay the sum of one hundred pounds, one half to Her Majesty, and the other half, with full costs of suit, to any person who shall sue for the said penalty.

(2.) If any person shall upon any such thing for which no letters patent or like protection shall have been obtained, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "patent," the words "letters patent," or the words "by the Queen's letters patent," or any words of the like kind, meaning, or import, or by advertisement, or in any other way imply or give reasonable cause to believe that letters patent or like protection have been granted for such thing, he shall, for every such offense, be liable to a penalty not exceeding fifty pounds, one half of which shall be paid to any person who shall sue for the said penalty.

(3) But nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "patent" upon anything for the sole making or vending of which letters patent before obtained shall have expired or otherwise determined.

5.—Procedure in Actions for Infringement.

47. *Actions for infringement, particulars of breaches and objections.* (1) In any action for the infringement of letters patent, the plaintiff shall deliver with his statement of claim particulars of the breaches complained of in the said action, and the defendant, on pleading thereto, shall deliver with his statement of defense, and the prosecutor in any proceedings by action to repeal letters patent shall deliver with his statement of claim, particulars of any objections on which he means to rely at the trial in support of the said action, or of the suggestions of the statement last mentioned respectively. At the trial of any such action no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such letters patent, which shall not be contained in the particulars delivered as aforesaid.

(2.) The place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars, and any judge at chambers may allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid upon such terms as to such judge shall seem fit.

(3.) At the trial of any proceeding to repeal letters patent, the

defendant shall be entitled to begin and to give evidence in support of such letters patent; and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

48. *Taxing costs; effect of record and certificate.* (1.) In taxing the costs in any action for infringing letters patent regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particulars, unless certified by the judge, before whom the trial was had, to have been proved by such plaintiff or defendant respectively without regard to the general costs of the cause; and the judge before whom any such action shall be tried may certify on the record that the validity of letters patent in the statement mentioned came in question.

(2.) The record, with such certificate, being given in evidence in any action for infringing the said letters patent, or in any proceeding in an action to repeal the letters patent, shall entitle the plaintiff in any such action, or the defendant in such proceeding, on obtaining a decree, order, or final judgment, to his full costs, charges, and expenses, to be taxed as between solicitor and client, unless the judge making such decree or order, or the judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

6.—Fees.

49. *Eleventh schedule; Governor may reduce fees.* There shall be paid, in respect of the several matters and things respectively mentioned in the eleventh schedule, such fees as are therein enumerated, and all such fees shall be paid into the public account and form part of the consolidated fund.

The Governor may reduce any of such fees respectively from time to time by notification in the Gazette.

7.—Repeals.

50. *Repeal; twelfth schedule; saving.* (1.) The Acts enumerated in the twelfth schedule are hereby repealed.

(2.) But such repeal shall not affect any proceedings or things lawfully taken or commenced, or any letters patent, or letters of registration granted, or any protection or right conferred under the said repealed Acts before the commencement of this Act; and all

such proceedings and things shall be as valid, and all such letters patent, letters of registration, protections, and rights shall have the same force and efficacy as if this Act had not passed.

SCHEDULES.

First Schedule.

Specification for Patent.

Whereas I, , of , in the [*Engineer*] am desirous of obtaining letters patent for securing unto me Her Majesty's special license that I and such others as I should at any time agree with, should, from time to time during the term of fourteen years (to be computed from the day on which this instrument shall be left at the patent-office) make, use, and vend within the Colony of New Zealand and its dependencies an invention for [*insert the title of the specification*], and in order to obtain the said letters patent, I must by an instrument in writing under my hand and seal particularly describe the nature of the said invention, and in what manner the same is to be performed, and make a distinct claim for the especial novelty thereof; Now therefore, the nature and details of the said invention, and the manner in which the same is to be performed, are particularly described in the following statement [*describe the invention and the especial novelty thereof, either in instrument or in attached schedule*]. And I do hereby for myself, my heirs, executors, and administrators, covenant with Her Majesty, her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, that I do not know or believe that any other person than myself is the true and first inventor of the said invention, that I will not deposit these presents at the patent office with any such knowledge or belief as last aforesaid.

In witness whereof, I have hereunto set my hand and seal this day of 18 .

Witness to signature.

Second Schedule.

Receipt for Specification.

Received from A. B., specification for an invention for [*insert the title*] for transmission to the patent-office, Wellington, at the hour of [*insert the time*] on this day of 18 .

Local Patent Office. *O. A.*, Patent-Office Agent.

Third Schedule.

Deposit of Specification. No.

I hereby certify that , being the applicant for the grant to of letters patent for an invention the name whereof is , ha this day, under the provis-

lons in that behalf contained in tho Patents Act, 1883, deposited at this office an instrument in writing under hand and seal, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed; and also a copy of such instrument, and of tho drawings accompanying the same, and the day of the deposit of such specification has been recorded in this office, and indorsed on such specification.

Dated this day of 18

Patent-Office, Wellington, New Zealand.

P. O., Patent-Officer.

FOURTH SCHEDULE.

Hearing Application.

Patent-Office, Wellington, 18 .

Patent for [*insert title of specification*] A. B., of , has deposited at this office a specification of tho said invention, and I have appointed the day of next at o'clock in the forenoon, at this office, to hear the said application and all objections thereto; and I require all persons having an interest in opposing the grant of such letters patent to leave on or before the day of next, at this office, particulars in writing of their objections to tho said application; otherwise they will be precluded from urging the same.

P. O., Patent-Officer.

FIFTH SCHEDULE.

Order for Expenses.

Upon hearing the objection of A. B. to the grant to C. D. of letters patent for [*insert the title as in the specification*], I do by this writing under my hand, order that the said A. B. shall pay to the said C. D. the sum of for the costs of such hearing [*or* to E. F. the sum of as a remuneration for his attendance at such hearing].

Given under my hand this day of 18 .

P. O., Patent-Officer.

SIXTH SCHEDULE.

Warrant for grant of Letters Patent.

I have [*heard and*] considered the application of A. B. for letters patent for [*insert the title as in the specification*] [and also all objections to the same], and, having perused the specification, am of opinion that, as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, Her Majesty's royal letters patent may be issued in the form contained in the seventh schedule to the Patents Act, 1883] with the following additional clauses, that is to say (*here set them out, if any*)].

Given under my hand this day of 18 .

P. O., Patent-Officer.

SEVENTH SCHEDULE.

Form of Letters Patent.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To all to whom these presents shall come, greeting:

Whereas A. B. of in the of [*Engineer*] (who, with his executors, administrators, and assigns, is and are hereinafter included in the term "Patentee"), hath represented that he is desirous of obtaining letters patent for securing unto him our special license for an invention for [*insert the title of the invention*], and by an instrument in writing under his hand and seal deposited in the office of the patent-officer under the provisions of the Patents Act, 1883, the patentee hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed; Now, therefore, know ye that we have given and granted, and by these presents for us, our heirs and successors, do give and grant unto the patentee our special license and authority that the patentee by himself or his servants or agents, or such others as he shall at any time agree with during the term herein expressed, shall and lawfully may make, use, and vend, his said invention within our said colony and its dependencies, in such manner as to him shall seem meet; To have, hold, and enjoy the said license, privilege, and advantage, unto and by the patentee, for and during the term of fourteen years now next ensuing; and that he shall and lawfully may have and enjoy the whole profit, benefit, and advantage from time to time coming, accruing, and arising by reason of the said invention during the said term: subject, however, in all things to the provisions of the Patents Act, 1883, and to the conditions and restrictions thereby imposed [and inserted herein, *if any*].

In witness whereof we have caused these our letters to be made patent, and to be sealed and bear date as of the day of one thousand eight hundred and .

EIGHTH SCHEDULE.

Disclaimer.

Patent for [*insert the title*]. This is to notify to all whom it may concern that C. D. of, &c. has applied to me for leave to enter a disclaimer of part [*or*, memorandum of alteration, *as the case may be*] of the said invention, the particulars whereof are stated below. I do therefore appoint day the day of next at o'clock in the noon, to hear and consider the said application, and all objections to the same. And I do hereby require all persons having an interest in opposing the said application, to leave on or before the day of at my office in particulars in writing of their objections to the same; otherwise they will be precluded from urging such objections.

Given under my hand this day of 18 .

P. O., Patent-Officer.

The following is the disclaimer [*or, as the case may be*] which I desire to make in, &c. [*The applicant must here set forth what he wishes to enter, and sign it.*]

NINTH SCHEDULE.

Extension of Patent.

Patent for [*insert the title*]. Notice is hereby given that I have presented a petition to His Excellency the Governor, praying for the confirmation of [*or*, extension of the term in] the said patent, and that a Royal Commission has issued authorizing and requiring certain commissioners therein named to consider and report upon the subject to Her Majesty, which said commissioners will meet for that purpose on the day of next at o'clock in the noon at . All persons objecting to the said confirmation [*or* extension] must enter a caveat against the same at the office of the patent-officer in Wellington, otherwise they will be precluded from objecting to it.

Dated this day of 18 .

A. B.

TENTH SCHEDULE.

Form of Letters of Registration

Know all men by these presents that:

Whereas by an Act of the General Assembly of New Zealand, entitled "The Patents Act, 1883," it is enacted that the Governor in his discretion, on the application of any person being the holder or assignee of any letters patent or like protection, and upon such proof as the Governor may by regulations require that such person is the *bona fide* holder or assignee thereof, and that the same are or is in full force, may grant letters of registration to such applicant; and that such letters of registration shall have the same force and effect as letters patent granted under the said Act, and shall inure to the benefit of the grantee thereof, his executors, administrators, and assigns, during the continuance of the original letters patent or other protection in the country or colony where the same was, or were, granted, and no longer; and all the provisions of the said Act shall apply to such letters of registration in the same way, *mutatis mutandis*, and as fully as to letters patent granted under this Act; And whereas A. B. has represented to me the Governor of the colony of New Zealand, that letters sealed and dated as of the day of one thousand eight hundred and have been issued in the to for an invention or discovery for And whereas the said A. B. has applied to me, the Governor, as aforesaid, for the grant to him of letters of registration of the said invention or discovery in pursuance of the said recited power, and has proved to my satisfaction that he the said A. B., is the *bona fide* holder (*or* assignee) of the said letters and that the same are in full force in the said Now know ye that I, the Governor as aforesaid of the said colony of New Zealand, in pursuance of the said recited power and authority conferred upon me by the said "Patents Act, 1883," do hereby grant unto the said A. B., his executors, administrators, and assigns, letters of registration of the said letters with all the rights, powers, and privileges thereto belonging.

Given under my hand at the at and issued under the seal of the said colony this day of in the year of our Lord one thousand eight hundred and .

Governor of New Zealand.

ELEVENTH SCHEDULE.

Fees.

	£	s.	d.
On depositing specification.....	0	10	0
On depositing amended specification, or application for amendment to specification	0	10	0
On obtaining letters patent, or any duplicate thereof.....	2	0	0
At or before the expiration of the fifth year.....	7	0	0
On lodging particulars of objections.....	2	0	0
On presenting petition for extension.....	2	0	0
Search and inspection. For each book or specification.....	0	1	0
Entry of assignment or license.....	0	10	0
Certificate of assignment or license.....	0	10	0
Filing of memorandum of alteration or disclaimer.....	2	10	0
Entering any caveat.....	2	10	0
Copy or extract of any writing per common law folio.....	0	0	6
On obtaining letters of registration.....	10	0	0

TWELFTH SCHEDULE.

Acts repealed.

1870.—No. 89.	The Patents Act, 1870.
1881.—No. 22.	The Patents Act Amendment Act, 1881.
1882.—No. 18.	The Patents Act Amendment Act, 1882.

From *Carpm. Pat. L. of World*, 416.

NICARAGUA.

Report by Mr. Corbett, of the British Legation, published 1873.

Translation.

The Spanish Cortes, whose resolutions obtained until the 15th of September, 1821, and as far as they are not in opposition to those of these countries, have been declared in force in this republic, assure and regulate the right of property of inventors, establishing also the term of its duration.

Decree 43 declares, as to this right—to consider as proprietor of his work him who should invent, import, or introduce.

The government, by means of the proper minister, will issue to the said proprietor a certificate, in which will appear his name as inventor, improver, or introducer of the work, a description of it (the invention), and the duration of the exclusive right. This certificate will serve as a sufficient title; but in order to obtain it, it is necessary that the petitioner should address himself to the prefect of the department or to the municipality, giving an account of his work, describing it with the greatest exactness possible in conformity with the model, which the same law establishes.

The said authorities in their turn, shall be obliged to give to the petitioner testimony of everything which may serve for the information of the minister of the department.

The inventor shall have ten years of exclusive property, the improver seven, and the introducer five. These terms may be extended by the sovereign power, on the proposition of the government, to fifteen, ten and seven years, respectively.

The inventor, improver, and introducer, apart from the aforesaid terms, will cease to be considered as sole proprietors, first, if they cede their right for the public good; secondly, if they let six months pass without taking up the certificate; thirdly, if they let two years pass without putting in execution their invention, perfection, or improvement.

This is, in substance, that which is decreed by the Spanish Cortes.

In this republic nothing new has been arranged with respect to this matter.

The state of continual agitation in which this country has been involved since its political emancipation, has not permitted the complete reform of its codes.

But our Constitution has given to Congress the faculty of promising rewards and privileges to the inventors and managers of useful works, as will be seen by its article XLII., division twenty-two; and, in practice, the rules of the decree cited above are not followed.

He who wishes for a reward or privilege seeks it from Congress, which concedes it, if it sees fit to do so.

From 4 *Pat. Off. Gaz.* 373.

NORWAY.

Law of June 16, 1885.

We, OSCAR, by the Grace of God, King of Norway and Sweden, the Goths, and the Vends, make known that there has been laid before us the resolution of the now assembled honorable Storthing, on the 8th of June, this year, as follows:

1. Patents shall be granted for new inventions which are useful in industry, excepting, however, (*a*) inventions which, if brought out, would be contrary to the law, morality, or public order; (*b*) inventions the subject-matter of which is a beverage, food, or medicine. Nevertheless in relation to these, patents will be granted for processes or apparatus specially described for their manufacture.

2. An invention shall not be considered new if it have already been so known before the application for the patent was handed in that it could by other conversant persons be brought into practice. However, publication by printing or by an ordinary exhibition shall not prevent a grant of letters patent applied for within the next ensuing six months after such publication.

3. The right to obtain patent is available, subject to a conformity with section 4, to the first inventor only, or to a person having the legal power to act for him. In cases where it cannot be clearly ascertained who, among several applicants for a patent for a given invention, is the first inventor, the patent will be granted to the first one that handed in an application.

4. When a patent is granted for an invention here in the kingdom, the inventor shall, in the course of two years, counted from the time when the application for patent was handed in, have the exclusive privilege of obtaining a patent for improvements on or addition to the former patented invention. In consequence of this every application for such patent that might come in from third parties shall remain in abeyance under seal in the patent office and shall be decided upon after the first mentioned interval is expired, unless the older patentee has made use of his right of preference.

5. Patents shall be granted for a period of fifteen years, counted from the time of the handing in of the application. If anybody having obtained a patent for an invention shall wish to take out a patent for an addition to or improvements on the same, he shall

have the option of taking out a special patent or only a supplementary patent which shall expire the same time as the original patent.

6. At the handing in of every application for a patent thirty kroner shall be paid as a fee for the consideration of the matter. For granting patents, with exception of supplement patents, a yearly payment shall also be demanded, which begins with ten kroner for the second year of the patent and increasing five kroner each year for every following year,—that is, fifteen kroner the third year, twenty the fourth. This fee shall be paid before the beginning of the patent year for which it is due. However, it may be paid within the period of three months afterward, but in such a case with an increase of one-fifth part.

7. The patent confers the privilege that nobody can without the consent of the patentee, excepting for his own use, manufacture or import from abroad the patented article, neither keeping nor selling the same. If the patented matter be a process, an apparatus, a machine, a tool, or other implement, the patent also confers the privilege that nobody can without the consent of the patentee make use of the patented matter in his business. However, ship-fittings can be used without hindrance from the patent upon ships engaged in foreign navigation while staying in Norwegian ports or in Norwegian waters.

8. The patent shall have no effect against any one who already had made use of the invention within the kingdom before the handing in of the application or made the necessary arrangements for the same. If the patentee have in an earlier stage published the invention in the manner as described in the latter section of section 2, the power of the patent does then extend back to the publication, provided he at the same time and in conjunction therewith (in case of exhibition by notification on the object exhibited) has published that a patent will be applied for, and besides has beforehand handed in a preliminary notice to the patent commissioners.

9. Without the consent of the patentee the patented invention can be used by the public authority, if the King so decides. Likewise can the patented invention that is of particular importance for one or another trade by similar provision be adopted for private use. In both cases compensation shall be due to the patentee, which amount and mode of computation, in default of amicable agreement, shall be settled by judgment of impartial men (arbitration). Compensation is procured in the first case from the public

authority—in the latter case from the person or persons who take the invention into use. If the compensation be settled as a lump sum once for all, the same shall be paid before the invention is taken into use. If it be settled as a royalty, the arbitration shall, at the request of the patentee, also settle by what installments this shall be paid, and also shall fix the amount of the security which ought to be given for the correct payment of the royalty. The royalty fixed by the arbitration can be levied by distraint.

10. The investigation and decision upon applications for patents shall rest in a patent commission that shall have its sitting in Christiania, and which shall consist of a juridically educated chairman and at least five technical skilled members, who shall be appointed by the King for a period of five years. For the technical skilled members deputies shall also be appointed. No decision by which an application for a patent is to be decided shall take place unless at least four, or—in case of difference of opinion—at least five, members of the commission shall be present, including always the chairman and such members as have previously dealt with the matter. If the votes be equal, the decision shall rest with the chairman. Every such decision shall be accompanied by reasons, and complete written copy handed to the applicant, the patentee, or his deputy.

11. None of the members of the patent commission shall have personally or through others a grant of a patent for any invention, or shall act as deputy for others (patent-agent) in patent matters. They shall resign if they are in such a manner connected with an applicant for a patent that they as judges should give up their seat.

12. Anybody who desires to obtain patent on an invention shall hand in to the patent commission (1) an application for the patent addressed to the commission; (2) a specification of the invention, in duplicate; (3) the drawings necessary for the understanding of the specification, also in duplicate, also, according to circumstances, models, samples, &c.; (4) a list of all the documents, &c., which are handed in.

13. If the applicant is not a resident in Norway, he must name in his application a deputy residing within the kingdom, who shall represent him in all matters connected with the patent, and who can be summoned on his account. A ratified copy of the document appointing such deputy with full powers and accepted by said deputy shall accompany the application. Likewise always

shall the application, if not signed by the applicant himself, be accompanied by the necessary full powers to the person who signs it.

14. The application, which must only relate to one principal invention (with the details belonging to the same,) shall give the applicant's name, occupation, and residence, as well as a short description of the invention, such as it is wished should be stated in the patent. If the invention have not been made by the applicant himself, the necessary proofs shall be attached that it has been lawfully intrusted to him by the inventor. The specification shall be so explicit and complete that others conversant with the trade to which it relates shall be able to carry out and apply the invention. It shall finish with a specific declaration as to what the applicant considers as his invention and desires to protect by patent. The application, as well as the specification, is to be written in the Norwegian language.

15. If the patent commission find that a deposited application is not fulfilling the terms of sections 12, 13, and 14, it shall as soon as possible give a written communication about it to the applicant or his deputy, in which shall be given a reasonable time during which the defects shall be remedied. If during this period, or any extension thereof that may be granted according to circumstances, the necessary corrections be not made, the application will be laid aside.

16. If the invention treated in the application be evidently not new, or there be other reason which would prevent the legally granting of a patent for the same, the application can be refused at once.

17. On the other hand, if the application, with its accompanying documents, &c., be in proper form, and, as far as can be judged, there be no defect present, as mentioned in section 16, the commission shall draw up as soon as possible, and at latest within four weeks, a public notification about the application, stating the principal contents of the same and the name of the applicant. At the same time the application, with the document and other vouchers belonging to it, shall be laid open for public examination in the patent-office.

18. If the inventor in his application shall desire and at the same time pay down an additional sum of twenty kroner, the enjoined publication and laying out for examination, as stated in the preceding section, shall be deferred until four months after the inventor

or his deputy has received information that the patent commission from the previous examination finds no hindrance for a grant of patent. For the preliminary examination the commission has in this case an extension of time of eight weeks, during which it is entitled to obtain statements of men conversant in the matter, as stated in section 20.

19. During the period of eight weeks following the publication anybody shall be at liberty to hand in to the patent commission an objection to a grant of the patent applied for. Such objection shall be in writing, and shall be accompanied by the reasons on which it is based, which must also be presented in writing.

20. Before the expiration of sixteen weeks after the publication the commission shall come to a decision concerning the application. Before its decision it can demand more particular declarations or explanations from those interested in the matter. It shall also be entitled to obtain statements of men conversant with the same, or make other necessary arrangements to throw light upon the matter.

21. If the applicant shall be dissatisfied with the decision of the patent commission in conformity to section 16 or section 20, and he shall think himself able to give explanation or information which would convey another result, he shall have the right during the next ensuing six weeks after the giving of the decision to hand in to the commission a representation, which in such a case shall bring the matter under a renewed consideration. Should this also not bring it to a decision satisfactory to the applicant, he shall still, during four weeks more, have the option of making an application to the patent commission asking for a decision of a supreme patent commission, consisting of seven men specially selected by the King for this case, and with an eye to the circumstances of the case. With the request the applicant shall pay a fee of one hundred and fifty kroner, which, however, shall be returned to him if the former decision be not confirmed. The supreme patent commission shall decide the case from the documents handed over by the patent commission.

22. When the final decision shall be given that a patent be granted, the commission shall draw up the letters patent, stating the nature of the patent, as well as the day from which its duration is to be counted, in accordance with section 5. As soon as possible after the drawing up of the letters patent the commission shall make a public notification of the same, containing also the essential part of the specification, &c., and other documents, as the case may

demand, together with the name and residence of the deputy. When a final decision shall have been made that the patent be refused, this shall also be published.

23. If the patentee leave the country, or the patent be transferred to an owner not residing in Norway, such a deputy must be made known to the patent-office, and such authorized power be forwarded as stated in section 13.

24. A register shall be kept at the patent-office of all the completed patents. This shall show the nature of the patent and date, as well as the name and residence of the patentee, or, as the case may be, those of his deputy. When a patent expires, becomes void, is by judgment abolished, or is wholly or partly declared invalid, this shall be noted in the register and publicly notified. The same shall hold good with respect to transfer of patent right and choice of deputy or substitution of a new one (sections 13 and 23) when notice concerning the same with necessary legitimation shall be handed in to the office. As long as this latter shall not have taken place, the transfer or the choice shall be without effect with the public authorities, as well as with third persons. Both the register and the specifications, drawings, models, &c., connected with patents shall be accessible to everybody who might wish to make themselves acquainted with the same.

25. A patent shall expire (1) if the fixed fee in section 6 be not paid into the office within the time stated in the said section; (2) if the notified deputy will not or cannot any longer undertake the charge, and the patentee within three months after he has been notified about it in the newspaper for publications of patents has not registered new deputy with the patent commission.

26. A patent shall by judgment be found wholly or partly invalid if it be shown that in accordance with the provisions of sections 1, 2, 3, and 4, either in whole or in part, it ought not to have been granted.

27. A patent shall by judgment be made void if the patentee shall not have worked the patent within the termination of three years from the date of the patent either himself or through others in the kingdom or have offered the patented object for sale; also, if after that period the working or the offering for sale has been discontinued during one year. If this be caused by a casual incident, the last-mentioned period can be increased by the patent commission on application. In particular cases the patent commission shall have power after representation to make exceptionally distinct

provision for what is required for the working or arrangement for sale within the kingdom.

28. Anybody who may desire to have a patent declared void (section 26) or abolished (section 27) can prosecute the patentee to accept judgment. Such questions shall come within the jurisdiction of Christiania town court. The summons shall be four weeks regardless of the summoned person's residence. Settlement by arbitration will not be allowed. The chairman of the patent commission shall always be summoned.

29. Any person who shall encroach upon the rights belonging to any one pursuant to a patent shall be obliged to compensate the injured person for all damage to him thereby caused. Should the infringer have knowingly committed such violation of rights he shall besides, provided he be not liable at law to a more severe punishment, be fined (the penalty to be paid into the state treasury) from fifty to one thousand kroner, and in case of repetition up to two thousand kroner; also, all unlawfully manufactured goods offered for sale, in case the article itself be patented, may by judgment be confiscated.

30. The public authority shall not prosecute the offense treated in section 29. The prosecution concerns the patentee himself or any other person to whom he wholly or partly transferred his right or in any other person who by the offense shall have sustained loss.

31. If the defendant, in a case of infringement of a patent, shall base his claim for acquittal on the ground that the patent is invalid (section 26) or forfeited (section 27), the court shall, if requested, if it be any other court than the town court of Christiania, give him such delay that he can have an opportunity to obtain judgment in conformity to section 28. If the matter is taken before the town court of Christiania, he can, through counter prosecution, without arbitration, obtain a hearing under the procedure to get the patent made null and void or abolished.

32. No punishment or compensation shall be decreed under this law if the infringement complained of at the court shall have been committed more than two years before the commencement of the action, or if the action has not been commenced by the injured party within a year from the time when he was first acquainted by established proof, through judicial act of the infringement complained of, or if he delay to prosecute for a full year a trial already judicially commenced.

33. If any one who shall have in a foreign country applied for

patent for an invention within a period of seven months after such foreign application hands in an application for patent in this country for the same invention, this last application shall (in case the said foreign country grants reciprocal rights to Norwegians) be considered in relation to other applications, as if it had been handed in at the same time that the application was made in the foreign state.

34. The present law has no application to patents issued before the law comes into force. However, after the period of one year the inventor of such a patent shall be at liberty to apply for change of patent so as to come under the rules of the present law, which in such a case will be fully applied to such patent. The question of the novelty of the invention (section 2) shall be decided, however, according to the condition of the time when the application of the older patent was given in. If a new patent is granted, its duration shall (section 5) be counted from the issue of the older patent and the yearly fee (section 6) shall be determined according to its age.

35. The particular provisions of the administration of the patent commission, the form and contents of patents, and what more may be required for the execution of this law shall be in the jurisdiction of the King.

36. The present law shall come into force on the 1st of January, 1886, after which time section 82 in the artisan's law of the 15th of July, 1839, shall be null and void.

We hereby accept and ratify this resolution as law under our hand and Seal of the Realm.

Given at Stockholm Castle on the 10th of June, 1885.

OSCAR. [L. S.]

From *Carpm. Pat. L. of World*, 443.

NOVA SCOTIA.

See CANADA.

ONTARIO.

See CANADA.

ORANGE FREE STATE.

see APPENDIX OF RECENT LAWS, near end of Vol. II.

PARAGUAY.

Under a law of May 20, 1845, citizens or foreigners are alike entitled to protection, and the term of the grant varies from two to ten years. Where there is a previous foreign patent for the same invention, the patent is not valid for more than six months beyond the termination of the foreign patent. The invention patented must be worked within two years from the date of the grant.

Encyc. Brit. ed. 9, art. Patents.

PERSIA.

According to a report of Mr. R. F. Thomson, of the British Legation, published October 28, 1873, in 4 *Pat. Off. Gaz.* 447, there was not, at the time of his writing, any law in Persia respecting patent rights for inventions, but every one there was free to invent or imitate.

PERU.

See APPENDIX OF RECENT LAWS, near end of Vol. II.

PHILIPINE ISLANDS.

See SPAIN.

PORTO RICO.

See SPAIN.

PORTUGAL.

Civil Code.

CHAPTER III.

PROPERTY IN INVENTIONS.

SECTION I.

GENERAL PROVISIONS.

ARTICLE 613. Any one who invents any manufacture, product, or article of commerce, who perfects and improves any known product or manufacture of the same nature, or discovers any easier and less expensive means of obtaining it, shall enjoy the property in his invention or discovery for a period of fifteen years, on the terms hereinafter set forth in this chapter.

1. An inventor who has obtained a privilege in a foreign country can only obtain a patent in the kingdom on the conditions of this code, and for the term which has still to run in the foreign country before the invention falls into the public domain.

ART. 614. The property in the invention gives the exclusive right of producing or manufacturing the articles which constitute or embody the said invention.

ART. 615. Inventions or discoveries relating to unlawful industries or articles cannot be patented.

ART. 616. The duration of the exclusive property in inventions commences from the date of the grant of the patent.

ART. 617. The exclusive property is limited to the article specified, and can never be interpreted as extending to others, under pretext of intimate relation or connection.

ART. 618. The appropriation of inventions can only be decreed by law, in cases wherein it may be necessary for the public good.

SECTION II.

ADDITIONS TO INVENTIONS.

ART. 619. The patentee or his representatives may, during the existence of the patent, add to the invention any improvements and modifications which they may conceive.

ART. 620. The person making additions enjoys, so far as concerns the additional improvements, the same rights as those conferred by the principal patent; but only for the time that this may last.

ART. 621. The person making additions may, however, apply for a new patent for the improvements, providing he submits himself to the provisions regulating principal patents.

ART. 622. The grant of a patent for an improvement cannot be made during the first year of the patent granted for the principal invention, save to the person who obtained that patent.

ART. 623. Third parties who solicit such a patent may, before the end of the year, deliver their petition, closed and sealed, to the proper department, and thereupon note shall be taken of such delivery.

The deposit mentioned in this article serves to confer on the depositor priority over all others, not being the patentee, who may subsequently present themselves. The patentee has in every case the preference, provided he applies within the year.

ART. 624. Third parties who apply for a patent of improvement are deemed, for the issue of their titles, to be principal inventors.

ART. 625. The exclusive property in inventions is authenticated and secured by the laws and administrative regulations.

SECTION III.

TRANSMISSION OF PROPERTY IN INVENTIONS.

ART. 626. Property in inventions is governed by the general laws which regulate movable property, except as is hereinafter provided.

ART. 627. The transfer of the patent, whether gratuitously, or for a consideration, can only be effected by notarial deed.

ART. 628. Licensees under a principal patent shall enjoy additions granted to the inventor or his representatives, and so reciprocally if the case arises, unless there exists any agreement to the contrary.

SECTION IV.

THE PUBLICATION OF INVENTIONS.

ART. 629. The descriptions, designs, models and specifications required for the grant of a patent shall be shown gratuitously to all

persons who may apply for them, and copies thereof shall be supplied on payment of the cost.

It pertains to the government to make the necessary regulations respecting this matter.

ART. 630. On the expiration of the second year of the patent the designs and descriptions shall be published in full or by extract.

ART. 631. It is the duty of the government to announce officially those inventions which have become public property.

SECTION V.

THE NULLITY AND LOSS OF PATENTS.

ART. 632. Patents granted in the following cases are null:

1. If the inventions or discoveries were known to the public, practically or theoretically, through any technical description divulged in home or foreign documents, or by any other means :

2. If a patent had already previously been granted for the same object: [Art. 635.]

3. If the invention or discovery should be found prejudicial to public security or health, or contrary to the laws :

4. If the title given to the invention fraudulently comprises a different object:

5. If the description lodged of the invention does not indicate everything which is necessary for working the invention, or the real means of the inventor:

6. If the patent was obtained contrary to the formalities prescribed by law :

7. If a patent for a modification or improvement does not relate to something which facilitates the working, or increases the utility of the invention, but merely to a change of form or of proportions, or to mere ornament.

ART. 633. Any one who fails to carry out his invention within two years counted from the date of the signature of the patent, or who ceases to use it for two consecutive years, without proving a legitimate impediment, shall forfeit the said patent.

SECTION VI.

ACTIONS FOR NULLITY AND WITHDRAWAL OF THE PATENT.

ART. 634. Either the public prosecutor, or persons having a direct interest in the withdrawal of the patent, may bring suitable

actions. If the action is brought by the public prosecutor, the interested party shall be allowed to intervene therein as assistant, but the public administration must always intervene in actions brought by interested parties. [Civil Code, Art. 329.]

ART. 635. The right of action for nullity, in the case of No. 2 of article 632, lapses on the expiration of a year without opposition by the parties interested: in other cases it shall exist as long as the exclusive privilege of invention lasts.

SECTION VII.

THE RESPONSIBILITY OF INFRINGERS.

ART. 636. Whosoever, during the exclusive privilege of invention, injures the patentee in the exercise of his rights by reproducing, without his authorization, the object of the said invention, or by selling, concealing, or introducing with deliberate intent, any similar article manufactured abroad, is responsible for the reparation of the damage caused, besides being subject to the penalties of the Criminal Code.

ART. 637. Patentees or their representatives may require, in case of suspected infringement, and on their first giving security, the seizure of the infringing articles, or of implements that can only serve for their manufacture. [Civil Code, Art. 363.]

In this case, however, if the party seizing should not commence his action within fourteen days, the seizure becomes void at law, and the holder may sue the party making the seizure for losses and damages.

ART. 638. If the action for infringement is brought to final judgment at criminal or civil law, the articles seized shall be awarded to the complainant, on account of the compensation due to him; but if the matter is tried by a criminal suit, the plaintiff can only sue by civil action for anything that may be wanting for his complete indemnification.

ART. 639. The party injured by the infringement may proceed either by criminal action, or merely by civil action for losses and damages; in either case the Public Prosecutor shall be heard.

ART. 640. The tribunal which tries criminally the infringement shall pronounce on the objections the defendant may raise as to the nullity of the patent or the loss of the rights of the plaintiff.

From *Carpm. Pat. L. of World*, 445.

Report by Mr. Wm. Doria, of the British Legation, published 1873.

On the 17th of March, 1868, the present law in force was pub-
for regulating the concession of patents, and regulations were
n in the Civil Code for the protection of public interests
ie too excessive exercise of particular privileges granted by
nts, and the regulations were assimilated more to those adhered
in other countries granting such patents.

It is, therefore, to the Civil Code that reference must be made
r those provisions of the law which protect patent rights from
ng infringed. The punishment to be awarded to those persons
who infringe those rights is to be found inscribed in the Penal
Code of the country.

Patents are granted for a term of years not exceeding fifteen, to the inventor or discoverer, to enjoy during that time the right of property.

From the right of property to an invention is derived the exclusive right of producing or manufacturing the articles which constitute the said invention. Persons making additions to their inventions enjoy the advantage of the additional improvements, and they may apply for a French patent.

The exclusive right of property over inventions is secured by the administrative laws and regulations—that is to say, by the laws having reference to movable property, except in cases where the patent has been granted gratuitously, or as compensation in return for service performed.

The publication of patents, their drawings, models, and specifications, which are required for obtaining the concession, must be shown gratuitously to every one who desires to see them. Applicants, by payment, can procure copies. On the government devolves the duty to announce officially what patents have fallen into the dominion of the public.

Patentees who have been injured by the infringement of their patent can institute a criminal suit, or enter a civil action to recover damages.

The right of property conferred by a patent is transmissible by will to heirs and successors.

A register of all patents is kept in the department of public works.

A tax of 120,000 reis is exacted on granting a patent for fifteen years, equivalent to about $140.00. Of this amount 75,000 reis, or $88.00, is set apart for a fund for the advancement of industry. The remaining sum is absorbed in stamps and fees paid to government.

Medicines, articles of food, simple changes in the form of an object patented, and ornaments are excluded from obtaining patents.

The civil governor of the district is charged with the duty of granting patents, on whom devolves the duty also of forwarding to the office of public works information for their due registration.

An invention which involves danger to public safety is prohibited from obtaining a patent.

A foreigner can only obtain a patent subject to the rules laid down by the Civil Code of Portugal, and that also only for the period of time before it falls under the dominion of the public, in conformity with those rules.

No concession of patent for an improvement of an article already patented is granted, except to the patentee himself, during the first year after the patent is granted. Application by another person may be made before the expiration of the year to the proper department, where such application will be taken into consideration.

This provision is to insure to the first applicant the preference over other persons, with the exception of the original patentee, who always has the preference accorded to him, provided his application is also made during the first year.

Exclusive right to import foreign patents is not granted; only the privilege for their manufacture in Portugal is guaranteed by patent.

The punishment awarded by the Penal Code to persons who infringe patent rights is subjection to a fine, which is imposed by the judge at his discretion, varying from 30,000 reis to 300,000 reis, or from $35 to $350, and the confiscation of the articles which have been employed in the violation of the patent.

For losses sustained by the patentee through the infringement of his rights, he can obtain indemnity by a civil action.

From 4 *Pat. Off. Gaz.* 447.

See also, INTERNATIONAL CONVENTION.

PRINCE EDWARD ISLAND.

See CANADA.

PRUSSIA.

Extracts from a report by Mr. T. N. Plunkett, of the British Legation, published October 14, 1873.*

The legislation of Prussia on patents is based on a rescript of October 14, 1815, on various ministerial decisions as to the precise meaning of particular portions of it, which have been given from time to time when occasion arose; and also on the agreement come to in September, 1842, between the different States of the Zollverein respecting patents.

In the main, however, the practice in Prussia is as follows:

Patents can be obtained both for discoveries and for improvements; and also for the introduction into Prussia of inventions patented abroad.

New goods, new machines, new tools, and new modes of fabrication can be patented; but only on the condition that they are useful to industry and manufacture, and afford new means of industrial development.

Patents are never granted in Prussia for inventions of an artistic nature; the only excuse for a patent is that the invention shall have industrial value. No invention which is not entirely new, or which is not certain to be useful to industry, has a chance of receiving a patent, for the rules are administered with the greatest severity.

Articles or inventions patented abroad may also be patented in Prussia, provided, however, that no description of them shall have been published either here or elsewhere, and that no use shall have yet been made of the invention in Prussia.

. . . . . .

When once the details of an invention have been published, either in Germany or elsewhere, officially or unofficially, before the application for the Prussian patent has been made in Berlin, it is invariably refused.

* The date of this report was not long after the adoption of the Imperial Constitution of the German empire, article 4 of which declares that questions concerning patents and patent laws are reserved to the Reichsrath; but before a general law had been established for the empire. The subject is now governed, for Prussia, as for the other kingdoms, by the general law; for which see GERMAN EMPIRE. This report has value in connection with unexpired Prussian Patents.

An article which is patented abroad may be patented in Prussia, if it fulfills the necessary requirements, by anybody.

No rights whatever are reserved to the original patentee, except in the case of patents taken out in other German countries.

Under the agreement concluded between the Zollverein States in 1842, when a patent has been given for an invention in any one of those States, it secures to the patentee the sole right of applying for a patent for the same article in all the other States of the Confederation; but it does not necessarily follow from this that the Prussian authorities will give patents in every case where other German governments have done so.

In Saxony, Bavaria, and Würtemberg, for instance, patents are much more easily obtained than they are in Prussia.

Patents are granted only to natives, or to the subjects of such countries as by treaty are entitled to most-favored-nation treatment. Therefore, under the treaty of commerce concluded in 1865, British subjects are entitled to take out patents in this country. Subjects of those foreign countries which are not entitled to most-favored-nation treatment, if they wish to patent their inventions in Prussia, must appoint a native as their representative, and have the patents made out in his name.

The application for a patent is made direct to the minister of commerce in Berlin, and must be accompanied by full descriptions, and, if necessary, also by models. These are, however, kept secret from everybody except from the persons whose special duty it is to examine and report upon them.

The applications are registered immediately on receipt at the ministry, and take their precedence accordingly.

Under the ministry of commerce is a special department called the technical deputation for industrial matters, to whom all these applications are referred. It is their duty to examine the models, descriptions, &c., to see whether patents for similar or kindred inventions have been already given, and to ask for any further explanations which they may require. They then decide absolutely and without appeal whether they will grant the patent or not. They fix the length of time for which the patent is to hold good, and have, moreover, the right of declaring whether they will give a patent for the whole invention or only for some portion of it.

The deputation consists, at present, of nine members, under the presidency of a director of the ministry of commerce, and meets

once a week or oftener to examine the application for patents which have been made to the minister.

Their verdict is communicated to the person who has applied for the patent, and he is allowed a period of six weeks to decide whether he accepts or not the conditions proposed by the deputation.

If he agrees to accept them, the patent is then issued under the signature of the minister of commerce.

The following conditions are invariably imposed in the case of every patent which is granted :

1. The patentee must give practical effect to his invention in Prussia within the time fixed by the minister (usually six months, never more than a year), on pain of forfeiting his patent ; and he must produce before the end of that term an official certificate from the local police, or at least from some government employe, that his invention is or has been actually in work within the Prussian dominions.

2. If at any time during the period for which the patent is granted his invention shall have been unemployed during twelve consecutive months, the patentee shall forfeit all his rights.

3. The patent shall equally be forfeited if at any time afterward it can be proved that the invention was neither new nor original.

The period for which a patent is to run is laid down, specially for each case, in the reseript of the minister of commerce. The law is, that it shall not be less than six months nor more than fifteen years ; but it is now usually fixed at three years.

A patent which is near expiring may, in some cases, be renewed; but the entire period for which it can last must never exceed fifteen years. Such prolongations, however, have lately been more difficult to obtain than they were formerly.

Unless in cases where the applicant himself demands a special exception, patents extend to the whole Kingdom of Prussia.

The publication of the fact of a patent having been granted to an inventor is made in the official journals free of cost. Merely the fact itself is mentioned of a patent having been granted for such a number of years to such or such a person, for such or such an invention. No details are entered into, and no description is given. The exact particulars of the invention are kept in sealed covers at the office of the technical deputation for industrial matters in Berlin ; and, although in the patent commission itself there is a special proviso that the government do not guarantee secrecy, they prac-

tically never allow the secret to ooze out. It would indeed appear that everything connected with this department is conducted with the view of preventing the outside world from learning what takes place within its walls.

The expenses of taking out a patent in Prussia are almost nominal.

The application for a patent must be written on stamped paper of 5 silber-groschen—say 12 cents.

The answer of the technical deputation is given on stamped paper of 15 silber-groschen—say, 36 cents—and the patent itself, if granted, is liable to a stamp duty of 1 thaler—say, 73 cents. There is no further tax or duty whatever.

A patent can be sold or inherited like any other property, on condition, however, that the new proprietor shall be a Prussian, or a subject either of one of the Zollverein States or of a country entitled by treaty to most-favored-nation treatment. In these cases no notice need be given to the government, which always applies direct to the original patentee or his heirs.

Corporate bodies have the same rights as individuals in regard to the acquisition of patents.

A patent in Prussia gives to the patentee the exclusive right of working his invention—that is to say, the sole right of making the article in question; and also, in the case of machinery, the sole right of employing it when made. It does not give the right of prohibiting the sale or importation of articles which are like the article for which the patent has been obtained.

A patentee whose rights have been infringed can invoke the aid of the police to confiscate the pirated articles; but the offending party must be named before they can be seized; and it is only in case of a second offense that the articles in question can actually be confiscated. The decision in these questions lies, in the first instance, with the authorities of the "bezirk" (district), with an appeal, in second instance, to the minister of commerce.

Claims for damages must be laid before the ordinary civil tribunal; and such claims may be made without the previous formality of a warning to the offending parties being required.

Patents which have been granted before 1866 by the Prussian Government, and by the former Governments of Hanover, Hesse, Nassau, or Frankfort, and which have not yet expired, have force only in those special districts which at that time were under each of those governments; but all patents issued by the Prussian Gov-

ernment since 1866 have force throughout the whole monarchy as now consituted, unless in those few cases where, at the request of the patentee himself, a special reservation is made.

From 4 *Pat. Off. Gaz.* 395.

See GERMAN EMPIRE.

QUEBEC.

See CANADA.

QUEENSLAND.

An Act to Amend and Consolidate the Law relating to Patents for Inventions, and the Registration of Designs and Trade-Marks, assented to October 13, 1884.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows :

Part I.

Preliminary.

1. This act may be cited as "The Patents, Designs, and Trade Marks Act, 1884."

2. This act is divided into parts, as follows :

Part I.—Preliminary ;
Part II.—Patents ;
Part III.—Designs ;
Part IV.—Trade-Marks ;
Part V.—International and Intercolonial Arrangements ;
Part VI.—General.

General Definitions.

3. (1.) In and for the purposes of this act, unless the context otherwise requires :

"*Examiner*" includes examiners, if more than one.

"*The court*" means the Supreme Court of Queensland.

"*Law officer*" means her Majesty's attorney-general for Queensland.

"*The minister*" means the colonial secretary or other minister charged with the execution of this act.

"*Registrar*" means the registrar of patents, designs, and trade-marks.

"*Prescribed*" means prescribed by any of the schedules to this Act, or by general rules under or within the meaning of this Act.

"*Patent*" means letters patent for an invention.

"*Patentee*" means the person for the time being entitled to the benefit of a patent.

"*Invention*" means any manner of new manufacture, the subject of letters patent and grant of privilege within section 6 of the statute of monopolies—that is, the act of the twenty-first year of the reign of King James the First, chapter 3, entitled "An Act concerning Monopolies, and Dispensations with Penal Laws, and the forfeiture thereof"—and includes an alleged invention.

"*Design*" means any design applicable to any article of manufacture, or to any substance, artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modeling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined, not being a design for a sculpture, or other thing within the protection of "The Sculpture Copyright Act" of the year 1814, (fifty-fourth George the Third, chapter 56).

"*Copyright*" means the exclusive right to apply a design to any article of manufacture or to any such substance, as aforesaid, in the class or classes in which the design is registered.

"*British possession*" means any territory or place situate within her Majesty's dominions, and not being or forming part of the United Kingdom, or of the Channel Islands, or of the Isle of Man; and all territories and places under one legislature, as hereinafter defined, are deemed to be one British possession for the purposes of this Act.

"*Legislature*" includes any person or persons who exercise legislative authority in the British possession, and, where there are local legislatures as well as a central legislature, means the central legislature only.

"*Summary conviction*" means a conviction under the summary jurisdiction Acts—that is to say, the acts regulating the duties of justices of the peace and any acts amending or in substitution for them.

Transitional Provisions.

4. The Acts mentioned in the first schedule to this Act are hereby repealed to the extent in the said schedule indicated. But this repeal shall not:—

(*a.*) Affect the past operation of any of those enactments, or any patent or copyright or right to use a trade-mark granted or

acquired, or application pending or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this act; or

(*b.*) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or

(*c.*) Take away or abridge any protection or benefit in relation to any such action or proceeding.

5. (1.) There shall be an office, called the "patent-office," at a convenient place, with such officers and clerks as the Governor in Council shall appoint, at which the business of this Act required to be transacted at the patent-office shall be transacted.

(2.) The patent-office shall be under the immediate control of an officer, called the "registrar of patents, designs, and trade-marks," acting under the superintendence and direction of the minister.

(3.) Any act or thing directed to be done by or to the registrar may, in his absence, be done by or to any officer for the time being in that behalf authorized by the minister.

(4.) Until other provision is made in that behalf, the registrar-general shall be and act as registrar of patents, designs, and trade-marks.

6. This Act, except where it is otherwise expressed, shall commence from and immediately after the 31st day of December, 1884.

Part II.

Patents.

Application for and Grant of Patent.

7. (1.) Any person whether a British subject or not, may make an application for a patent.

(2.) Two or more persons may make a joint application for a patent, and a patent may be granted to them jointly.

8. (1.) An application for a patent must be made in the form set forth in the second schedule to this Act, or in such other form as may be from time to time prescribed; and must be left at or sent by post to the patent-office in the prescribed manner.

(2.) An application must contain a declaration to the effect that

the applicant is in possession of an invention, whereof he, or, in the case of a joint application, one or more of the applicants, claims or claim to be the true and first inventor or inventors, and for which he or they desires or desire to obtain a patent, and must be accompanied by either a provisional or complete specification.

(3.) In the case of a joint application, the declaration may be made by one of the applicants.

(4.) A provisional specification must describe the nature of the invention, and be accompanied by drawings, if required.

(5.) A complete specification, whether left on application or subsequently, must particularly describe and set forth the nature of the invention, and in what manner it is to be performed, and must be accompanied by drawings, if required.

(6.) A specification, whether provisional or complete, must commence with the title, and in the case of a complete specification must end with a distinct statement of the invention claimed.

9. The registrar shall refer every application to an examiner or examiners, who shall ascertain and report to the registrar whether the nature of the invention has been fairly described, and the application, specification, and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject-matter of the invention.

10. (1.) If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not or have not been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject-matter of the invention, the registrar may require that the application, specification, or drawings be amended before he proceeds with the application.

(2.) Where the registrar requires an amendment, the applicant may appeal from his decision to the law officer.

(3.) The law officer shall, if required, hear the applicant, and the registrar, and may make an order determining whether and subject to what conditions, if any, the application shall be accepted.

(4.) The registrar shall, when an application has been accepted, give notice thereof to the applicant.

(5.) If after an application has been made, but before a patent has been sealed, an application is made, accompanied by a specification bearing the same or a similar title, it shall be the duty of the examiner to report to the registrar whether the specification appears to him to comprise the same invention; and, if he reports

in the affirmative, the registrar shall give notice to the applicants that he has so reported.

(6.) Where the examiner reports in the affirmative, the registrar may determine, subject to an appeal to the law officer, whether the invention comprised in both applications is the same, and if so, he may refuse to recommend that a patent be granted on the application of the second applicant.

11. (1.) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within nine months from the date of application.

(2.) Unless a complete specification is left within that time, the application shall be deemed to be abandoned.

12. (1.) Where a complete specification is left after a provisional specification the registrar shall refer both specifications to an examiner for the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner, and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification.

(2.) If the examiner reports that the conditions hereinbefore contained have not been complied with, the registrar may refuse to accept the complete specification unless and until the same shall have been amended to his satisfaction ; but any such refusal shall be subject to appeal to the law officer.

(3.) The law officer shall, if required, hear the applicant and the registrar, and may make an order determining whether and subject to what conditions, if any, the complete specification shall be accepted.

(4.) Unless a complete specification is accepted within twelve months from the date of application, then (save in the case of an appeal having been lodged against the refusal to accept) the application shall at the expiration of those twelve months become void.

(5.) Reports of examiners shall not in any case be published or be open to public inspection, and shall not be liable to production or inspection in any legal proceeding other than an appeal to the law officer under this act, unless the court or officer having power to order discovery in such legal proceeding shall certify that such production or inspection is desirable in the interests of justice and ought to be allowed.

13. On the acceptance of the complete specification the registrar shall advertise the acceptance in the Gazette, and the application

and specification or specifications with the drawings (if any) shall be open to public inspection.

14. (1.) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification give notice at the patent-office of opposition to the grant of the patent on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative, or on the ground that the invention has been patented in this colony on an application of prior date, or on the ground of an examiner having reported to the registrar that the specification appears to him to comprise the same invention as is comprised in a specification bearing the same or a similar title and accompanying a previous application, but on no other ground.

(2.) Where such notice is given the registrar shall give notice of the opposition to the applicant, and shall, on the expiration of those two months, after hearing the applicant and the person so giving notice, if desirous of being heard, decide on the case, but subject to appeal to the law officer.

(3.) The law officer shall, if required, hear the applicant and any person so giving notice and being, in the opinion of the law officer, entitled to be heard in opposition to the grant, and shall determine whether the grant ought or ought not to be made.

(4.) The law officer may, if he thinks fit, obtain the assistance of an expert, who shall be paid such remuneration as the law officer shall appoint.

15. (1.) If there is no opposition, or, in case of opposition, if the determination is in favor of the grant of a patent, the registrar shall report the facts to the minister.

(2.) The minister shall thereupon submit the application for the consideration of the Governor in Council, who may direct a patent to be sealed with the Great Seal of the Colony.

(3.) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, except in the cases hereinafter mentioned—that is to say :

(*a.*) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct.

(*b.*) If the person making the application dies before the expiration of the fifteen months aforesaid, the patent may be granted to his legal representative and sealed at any time within twelve months after the death of the applicant.

16. Every patent shall take effect and be expressed to take effect as of the day of the application : Provided, That no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification : Provided, also, That in case of more than one application for a patent for the same invention the sealing of a patent on one of those applications shall not prevent the sealing of a patent on an earlier application.

PROVISIONAL PROTECTION.

17. Where an application for a patent in respect of an invention has been accepted, the invention may during the period between the date of the application and the date of sealing such patent be used and published without prejudice to the patent to be granted for the same ; and such protection from the consequences of use and publication is in this act referred to as provisional protection.

PROTECTION BY COMPLETE SPECIFICATION.

18. After the acceptance of a complete specification, and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification : Provided, That an applicant shall not be entitled to institute any proceeding for infringement unless and until a patent for the invention has been granted to him.

PATENT.

19. Every patent when sealed shall have effect throughout the colony and its dependencies.

20. (1.) The term limited in every patent for the duration thereof shall be fourteen years from the date from which it takes effect.

(2.) But every patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to make the prescribed payments within the prescribed times.

(3.) If, nevertheless, in any case, by accident, mistake, or inadvertence, a patentee fails to make any prescribed payment within the prescribed time, he may apply to the registrar for an enlargement of the time for making that payment.

(4.) Thereupon the registrar shall, if satisfied that the failure has arisen from any of the above mentioned causes, on receipt of the

prescribed fee for enlargement, not exceeding ten pounds, enlarge the time accordingly, subject to the following conditions:

(*a.*) The time for making any payment shall not in any case be enlarged for more than three months.

(*b.*) If any proceeding shall be taken in respect of an infringement of the patent committed after a failure to make any payment within the prescribed time and before the enlargement thereof, the court before which the proceeding is proposed to be taken may, if it shall think fit, refuse to award or give any damages in respect of such infringement.

Amendment of Specification.

21. (1.) An applicant or a patentee may, from time to time, by request in writing left at the patent-office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of such amendment and his reasons for the same.

(2.) The request and the nature of such proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the patent-office of opposition to the amendment.

(3.) Where such notice is given the registrar shall give notice of the opposition to the person making the request, and shall hear and decide the case subject to an appeal to the law officer.

(4.) The law officer shall, if required, hear the person making the request and the person so giving notice, and being in the opinion of the law officer entitled to be heard in opposition to the request, and shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(5.) Where no notice of opposition is given or the person so giving notice does not appear, the registrar shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6.) When leave to amend is refused by the registrar, the person making the request may appeal from his decision to the law officer.

(7.) The law officer shall, if required, hear the person making the request and the registrar, and may make an order determining whether, and subject to what conditions, if any, the amendment ought to be allowed.

(8.) No amendment shall be allowed that would make the speci-

fication, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.

(9.) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall in all courts and for all purposes be deemed to form part of the specification.

(10.) The foregoing provisions of this section do not apply when and so long as any action for infringement or other legal proceeding in relation to a patent is pending.

22. (1.) In an action for infringement of a patent, and in a proceeding for revocation of a patent, the court or a judge may at any time order that the patentee shall, subject to such terms as to costs and otherwise as the court or a judge may impose, be at liberty to apply at the patent-office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

23. Where an amendment by way of disclaimer, correction, or explanation has been allowed under this Act, no damages shall be given in any action in respect of the use of the invention before the disclaimer, correction, or explanation, unless the patentee establishes to the satisfaction of the court that his original claim was framed in good faith and with reasonable skill and knowledge.

24. Every amendment of a specification shall be advertised in the prescribed manner.

Compulsory Licenses.

25. If on the petition of any person interested it is proved to the Governor in Council that by reason of the default of a patentee to grant licenses on reasonable terms—

(*a.*) The patent is not being worked in the colony; or

(*b.*) The reasonable requirements of the public with respect to the invention cannot be supplied; or

(*c.*) Any person is prevented from working or using to the best advantage an invention of which he is possessed, the Governor in Council may order the patentee to grant licenses on such terms as to the amount of royalties, security for payment, or otherwise as the Governor in Council, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.

REGISTER OF PATENTS.

26. (1.) There shall be kept at the patent-office a book, called the "Register of Patents," wherein shall be entered the names and addresses of grantees of patents, notifications of assignments, and of transmissions of patents, of licenses under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed.

(2.) The Register of Patents shall be *prima facie* evidence of any matters by this act directed or authorized to be inserted therein.

(3.) Copies of deeds, licenses, and any other documents affecting the proprietorship in any letters patent, or in any license thereunder, must be supplied to the registrar in the prescribed manner for filing in the patent-office.

FEES.

27. (1.) There shall be paid in respect of the several instruments described in the third schedule to this Act the fees in that schedule mentioned, and there shall likewise be paid, in respect of other matters under this part of the Act, such fees as may be from time to time prescribed by the Governor in Council; and such fees shall be paid into the consolidated revenue.

(2.) The Governor in Council may from time to time reduce any of those fees.

EXTENSION OF TERM OF PATENT.

28. (1.) A patentee may, after advertising in manner directed by any rules made under this section his intention to do so, present a petition to the Governor in Council, praying that his patent may be extended for a further term; but such petition must be presented at least six months before the time limited for the expiration of the patent.

(2.) Any person may enter a caveat, addressed to the clerk of the executive council at the council office, against the extension.

(3.) If the Governor in Council shall be pleased to refer any such petition to the court, the court shall proceed to consider the same, and the petitioner and any person who has entered a caveat shall be entitled to be heard by himself or by counsel on the petition.

(4.) The court shall, in considering their decision, have regard to the nature and merits of the invention in relation to the public to the profits made by the patentee as such, and to all the circumstances of the case.

(5.) If the court report that the patentee has been inadequately remunerated by his patent, it shall be lawful for the Governor in Council to extend the term of the patent for a further term not exceeding seven, or in exceptional cases, fourteen, years ; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the court may think fit.

(6.) It shall be lawful for the judges of the Supreme Court, or any two of them, of whom the Chief Justice shall be one, to make from time to time rules of procedure and practice for regulating proceedings on such petitions, and subject thereto such proceedings shall be regulated according to the existing procedure and practice in cases of petitions to the court.

(7.) The costs of all parties of and incident to such proceedings shall be in the discretion of the court, and the orders of the court respecting costs shall be enforceable in the same manner as other orders of the court.

REVOCATION.

29. (1.) The proceeding by scire facias to repeal a patent is hereby abolished.

(2.) Revocation of a patent may be obtained on petition to the court.

(3.) Every ground on which a patent may, at the commencement of this Act, be repealed by scire facias shall be available by way of defense to an action of infringement, and shall also be a ground of revocation.

(4.) A petition for revocation of a patent may be presented by—

(*a.*) The attorney-general ;

(*b.*) Any person authorized by the attorney-general ;

(*c.*) Any person alleging that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims ;

(*d.*) Any person alleging that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee ;

(*e.*) Any person alleging that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within the colony, before the date of the patent, anything claimed by the patentee as his invention.

(5.) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and no evidence shall, except by leave of the court or a judge, be admitted in proof of any objection of which particulars are not so delivered.

(6.) Particulars delivered may be from time to time amended by leave of the court or a judge.

(7.) The defendant shall be entitled to begin and give evidence in support of the patent, and if the plaintiff gives evidence impeaching the validity of the patent the defendant shall be entitled to reply.

(8.) Where a patent has been revoked on the ground of fraud the registrar may, on the application of the true inventor, made in accordance with the provisions of this Act, grant to him a patent in lieu of and taking effect from the same date as the date of revocation of the patent so revoked, but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

CROWN.

30. (1.) A patent shall have to all intents the like effect as against Her Majesty the Queen, her heirs and successors as it has against a subject.

(2.) But the officers or authorities administering any department of the service of the crown may, by themselves, their agents, contractors, and others, at any time after the application, use the invention for the service of the crown on terms to be before or after the use thereof agreed on, with the approval of the minister, between those officers or authorities and the patentee, or, in default of such agreement, on such terms as may be settled by the minister after hearing all parties interested.

LEGAL PROCEEDINGS.

31. (1.) In an action or proceeding for infringement or revocation of a patent, the court may, if it thinks fit, and shall on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try and hear the case wholly or

partially with his assistance. The action shall be tried without a jury, unless the court shall otherwise direct.

(2.) The remuneration, if any, to be paid to an assessor under this section shall be determined by the court, and be paid in the same manner as the other expenses of the execution of this Act.

32. (1.) In an action for infringement of a patent the plaintiff must deliver with his statement of claim, or by order of the court or the judge, at any subsequent time, particulars of the breaches complained of.

(2.) The defendant must deliver with his statement of defense, or by order of the court or a judge, at any subsequent time, particulars of any objections on which he relies in support thereof.

(3.) If the defendant disputes the validity of the patent, the particulars delivered by him must state on what grounds he disputes it, and, if one of those grounds is want of novelty, must state the time and place of the previous publication or use alleged by him.

(4.) At the hearing no evidence shall, except by leave of the court or a judge, be admitted in proof of any alleged infringement or objection of which particulars are not so delivered.

(5.) Particulars delivered may be from time to time amended, by leave of the court or a judge.

(6.) On taxation of costs regard shall be had to the particulars delivered by the plaintiff and by the defendant, and they respectively shall not be allowed any costs in respect of any particular delivered by them unless the same is certified by the court or a judge to have been proven, or to have been reasonable and proper, without regard to the general costs of the case.

33. In an action for infringement of a patent, the court or a judge may on the application of either party make such order for an injunction, inspection, or account, and impose such terms and give such directions respecting the same and the proceedings thereon as the court or a judge may see fit.

34. In an action for infringement of a patent, the court or a judge may certify that the validity of the patent came in question, and if the court or judge so certifies, then in any subsequent action for infringement the plaintiff in that action, on obtaining a final order or judgment in his favor, shall have his full costs, charges, and expenses as between solicitor and client, unless the court or judge trying the action certifies that he ought not to have the same.

35. When any person claiming to be the patentee of an invention, by circulars, advertisements, or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged manufacture, use, sale, or purchase of the invention, any person or persons aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damage, if any, as may have been sustained thereby, if the alleged manufacture, use, sale, or purchase to which the threats related was not in fact an infringement of any legal rights of the person making such threats: Provided, That this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.

Miscellaneous.

36. Every patent may be in the form in the second schedule to this Act, and shall be granted for one invention only, but may contain more than one claim; but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it comprises more than one invention.

37. (1.) If a person possessed of an invention dies without making application for a patent for the invention, application may be made by, and a patent for the invention granted to, his legal representative.

(2.) Every such application must be made within six months of the decease of such person, and must contain a declaration by the legal representative that he believes such person to have been the true and first inventor of the invention.

38. A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection.

39. A patentee may assign his patent for the whole colony or any place in or part of the colony.

40. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the registrar, the Governor in Council may at any time cause a duplicate thereof to be sealed.

41. The law officer may examine witnesses on oath and administer oaths for that purpose under this part of this Act, and may

from time to time make, alter, and rescind rules regulating references, and appeals to the law officer and the practice and procedure before him under this part of this Act; and in any proceeding before the law officer under this part of this Act the law officer may order costs to be paid by either party, and any such order may be made a rule of the court.

42. The exhibition of an invention at an industrial or international exhibition, certified as such by the minister, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or the consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or validity of any patent granted on the application: Provided, That both the following conditions are complied with, namely:

(*a.*) The exhibitor must, before exhibiting the invention, give the registrar the prescribed notice of his intention to do so; and

(*b.*) The application for a patent must be made before or within six months from the date of the opening of the exhibition.

43. The registrar shall from time to time prepare and publish such indexes, abridgments of specifications, catalogues, and other works relating to inventions as the minister may direct.

44. The minister may at any time require a patentee to furnish him with a model of his invention on payment to the patentee of the cost of the manufacture of the model, the amount to be settled in case of dispute by the auditor-general.

45. (1.) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of the Supreme Court of Queensland, or the use of an invention in a foreign vessel within that jurisdiction: Provided, It is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from Queensland.

(2.) But this section shall not extend to vessels of any foreign State of which the laws authorize subjects of such foreign State having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British vessels while in the ports of such for-

eign State, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture or preparation of anything intended to be sold in or exported from the territories of such foreign State.

Existing Patents.

46. (1.) The provisions of this Act relating to applications for patents and proceedings thereon shall have effect in respect only of applications made after the commencement of this Act.

(2.) Every patent granted before the commencement of this Act, or on an application then pending, shall remain unaffected by the provisions of this Act relating to patents binding the crown, and to compulsory licenses.

(3.) In all other respects (except with regard to fees payable in respect of granting a patent) this Act shall extend to all patents granted before the commencement of this Act, or on applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.

(4.) All instruments relating to patents granted before the commencement of this Act required to be left or filed in the Supreme Court shall be deemed to be so left or filed if left or filed before or after the commencement of this Act in the patent-office.

Part III.

Designs.

Registration of Designs.

47. (1.) The registrar may, on application by or on behalf of any person claiming to be the proprietor of any new or original design not previously published in Queensland, register the design under this part of this Act.

(2.) The application must be made in the form set forth in the first schedule to this Act or in such other form as may be from time to time prescribed, and must be left at or sent by post to the patent-office in the prescribed manner.

(3.) The application must contain a statement of the nature of the design, and the class or classes of goods in which the applicant desires that the design be registered.

(4.) The same design may be registered in more than one class.

(5.) In case of doubt as to the class in which a design ought to be registered, the registrar may decide the question.

(6.) The registrar may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal therefrom to the law officer.

(7.) The law officer shall, if required, hear the applicant and the registrar, and may make an order determining whether and subject to what conditions, if any, registration is to be permited.

48. (1.) On application for registration of a design the applicant shall furnish to the registrar the prescribed number of copies, of drawings, photographs, or tracings of the design, sufficient, in the opinion of the registrar, for enabling him to identify the design; or the applicant may, instead of such copies, furnish exact representations or specimens of the design.

(2.) The registrar may, if he thinks fit, refuse any drawing, photograph, tracing, representation, or specimen which is not, in his opinion suitable for the official records.

49. (1.) The registrar shall grant a certificate of registration to the proprietor of the design when registered.

(2.) The registrar may, in case of loss of the original certificate, or in any other case in which he deems it expedient, grant a copy or copies of the certificate.

Copyright in Registered Designs.

50. (1.) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration.

(2.) Before delivery on sale of any articles to which a registered design has been applied the proprietor must (if exact representations or specimens were not furnished on the application for registration) furnish to the registrar the prescribed number of exact representations or specimens of the design, and if he fails to do so the registrar may erase his name from the register and thereupon his copyright in the design shall cease.

51. Before delivery on sale of any articles to which a registered design has been applied the proprietor of the design shall cause each such article to be marked with the prescribed mark or with the prescribed word or words or figures denoting that the design is registered, and if he fails to do so the copyright in the

design shall cease unless the proprietor shows that he took all proper steps to insure the marking of the article.

52. (1.) During the existence of copyright in a design the design shall not be open to inspection except by the proprietor or a person authorized in writing by the proprietor, or a person authorized by the registrar or by the court, and furnishing such information as may enable the registrar to identify the design, nor except in the presence of the registrar or of an officer acting under him, nor except on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design or of any part thereof.

(2.) When the copyright in a design has ceased, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

53. On the request of any person producing a particular design, together with its mark of registration, or producing only its mark of registration, or furnishing such information as may enable the registrar to identify the design, and on payment of the prescribed fee, it shall be the duty of the registrar to inform such person whether the registration still exists in respect of such design, and if so, in respect of what class or classes of goods, and stating, also, the date of registration and the name and address of the registered proprietor.

54. If a registered design is used in manufacture in any foreign country and is not used in this colony within six months of its registration in this colony, the copyright in the design shall cease.

REGISTER OF DESIGNS.

55. (1.) There shall be kept at the patent-office a book, called the "Register of Designs," wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may from time to time be prescribed.

(2.) The register of designs shall be *prima facie* evidence of any matters by this Act directed or authorized to be entered therein.

FEES.

56. There shall be paid in respect of applications and registration and other matters under this part of this Act such fees as may be from time to time prescribed by the Governor in Council, and such fees shall be paid into the consolidated revenue.

INDUSTRIAL, INTERNATIONAL, AND INTERCOLONIAL EXHIBITIONS.

57. The exhibition at an industrial, international, or intercolonial exhibition, certified as such by the minister, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor of a design or of any article to which a design is applied, or the publication during the holding of any such exhibition of a description of a design, shall not prevent the design from being registered or invalidate the registration thereof: Provided, That both the following conditions are complied with, namely:

(*a.*) The exhibitor must, before exhibiting the design or article, or publishing a description of the design, give the registrar the prescribed notice of his intention to do so; and

(*b.*) The application for registration must be made before or within six months from the date of the opening of the exhibition.

LEGAL PROCEEDINGS.

58. During the existence of copyright in any design—

(*a.*) It shall not be lawful for any person, without the license or written consent of the registered proprietor, to apply such design or any fraudulent or obvious imitation thereof in the class or classes of goods in which such design is registered, for purposes of sale, to any article of manufacture or to any substance artificial or natural or partly artificial and partly natural; and

(*b.*) It shall not be lawful for any person to publish or expose for sale any article of manufacture or any substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

Any person who acts in contravention of this section shall be liable for every offense to forfeit a sum not exceeding fifty pounds to the registered proprietor of the design, who may recover such sum as a simple contract debt by action in any court of competent jurisdiction.

59. Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the registered proprietor of any design may (if he elects to do so) bring an action for the recovery of any damages arising from the application of any such design or of any fraudulent or obvious imitation thereof, for the purpose of sale, to any article of manufacture or substance, or from the publication, sale, or exposure for sale, by any person, of any article or

substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, such person knowing that the proprietor had not given his consent to such application.

60. The author of any new and original design shall be considered the proprietor thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case such person shall be considered the proprietor; and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person or otherwise, and also every person on whom the property in such design or such right to the application thereof shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise.

Part IV.

[Omitted because relating to trade-marks.]

Part V.

International and Intercolonial Arrangements.

And whereas by the one hundred and third section of the Act of the Imperial Parliament, called "The Patents, Designs, and Trade-Marks Act, 1883," it is enacted as follows, that is to say: [See the section, *ante*, 244.]

And by the one hundred and fourth section of the said Act it is further enacted as follows, that is to say: [See the section, *ante*, 245.]

Be it enacted as follows:

80. (1.) If her Majesty is pleased by order in council to apply the provisions of the said one hundred and third section of the imperial act, called "The Patents, Designs, and Trade-Marks Act, 1883," to the Colony of Queensland, then any person who has applied for protection for any invention, design, or trade-mark in England, or in any foreign State with the government of which her Majesty has made an arrangement under the said section for mutual protection of inventions, designs, or trade-marks, or any of them, shall be entitled to a patent for his invention or to registration of his design or trade-mark (as the case may be) under this Act in priority to other applicants, and such patent or registration shall

take effect from the same date as the date of the protection obtained in England or such foreign State, as the case may be: Provided, That his application is made in the case of a patent within twelve months and in the case of a design or trade-mark within six months from his applying for protection in England or the foreign State with which the arrangement is in force. [Proviso relative to trade-marks.]

(2.) The publication in Queensland, during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design, or the publication therein during such periods of a description or representation of the design, or the use therein during such periods of the trade-mark, shall not invalidate the patent which may be granted for the invention or the registration of the design or trade-mark.

(3.) The application for the grant of a patent, or the registration of a design, or the registration of a trade-mark under this section must be made in the same manner as an ordinary application under this Act. [Proviso relative to trade-marks.]

(4.) The provisions of this section shall in the case of foreign States apply only in the case of those foreign States with respect to which her Majesty shall from time to time by order in council declare the provisions of the aforesaid section of the said imperial Act to be applicable, and so long only in the case of each State as the order in council shall continue in force with respect to that State.

81. (1.) Where it is made to appear to the Governor in Council that the legislature of any British possession has made satisfactory provision for the protection of inventions, designs, and trade-marks, or any of them, patented or registered in Queensland, the Governor in Council may from time to time, by order in council, apply all or any of the provisions of the last preceding section relating to the protection of inventions, designs, and trade-marks patented or registered in England, with such variations or additions, if any, as to the Governor in Council may seem fit, to inventions, designs, and trade-marks, or any of them, patented or registered in such British possession.

(2.) An order in council under this section shall, from a date to be mentioned for the purpose in the order, take effect as if its provisions had been contained in this Act; but it shall be lawful for the Governor in Council to revoke any such order in council.

Part VI.

General.

Proceedings at Patent-Office.

82. There shall be a seal for the patent-office, and impressions thereof shall be judicially noticed and admitted in evidence.

83. There shall not be entered in any register kept under this Act, or be receivable by the registrar, any notice of any trust expressed, implied, or constructive.

84. The registrar may refuse to recommend that a patent be granted for an invention, or to register a design or trade-mark, of which the use would, in his opinion, be contrary to law or morality.

85. Where a person becomes entitled by assignment, transmission, or other operation of law, to a patent or to the copyright in a registered design, or to a registered trade-mark, the registrar shall on request and on proof of title to his satisfaction cause the name of such person to be entered as proprietor of the patent, copyright in the design, or trade-mark, in the register of patents, designs, or trade-marks, as the case may be. The person for the time being entered in the register of patents, designs or trade-marks as proprietor of a patent, copyright in a design, or trade-mark as the case may be, shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the same, and to give effectual receipts for any consideration for such assignment, license, or dealing: Provided, That any equities in respect of such patent, design, or trade-mark may be enforced in like manner as in respect of any other personal property.

86. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed; and certified copies, sealed with the seal of the patent-office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

87. Printed or written copies or extracts, purporting to be certified by the registrar and sealed with the seal of the patent-office, of or from patents, specifications, disclaimers, and other documents in the patent-office, and of or from registers and other books kept

there, shall be admitted in evidence in all courts of justice and in all proceedings without further proof or production of the originals.

88. (1.) The court may on the application of any person aggrieved by the omission without sufficient cause of the name of any person from any register kept under this Act, or by any entry made without sufficient cause in any such register, make such order for making, expunging, or varying the entry as the court thinks fit, or the court may refuse the application, and in either case may make such order with respect to the costs of the proceedings as the court thinks fit.

(2.) The court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3.) Any order of the court rectifying a register shall direct that due notice of rectification be given to the registrar.

89. The registrar may, on request in writing, accompanied by the prescribed fee—

(*a.*) Correct any clerical error in or in connection with an application for a patent, or for registration of a design or trade-mark; or

(*b.*) Correct any clerical error in the name, style, or address of the registered proprietor of the patent, design, or trade-mark; or

(*c.*) Cancel the entry or part of the entry of a trade-mark on the register: Provided, That the applicant accompanies his request by a statutory declaration made by himself, stating his name, address, and calling, and that he is the person whose name appears on the register as the proprietor of the said trade-mark.

90. (1.) The registered proprietor of any registered trade-mark may apply to the court for leave to add to or alter such mark in any particular, not being an essential particular within the meaning of this Act, and the court may refuse or grant leave on such terms as it may think fit.

(2.) Notice of any intended application to the court under this section shall be given to the registrar by the applicant, and the registrar shall be entitled to be heard on the application.

(3.) If the court grants leave, the registrar shall, on proof thereof and on payment of the prescribed fee, cause the register to be altered in conformity with the order of leave.

91. If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing knowing the entry or writing to be false, he shall be guilty of a misdemeanor.

92. Where any discretionary power is by this Act given to the registrar, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, or for registration of a trade-mark or design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

93. The registrar may in any case of doubt or difficulty arising in the administration of any of the provisions of this Act apply to the minister for directions in the matter.

94. A certificate purporting to be under the hand of the registrar as to an entry, matter, or thing which he is authorized by this Act, or any general rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

95. (1.) Any application, notice, or other document authorized or required to be left, made, or given at the patent-office or to the registrar, or to any other person under this Act, may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

(2.) In proving such service or sending it shall be sufficient to prove that the letter was properly addressed and put into the post.

96. Whenever the last day fixed by this Act, or by any rule for the time being in force, for leaving any document or paying any fee at the patent-office shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or bank holiday, or any day observed as a day of public fast or thanksgiving, herein referred to as excluded days, it shall be lawful to leave such document or to pay such fee on the day next following such excluded day, or days, if two or more of them occur consecutively.

97. If any person is, by reason of infancy, lunacy, or other inability incapable of making any declaration or doing anything required or permitted by this Act or by any rules made under the

authority of this Act, then the guardian or committee, if any, of such incapable person, or if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purpose of this Act be as effectual as if done by the person for whom he is substituted.

98. (1.) The Governor in Council may from time to time make such general rules and do such things as they think expedient, subject to the provisions of this Act—

(*a.*) For regulating the practice of registration under this Act ;

(*b.*) For classifying goods for the purposes of designs and trade-marks ;

(*c.*) For making or requiring duplicates of specifications, amendments, drawings, and other documents ;

(*d.*) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Governor in Council think fit, of specifications, drawings, amendments, and other documents;

(*e.*) For securing and regulating the making, printing, publishing, and selling of indexes to and abridgments of specifications and other documents in the patent-office, and providing for the inspection of indexes and abridgments and other documents ;

(*f.*) For regulating the presentation of copies of patent-office publications to patentees and to public authorities, bodies, and institutions at home and abroad ;

(*g.*) Generally for regulating the business of the patent-office and all things by this Act placed under the direction or control of the registrar or of the minister.

(2.) Any of the forms in the first schedule to this Act may be altered or amended by rules made by the Governor in Council as aforesaid.

(3.) General rules may be made under this section at any time after the passing of this Act, but not so as to take effect before the commencement of this Act, and shall, subject as hereinafter mentioned, be of the same effect as if they were contained in this Act, and shall be judicially noticed.

(4.) Any rules made in pursuance of this section shall be published in the Gazette, and shall forthwith be laid before both houses of Parliament, if Parliament be in session at the time of making thereof, or if not, then as soon as practicable after the beginning of the next session of Parliament.

(5.) If either house of Parliament, within the next forty days after any rules have been so laid before such house, resolve that such rules, or any of them, ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule or to the making of any new rules or rule.

99. The registrar shall in every year make a report respecting the execution by or under him of this Act which shall be laid before both houses of Parliament, and therein shall be included for the year to which each report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act.

OFFENSES.

100. (1.) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, or describes any design or trade-mark applied to any article sold by him as registered which is not so, shall be liable for every offense on summary conviction to a fine not exceeding five pounds.

(2.) A person shall be deemed, for the purposes of this enactment, to represent that an article is patented or a design or a trade-mark is registered if he sells the article with the word "Patent," "Patented," "Registered," or any word or words expressing or implying that a patent or registration has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to the article.

101. [Omitted because relating only to use of royal arms.]

102. The registers of patents and of proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of patents kept under this Act.

103. Nothing in this Act shall take away, abridge or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof.

From 31 *Pat. Off. Gaz.* 122.*

* Schedules omitted because not given in the Patent Office Gazette.

RUSSIA.

*Code of Laws of the Russian Empire.—Vol. XI., Part II. Statute of Manufacturing Industry, Section 3.**

PATENTS FOR NEW INVENTIONS AND DISCOVERIES.

CHAPTER I.

NATURE OF PATENTS FOR INVENTIONS AND DISCOVERIES.

ARTICLE 73. Every discovery or invention of any new and useful art, machine, manufacture, or composition of matter, and every improvement on any art, machine, manufacture, or composition of matter, is the property of the person or persons by whom such discovery, or invention, or improvement has been made, and that person, in order to secure his rights to such property, may make application to the government for an exclusive privilege or patent for it.

ART. 74. A patent is therefore a document granted by the government to certify that the individual or individuals specified therein has or have laid the description of the discovery, invention, or improvement before the government, and conveys to the aforesaid individual or individuals the sole right to make, use, or dispose of the new invention, discovery, or improvement described, for a certain specified period.

ART. 75. In granting such patent, the government neither guarantees that the discovery, invention, or improvement described actually belongs to the individual or individuals specified therein, nor answers for the utility of the said discovery, invention, or improvement, but merely certifies that such discovery, invention, or improvement has actually been laid before the government, stating the time and the name or names of the individual or individuals applying for the patent.

ART. 76. Consequently, a patent granted by the government does not deprive any person or persons of the right of proving, by legal process, that the discovery, invention, or improvement belongs

* A concise, practical statement of the substance of this law is given in a report by Mr. Ford, of the British Legation, published October 28, 1873, 4 Pat. Off. Gaz. 448.

to him or them, or has been in use prior to the grant of the patent.

ART. 77. Until it shall have been proved, however, before a court of law that the person to whom the patent has been granted was not the inventor and has no right to it, he enjoys the following privileges :—

(1.) He has the sole right during the time specified to take the benefits of the discovery, invention, or improvement as property belonging exclusively to him, to make, use, sell, dispose of, bequeath, or make over by any other lawful means, the object for which the patent was granted, as well as the patent itself, or to allow any other person to make use of it, during the whole term for which it was granted, or for a shorter period.

(2.) To prosecute by law all infringements, and to seek for redress for the losses he may have sustained by such.

ART. 78. An exact imitation of all the essential parts of the discovery, invention, or improvement for which the patent was granted, notwithstanding there may be some slight alterations in it, not affecting its individuality, or even should there be improvements on it, but in which the essential parts remain, is considered an infringement.

ART. 79. Patents may be taken out for discoveries, inventions, or improvements made in foreign countries, and for which the term of the patent granted in those countries has not expired ; in such case, however, the term of the patent granted in Russia cannot extend beyond the term for which the patent was taken out by the inventor abroad. A patent for the introduction of an invention previously known and in use in foreign countries, and for which no patent has been taken out in those countries, can only be granted by way of exception and by special favor of the government, with a view to the advantages and utility to be derived from such introduction. Patents granted for foreign inventions have the same force and effect as patents taken out for inventions made in Russia.

ART. 80. Patents cannot be granted for fundamental or elementary principles, as for instance, distilling brandy by steam, or boiling sugar by means of steam in a vacuum, unless their application or combination produces some new result in the arts, presenting a special and new apparatus.

ART. 81. Patents shall not be granted for trifling or unimportant discoveries, inventions, or improvements indicative only of inventive genius, without offering any real advantage or utility,

nor for such inventions as may become dangerous to society, or detrimental to the government revenues.

ART. 82. No patents shall be granted for inventions and improvements relating to implements of war and the defense of the State, such as cannons, shells, fuses, and other appurtenances of ordnance, armor for ships, torpedoes, powder magazines, revolving turrets, &c., the exclusive use of which belongs to the government. But patents shall be granted for inventions and improvements the objects of which, though applicable to military purposes, are useful also to private persons, such as small fire-arms, metallic cartridges, bullets, and other appurtenances of hand weapons. Patents for these inventions shall, however, be granted solely on the condition that the same shall not hinder the army and navy administrations in the trial and use of such inventions and improvements for military purposes.

ART. 83. Patents are granted to aliens, who are allowed to construct manufactories, mills, &c., without turning Russian subjects, as well as to Russian subjects.

CHAPTER II.

ORDER OF GRANT OF PATENTS.

ART. 84. The application for a patent for any new discovery, invention, or improvement in the arts, manufactures, and trades, must be made by petition to the department of manufactures and home trade, praying for the exclusive right to the invention, discovery, or improvement, specifying the term for which the patent is solicited, and there shall be annexed the necessary drawings and plans, together with a written description of the invention or discovery, and of the matter and process of making, constructing, using, and compounding the same, in such full, clear, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same, without having recourse to conjecture, or filling up omissions in the defective specification.

In this description the applicant must particularly specify and point out the part, improvement, or combination which he claims as his own invention or discovery. The description must be written in Russian, and in the event of its having been translated from a foreign language, the original must be annexed for the purpose of verification. The description of the discovery, invention, or

improvement in a foreign language may be presented without a Russian translation, in order to obtain an official certificate of the applicant's right of property in the invention, but not for the purpose of taking out a patent; the grant of a patent can only be obtained by supplying a description, or translation of it, in the Russian language. In the event of non-fulfillment of the above by the petitioner, or his agent, within three months from the date on which the description in a foreign language was presented, the petition will be null and void. The applicant shall deliver a model of his invention, discovery, or improvement, when the same admits of a model, and should it be necessary for the better understanding of it. On presenting the petition, drawings, and description, the applicant shall pay into the treasury of the department the amount of duties according to the following scale:—

(1.) For discoveries, inventions, or improvements of the discoverers, inventors, and improvers themselves:

	S. Rs.
For 3 years	90
" 5 "	150
" 10 "	450

(2.) For the introductions of inventions, discoveries, or improvements already existing and known abroad:

	S. Rs.
For 1 year	60
" 2 "	120
" 3 "	180
" 4 "	300
" 6 "	360

ART. 85. On the filing of such an application (consisting of petition, specification, model, or drawings), and on payment of the duty, the department of trade and manufactures will, on the same day, hand the applicant a receipt for the same, signed by the director of the department, with the government seal affixed. To persons living in other towns, the department may send such receipt by post. This certificate, or receipt, shall specify the year, month, day, and hour when the application was received by the department.

ART. 86. Petitions for the grant of patents for any discovery, invention, or improvement in arts, manufactures, and crafts, shall be examined by the council of trade and manufactures, at the session of which the director of the department of the ministry to whose province the application pertains shall be invited to attend.

The examination is only made with a view of ascertaining whether a patent has already been granted to another for the same invention or discovery, and whether the description delivered by the applicant is sufficiently exact, clear, and full ; and finally, whether the invention or discovery for which the patent is solicited offers any advantage or utility. Special attention shall be paid by the council of trade and manufactures to the investigation of the invention, discovery, or improvement, with a view of ascertaining whether it contains anything unhealthy, or likely to endanger the lives of people. When necessary, and in order to decide with the more certainty on this latter question, the council of trade and manufactures may confer with the medical board.

Art. 87. Should the council of trade and manufactures, on examination of such application, decide that the invention, discovery, or improvement for which a patent has been solicited has been described with a sufficient accuracy, clearness, and fullness ; that no patent has been granted for such to any other person prior to the alleged invention or discovery thereof by the applicant ; and that it does not contain anything unhealthy or likely to endanger the lives of people, or be in any way detrimental to the government revenues ; they shall then, having first fixed the term of the patent according to the condition of the branch of industry to which it belongs, recommend to the minister of finance that a patent be granted, and one shall then be issued under the hand of the minister. If, on the contrary, it be known to the council of trade and manufactures that the invention for which a patent is solicited has already been described, or has been made use of anywhere, they shall refuse the patent: moreover, should the applicant's alleged invention or improvement be considered dangerous to the health and lives of people, he shall be bound by an undertaking signed by him not to put it into action, under penalty of the rigor of the law. The council shall publish the reasons for the refusal of a patent in the Official Gazette, in the newspapers of both capitals, and in the Warsaw Gazette.

Art. 88. An applicant who has been refused the grant of a patent by reason of or on account of defective or insufficient description or drawings, may again make application by presenting an amended specification containing the necessary explanations and amplifications ; and should such be found satisfactory the issue of patent will be effected according to the rule herein contained.

Art. 89. Should there be more than one applicant for the same

invention or discovery, pending the examination, the patent shall not be granted at all; an exception to this rule is made, however, in the event of one of the applicants proving by legal process that the other has appropriated his invention.

ART. 90. In case of the refusal of a patent, the money paid in by the applicant will be repaid to him without delay.

CHAPTER III.

TERM OF PATENTS.

ART. 91. Patents for discoveries, inventions, and improvements are granted to the discoverer, inventor, and improver himself, as he may wish, and according to the discrimination of the government, for three, five, or ten years, but not for longer. The term of patents for the introduction of inventions already known in foreign countries shall not exceed six years, or as is provided for in article 79.

ART. 92. No extension of a patent can be granted after the expiration of the term for which it was originally issued.

ART. 93. The term of a patent commences from the day on which it is signed, but the power of taking legal proceedings for infringement of a patent dates from the day of issue of the certificate of filing the application for the patent. A publication of each certificate delivered is made in the newspapers of both capitals and in the Warsaw Gazette.

CHAPTER IV.

FORM OF PATENTS AND THEIR PUBLIC NOTIFICATION.

ART. 94. A patent must always be headed by the words "By order of His Imperial Majesty."

The patent contains:

(1.) The name of the applicant.

(2.) The day on which the application was made.

(3.) A full and detailed description of the discovery, invention, improvement, or introduction.

(4.) The term of the patent.

(5.) The amount of duty paid for the same into the treasury.

(6.) A certificate, to the effect that no privilege has been granted for the same discovery, invention or improvement, to any other than the person who holds it.

(7.) A notice that the government does not guarantee that the

discovery, invention, or improvement for which the applicant has solicited a patent actually belongs to him, or that it is a success.

(8.) The signature of the minister to whose province the granting the patent belongs.

(9.) The countersignature of the director of the department.

ART. 95. Patents shall be written on parchment.

ART. 96. A full and detailed account of the discovery, invention, or improvement, shall be published immediately on delivery, in the publications of the ministry to which it appertains, in the Senate Gazette, in the newspapers of both capitals, and in the Warsaw Gazette. Independently of the above, the departments that have granted the patent are bound to show the register of new inventions for which patents have been granted, to any one who may wish to see it.

CHAPTER V.

THE RIGHTS AND DUTIES OF PATENTEE.

ART. 97. The holder of a patent is bound to put into complete practice or execution, during the first quarter of the term specified, the discovery, invention, or improvement for which the patent was granted, and before the expiration of the six months after this to present to the department from which the patent was issued a certificate from the local authorities, to the effect that it has actually been put into execution—*i. e.*, that the patented invention or improvement has been put into practical use.

ART. 98. Should the patentee wish to transfer the patent to another person, or to enter into partnership in respect to such patent, such matters must be effected through the proper courts, and according to the laws. On making such transfer, or on entering into partnership, the original patentee must communicate the same to the department, and the latter shall publish it in the newspapers.

ART. 99. A patentee has not the right of forming a joint stock company for the purpose for which the patent was taken out, nor of transferring his patent to such a company without special permission from the government.

ART. 100. Should a patentee make any new improvement on his invention or discovery, or introduce any important alteration in it, readjusting and simplifying his process, he is at liberty to take out a patent for it, but in any case he is bound to give notice of

such improvement or alteration to the department, together with a detailed and accurate description of the said improvement or alteration.

ART. 101. Should any other person than the original patentee make an improvement on the patentee's invention or discovery, the former cannot take out a patent for it unless he can prove that he has entered into an agreement with the original patentee, by which the latter has consented to his making use of his improvement. At the expiration of the term of the first patent, however, he may take out a patent for his improvement on the first patentee's invention.

ART. 102. In the cases provided for in the preceding articles (100 and 101), the following rules must be observed:—

(1.) In applications for patents for improvements made by the inventor himself, the term specified for the patent must be shorter than that of the patent for the original invention.

(2.) That the effect of such patent is entirely independent of the patent granted for the principal invention, so that the term of the latter cannot be extended, though the term of the patent granted for the improvement may not have expired.

(3.) That the term of a patent taken out for an improvement made by any other person on the original patentee's invention shall not be more than half the term granted to the original patentee.

ART. 103. Patents shall cease :—

(1.) At the expiration of the term for which they are issued.

(2.) When it shall be proved before a court of law that the same discovery, invention, or improvement for which the patent was granted, was, before the patentee presented his petition, already introduced in the Russian empire, or was known by descriptions or specifications, by which the same apparatus or process in essential respects could be produced or carried out without the new description or specification.

(3.) When it shall be proved before a court of law that the discovery, invention, or improvement for which a patent has been granted, was already in use somewhere without being patented, with the exception, however, of the introduction of inventions, discoveries, and improvements from foreign countries admitted by special favor, as provided for in article 79.

(4.) When it shall be proved by judgement of a court of justice that the person to whom a patent has been granted appropriated the discovery, invention, or improvement of another person, and the real inventor petitions for the repeal of such patent.

(5.) When it shall be proved that the description or specification is not complete, that the details of some of the essential parts or properties of the discovery or invention, without which the expected results could not possibly be obtained, have been left out or kept back; or that essential alterations and improvements have been made, without which it is impossible to obtain the desired result, or generally that the specification does not disclose the real mode of procedure.

(6.) Should the patentee not present, within the time specified, to the department to which it pertains, the certificate from the local authorities, as provided for in article 97.

ART. 104. In any and all of the cases referred to in article 103, the depatment from which the patent was issued shall publish an advertisement in the newspapers of both capitals, and in the Warsaw Gazette, that the patent no longer exists, and after such publication every one has the right to make use of the discovery, invention, or improvement for which the patent was granted.

From *Carpm. Pat. L. of World*, 453.

ST. CHRISTOPHER.

See LEEWARD ISLANDS.

ST. HELENA.

Ordinance No. 3 *of* 1872. *An Ordinance made by the Governor of St. Helena for the extension to this Island of Letters Patent granted under the Great Seal of the United Kingdom of Great Britain and Ireland.*

Preamble. Whereas it is expedient that letters patent granted under the Great Seal of the United Kingdom of Great Britain and Ireland should have the same force and effect within the Island of St. Helena as such letters have in the said United Kingdom; be it enacted as follows:

1. *Privileges granted by letters patent in the United Kingdom extended to St. Helena.* The grantee of any such letters patent, and the executors, administrators and assigns of the said grantee shall be entitled to the sole and exclusive privileges of making, selling and using in the Island of St. Helena, the invention patented by such letters, and of authorizing others so to do, for and during the unexpired residue of the term granted in and by such letters, and if the said letters patent shall by competent authority be renewed in and for the United Kingdom, the term of the privileges granted in respect of the inventions comprised in such letters which may be so renewed, shall *ipso facto* thereupon be also prolonged in and for the Island of St. Helena for and during such renewed term subject to the following conditions and provisions:

2. *Grantee to file copy of such letters in the Supreme Court.* The grantee or grantees of such letters patent shall file in the registry of the Supreme Court a copy of such letters patent and specification, or in case of a renewal a copy of the renewal thereof, such copy of the letters patent and specification or of the renewal thereof, to be signed and certified as a true copy by one of the officers to whose custody the original is entrusted, and if such filing be not so effected, the privileges granted by this ordinance in respect of the inventions comprised in such letters shall cease to have effect.

3. *Letters to be open to inspection.* Every such copy so filed, shall, if purporting to be so signed and certified, be *prima facie* evidence of the document of which it purports to be a copy, and shall be open at all reasonable times at the office of the registrar of the Supreme Court for the inspection of any person; and the

said registrar shall permit to be made by any person a copy of the whole or any part of such copy of the said letters patent and specification, and shall on application certify the same to be a true copy.

4. *Fees payable to the registrar.* The following fees shall be payable to and accounted for by the registrar of the Supreme Court, viz:

	£	s.	d.
For filing copy of letters patent and specification	1	1	0
For inspection and permission to copy the same	0	2	6
For registrar's certificates to copy	0	5	0

5. *All cases of doubt to be settled by law of England.* In all cases of doubt or difficulty not provided for by this ordinance, or by the local laws of this island, the same shall be guided and governed, so far as practicable, by the law in force in England.

From *Carpm. Pat. L. of World*, 464.

ST. PIERRE.

See FRANCE.

SALVADOR.

A report by Mr. Corbett, of the British Legation, published October 7, 1873, in 4 *Pat. Off. Gaz.* 372, under the head of San Salvador, states that: "Our Constitution gives power to the executive to award and concede privileges to the authors of useful inventions; but this faculty is not arranged as it should be, by a secondary law; and in the few cases which have occurred, the spirit of this constitutional disposition has been followed in accordance with the practice of civilized governments."

See also INTERNATIONAL CONVENTION.

SAXONY.

See GERMAN EMPIRE.

SCOTLAND.

See GREAT BRITAIN AND IRELAND.

SENEGAMBIA.

See FRANCE.

SERVIA.

See INTERNATIONAL CONVENTION.

SOUTH AUSTRALIA.

An Act to Consolidate and Amend the Laws Relating to Patents for Inventions. *No. 78 of December* 21, 1877.

[NOTE.*—The words in italics in sections 4, 6, 25, and schedule B are alterations made by Act No. 101. 1878, and Act No. 201, 1881.]

Preamble. Whereas it is expedient to amend the law relating to the grant of patents for inventions in the province of South Australia: Be it therefore enacted by the Governor of the province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

1. *Repeal.* From and after the passing hereof, "The Patent Act, 1859," being Act No. 18 of 1859, and "The Provisional Registration of Patents Act, 1875," being Act No. 3 of 1875, are hereby repealed; but this repeal shall not affect the validity of any letters of registration or any provisional registration granted, made, or entered under the said repealed Acts or either of them, nor the rights, remedies, or liabilities of any parties or persons in respect of any such letters of registration, or of such provisional registration, nor affect or prevent the grant of any letters of registration under "The Patent Act, 1859," pursuant to any application therefor made before the passing of this Act, but such application shall be proceeded with and granted, and the letters of registration when granted shall have the same effect as if this Act had not passed, provided that the applicant may at any time before the granting of letters of registration to him, in pursuance of such application, apply for and obtain a patent under this Act in place of such letters of registration, without any further payment than he shall have made under "The Patent Act, 1859."

2. *Short title.* This Act may be cited for all purposes as "The Patent Act, 1877."

* Notes printed in this manner are from Carpmaels' edition.

The law as presented there and in the text consists of Act No. 78, of December 21, 1877, with which are consolidated the alterations made by Act No. 101, 1878, and Act No. 201, 1881. The Acts No. 78 of 1877, and No. 101 of 1878, are published separately and in full in 20 Pat. Off. Gaz. 1088–1092.

3. *Division of Act.* This Act is divided into seven parts, relating to the following subject-matters:—

Part I.—Patent-Office, sections 4 to 8:

Part II.—Who may obtain patents, sections 9 to 13:

Part III.—How patents obtained, sections 14 to 29:

Part IV.—Effect, conditions and extension of patents, sections 30 to 37:

Part V.—New patents, disclaimers, alterations and confirmations, sections 38 to 45:

Part VI.—Caveats; and revocation and assignment of patents, sections 46 to 52:

Part VII.—Miscellaneous provisions, sections 53 to 72.

PART I.

PATENT-OFFICE.

4. *Establishment of patent-office.* There shall be attached to the department of the attorney-general or to a branch of such department, an office to be called the patent-office, and the commissioner of patents under this Act shall receive and have the custody of all applications, papers, documents, models, machines, books, and records relating to patents, and shall receive all fees, and perform all acts and things incidental to the grant, issue, or renewal of patents under this Act.

5. *Seal of patent-office to be received in evidence.* The commissioner of patents shall have a seal, to be called "the Seal of the Patent-Office," and such seal and any impression thereof shall be taken judicial notice of by all courts, judges, and magistrates, tribunals, and persons authorized to receive evidence in the said province, who shall receive in evidence any document bearing an impression of the said seal and purporting to be a copy of or extract from any document or book deposited or kept in the said patent-office under the provisions hereof, without the production of the original.

6. *Commissioner.* The secretary to the attorney-general for the time being shall be commissioner of patents.

7. *Governor may make rules and prescribe forms.* The Governor may from time to time, by proclamation in the government Gazette, make, prescribe, repeal, and alter such regulations and forms as he shall deem necessary or expedient for the purposes of this Act.

8. *Governor may appoint clerks and officers.* The Governor may from time to time appoint and remove such clerks and officers as he may deem expedient for carrying out the purposes of this Act, and no commissioner of patents, nor any clerk or officer, appointed as aforesaid shall, unless he shall be the original inventor or the legatee of the rights of the original inventor, buy, sell, acquire, or otherwise deal in any patent or right to a patent, and every purchase, sale, acquisition, or other dealing contrary to the provisions of this section, shall be null and void.

Part II.

Who may obtain Patents.

9. *Power to issue patents.* The true and first inventor of any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement on any art, machine, manufacture, or composition of matter, not publicly used or offered for sale within the said province prior to the date of the patent for the same, may, on petition to the commissioner, and on complying with the requirements of this Act, obtain a patent under the hand of the commissioner and the seal of the patent-office for the sole making, using, exercising, and vending of any such art, machine, manufacture, or composition of matter, or improvement within the said province.

10. *Inventions for which foreign patents have been obtained.* An inventor shall not be entitled to a patent for his invention if a patent or other similar privilege therefor shall have been in existence in any country other than the said province, and shall have expired before a patent shall be granted to him under this Act; and whenever a patent or other similar privilege in any other country than the said province in respect of any invention is in existence, at the time when a patent is granted for the same invention under this Act, such last named patent shall not confer any rights for any period beyond the earliest date at which the patent or other similar privilege in such other country shall expire.

11. *Inventor's representatives may obtain patent.* A patent may be granted by the commissioner to any person to whom any inventor, entitled to obtain a patent, has assigned or bequeathed the right of obtaining it, or in default of such assignment or bequest, to the executor or administrator of any deceased inventor.

12. *Patent for improvements on patented invention.* A patent

may be granted under this Act in respect of any improvement on or modification of any previously patented or registered invention, but shall not be deemed to confer any right to make, use, exercise, or vend such last named invention.

13. *Patents to several persons jointly.* Where several persons shall make a joint application for a patent it shall be granted to them jointly, and any assignment from one or more of them to the other or others, or to any other person, shall be registered like any other assignment of a patent.

Part III.

How Patents Obtained.

14. *Repealed.* See sections 3 and 7 of Act of 1881.

15. *Petition for patent to be accompanied by specification.* The petition shall contain the name or title of the invention, and shall state an address within the City of Adelaide, to which notices in respect of such petition may be sent, and shall be accompanied by a specification in duplicate of the invention for which the patent is sought. The petition and specification shall be filed in the patent-office, and the day of such filing shall be recorded at the said office, and indorsed on the petition, and a certificate thereof, under the seal of the patent-office, given to the applicant, or his agent, and thereupon, except in case of application for a patent by any person to whom the commissioner shall have already refused to grant a patent for an invention substantially the same as that for which such application for a patent is made, and subject to the provisions hereinafter contained, the invention shall be protected under this Act for the term of six months next after such filing, and the applicant shall during such term have the like powers, rights, and privileges as would have been conferred upon him by a patent for such invention issued under this Act, and duly sealed, as of the day of such filing: Provided that in case the specification be too large or insufficient, the commissioner may, during the said term of six months, and before the grant of the patent, allow or require the specification to be amended, or another and sufficient specification to be filed in lieu thereof, and every such amended or new specification shall have the same force and effect as if it had been filed in its amended or new form on the day of the filing of the original specification.

16. *Requisites of specifications.* Every such specification shall

correctly and fully describe and ascertain the nature and principle of the invention, and in what manner it is to be made, used, worked, or performed, and shall be signed by the inventor if he be alive, and if not by the applicant, which signature shall be attested by two witnesses, who shall specify when and where the same was signed; and in any case where the invention admits of a model or drawing, illustration, or explanation by means of drawings, the specification shall contain or be accompanied by a model or by drawings in duplicate, showing clearly all parts of the invention, which drawings, if not comprised in the specification, shall be signed and attested in the same manner as the specification: Provided that in any case the commissioner may in his discretion dispense with any such drawings.

[NOTE.—See section 4 of Act of 1881.]

17. *Commissioner to publish notice in Gazette.* The commissioner shall cause to be published in the Government Gazette a notice that the applicant has applied for a patent in respect of the specified invention, giving the name or title thereof, and stating that the specification thereof may be inspected at the patent-office; and that any person may within one month, or within such longer period not exceeding three months to be specified in such notice as the commissioner may determine, object to the grant of the patent by lodging at the patent-office notice in writing, stating his name and address and the nature and grounds of his objection, and also an address within the City of Adelaide, to which notices in respect of such objection or of the application for the patent may be sent.

18. *Applicant to publish notice.* The applicant shall within one week after the filing of his petition, cause notice to be given by advertisement to be inserted three times in at least two of the daily newspapers published in Adelaide, stating that he has applied for a patent for the invention, giving its title or name, and stating that the specification may be inspected at the patent-office.

19. *If no objections lodged, commissioner to grant patent.* If there shall be no objection lodged within the period limited for that purpose by the notice of the government Gazette, the commissioner shall, on the expiration of such period, determine upon the application for the patent and no person shall be entitled to object to such application.

20. *If objection lodged, commissioner to give notice.* If during the period limited as aforesaid any objection to the grant of the patent shall have been duly lodged in the patent-office under the

provisions of this Act, the commissioner shall, immediately on the expiration of such period, send through the general post-office, or otherwise, to the applicant and to every objector at the respective addresses given as hereinbefore prescribed for that purpose, a notice in writing that he will, at a time and place to be specified in the notice, such time to be not less than ten nor more thirty days from the time of posting or otherwise sending such notice, attend to hear and determine upon the application and the objections.

21. *Commissioner may summon witnesses.* The commissioner shall, at the request of the applicant or of any objector, issue summonses under the seal of the patent-office for the attendance of witnesses, and every witness so summoned shall be bound to attend at the time and place mentioned in such summons on being paid his expenses according to the scale for the time being allowed to witnesses on trials in local courts, and to continue in attendance until the matter shall be disposed of, and to produce any documents which he shall by any such summons be required to produce, if they are in his possession, power, custody, or control.

22. *Penalty for non-attendance of witness.* Any witness neglecting to attend, or continue to attend, or to produce any documents in accordance with such summons, shall be liable to a penalty of twenty pounds, in addition to the costs of service of the summons upon him, and the amount paid him for expenses, which penalty, costs, and amount may be recovered by the person on whose behalf such summons shall be issued by information before any two justices of the peace in a summary way, together with the costs of, and incidental to, and resulting from such information.

23. *Commissioner to determine application.* At the time and place appointed the commissioner shall attend and hear the applicant and the objectors either personally or by their respective solicitors or agents, and any evidence adduced either by declaration or *viva voce* in support of the application and objections respectively, and may adjourn or postpone any such hearing, and shall at such hearing, or some adjournment or postponement thereof, either grant or in his discretion refuse the application for the patent.

24. *Cost of application or objection.* The commissioner may, by writing under his hand, order the applicant or any objector to pay to any objector or to the applicant such costs of and attending the application or objection as the commissioner shall think fit, and every such order may be made a rule of the Supreme Court.

25. *Commissioner may refer to examiners.* The commissioner

may at any time, if he shall think fit, refer any petition for a patent, whether opposed or not, to one or more competent person or persons to be appointed by him to examine and consider the matters stated in such petition, and to report thereon to the commissioner for his information ; and the applicant for such patent shall, prior to such reference, pay to the commissioner such sum not exceeding five pounds five shillings, as the commissioner shall in each case direct, such sum to be paid by the commissioner to the person or persons so appointed as aforesaid as a recompense for his or their trouble.

26. *Determination of commissioner final.* The determination of the commissioner upon any such application shall be final, but any applicant whose application has been refused may, on giving not less than four weeks' previous notice in the government Gazette of his intention so to do, make one or more fresh applications for a patent in respect of the same invention.

27. *When patent to issue.* When the commissioner has determined to grant a patent, he shall, upon payment of the proper fee, cause the same to be sealed and issued accordingly ; but except as hereinafter mentioned no patent shall be sealed after the expiration of the six months' term of protection conferred under this Act by reason of the filing of the petition and specification, nor unless the applicant shall pay the fee for the sealing of the patent within ten days after the commissioner has sent to the applicant notice of his intention to grant the same : Provided that where the sealing of any patent shall have been delayed by reason of opposition to the grant thereof, such patent may be sealed at such time as the commissioner shall direct.

28. *Patent may issue after prescribed time in certain cases.* When the sealing of the patent has been delayed from accident and not from the neglect or willful default of the applicant, then the patent may be sealed at such time not being more than one month after the expiration of the six months' term of protection hereinbefore referred to as the Governor shall direct ; and where the applicant for the patent dies during the continuance of such protection, the patent may be granted to his executors or administrators during the continuance of such protection, or at any time within three months after the death of the applicant, notwithstanding the expiration of the term of such protection, and the patent so granted shall be of the like force and effect as if it had been granted to the applicant during the continuance of such protection.

29. *Patent to relate back to filing of petition.* Every patent to be issued in pursuance of this Act shall be signed and sealed and bear date as the day of the filing of the petition and specification as aforesaid, and shall be of the same force and validity as if it had been signed and sealed on the day of which it is expressed to be signed and sealed and bear date ; and after any patent shall have been signed and sealed, it shall not be necessary or material to inquire or ascertain whether any advertisement or notice directed by this Act shall have been published, given, or sent as herein directed.

Part IV.

Effect, Conditions, and Extension of Patents.

30. *Rights conferred by patent.* Every patent granted under this Act shall be in duplicate, and shall contain the title or name of the invention, with a reference to the specification, and shall be in the form in the schedule A. hereto, or as near thereto as the circumstances will permit, and shall, subject to the provisions of this Act and to all such restrictions, conditions, and provisos as the commissioner shall deem necessary or expedient, and shall insert in such patent, confer upon the patentee, his executors, administrators, and assigns, for the term of fourteen years, and for such further term, not exceeding seven years, as the Governor may grant under section 37 of this Act, the sole right of making, using, exercising, and vending such invention : Provided that no patent shall be construed to prohibit the subsequent use or sale of any article once lawfully obtained.

31. *Duplicate patent to be filed.* One duplicate part of every patent issued under this Act shall be delivered to the patentee or his agent, and the other duplicate part shall be filed in the patent-office.

32. *Prerogative of crown preserved.* Nothing herein contained shall extend to abridge or affect the prerogative of the Crown in relation to granting or withholding the grant of any patent or letters patent ; and it shall be lawful for the Governor to direct the commissioner to grant or withhold the grant of any patent or letters patent as aforesaid, or to direct the insertion in any patent issued under this Act of any restrictions, conditions, or provisos which the Governor may think fit, in addition to or in substitution for any restrictions, conditions, or provisos which would otherwise be inserted therein under this Act ; and it shall also be lawful for the Governor to direct any specification filed under this Act, and in

respect of the invention described in which no patent shall at the time of such direction have been granted, to be canceled, and thereupon the protection obtained by the filing of such specification shall cease.

33. *Conditions of patent.* All patents granted under this Act shall be made subject to the conditions that the same shall be void if at any time during the term thereby granted it shall appear that the grant of the patent was contrary to law or prejudicial or inconvenient to the general public, or that the said invention was not a new and useful art, machine, manufacture, or composition of matter, or a new and useful improvement on any art, machine, manufacture, or composition of matter, or that the said invention had been publicly used or offered for sale within the said province prior to the date of such patent, or that the patentee was not the true and first inventor of the patented invention; or if the patent shall have been granted to him as assignee, legatee, executor, or administrator, then that he was not the assignee, legatee, executor, or administrator, as the case may be, of the true and first inventor of the patented invention, or if the specification does not correctly and fully describe and ascertain the nature and principle of the invention, and in what manner it is to be made, used, worked or performed.

34. *Patent to cease on non-payment of fees.* All patents under this Act shall also be made subject to the condition that the same shall be void, and that the rights and privileges thereby granted shall cease and determine at the expiration of three years from the date thereof, unless the patentee, his executors, administrators, or assigns, shall pay at the patent-office the sum of five pounds before the expiration of such three years from the date thereof, and at the expiration of seven years from the date thereof, unless the patentee, his executors, administrators, or assigns, shall pay at the patent-office the sum of five pounds before the expiration of such seven years.

35. *Patented invention may be used in foreign vessels.* No patent for any invention granted after the passing of this Act shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of South Australia or its dependencies, or in any of the waters within the jurisdiction of any of the courts of the said province, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the said province or its dependencies: Provided that

this enactment shall not extend to the ships or vessels of any foreign State of which the laws authorize subjects of such foreign State having patents or the like privileges for the exclusive use or exercise of inventions within its territories to prevent or interfere with the use of such inventions in British ships or vessels, or in or about the navigation of British ships or vessels while in the ports of such foreign State, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from the territories of such foreign State.

36. *Government may use patented invention.* The Government may use any invention patented under this Act, paying to the patentee such sum for the use thereof as shall be agreed upon between the Government and the patentee, or, in case of dispute, such sum as may be fixed by two arbitrators, one of whom shall be appointed by the Government, and one by the patentee; or, in case of disagreement between the arbitrators, by an umpire to be named by them before entering upon the consideration of the matter referred to them.

37. *Government may extend term of patent.* The Governor, on petition by any patentee, or his executors, administrators, or assigns, presented at least six months before the expiration of any patent, and on being satisfied that the patentee, his executors, administrators, or assigns, have been unable to obtain due remuneration for the expense and labor of perfecting the invention, the subject of the patent may, by order under his hand, to be filed in the patent-office, grant an extension of the term of such patent for any term not exceeding seven years from the expiration of the term for which the patent was originally granted: *Provided* that the Governor may require such petition to be advertised in such manner as he shall think fit, and may hear any person desirous of opposing such extension.

PART V.

NEW PATENTS, DISCLAIMERS, ALTERATIONS AND CONFIRMATIONS.

38. *When commissioner may grant new patent.* Whenever any patent shall be deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee having claimed as new more than he had a right to claim, the commissioner may, upon petition by the patentee, and upon being satisfied

that the error arose from inadvertence, accident, or mistake, without any fraudulent intention, and upon the surrender of such patent and payment of the fee for that purpose specified in the schedule B. hereto, and the filing of an amended description and specification, to be filed in the like manner as hereinbefore provided with respect to applications for patents, grant to the patentee, his executors, administrators, or assigns, a new patent for the same invention, for any part or the whole of the then unexpired term for which the original patent was granted.

39. *Disclaimer or memorandum of alteration may be filed.* Any patentee, his executors, administrators, or assigns, may, on payment of the fee for that purpose specified in the schedule B. to this Act, and on obtaining the leave of the commissioner, file in the patent office a disclaimer of any part, either of the title or the specification of the invention in respect of which he is the patentee, or the executor, administrator, or assignee of the patentee, stating the reasons for such disclaimer, or a memorandum of any alteration in such title or specification, not being such disclaimer or alteration as shall extend the exclusive right granted by the patent. Such disclaimer or memorandum of alteration shall be attached to the patent or specification filed in the patent-office, and a memorandum thereof shall be entered upon the patent in possession of the patentee, his executors, administrators, or assigns, and thereupon such disclaimer or memorandum of alteration shall be deemed and taken to be part of the patent or specification in all courts in the said province: Provided that no such disclaimer or alteration shall, except, in proceedings by scire facias, be receivable in evidence to support any patent in any action or suit pending at the time that such disclaimer or alteration was filed, or brought in respect of any infringement of any patent committed prior to the filing of such disclaimer or memorandum of alteration; but in every such action or suit, except as aforesaid, the original title and specification alone shall be given in evidence, and deemed to be the title and specification of the invention for which the patent shall have been granted.

40. *Commissioner may require notices to be given.* The commissioner may require any patentee, his executors, administrators, or assigns, applying for a new patent, or for leave to file a disclaimer or memorandum of alteration, to give such notices by advertisement or otherwise of his application as the commissioner shall think fit, and may hear any person in opposition to such

application. The filing of any disclaimer or memorandum of alteration in pursuance of the leave of the commissioner obtained under the last preceding section shall, except in cases of fraud, be conclusive as to the right of the party to file such disclaimer or memorandum of alteration under this Act, and no objection shall be made in any proceeding upon or touching such patent, specification, disclaimer, or memorandum of alteration on the ground that the party filing such disclaimer or memorandum of alteration had not sufficient authority in that behalf.

41. *Mode of obtaining confirmation of invalid patent.* If in any suit or action it shall be proved, or specially found by the verdict of a jury, that any person who shall have obtained a patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented the same, or some part thereof, before the date of such patent, or if such patentee, his executors, administrators, or assigns, shall discover that some other person had unknown to such patentee invented the same, or some part thereof, before the date of such patent, such patentee, his executors, administrators, or assigns, may petition the Governor to confirm the said patent, or to grant a new patent in respect of such invention; and it shall be lawful for the Governor to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

42. *Appointment of commissioners.* The Governor may issue to three or more persons, of whom one shall be a judge of the Supreme Court, a commission reciting such petition, and requiring and authorizing such persons, or any three of them, of whom the said judge shall be one, to meet at some time, not being less than two months from the publication of the said commission in the government Gazette, and at some place to be respectively fixed in the said commission, and then and there to consider the said petition, and to report to the Governor whether such confirmation should or should not be made.

43. *Notice of commission published; caveat.* Six weeks at least before the time named in the said commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published twice in the government Gazette, and three times in some daily newspaper published in Adelaide, an advertisement of the contents of the said commission; and any person having an interest in opposing the said petition shall be at liberty to enter a

caveat against the same at the office of the commissioner of patents at any time not being less than one week before the time named in the said commission for the execution thereof.

44. *Commissioners to hear all parties and report.* At the time and place fixed in the said commission for that purpose, the commissioners shall meet and proceed to consider such petition, and the petitioner shall be heard in person, or by his solicitor or agent, and may call witnesses to prove his case as stated in such petition, and the publication of the last mentioned advertisement as required by this Act; and the persons entering caveats shall likewise be heard in person, or by their solicitors or agents, and may also call witnesses; and all witnesses shall be examined upon oath or affirmation (which oath or affirmation such commissioners as aforesaid are hereby authorized and required to administer); and thereupon, and upon hearing and inquiry of the whole matter, such commissioners, upon being satisfied that such patentee as aforesaid believed himself to be the first and original inventor, and being satisfied that the invention, or part thereof, has not been publicly and generally used, or offered for sale within the said province prior to the date of such patent, may report to the Governor their opinion that the prayer of such petition ought to be complied with; whereupon the Governor may, if he shall think fit, grant such prayer; and the confirmed or new patent (as the case may be) shall thereupon be available at law and in equity to give to such petitioner the sole right of making, using, exercising, and vending such invention as against all persons whomsoever, anything hereinbefore contained to the contrary notwithstanding: Provided that any person party to any former suit or action touching the first patent shall be entitled to have notice in writing of the time and place fixed as aforesaid for the first meeting of the said commissioners to consider the said petition; and after any such report shall have been made it shall not be material or necessary to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner hereinbefore directed.

45. *Where patent only partly assigned.* When a patentee, his executors, administrators, or assigns, shall have assigned a part only of his or their interest in any patent, no petition or application under any of the preceding sections numbered respectively 37, 38, 39, and 41, shall be allowed unless joined in by all persons having any legal interest in the patent.

Part VI.

Caveats and Revocation and Assignment of Patents.

46. *Caveat may be filed.* Any intending applicant for a patent may file in the patent-office, on payment of the fee specified for that purpose in the schedule B. hereto, a document to be signed by him and containing a description of any invention claimed by him as his own (with or without plans at his option), and giving an address within the City of Adelaide to which any notice by the next following clause required to be sent to him may be addressed; such document, which shall be called a caveat, may be amended by the caveator, at any time within one year from the filing thereof, and shall, until the expiration of such year, be preserved in secrecy in the patent-office, the commissioner being at liberty, however, to furnish copies of the same to the caveator on payment of the proper charges for such copies.

47. *In certain cases commissioner to send notice.* If at any time before the expiration of one year from the filing of any caveat an application shall be made by any person other than the caveator for a patent for any invention, and the commissioner shall consider that the granting of such application may interfere with or affect the right of the caveator to obtain a patent for the invention described in the caveat, the commissioner shall forthwith send notice thereof through the general post-office to the caveator at the address given by him for that purpose.

48. *Patent may be revoked by governor.* Every patent shall be liable to be revoked by the Governor upon the application of any person after the expiration of three years from the granting thereof, if it shall be made to appear to the Governor that neither the patentee nor his assignee or licensee has, before the time of such application, used the patented invention to a reasonable extent for the public benefit: Provided that the Governor may in his absolute discretion refuse any such application upon such terms and conditions as he may see fit.

49. *Proceedings to revoke patent.* The Supreme Court of the said province shall have jurisdiction to revoke and cancel any patent issued under this Act, upon a writ of scire facias, issued out of the said court; and in case any person having an interest in such patent shall not reside in the said province at the time of the issue of such writ, it shall be sufficient as against such person to file such

writ in the office of the Supreme Court, and serve notice of such filing at his last known place of business or residence within the said province (if any), and if no such place can be found, then to give notice of such filing by advertisement, or otherwise, as the said court may in each case direct.

50. *Patent may be filed in the Supreme Court.* Any person desiring to impeach a patent issued under this Act may obtain from the patent-office a copy of the patent, and of the petition, declaration, specification, and drawings thereunto relating, certified under the seal of the patent-office and the hand of the commissioner, and may file the same in the office of the said Supreme Court to be held of record therein.

51. *Certificate of judgment to be filed.* A certificate of the judgment voiding any patent shall be filed in the patent-office by the prosecutor on the writ of scire facias, and shall be noted on the duplicate patent in the patent-office, and thereupon the patent shall be and be held to have been void and of no effect from the time of the grant thereof.

52. *Assignment of patent.* Every patent shall be assignable either as to the whole interest of the patentee, his executors, administrators, or assigns, or as to any part of such interest by instrument in writing under the hand of the assignor or his agent thereunto authorized in writing; and every such assignment shall be in duplicate, and shall be registered by deposit of one duplicate part in the patent-office. Every assignment shall be deemed null and void against any subsequent assignment for valuable consideration, unless such prior assignment shall be registered before the registration of the subsequent assignment.

PART VII.

MISCELLANEOUS PROVISIONS.

53. *Patents, &c., to be open to public inspection.* All patents, specifications, drawings, models, disclaimers, and other papers, except caveats, filed in the patent-office, shall be open to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

54. *Fees.* The fees mentioned in schedule B. to this Act shall be paid in respect of the several matters and things therein respectively referred to. Such fees shall form part of the general revenue

of the said province, and be paid, applied, and disposed of accordingly.

55. *Commissioner may correct clerical errors.* No patent or other instrument under this Act shall be invalidated by any clerical error in the framing or copying thereof, but any such error may be corrected by or under the authority of the commissioner.

56. *Lost patent.* In case any patent be lost or destroyed, any person entitled to such patent may obtain from the patent-office, on payment of the proper fee, a copy of such lost or destroyed patent, to be certified under the seal of the patent-office.

57. *Declarations, before whom to be made.* Every declaration under this Act may be made before the commissioner or any justice of the peace or notary public in South Australia; or if the declaration shall be made out of the said province, then before any person who, in the country in which the declaration is made, shall be authorized to administer an oath.

58. *Licensed patent agents.* It shall be lawful for the commissioner, with the sanction of the Governor, to license fit and proper persons to be patent agents for transacting business under the provisions of this Act, and upon proof to his satisfaction of the malfeasance or incapacity of any such licensed patent agent, or on nonpayment of any annual fee for any such license, as prescribed by schedule B. hereto, and with such sanction as aforesaid, to revoke any such license. Before granting any such license the commissioner shall receive bond from the person to be licensed in the sum of five hundred pounds, with two sureties each in the sum of two hundred and fifty pounds, conditioned that such person shall duly and faithfully act in the capacity of a licensed patent agent, in accordance with the provisions of this Act, and shall also administer to such person the oath following:—

> I, A. B., do solemnly swear that I will faithfully and to the best of my ability execute and perform all such business or duties as may be entrusted to or imposed upon me as a licensed patent agent. So help me God.

59. *Certificate of correctness; false and negligent certificate.* The commissioner shall not receive any petition, disclaimer, memorandum of alteration, caveat, assignment, or other instrument under this Act, unless there shall be indorsed thereon a certificate that the same is correct for the purposes of this Act, signed by the applicant or the principal party filing such instrument, or by his solicitor, or by a patent agent licensed under this Act, or by a land broker lic-

ensed under the provisions of the "Real Property Act of 1861," or any Act substituted therefor ; and any person who shall falsely and negligently certify to the correctness or any such instrument shall incur a penalty therefor not exceeding fifty pounds, to be recovered by any person before two or more justices of the peace in a summary manner.

60. *In actions for infringements; particulars of breaches and objections.* In any action for the infringement of a patent the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his pleas, and the prosecutor in any proceedings by scire facias to revoke and cancel any patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration in the proceedings by scire facias respectively ; and at the trial of such action or proceeding by scire facias no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such patent, which shall not be contained in the particulars delivered as aforesaid : Provided always, that the place or places at or in which and in what manner the invention is alleged to have been used or offered for sale in the said province prior to the date of the patent shall be stated in such particulars : Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff, or defendant, or prosecutor, respectively, to amend the particulars delivered as aforesaid upon such terms as to such judge shall seem fit : Provided also, that at the trial of any proceedings by scire facias to revoke and cancel a patent the defendant shall be entitled to begin and to give evidence in support of such patent ; and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such patent the defendant shall be entitled to the reply.

61. *Particulars to be regarded in taxing costs.* In taxing the costs in any action commenced after the passing of this Act for infringing any patent, regard shall be had to the part of such case which has been proved at the trial, which shall be certified by the judge before whom the case shall be tried, and the costs of each part of the case shall be given according as either party has succeeded or failed therein, regard being had to the particulars of objections and breaches as well as the counts in the declaration, and the plaintiff and defendant respectively shall not be allowed any

costs in respect of any particular unless certified by the judge before whom the trial was had to have been proved by such plaintiff or defendant respectively, without regard to the general costs of the cause; and it shall be lawful for the judge before whom any such action shall be tried to certify on the record that the validity of the patent in the declaration mentioned came in question; and the record with such certificate being given in evidence in any suit or action for infringing the said patent, or in any proceeding by scire facias to revoke and cancel the patent, shall entitle the plaintiff in any such suit or action, or the defendant in any such proceeding by scire facias, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, to be taxed as between attorney and client, unless the judge making such decree or order, or the judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

62. *Register of Patents.* There shall be kept at the patent-office a book or books to be called the "Register of Patents," wherein shall be entered and recorded, in chronological order, all patents granted under this Act, the deposit and filing of specifications, disclaimers, and memoranda of alterations filed in respect of patents, all amendments in specifications and patents, all assignments, confirmations, and extensions of patents, the expiry, determination, vacating, revoking, or canceling of patents, with the dates thereof respectively, and all other matters and things affecting the validity of patents as the Governor may direct; and such register or a copy thereof shall be open at all convenient times to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

63. *Register of Proprietors to be kept.* There shall also be kept at the patent-office a book or books entitled "The Register of Proprietors," wherein shall be entered every assignment of a patent, or of any share or interest therein, every license under a patent, and the place or district to which such license relates, with the name or names of every person having by assignment any patent, or any share or interest in any patent, or, having any license, the date of his or their acquiring such patent, share, interest, or license, and any other matter or thing relating to or affecting the proprietorship in such patent or license; and a copy of any entry in such book, certified under the seal of the patent-office, shall be given to any person requiring the same, and shall be *primâ facie* evidence of the

proprietorship or assignment of such patent, or share or interest therein, or license as therein expressed: Provided always, that until such entry shall have been made the grantee or grantees of the patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such patent, and of all the licenses and privileges thereby given and granted, and such register, or a copy thereof, shall be open to public inspection, subject to such regulations as the Governor may make.

64. *Expungement, &c., of entries in Register.* If any person shall deem himself aggrieved by any entry made under color of this Act in any such register as aforesaid, he may apply to the Supreme Court, or any judge thereof, for an order that such entry may be expunged, vacated, or varied, and such court or judge may thereupon make such order as to the expunging, vacating, or varying of such entry, and as to the costs of such application, as to such court or judge shall seem fit; and the officer having the custody of such register shall, on the production of any such order, expunge, vacate, or vary such entry in accordance with the order.

65. *Falsification or forgery of entry.* If any person shall willfully make or cause to be made any false entry in any such register, or shall willfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in any such register, or shall produce or tender, or cause to be produced or tendered in evidence, any such writing or any such false entry, knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall be liable to be imprisoned for any term not exceeding five years.

66. *Punishment on false oath or declaration.* Every person who shall make any false oath or declaration under this Act shall be guilty of a misdemeanor, and shall on conviction be liable to imprisonment, with or without hard labor for any period not exceeding five years.

67. *Penalty for unauthorized use of name of patentee, &c.* If any person shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark upon anything made, used, or sold by him, for which he has not or shall not have obtained a patent, the name or any imitation of the name of any other person who has or shall have obtained a patent for such thing without leave in writing of such patentee, his executors, administrators, or assigns, or if any person shall, upon such thing not having been purchased from the patentee, his executors, administrators, or assigns, or some per-

son who purchased it from or under such patentee, his executors, administrators, or assigns, or not having had the license or consent in writing of such patentee, his executors, administrators or assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "patent," the words "letters patent," or the words "By the Queen's patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, his executors, administrators, or assigns, or shall in any other manner imitate or counterfeit the stamp, mark, or other device of the patentee, his executors, administrators, or assigns, he shall for every such offense forfeit and pay the sum of one hundred pounds, one half to Her Majesty, her heirs and successors, and the other half with full costs of suit to any person who shall sue for the said penalty, by action of debt, or in a summary manner before any two justices of the peace of the said province: Provided always, that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "patent" upon anything in respect of which the patent before obtained shall have expired or otherwise determined.

68. *Proceedings before justices.* The proceedings before justices shall be conducted as appointed by and shall be regulated under the Ordinance No. 6 of 1850, entitled "An Ordinance to facilitate the performance of the duties of Justices of the Peace out of Sessions with respect to summary convictions and orders."

69. *Non-payment of penalty.* In every case of the adjudication of a fine or pecuniary penalty or amends under this Act, and of the non-payment of such fine or pecuniary penalty or amends, any justice of the peace may commit the offender or person making default in payment to any jail in the said province for any time not exceeding three calendar months, the imprisonment to cease on payment of the sum and costs due; but this section shall not affect any remedy for the recovery of any fine or pecuniary penalty or amounts under the said Ordinance No. 6 of 1850, or any other ordinance or Act.

70. *Appeal.* There shall be an appeal from any order of justices of the peace made under the provisions hereinbefore contained, or from any order of justices of the peace dismissing any information laid under this Act, or from any conviction by justices for any offense against this Act, which appeal shall be to the local court of Adelaide of full jurisdiction only, and the proceedings in such

appeal shall be conducted in manner appointed by the said Ordinance No. 6 of 1850 for Appeals to Local Courts, but the local court of Adelaide aforesaid may make such order as to payment of costs of appeal as such court shall think fit, although such costs may exceed ten pounds.

71. *Local court may state a case for Supreme Court.* It shall be lawful for the local court of Adelaide, upon the hearing of any appeal under the last preceding section, to state one or more special case or cases for the opinion of the Supreme Court and the Supreme Court shall hear and decide such special case or cases according to the practice of the Supreme Court on special cases; and the Supreme Court shall make such order as to the costs of any such special case as to the said court shall appear just; and any two or more justices, or the local court of Adelaide, shall make an order in respect of the matters referred to the Supreme Court, in conformity with the certificate of the said Supreme Court, or of any judge thereof, which order of the justices of the peace or local court shall be enforced in manner provided by this Act for the enforcement of orders of justices of the peace; and, save as herein provided, no order or proceeding of justices or of any local court made under the authority of this Act, shall be appealed against or removed by certiorari or otherwise into the Supreme Court of the said province.

72. *Definition clause.* In the construction of this Act the following expressions shall have the meanings hereby assigned to them unless such meaning shall be repugnant to or inconsistent with the context: "patent" shall mean letters patent granted under this Act; "patentee" shall mean a person to whom a patent shall have been granted under this Act; "commissioner" shall mean the commissioner of patents.

SCHEDULE A.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to all to whom these presents shall come, greeting:

Whereas , of , hath, by his petition, represented unto us that he is [*or* , of , is or was] the true and first inventor of a certain invention for , and that the same has not been publicly used or offered for sale within the province of South Australia more than twelve months prior to the date of the said petition [and that the said is the assignee, legatee, executor, or administrator,

as the case may be, of the said], and hath, therefore, humbly prayed for letters patent for the sole making, using, exercising, and vending of the said invention within our said province for the term of fourteen years, pursuant to "The Patent Act, 1877:" And whereas the said hath correctly and fully described and ascertained the nature and principle of the said invention, and in what manner the same is to be made, used, worked, or performed, by a specification in writing under his hand, and has caused the same to be duly filed in the patent office of our said province on the day of , 18 : And We, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioner's request: Know ye, therefore, that we of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents for us, our heirs and successors, do give and grant unto the said , his executors, administrators, and assigns, our special license, full power, sole privilege, and authority, that he, the said , his executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as the said , his executors, administrators, or assigns, shall at any time agree with, and no others, from time to time, and at all times hereafter during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within our said province, in such manner as to him, the said , his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet; and that he, the said , his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage from time to time coming, growing, accruing, and arising by reason of the said invention for and during the term of years herein mentioned, to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages herein before granted or mentioned to be granted to the said , his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years from the day of , A. D. , according to the statute in such case made and provided; and to the end that he, the said , his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit and sole use and exercise of the said invention, according to our gracious intention hereinbefore declared, we do by these presents for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within our said province, that neither they nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, exercise, or vend the said invention, or any part of the same, so attained unto by the said as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisers thereof, without the consent, license, or agreement of the said , his executors, administrators, or assigns, in writing under his or their hands or seals first had and obtained in that behalf, upon *such pains and penalties as can or may be justly inflicted on such offenders for their* contempt of this our royal command, and further to be answerable to the said , his executors, administrators, and assigns, according to law for his and their damages thereby occasioned: And, moreover, we do by these presents, for us, our heirs and successors, will and command all and singular the justices of the peace, sheriffs, bail-

iffs, constables, and all other officers and ministers of us, our heirs and successors for the time being, that they or any of them do not nor shall at any time during the said term hereby granted in anywise molest, trouble, or hinder the said , his executors, administrators, and assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall appear that this our grant is contrary to law, or prejudical or inconvenient to the general public, or that the said invention is not a new and useful art, machine, manufacture, or composition of matter, or a new and useful improvement on any art, machine, manufacture, or composition of matter, or that the said invention has been publicly used or offered for sale within our said province prior to the date of these our letters patent, or that the said petitioner is not the true and first inventor thereof [*or* the assignee, legatee, executor, or administrator, *as the case may be*, of the true and first inventor thereof], or if the said specification, filed as aforesaid, does not correctly and fully describe and ascertain the nature and principle of the said invention, and in what manner the same is to be made, used, worked, or performed, or if the said , his executors, administrators, or assigns, shall not supply or caused to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of our service, for the use of which the same shall be required, in such manner, at such times, and at or upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same, then and in any of the said cases these our letters patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provide also, that these our letters patent or anything herein contained, shall not extend or be construed to extend to give privliege unto the said , his executors, administrators, and assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use, exercise, and benefit thereof, it being our will and pleasure that the said , his executors, administrators, and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions by them invented and found out according to the true intent and meaning of the same respective letters patent, and of these presents: Provided likewise, and these our letters patent are upon this express condition, that the same shall be void, and that the rights and privileges hereby granted shall cease and determine at the expiration of three years from the date hereof, unless the said , his executors, administrators, or assigns, shall pay at the said patent-office the sum of five pounds before the day of , A. D. 18 and further upon condition that the same letters patent shall be void, and the said rights and privileges cease and determine at the expiration of seven years from the date hereof, unless the said , his executors, administrators, or assigns, shall pay at the said patent-office the sum of five pounds before the day of , A. D. 18 : Provided that nothing herein contained shall prevent the granting of licenses in the manner and for the considerations in and for which they may by law be granted; and lastly we do by these presents for us, our heirs and successors, grant

unto the said , his executors, administrators, and assigns, that these our letters patent or the filing thereof shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense, for the best advantage of the said , his executors, administrators, and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors, in this our said province, and amongst all and every the subjects of our heirs and successors, whatsoever and wheresoever. In witness whereof we have caused these our letters patent to be made patent this day of , A.D. , and to be sealed with the seal of the said patent-office, and bear date as of the said day of , A.D., in the year of our reign.

SCHEDULE B.

(As Amended by Act of 1881.)

Fees to be paid in respect of the several matters hereunder specified :—

	£	s.	d.
On filing every petition....	2	10	0
On grant of patent.....	1	1	0
On every patent before the expiration of three years from its date.....	2	10	0
And before the expiration of seven years.....	2	10	0
For taking any declaration.....	0	8	6
For every certificate of filing	0	2	6
On filing every amended or substituted specification.....	1	0	0
On lodging objections against grant of patent.....	0	10	6
On every summons to witnesses...	0	5	0
On hearing of every opposed application.....	1	0	0
On filing duplicate patent.....	0	5	0
On extention of patent.....	20	0	0
On granting new patent under Part V.....	10	0	0
On filing every disclaimer or memorandum of alteration.....	2	10	0
On confirmation of invalid patent.....	50	0	0
On filing caveat under part VI.....	1	0	0
On amending any caveat.....	0	10	6
For every office copy (including the seal) per folio of 72 words.....	0	0	6
On filing every certificate voiding a patent.....	0	5	0
On deposit of any assignment of patent.....	1	0	0
On every search, including inspection.....	0	2	6
Annual fee for license to patent agent.....	5	0	0

From *Carpm. Pat. Law of World,* 460.

An Act to amend "The Patent Act, 1877." *No.* 201, 1881.

Preamble. Whereas it is desirable to amend "The Patent Act, 1877," by affording greater facilities for the obtaining of patents—Be it therefore enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

1. *Short title.* This Act may be for all purposes cited as "The Patent Act Amendment Act, 1881."

2. *Incorporation.* This Act and "The Patent Act, 1877," except so far as the same is altered by this Act, shall be incorporated and read and construed together.

3. *Petition for patent.* Every petition for a patent shall be addressed to the commissioner, and shall be accompanied by a declaration by the applicant, or his duly authorized attorney or agent, that the several allegations contained in the petition are true, and stating that the person making the declaration verily believes that the inventor mentioned in the petition is the true and first inventor of the invention for which the patent is sought.

4. *Requisites of specifications.* For the purposes of section 16 of the said Act, it shall be sufficient, whether the inventor be alive or not, if the specification therein mentioned be signed by the applicant, or his duly authorized attorney or agent, and if such signature be attested as provided in the said section.

5. *Exhibition not ground for refusing patent.* The mere fact of any inventor having exhibited or tested his invention, either publicly or privately, shall not in itself be deemed any ground for refusing him a patent, or justify any other person in using such invention, provided that such exhibiting must have been within six months of the date of the inventor filing his petition for a patent.

6. *Schedule of fees.* The fees mentioned in the schedule of this Act shall be paid in respect to the several matters and things therein respectively referred to, in lieu of the fees mentioned in schedule B of the Patent Act, 1877. Such fees shall form part of the general revenue of the said province, and be paid, applied, and disposed of accordingly. [NOTE.—See end of 1877 Act.]

7. *Repeal.* Section 14 of the said Act is hereby repealed.

From *Carpm. Pat. L. of World*, 493.

See also AUSTRALASIA.

SPAIN.

Law of July 30, 1878.*

SECTION I.

GENERAL PROVISIONS.

ARTICLE 1. Every Spaniard or foreigner who intends to establish or has established in the Spanish dominions a new branch of industry shall have the exclusive right to work the same during a certain number of years, subject to the rules and conditions laid down by the present law.

ART. 2. The right referred to in the preceding article shall be acquired by obtaining from the Government a patent of invention.

ART. 3. The following objects shall be patentable :—

Machinery, apparatus, instruments, processes, or mechanical or chemical operations, being entirely or partly a new and original (*i. e.*, the applicant's own) invention, or which, without fulfilling these conditions, have not been established or executed in the same way or form in the Spanish dominions.

New industrial products or results obtained by new or known means, provided their working tends to establish a new industry in the country.

ART. 4. Patents having for their objects products or results mentioned in the second paragraph of the previous article shall not prevent other patentees of objects mentioned in the first paragraph from obtaining the same products or results.

ART. 5. Objects which are not known, nor have been executed, or worked in the Spanish dominions or abroad, shall be considered as new according to article 3 of this law.

ART. 6. The right which is conferred by the patent of invention, or as the case may be, the right derived from the application, can be transferred entirely or partly by the various ways established by our laws relating to private property.

ART. 7. A patent of invention can be granted to one person or to several, or to a society, whether they be natives or foreigners.

* Another translation of this law, differing slightly from that given in the text, may be found in 26 Pat. Off. Gaz. 108.

ART. 8. All patents shall be considered as granted, not only for the Peninsula and adjacent islands, but also for the provinces beyond the sea.

ART. 9. The following shall not be the objects of patents :—

(1.) The result or product of the machines, apparatus, instruments, processes or operations mentioned in the first paragraph of article 3, unless they are contained in the second paragraph of the same article.

(2.) The use of natural products.

(3.) Scientific principles or discoveries, so far as they are of a mere speculative nature, and are not likely to be applicable to machinery, apparatus, instruments, processes, or mechanical or chemical operations of a practical industrial nature.

(4.) Pharmaceutical or medical preparations of all sorts.

(5.) Schemes or combinations of credit or finance.

ART. 10. No patent shall be delivered for more than one object of industry.

ART. 11. Patents of invention shall be delivered without previous examination as to novelty or utility, and must not therefore be considered in any case as a declaration or certificate of the novelty or utility of the object to which they refer. Qualifications of this nature concern the person interested, who must act on his own responsibility, and will be subject to the consequences resulting from the provisions of the present law.

SECTION II.

THE DURATION OF PATENTS AND THE GOVERNMENT FEES.

ART. 12. The duration of patents of invention shall be twenty years without prolongation, if they have for their object new and original inventions. The duration of patents for all objects that are not original inventions, or being so, are not new, shall only be five years without prolongation.

Nevertheless, patents shall be granted for ten years for all original inventions, even when the inventor has obtained a patent for the same object in one or more foreign countries, provided he applies therefor in Spain before the expiration of two years from the obtaining of the first foreign patent.

ART. 13. For working a patent there must bee paid in Government paper an annual and progressive tax, as follows:—10 pesetas for the first year, 20 pesetas for the second year, 30 pesetas for the

third year, and so on to the fifth, tenth, or twentieth year, when the tax will be respectively 50, 100, and 200 pesetas.

ART. 14. The annual taxes mentioned in the previous article shall be paid in advance, and they will in no case be dispensed with.

SECTION III.

FORMALITIES FOR THE GRANT OF PATENTS.

ART. 15. Every person who desires to obtain a patent shall deliver at the office of the secretary of the civil government of the province in which he is domiciled, or at that of any other province where he elects domicile for this purpose :—

(1.) A petition to the minister of commerce, in which he indicates a single object for the patent, stating whether the said object is a new and original invention, or not, and the domicile of the applicant, or his attorney. In the latter case the power must be annexed to the petition. It must contain neither conditions, restrictions, nor reservations.

(2.) A specification in duplicate, in which shall be described the machine, apparatus, instrument, process, or mechanical or chemical operation forming the object of the patent, all with the greatest possible clearness, so that there can at no time be the least doubt as to the object or the particular represented to be a new and original invention, or as to its not having been practiced or established in the same mode or form in Spain. At the foot of the specification there must be a note expressing clearly, distinctly, and particularly which part, piece, movement, mechanism, operation, process, or matter is claimed as the object of the patent. The patent will depend entirely on the contents of the said note.

The specification must be written in Spanish, without abbreviations, corrections, or erasures of any kind, on sheets folded and numbered. References to weights and measures must be given according to the metrical decimal system.

The specification must not contain conditions, restrictions, or reservations.

(3.) The drawings, samples, or models which the interested party thinks necessary for the comprehension of the descriptive specification, all in duplicate.

The drawings must be made on cloth-paper in ink, and according to the metrical decimal scale.

(4.) The receipt for the payment to the State of the first annual tax.

(5.) A signed list of all the documents and objects presented, which latter must also be signed by the applicant or his attorney.

ART. 16. The secretary of the civil government upon receiving the documents and objects mentioned in the preceding article, shall enter, in a special register, the day, the hour, and the minute of the presentation; sign the list jointly with the interested party or his representative, and deliver a proper receipt. The same secretary shall close and seal the box or packet containing the two copies of the specification, and of the drawings, samples, or models, and write underneath the inscription on the box or packet "Presented on such a month, day, hour, and minute," signing the same, and affixing the official seal.

The entry in the register of presentation indicating the day, hour, and minute of presentation shall establish the right of priority of the applicant.

ART. 17. Within a term not exceeding five days from the date of the presentation of the application, and of the aforesaid documents and objects, the civil governor shall remit to the director of the Conservatory of Arts at Madrid the application, together with the documents and objects, also a certificate of the secretary, countersigned by the governor, of the entry in the register, and the contents of the box or packet. The cost of remittance shall be borne by the interested party.

ART. 18. The secretary of the Conservatory of Arts shall examine the contents of the box or packet, and shall sign and seal, at the foot of the certificate mentioned in the preceding article, a statement as to their completeness or defects.

ART. 19. The secretary of the conservatory shall at once compare the two copies of the specification and drawings or models for the sole purpose of satisfying himself of their identity, and having found them consistent and that the specification has written at the end the note mentioned in the second paragraph of article 16 (*query* 15?), he shall sign and seal both copies, in proof of the compliance with this formality.

If he discovers any defects in the documents, he shall point them out in his dispatch, and they must be corrected by the interested parties themselves, or their attorneys; for which purpose they shall be allowed a term of two months, counting from the day of the presentation of the petition to the government of the province,

if it is in the Peninsula or the adjacent islands, and of four months if in the Canaries or Antilles, and of eight months for the Philippine Islands.

These terms cannot be prolonged, and when once expired without the defects pointed out having been amended, such application shall not proceed, and the petition for the patent shall be considered as of no effect.

ART. 20. When the requirements mentioned in two preceding article have been observed, the director of the Conservatory of Arts, bearing in mind the provisions of article 11, shall send the petition to the minister of commerce, together with a report stating—

(1.) Whether the form of the petition is in conformity with the provisions of article 15.

(2.) Whether the specification and the above-mentioned drawings, samples and models, all in duplicate, and the receipt for the government tax for the first year, have been delivered.

(3.) Whether there is perfect conformity between the duplicates of the specifications, drawings, samples or models and the originals.

(4.) Whether the object of the patent is comprised among one of the cases of article 9.

(5.) Whether, taking all circumstances into consideration, it is advisable to grant or refuse the petition.

ART. 21. If the application results favorably, the minister of commerce shall inform the director of the Conservatory of Arts thereof, who shall publish this decision by means of the Madrid Gazette; and within a term, which cannot be prolonged, of one month from the date of publication, the interested party or his representative shall appear at the Conservatory or Arts to pay in Government paper the value of the stamp, which must be put on the patent document. Should this not be done within the prescribed term, the proceedings shall be stayed and the petition for the patent shall be considered as of no effect.

ART. 22. When the payment mentioned in the preceding article has been made, the director of the Conservatory of Arts shall inform the minister of commerce thereof, who shall immediately issue the patent of invention, and send it to the Conservatory of Arts, whose director shall communicate it to the governor of the province where the application was originally made, for the purpose of having it duly entered in the register mentioned in article 16, and of having it copied by the secretary of the conservatory in a special register, after which it shall be delivered by him to the interested party or

his representative, against a receipt which shall be attached to the documents.

ART. 23. At the head of the patent there shall be printed in letters of a larger type than the largest employed in the body of the same the following words :—

"Patent of invention, without guarantee of the government as to the novelty, fitness, or utility of the object for which it is granted."

ART. 24. The secretary of the Conservatory of Arts shall likewise deliver to the interested party or his representative, against a receipt, at the same time as the patent, one of the copies of the specification and of the drawings, samples and models accompanying it, and the whole shall be considered as an integral part of the patent and so designated therein.

ART. 25. The special register of patents at the office of the secretary of the Conservatory of Arts shall remain at the disposition of the public during the hours fixed by the director. The dates in this register shall be considered as evidence in the courts.

SECTION IV.

THE PUBLICATION OF PATENTS AND THE PUBLICITY OF SPECIFICATIONS, DRAWINGS, SAMPLES, OR MODELS.

ART. 26. The director of the Conservatory of Arts shall deliver to the Madrid Gazette, within the second half of the months of January, April, July, and October, for immediate publication in that official periodical, a report of all patents granted during the preceding quarter, clearly expressing their objects.

The provincial governors shall have these reports reproduced in the official bulletins in the same form as in the Gazette.

ART. 27. The specifications, drawings, samples, and models relating to the patents shall be open for public inspection at the office of the secretary of the Conservatory of Arts during the hours fixed by the director of the same.

Any one wishing to make copies thereof may do so at his own expense, after previous consent of the director of the conservatory, who will fix the place, days, and hours at which they can be made.

ART. 28. After the expiration of patents, the specifications, drawings, samples, and models shall remain at the Conservatory of Arts, in the museum of which shall be placed those which appear worthy of being exhibited there.

SECTION V.

CERTIFICATES OF ADDITION.

ART. 29. The owner of a patent of invention, or those interested through him, shall during the term of the grant have the right of making any alterations, modifications, or additions to the object of the patent, they may think proper, in preference to all others applying at the same time for a patent for an object similar to the alterations, modifications, or additions.

Such alterations, modifications, or additions shall be established by certificates of addition, delivered in the same way and with the same formalities as the original patent, and after application and proceedings as prescribed by article 15.

ART. 30. The applicant for a certificate of addition shall pay a single tax of 25 pesetas in government paper.

ART. 31. Certificates of addition shall form part of the original patent, and shall have from the respective dates of the application and grant the same effect. The time for working a certificate of addition terminates at the same time as that for the original patent.

SECTION VI.

CESSION AND TRANSFER OF PATENT RIGHTS.

ART. 32. All total or partial cessions of the rights conferred by a patent of invention or certificate of addition, whether gratuitously or for a consideration, and every other act involving a modification of the original right must indispensably be made by deed on which there shall be a certificate of the secretary of the Conservatory of Arts, signed by the director, proving the payment up to date of the taxes prescribed by this law, and that the assignor is the real owner of the patent or certificate of addition according to the entries in the records.

ART. 33. No assignment or other deed involving a modification of the right can prejudice a third party, unless it has been registered at the office of the secretary of the civil government of the province where the original deposit took place.

ART. 34. The registration of cessions and of all deeds involving a modification in the right shall be effected by the presentation and delivery to the secretary of the provincial government of an attested copy of the deed or contract of cession or modification.

On this copy the secretary shall mark the day and the page of the register.

ART. 35. The civil governor of the province where the assignment or other deed or contract involving a modification in the right is registered, shall, within five days after it has been entered in the register, transmit to the director of the Conservatory of Arts a copy, certified by the secretary and countersigned by the governor, both of the deed or contract of cession or modification, and of the entry on the register made by the secretary.

ART. 36. The secretary of the Conservatory of Arts shall note in the special register of patents all modifications occurring in the right of each of them, after having taken cognizance of the certified copy of the deed or contract of cession annexed to the records.

ART. 37. The director of the Conservatory of Arts shall transmit to the Gazette with the report mentioned in article 26 all modifications of rights that have taken place in the patents.

SECTION VII.

LIABILITIES OF PATENTEES.

ART. 38. The owners of a patent or certificate of addition shall be required to prove before the director of the Conservatory of Arts, within a term of two years counting from the date of the patent or of the certificate of addition, that they have put it in practice on Spanish territory, establishing a new industry in the country.

The above mentioned term of two years can only be prolonged by a law on equitable grounds, and for a term not exceeding six months.

ART. 39. The director of the Conservatory of Arts shall ascertain the fact, either by himself or through a practical engineer, or any competent person appointed for that purpose, by means of steps the least onerous he considers necessary, and for this end he may demand the assistance of all authorities and corporations, who are bound to aid him in the most efficacious manner with their influence and all means they can employ for that purpose.

ART. 40. When the director of the Conservatory of Arts thinks that the report concerning the working of the patent is sufficiently proved, he shall transmit the same, together with his report, to the minister of commerce for final decision.

ART. 41. The costs caused by the inquiries necessary to prove

that the object of a patent or of a certificate of addition has been worked establishing a new industry in the country, shall be borne by the interested party, who need only pay them when approved by the director of the Conservatory of Arts.

ART. 42. The director of the Conservatory of Arts shall cause the secretary to make on the register of patents a note of the decision recognizing the working, and communicate the same to the governor of the proper province.

SECTION VIII.

NULLITY AND ANNULMENT OF PATENTS.

ART. 43. Patents of invention are void :—

(1.) Whenever it is proved, with respect to the object of the patent, that the circumstances ; of originality and novelty ; of not having been established or practiced in essentially the same mode and form within the dominions ; or any other circumstance, alleged as fundamental in the application ; are not borne out.

(2.) Whenever it is found that the object of the patent is contrary to public order, or safety ; to morals, or to the laws of the country.

(3.) Whenever the object for which the patent was applied for is different from that which is worked in virtue of it.

(4.) Whenever it is shown that the specification does not contain all that is required for the complete understanding and working of the object of the patent, or when it does not completely indicate the real means of manufacturing or working.

ART. 44. Actions for annulment can only be instituted by an interested party.

The public prosecutor, however, may demand the annulment when the patent comes under the second paragraph of article 43.

ART. 45. Where the provisions mentioned in article 43 apply, all certificates of alterations, modifications, or additions to the original patent shall equally be null and void.

ART. 46. Patents of invention shall be annulled :—

(1.) At the expiration of the term of the grant.

(2.) When the owner does not pay the annual tax before the beginning of each year of the duration of the patent.

(3.) When the object of the patent has not been worked in the Spanish dominions within the time mentioned in article 38.

(4.) When the owner has ceased to work for one year and one day, unless he can show good cause for such interruption.

ART. 47. The declaration of annulment of patents coming under the first, second, and third paragraphs of article 46, belongs to the minister of commerce, on the previous advice of the director of the Conservatory of Arts. Against the decision of the minister there may be lodged an appeal to the Council within 30 days. The declaration of annulment of a patent coming under the fourth paragraph of the same article 46, belongs to the courts of justice on the application of an interested party.

ART. 48. The director of the Conservatory of Arts, after having caused the required entries to be made in the register of patents, shall transmit to the Madrid Gazette, together with the report mentioned in article 26, a further list of the patents annulled by the minister of commerce.

The civil governors shall cause such lists to be published in the official bulletins of their provinces, and have copies made in the registers of patents at the offices of their secretaries.

SECTION IX.

INFRINGEMENTS AND FALSIFICATION OF PATENTS, AND THE PENALTIES TO WHICH THEY ARE SUBJECT.

ART. 49. Infringers of patents are those who knowingly encroach on the rights of the legal owner by manufacturing or executing the object of the patent by the same means.

Accomplices are these who knowingly assist in the manufacture, execution, and sale or expedition of the counterfeit patent articles.

ART. 50. Infringement shall be punished by a fine of from 200 to 2,000 pesetas.

In case of a second offense the fine shall be from 2,001 to 4,000 pesetas.

It is a second offense when the infringer has been convicted of the same offense within the five preceding years.

Complicity in infringement shall be punished by a fine of from 50 to 200 pesetas, and a second offense by a fine of from 201 to 2,000 pesetas.

All products obtained by infringement shall be delivered to the patentee, besides damages for the loss he may have sustained. Insolvents shall suffer, in both cases, imprisonment, as prescribed by article 50 of the Criminal Code.

ART. 51. Falsifiers of patents of invention shall suffer the penalties mentioned in the first section of chapter 4, book ii., of the Criminal Code.

ART. 52. Actions for the offense of infringement provided for and punishable by the present section can only be entered by the public prosecutor on the complaint of the injured party.

SECTION X.

JURISDICTION IN PATENT MATTERS.

ART. 53. Civil and criminal actions concerning patents of invention shall be instituted before industrial juries. Until the organization of the industrial juries, such actions shall be brought before the ordinary courts.

ART. 54. Whenever the action is brought at the same time against the grantee and against one or more licensees, the competent tribunal shall be that of the domicile of the grantee.

ART. 55. Civil actions shall be governed by the rules prescribed for them by the laws relating to ordinary justice; and criminal actions shall be regulated by the criminal procedure.

ART. 56. The public prosecutor shall be a party to all actions having for their object the annulment of a patent of invention.

ART. 57. In the case of the preceding article, all parties interested in the grant according to the register of the Conservatory of Arts shall be summoned.

ART. 58. As soon as a patent of invention has been judicially declared null or extinct, the tribunal shall communicate the judgment to the Conservatory of Arts for entry, and the annulment or expiry shall be published in the Madrid Gazette in the manner prescribed by this law for the publication of patents.

The civil governors shall republish such annulments or expiries in the official bulletins of their provinces, and make in the registers of their offices the corresponding entries.

SECTION XI.

TRANSITORY DISPOSITIONS.

ART. 59. From the day the present law comes into force, all anterior dispositions relating to patents of invention, of importation, and of improvement shall be abrogated.

ART. 60. Existing patents of invention, importation, and

improvement, obtained under the old law, shall continue to be in force during the term for which they were granted.

ART. 61. Applications made before the publication of the present law shall be regulated in accordance with the old law; the applicants, however, may choose the terms and mode of payment of the present law.

ART. 62. All actions for infringement, counterfeiting, annulment, or extinction of patents, which were not begun before the commencement of the present law, shall be pursued according to the provisions of the same.

From *Carpm. Pat. L. of World*, 495.

See also INTERNATIONAL CONVENTION.

Operation of the general patent law of Spain over her provinces abroad.

Spain, like France and unlike Great Britain, has pursued the policy of providing a law suitable for her colonies and dependencies as well as for the mother country. Thus article 8 of the general law (see p. 511 of the text), enacts that "all patents shall be considered as granted not only for the peninsula and adjacent islands but also for the provinces beyond the sea." Article 19 (p. 514) allows an extended time for the correcting defects in applications presented in the Canaries or Antilles, or in the Philipine Islands. The mention, here, of the Antilles of course embraces only those few of the islands known by that general name which belong to Spain. Cuba and Porto Rico deserve mention as provinces of Spain important to inventors and patentees. There are many others, but they are small, or the authority of Spain over them is disputed.

STRAITS SETTLEMENTS.

An Ordinance for Granting Exclusive Privileges to Inventors; being Ordinance No. XII. of 1871.

Part I.

Preliminary Rules.

1. *Short title.* This ordinance may be cited as the Inventions Ordinance, 1871.

2. *Interpretation clause.* In the construction of this ordinance, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction :

The word "invention" shall include an improvement.

The word "manufacture" shall include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture.

The word "inventor," when not used in conjunction with the word "actual," shall include the importer of an invention not publicly known or used in the colony.

The words "inventor" and "actual inventor" shall include the heirs, executors, administrators, or assigns of an inventor, or actual inventor, as the case may be.

The word "assigns" shall include grantees of the sole use or benefit in the colony of an invention, or of the sole use of any exclusive privilege for a limited time.

3. *Invention.* An invention shall be deemed a new invention within the meaning of this ordinance, if it shall not, before the time of applying for leave to file the specification, have been publicly used in the United Kingdom, in this colony, or in any British Possession. The public use of an invention prior to the application for leave to file a specification shall not be deemed a public use within the meaning of this section, if the knowledge thereof shall have been obtained surreptitiously, or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor, or in breach of confidence. Provided that the inventor shall, within six months after the commencement of such public use, apply for leave to file his specification, and shall not previously

have acquiesced in such public use. Provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing, shall not be deemed a public use thereof, within the meaning of this ordinance.

4. *When exclusive privilege does not attach.* No person shall be entitled to any exclusive privilege under the provisions of this ordinance ;

If the invention is of no utility ; or,

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention within the meaning of this ordinance ; or,

If the petitioner is not the inventor thereof ; or,

If the specification filed, or the amended specification (if any), does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be carried out, with the particulars required by section 11 of this ordinance ; or,

If the original or any subsequent petition relating to the invention, or the original or any amended specification, contain a willful or fraudulent misstatement.

5. *Prerogative in respect of letters patent saved.* Nothing in this ordinance contained shall abridge or effect the prerogative of the Crown, in relation to the granting or withholding the grant of any letters patent for inventions, or otherwise, or affect or interfere with any letters patent for an invention heretofore granted, or hereafter to be granted by the Crown.

Part II.

Acquisition of Exclusive Privileges.

6. *Inventor may petition for leave to file specification ; form, &c., of petition.* The inventor of any new manufacture may petition the Governor in Council for leave to file a specification thereof. Every such petition shall be in writing, in the form or to the effect mentioned in the schedule A, and shall be signed by the petitioner, or in case the petitioner shall be absent from the colony, by an authorized agent, and shall state the name, condition, and place of residence of the petitioner, and the nature of the invention.

7. *An alien ami may petition.* An *alien ami*, whether resident in the colony or not, may petition for leave to file a specification under this ordinance.

8. *Order for filing specification.—Power to refer petition for inquiry and report.—Fee for report.—Governor in Council may refuse order.* Upon such petition the Governor in Council may make an order authorizing the petitioner to file a specification of the invention. Provided always, that at any time before such order is made, the Governor may, if he think fit, refer the petition to any person or persons for inquiry and report, and such person or persons shall be entitled to a reasonable fee for such inquiry and report, to be paid by the petitioner, the amount of fee, in case of dispute, to be settled by a judge of the Supreme Court in a summary manner.

And provided further, that it shall be lawful for the Governor in Council to refuse to make any order under this section in any case in which it may appear to him that the granting of exclusive privileges under this ordinance would be prejudicial to the public interests, or of doubtful public utility.

9. *Petition and specification to be left with the colonial secretary, and to be accompanied by declaration by petitioner, or if absent, by agent.—To be recorded.* Every petitition for leave to file a specification, and every specification filed under this ordinance, shall be left with the colonial secretary, and shall be accompanied by a declaration in writing, signed by the petitioner, in the form in the schedules B and C respectively; and if the inventor be absent from the colony, the petition and specification shall also be accompanied by a declaration in the form in the schedule D, signed by the agent, who shall present or file the same, to the effect that he verily believes that the declaration, purporting to be the declaration of the inventor, was signed by him, and that the contents thereof are true. The date of the delivery of every such petition and specification shall be indorsed on the same respectively, and shall also be recorded in the office of the colonial secretary.

10. *Order to file specification may be made subject to conditions.* An order, authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made, subject to such conditions and restrictions as the Governor in Council may think expedient.

11. *Specification to describe invention and manner of working, &c.—Plans and further particulars.* Every specification of an invention filed under this ordinance shall be in writing, and shall be signed by the petitioner, and shall clearly and minutely describe and define the nature and purpose of the invention, and how and in

what manner it is to be worked and carried into practical operation, and shall be accompanied by such explanatory plans, and shall contain such further or other particulars and information as the Governor in Council may require.

12. *Petitioner to be entitled to exclusive privilege for* 14 *years.—Extension of term.* If, within the space of six months from the date of such order, the petitioner cause a specification of his invention to be filed in manner required by this ordinance, the Governor in Council may, in the form E in the schedule, under the public seal of the colony, grant to the petitioner, his heirs, executors, administrators, and assigns, the sole and exclusive privilege of making, selling, and using the said invention in the colony, and authorizing others so to do, for the term of fourteen years from the time of filing such specification ; and for such further term, if any, not exceeding fourteen years from the expiration of the first fourteen years, as the Governor in Council may think fit to direct, upon petition to be presented by such inventor at any period, not more than one year, and not less that six months, before the expiration of the exclusive privilege hereby granted.

13. *Petitions for disclaimer, how drawn; order; notice opposing; proviso.* If, after the filing of the specification, the inventor or his assignees shall have reason to believe that through mistake or inadvertence he has erroneously made any misstatement in his petition or specification, or included therein something which at the date of his petition was not new, or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor in Council for leave to file a memorandum, pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or for leave to file an amended specification, in case of any defect or insufficiency of the specification.

The petition shall state how the error, defect, or insufficiency occurred, and that it was not fraudulently intended, and shall be accompanied by a declaration in writing, signed by the petitioner, or, if he be absent from the colony, by his agent, stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition, the Governor in Council may make an order, allowing such memorandum or amended specification to be filed.

All the provisions of the 3d part of this ordinance applicable to petitions and specifications shall be applicable to the petitions, orders

and memoranda, or amended specifications, referred to in this section, but the stamp fee chargeable on the petition shall be five dollars in lieu of fifty dollars.

Every petition under this section shall be published in the Government Gazette of the colony, and at the same time notice shall be given in the said Gazette of the time when the petition will be taken into consideration by the Governor in Council, and any person interested in opposing the prayer of the petition may serve on the colonial secretary a notice, on a stamp paper of the value of one dollar, of his intention to oppose, and every person so serving a notice may be heard by the Governor in Council, in opposition to the prayer of the said petition.

Every memorandum of alteration filed under the provisions of this section shall be added to and form part of the original specification, and, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such memorandum of alteration, or of the filing of an amended specification, the memorandum of alteration, or the amended specification, shall have the same effect as if it had formed part of or had been the specification first filed; provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

14. *Patentee in England may petition for extension here.—Proviso.* If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Ordinance, shall have obtained Her Majesty's letters patent for the exclusive use of such invention in any part of the United Kingdom, or shall have obtained a grant of exclusive privileges in any British Possession, but not extending to this colony, shall petition the Governor in Council for leave to file a specification of such invention, it shall be competent to the Governor in Council to make an order authorizing the petitioner to file a specification of the invention and exemplification of the letters patent or grant of exclusive privileges granted to him. On this being done, the petitioner shall be entitled to the sole and exclusive privilege of making, using, and selling the said invention in this Colony, during the remainder of the term for which the said letters patent or grant of exclusive privileges or any renewal of the same may be in force, or for the term or terms mentioned in section 12. Provided that the petition for leave to file the specification shall state that such letters patent or grant of exclusive

privileges have been granted, and shall also state the date thereof, and the term during which the same are to continue in force.

15. *Rule for Indian patents before April* 1, 1867.—*Stamp fee.* Every person who, before the first day of April, 1867, shall have obtained from the Governor General of India in Council a grant of exclusive privileges under the Indian Act No. 15 of 1859, for India, as defined in the said Act, shall be entitled to use and exercise in the colony after the first day of April, 1867, all the rights and privileges conferred by such grant, on registering at the office of the colonial secretary a certified copy of such grant, and of the specification filed in India on which such grant was made.

For every such register a fee of 5 dollars shall be paid, by a stamp or stamps impressed on the said copy.

16. *Disclaimers or memorandum of alterations made elsewhere, and amendments under section* 3, *how to be filed.—Proviso.* Whenever it shall be made to appear to the Governor in Council that a disclaimer or memorandum of alterations relating to any invention as to which privileges have been obtained in the colony under section 14 of this ordinance, or under the provisions of the Electric Telegraph Exclusive Privileges Ordinance, 1870, has been entered according to the law of England, or the law of the British Possession in which the exclusive privilege may have been granted, and whenever any amendments are made under section 35 of this ordinance, it shall be lawful for the Governor in Council to order that a copy of such disclaimer or memorandum of alteration or amendment shall be filed in the office of the colonial secretary, with and as part of the specification of the invention and exemplification of the letters patent, or of grant of exclusive privileges to which the same relates; whereupon the said specification of invention and exemplification of letters patent, or of grant of exclusive privileges, shall be read as if such disclaimer or memorandum of alterations or amendment had formed a part thereof when filed in the office of the colonial secretary. Provided that no such disclaimer, memorandum of alteration, or amendment shall be held to extend the exclusive rights granted by such letters patent, or grant of exclusive privileges.

Part III.

General Rules.

17. *Stamp on petition.* Every petition for leave to file a specification under the provisions of this ordinance, or for the extension

of the term of an exclusive privilege, shall be written or printed on a stamped paper of the value of fifty dollars.

18. *All fees to be paid before filing.* No specification shall be filed until the petitioner shall have paid all fees and stamp duties payable under this ordinance.

19. *Specification to be open to inspection.—Fee for inspection.* The specification, or a copy thereof, shall be open at all reasonable times at the office of the colonial secretary to public inspection, upon payment of a fee of one dollar.

20. *Register for the registry of petitions, specifications, &c.* A register shall be kept in the office of the colonial secretary, wherein shall be entered every such petition and specification, and every order made upon such petition, or relating to the invention therein mentioned, and every grant of exclusive privilege. Every specification and every grant as aforesaid shall be numbered according to the order in which they are entered in such book, and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention.

21. *Inspection of register.—Fee.—Certified copy of entry to be given.* Such register, or a copy thereof, shall be open at all convenient times for the inspection of any person, upon payment of a fee of one dollar, and the colonial secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

22. *Certified copy to be* primâ facie *evidence.* Every copy of a document filed in the office of the colonial secretary under the provisions of this ordinance, purporting to be certified as a true copy under the hand of the colonial secretary, shall be *primâ facie* evidence of the document of which it purports to be a copy.

23. *Specifications.—Service of notices, &c.—Names and addresses of proprietors.* A book shall be kept in the office of the colonial secretary (such book to be open to inspection without fee), wherein every person filing a specification under this ordinance shall cause to be stated, under a number corresponding with the number of the specification, some place in the settlement where service of any rules or proceedings for the purpose of canceling or revoking his exclusive privilege, or of any other process may be made. Any person, partnership, or company, from time to time, being proprietors of, or having shares or interests in, such exclusive privilege, shall cause to be entered in such book, under such numbers as aforesaid, their names, together with the name of some

place for the service of such proceedings and process as aforesaid. All such rules, proceedings, and process shall be deemed sufficiently served on any such person, partnership, or company, if a copy thereof be left at the place entered in such book, or (if any other place be substituted for the same by entry in said book) at the place last substituted, by delivering the same to any person resident at or in charge of such place; or if there be no person resident at or in charge of such place, and if such person, partnership, or company shall neglect to make or cause to be made such entry, then service of such rule, proceeding, or process may be effected by affixing a copy thereof to a conspicuous part of the Supreme Court house, or in such other manner as the court may direct.

24. *Governor may determine exclusive privilege.* Every exclusive privilege under this ordinance shall cease if the Governor in Council shall declare by notification in the Government Gazette, that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition, on which the petitioner shall have been authorized to file a specification, or upon which the term of the exclusive privilege shall have been extended, shall be proved to the satisfaction of the Supreme Court, and if the Governor in Council shall thereupon declare that such exclusive privilege shall cease.

PART IV.

LEGAL PROCEEDINGS.

25. *Actions for infringements.* An action may be maintained in the Supreme Court by an inventor against any person who, during the continuance of any exclusive privilege granted by this ordinance, shall, without the license of the said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same.

26. *Particulars to be delivered.—Evidence at trial.—Court may amend particulars.* In any such action the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action; and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to the Supreme Court under sections 30 and 31 of this ordinance, the applicant shall deliver particulars of the objections on which he means to rely. At

the trial of any action or issue, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such exclusive privilege, which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where, and the manner in which the invention was so publicly known or used, shall be stated in such particulars: Provided always, that it shall be lawful for the court to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

27. *Action for infringement not to be defended for defect in specification or petition, or for want of novelty in invention.* No such action shall be defended upon the ground of any defect or insufficiency of specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a misdescription, nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he, the defendant, is the actual inventor, or has obtained a right from the actual inventor to use the invention, either wholly or in part.

28. *The actual use of an invention in the colony, or the United Kingdom, or any British Possession before the date of petition, a defense to such action.* Any such action may be defended upon the ground that the invention was not new, if the person making the defense, or some person through whom he claims, shall, before the date of the petition for leave to file the specification, have publicly or actually used in the colony or in some part of the United Kingdom, or in any British Possession, the invention or that part of it of which the infringement shall be proved, but not otherwise.

29. *In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.* If, upon proceedings instituted by a person claiming to be the inventor, within two years from the date of a petition to file a specification, he shall prove to the satisfaction of the Supreme Court that the petitioner was not the inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through

whom he derived such knowledge, the court may compel the petitioner to assign to the inventor any exclusive privilege obtained under this ordinance, and to account for and pay over the profits thereof.

30. *Application by attorney-general on breach of special conditions.—Costs.* It shall be lawful for the attorney-general or solicitor-general to apply to the Supreme Court, calling upon any petitioner under this ordinance, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition, upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor in Council, under the power reserved in section 24, may, in the judgment of the said Governor in Council, depend, should not be tried in the form of an issue directed by the said court, and if the rule be made absolute, the court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and shall certify the result of such trial to the Governor in Council. The costs of such trial, and also the costs of such proceedings, shall be in the discretion of the said court.

31. *Application to Supreme Court to declare exclusive privilege not to have been acquired.* It shall be lawful for any person to apply by motion to the Supreme Court for a rule to show cause why the court should not declare that an exclusive privilege in respect of an invention or part of an invention has not been acquired under the provisions of this ordinance, by reason of all or any of the objections following (to be specified in the rule); that is to say :—

That the said invention or part of invention was not at the time of presenting the petition for leave to file the specification à new invention ; or,

That the petitioner was not the inventor thereof, and, in addition thereto, either that the applicant was the inventor, or that the inventor has dedicated or made known the invention or part of invention to the public, or has acquiesced in the public use thereof; or,

That the specification filed does not particularly describe and define the nature of the invention or part of invention, or in what manner the same is to be carried out ; or,

That the petitioner has fraudulently inserted in the petition or specification, as part of his invention, something which was not new, or whereof he was not the inventor ; or,

That the petitioner has willfully made a false statement in his petition or specification ; or,

That some part of the invention, or the manner in which that part is to be carried out as described in the said specification, is not thereby sufficiently described and defined, and that such defect or insufficiency was fraudulent, and is injurious to the public.

32. *Service of proceedings on all persons interested.* Notice of any rule obtained or proceeding taken under either of the last three preceding sections shall be served on all persons appearing to be proprietors, or to have shares or interests in the exclusive privilege under the provisions of section 23 of this ordinance, and it shall not be necessary to serve such notice on any other persons.

33. *Court may direct issue for trial.* The Supreme Court may, if it think fit, direct an issue for trial of any question of fact arising upon an application under sections 30 or 31 of this ordinance, and such issue shall be tried in the usual manner for trying issues of fact in the said court.

34. *Judgment.—Costs.* If it shall appear to the Supreme Court, at the hearing of any application under the provisions of sections 30 or 31 of this ordinance, that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention, or in any part thereof, has not been acquired, the court shall give judgment accordingly, and shall make such order as to the costs of, and consequent upon, the application, as it may think just ; and thereupon the petitioner, his heirs, executors, administrators, and assigns, shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

35. *Amendment of specification by court.—Proviso.* If the court, at the hearing of any application under this ordinance, shall think that the petitioner has, in the description of the invention given in his petition or specification, included something which at the date of the petition was not new, or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the said court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency ; or if the court shall think that the error, defect, or insufficiency can be amended without injury to the public, it may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be

amended in any of the said particulars; and thereupon the petitioner, his heirs, executors, administrators, or assigns, shall, within the time limited by the court for the purpose, file a specification amended according to such order.

Provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

36. *Misdescription in the petition, if not fraudulent, not to defeat the privilege.* An exclusive privilege shall not be defeated upon the ground that there is any misdescription of the invention in the petition, unless such misdescription was fraudulent.

37. *Entry in registry book, of judgment declaring privilege not to have been acquired.* Whenever it shall be adjudged by the said court that an exclusive privilege as to the whole or any part of an invention has not been acquired, the colonial secretary shall, upon the production of a certified copy of the judgment or order of the court, cause an entry thereof to be made in the register hereinbefore in section 20 directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such register.

38. *Appeal to Privy Council.* Nothing in this ordinance contained shall be held to affect the right of appeal to Her Majesty in Her Privy Council. Every such appeal may be had, and proceedings therein shall be subject to the rules, orders, and regulations in force, or to be in force, in the colony for appeals to Her Majesty in Her Privy Council from decisions of the Supreme Court of the Colony.

SCHEDULE.

A.

Form of Petition.

To His Excellency the Governor of the Colony of the Straits Settlements in Council:

The petition of [*here insert name, addition, and place of residence*], for leave to file a specification under the Inventions Ordinance, 1871, showeth,—

That your petitioner is in possession of an invention for [*state the title of the invention*], which invention he believes will be of public utility; that he is the inventor or owner of the said invention [*or, as the case may be*, the assignee, or the executor, or administrator, or heir of the inventor or owner of the said invention]; and that the

same is not publicly known or used in the colony, to the best of his knowledge and belief [*or, as the case may be*, that he is the first importer into the colony of the said invention, and that the same is not publicly known or used in the colony].

N. B.—*If letters patent have been obtained for the invention, state according to the requirements of section* 14.

The following is a description of the invention [*here describe it as required by section* 11].

Your petitioner therefore prays for leave to file a specification of the said invention, pursuant to the provisions of the Inventions Ordinance, 1871. And your petitioner, &c.

(Signed.)

The day of

B.

Declaration to accompany a Petition.

I [*here insert name, addition, and place of residence*], do solemnly and sincerely declare that I am in possession of an invention for [*state the title of the invention as in the petition*]; that I believe the said invention will be of public utility; that I am the inventor [*or* owner] of the said invention [*or, as the case may be*, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention, or that I am the first importer of the said invention into this colony], and that the same is not publicly known or used in the colony to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said invention is truly described in my petition for leave to file a specification thereof.

(Signed.)

The day of

C.

Declaration to accompany a Specification.

I [*here insert name, addition, and place of residence*], do solemnly and sincerely declare that I am in possession of an invention for [*state the title of the invention*], which invention I believe will be of public utility; that I am the inventor or owner of the said invention [*or, as the case may be*, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention, or that I am the first importer of the said invention into this colony], and the same is not publicly known or used in this colony to the best of my knowledge and belief; and that, to the best of my belief, the instrument in writing under my hand, hereunto annexed, particularly describes and defines the nature of the said invention and in what manner the same is to be carried out.]

(Signed.)

The day of

D.

Declaration by Agent.

I , of , do solemnly and sincerely declare that I have been appointed by the said , his agent for the purpose of , and I verily believe that the

declaration purporting to be the declaration of the said , marked ( ), was signed by him, and that the contents thereof are true.

(Signed.)

The day of

E.

Form of Grant.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, &c.

(Signed.) [*Signature of Governor.*]

To all to whom these presents shall come,

Greeting:

Whereas *A. B.* of *C. D.*, has presented to [*insert name of Governor*], Governor of the Colony of the Straits Settlements, a petition (numbered in the book of petitions for exclusive privileges in inventions in the office of the colonial secretary) praying for leave to file a specification of a certain invention entitled [*here insert the title of invention*], and an Order in Council, dated the day of , 18 , was made thereon, authorizing the said *A. B.* to file a specification of the said invention: And whereas the said *A. B.* did on the day of , 18 , file a specification in accordance with the said order, and the same is entered in the Book of Specifications of the colonial secretary, and bears the number therein: And whereas all things have been done to entitle him to exclusive privilege in the invention in the said petition and specification instituted, mentioned, and described for the term of years: It is hereby ordered that the said *A. B.*, his heirs, executors, administrators, and assigns, shall have the exclusive privilege of making, selling, and using (as the case may be) the said invention in the said specification described in the Colony of the Straits Settlements for the term of years, in terms of and subject to the provisions of the Inventions Ordinance, 1871 [*here insert any condition under which the grant is made*].

(Signed.)

Colonial Secretary.

From *Carpm. Pat. L. of World*, 510.

SWEDEN.

Law of May 16, 1884.*

His royal majesty's gracious order respecting patents, given at the Castle of Stockholm on the 16th of May, 1884.

We, OSCAR, by the grace of God, King of Sweden, Norway, Gothland, and Vendland, make known that, in accordance with a proposition of the Riksdag, dated the 25th of January last, we have agreed to declare annulled (with some small exceptions herein noted) our gracious order respecting patents, of the 19th of August, 1856, and are graciously pleased to order as follows:

§ 1. Patents may, under the conditions hereinafter prescribed, be granted for inventions of industrial productions or of special methods of manufacturing such productions.

Inventors only, Swedish or foreign, or the legal representatives of inventors, are entitled to obtain patents.

§ 2. Patents shall not be granted for inventions the working of which would be contrary to law or morals. With regard to inventions relating to provisions or medicines, patents shall not be granted for the commodity itself, only for special methods for its manufacture.

§ 3. An invention shall not be considered as new, if it has, prior to filing the application for a patent with the patent authorities, been described in any published journal, or is so openly worked that any person conversant with the subject may, guided by the information thus gained, work the invention, or if the object of the invention does not essentially differ from products or methods of manufacture which have before become known in such a way.

The publication of an invention in print by foreign patent authorities or the exhibition of the same in any international exhibition shall not be an obstacle to the granting of a patent, provided the application is filed within six months from the date of publication or the day the exhibition commenced.

§ 4. (1.) Whoever wishes to obtain a patent shall lodge a writ-

*Another translation of this law, differing slightly from that given in the text, and from which the title and enacting clause commencing and ending the law in the text are taken, may be found in 28 Pat. Off. Gaz. 1103.

ten application with the patent authorities or send it prepaid by post. The application must be accompanied by a duplicate description of the invention and the drawings in duplicate which are required to explain the description ; and when necessary, also by models, samples or the like.

The application shall contain the name, profession and postal address of the applicant, likewise the title of the invention.

The description must be given in so explicit and complete a manner that any person conversant with the subject may, thus guided, work the invention.

The description must also state what the inventor considers to be novel in the invention.

When the applicant does not reside in the country he must also deposit a power of attorney to an agent, residing in the country, authorizing him to represent the inventor in everything pertaining to the patent.

If patents are applied for for several inventions, separate applications must be lodged for each.

(2.) If the applicant names another person as the inventor he shall produce papers authorizing him to represent the inventor.

(3.) The applicant is also required to pay a fee amounting to fifty crowns according to section 11.

§ 5. If the patent authorities find that the applicant has not fulfilled the provisions of section 4 (1.) a written notice to that effect will be kept at the office for him ; or, if a full postal address is furnished, the notice will be sent to him by post. Should the applicant not supply the deficiency within the date fixed by the patent authorities the application will be considered abandoned.

§ 6. Should it be deemed that the object of the invention is of such a character that a patent may not be granted, or that the invention evidently is not new, or if the applicant upon stating that another person is the inventor has not proved himself to be the legal representative of the inventor, or if the applicant has failed to pay the fee prescribed by section 4 (3.) ; the patent authorities shall immediately reject the application.

Notice of such a decision together with the reasons for rejection will be communicated to the inventor in accordance with section 5.

§ 7. If the several documents for application are complete, and there is no cause for immediate rejection of the application as provided in section 6, the patent authorities shall give notice of the ap-

plication in the newspapers, stating the main features thereof; likewise it shall be the duty of the said authorities to keep the documents of application accessible to every person desiring to obtain knowledge of the same. And every one intending to contest the application for the patent shall, within a period of two months from the date of the announcement of the application, be permitted to file with the patent authorities a written protest.

At the end of that period the patent authorities shall take up the case under consideration.

If there is nothing to impede the granting of the application the patent may be granted and letters patent be issued, saving, however, the right of contest provided for in section 18. It shall be the duty of the patent authorities to enter the grant in a register kept for that purpose and to make it public by notices in the newspapers and to have the description, with the necessary supplements in their essential parts, printed and published in a suitable way.

If the application is rejected the decision shall be communicated to the applicant in the form enacted by section 6.

§ 8. In cases where an application for a patent has been rejected in pursuance of sections 6 and 7, and the applicant declares himself dissatisfied with this decision, he may appeal to the King before twelve o'clock upon the sixtieth day after the date of the decision or the privilege of appeal shall be lost.

§ 9. When several persons desire to obtain a patent for the same or a similar invention, the right of preference will be granted to the inventor whose documents for application, prepared in conformity to law, were earliest lodged with the patent authorities.

§ 10. Letters patent shall, except in the case hereinafter stated, be issued for a period of fifteen years from the day the application was filed.

Any person desiring to obtain a patent of addition for improvements upon inventions patented before as his own, without applying for a new patent, may upon complying with the conditions hereinbefore stated, have this granted for the same period as that for which the prior patent is valid.

§ 11. On each application for a patent a fee amounting to fifty crowns shall be paid to the patent authorities as provided in section 4. Should the application be rejected or forfeited half that sum will be returned to the applicant.

Upon each patent granted, with the exception of patents of

addition, the patentee shall pay to the patent authorities an annual fee amounting for the second, third, fourth and fifth years of the patent to twenty-five crowns, each year, and for each of the following five years fifty crowns, and for each of the remaining five years seventy-five crowns. The fee may be sent prepaid by post, and shall for each year of the patent be paid before the commencement of that year, under penalty of the fee for that year being increased by one-fifth. Should the payment of the increased fee be afterwards neglected, then at the end of the first ninety days of the new year of the patent, the patent shall be considered as forfeited. The patentee has not to pay, over and above the fees here prescribed, the expenses of publishing the patent or the description.*

§ 12. If the patent is assigned to another person, notice of such proceeding, together with the documents proving the assignment, shall be presented to the patent authorities. Unless such notice is given, the patentee latest entered in the records shall be considered by the patent authorities as patentee.

§ 13. In case a patentee is about to reside abroad, or the patent has been assigned to a person who does not live within the country, it shall be the duty of the patentee to deposit with the patent authorities a power of attorney to a legal representative as provided under section 4 (1). Should the agent of the patentee go away to reside abroad, or his charge be otherwise discontinued, the patentee must deposit a power of attorney to another agent. If these provisions are not observed, the judge of the court shall upon being duly notified of the matter appoint an agent for the patentee.

* The matter corresponding to section 11 is stated in the Patent-office Gazette translation, as follows:

With each application for patent shall be paid to the patent authority, as stated in § 4, 50 kroner (about fourteen dollars). One half of this, however, shall be returned to the applicant if the application fall through or be rejected. On every patent, with the exception of patents of addition, shall be paid by the holder of the patent to the patent authority a yearly duty amounting for each of the second, the third, the fourth, and the fifth patent years twenty-five kroner (about seven dollars), for each of the five following years fifty kroner (about fourteen dollars), and for each of the five last years seventy-five kroner (about twenty-one dollars). The duty (which must be forwarded in prepaid letter) shall for each patent year be paid before the beginning of that year; otherwise the duty for the same shall be increased one-fifth. If, furthermore, the increased duty be not paid within ninety days after the beginning of the patent year, the patent shall be forfeited. The holders of patent are not obliged to pay beyond the above-named duties for the expenses of publication of the patent or for the announcement of the detailed description.

§ **14.** If the fees are paid and the proceedings completed as provided by sections 12 and 13, the patent authorities shall register the payment in the records pursuant to section 7.

§ **15.** It shall be the duty of the patentee within three years from the date at which the patent was granted to have the invention worked within the country to an adequate extent. But the patent authorities may allow at the time the patent is granted, or afterwards, should it be requested, and having regard to the character and extent of the invention, a prolongation of the period up to four years. They may also determine in exceptional cases what measures, taken by the patentee, shall be considered to have complied with the conditions of working the invention.*

If the patentee has within the period prescribed failed to comply with the conditions required for working the invention, or if the working of the invention is subsequently abandoned and not afterward resumed within a year, the patent shall be forfeited.

§ **16.** Claims in relation to patents shall not be valid against any person who at the time the application for the patent was filed had worked the patented invention or made extensive preparations for such working.

§ **17.** If the King considers it necessary that a patented invention shall be open to the free use of the public, or appropriated on account of the State, the patent shall be no obstacle, the patentee shall however be entitled to full compensation. If the amount of compensation cannot be agreed upon, it shall be fixed by a special jury, appointed by the court, according to the provisions for expropriation of land or homesteads required for public purposes.

§ **18.** Should a patent have been obtained contrary to the provisions of sections 1, 2 and 3, any person who considers his rights violated through the patent granted, and also the public prosecutor, when the interest of the public demands such proceedings, may contest before the court the validity of the patent.

* This point is thus stated in the translation given in the Patent-Office Gazette:

The holder of the patent is required within three years from the date of when the patent was granted to bring into operation his invention to some practical extent within the realm. At the same time the patent authority shall have power to allow at the grant of the patent or afterward, if representations be made to him, and if the nature of the invention and other causes make it desirable in his opinion) to extend the said period for beginning working to four years, and also in remarkably exceptional cases the patent authority may direct that the holder of the patent be considered as having fulfilled the conditions for the working of the invention.

§ 19. All and every one who alleges that a patentee through negligence in complying with the regulations prescribed by section 15 has forfeited his patent, may proceed before the court.

§ 20. The court before whom it shall be lawful to proceed in cases coming under sections 17, 18 and 19, shall be the Court of the City of Stockholm.

§ 21. If the validity of a patent has been contested, and the contest has been decided, the decision shall through the court, be transmitted to the patent authorities.*

§ 22. Any person who without the permission of the patentee, except in cases coming under sections 16 and 17, manufactures goods in the country with an intent to sell, or for such manufacture employs a method of which he knows another person to be the lawful patentee; or who sells in the country or imports into the country for sale, goods patented here or made according to methods of manufacturing which he knows to be patented here, which methods he appropriates without permission of the patentee, shall be liable to a fine varying from twenty to two thousand crowns, and he shall be also liable to all the damages. No one but the patentee has the right to take proceedings for these penalties.

Goods unlawfully manufactured or unlawfully imported into the country shall, when the complainant so demands, be delivered up to him against compensation for the value, or against deduction therefor from the damages due to the complainant. Implements exclusively applicable for the unlawful manufacture may, when the complainant requires it, be destroyed to prevent further mischief.

Persons accused under this section (section 22) who continue the offense during the proceedings shall, when legally convicted be called to account for each separate time a warrant has been issued and served.

Money fines according to this section go to the crown. In cases of destitution when the fine cannot be fully paid, imprisonment may be substituted according to the general penal code.†

§ 23. Should any person be accused of interfering with the

* Section 21 is translated as follows in the Patent-Office Gazette:

The verdict in any action about the validity of the patent, when the plea of invalidity has been approved, shall be sent by the court to the patent authority.

† Section 22 is thus translated in the Patent-Office Gazette.

Any one who shall, except in the cases mentioned in sections 16 and 17, without the permission of the holder of the patent within the realm, offer for sale, manufac-

rights of another person under a patent, and in the course of the proceedings the patent be found invalid, forfeited, or the claim unfounded, the person under prosecution shall be acquitted.

§ 24. When a patent has ceased to be valid, either in consequence of the provisions prescribed by this law, or when the patentee has notified to the patent authorities his intention to give up the patent, it shall be the duty of the patent authorities to cause the same to be canceled in the register, and also to have notices of the cancellation published in the newspapers.

§ 25. With regard to patents granted in a foreign State, where patents granted in this country are treated with corresponding consideration, be it enacted that persons, who within seven months from the day the application was filed in the foreign State, apply for a patent for the same invention in this country, shall with regard to this application in relation to earlier applications for patents, be considered as if the application was filed in this country at the same date as the application was filed in the foreign State.

§ 26. More detailed provisions relating to the character of the documents required when an application is lodged, to the entering of patents, and to the publication of the descriptions of patents, will be issued by the King.

§ 27. The regulations contained in this law shall take effect from the first day of January, 1885, and applications for patents filed prior to that date shall be proceeded with in accordance with the

ture goods or make use of a mode of manufacture, by manufacturing for sale, for which he is aware patent has been obtained, or keep knowingly for sale within the realm or for sale imports into the realm the patented article or articles which he knows to be produced by the patented mode of manufacturing of goods without the permission of the holder of the patent, shall be punished with fines of not less than twenty kroner (about five dollars and fifty-five cents), or more than two thousand kroner (about five hundred and fifty-five dollars), and all costs and damages. At the same time no one but the holder of the patent shall be allowed to prosecute. Unlawfully manufactured goods or unlawfully imported goods shall, if the plaintiff demands it, be delivered up to him for compensation for the value or in part payment of damages. All tools exclusively applicable for the unlawful manufacture shall, if the plaintiff demands it, be dealt with in such manner that abuse with the same may not take place. Anybody that during the time when he is being proceeded against for infringement under this section continues the same offense, shall, when he is lawfully convicted, be fined separately for each and every time summons for the offense has been made out and served upon him. Fines which are imposed in conformity to this section fall to the crown. If the full value of the fines be not forthcoming, common penal punishment shall be imposed in their place.

provisions hitherto observed, also any court, where the validity of a patent has been contested prior to the said date, may, notwithstanding the provisions of section 20, proceed with the case.

If letters patent have been issued according to prior laws and a patentee desires the same to be exchanged for another, granted pursuant to this law, he may lodge an application for that purpose with the patent authorities, when the provisions stated in this law shall be observed relative to the application, questions as to the novelty of the invention being decided with regard to the period when the former patent was granted. If a second patent is granted the period of its validity shall be considered to commence at the same date as that of the patent previously issued, and the annual fees to be paid shall be according to the date of the first patent.

Let all whom it concerns be obediently ruled by this law. For further confirmation of this Act, we have ratified it with our autograph signature and our royal seal, at the Castle of Stockholm, on the 16th of May, 1884.

(Signed) OSCAR. [L. S.]

E. VON KRUSENSTJERNA. (Signed.)

From *Carpm. Pat. L. of World*, 527.

SWITZERLAND.

According to a report by Mr. Gould, of the British Legation, published November 18, 1873, in 4 *Pat. Off. Gaz.* 523, there were not, at the time of his writing, any special laws in the Swiss Confederation for the encouragement and protection of inventors.

According to dispatches from Frank H. Mason, United States Consul at Basle, dated in 1882, and published September 19, 1882, in 22 *Pat. Off. Gaz.* 947, the Federal Congress at Switzerland had then recently enacted an amendment to the Constitution of the Confederacy, the purpose of which amendment was to enable the Federal Assembly to enact a general patent law ; this perogative having been previously reserved by the several cantonal governments. By the requirement of the Constitution, such amendment after its adoption by the assembly must be submitted to popular vote for ratification. Such submission took place July 20, 1882 ; when the proposed amendment was defeated. By the Constitutional Law of Switzerland, ten years must elapse before a defeated amendment can be again presented for popular approval.

See also INTERNATIONAL CONVENTION.

TAHITI.

See FRANCE.

TASMANIA.

An Act to Regulate the Granting of Letters Patent for Inventions; No. XXII. of November 5, 1858.

[Note.*—The words "registrar of patents" † in italics are alterations made by the Amending Act of 1883.]

Preamble. Whereas it is expedient to promote and encourage the discovery and use of new manufactures, and to afford greater facilities for obtaining for a limited period the exclusive enjoyment thereof by means of letters patent: Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1. *Interpretation.* In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meanings are repugnant to or inconsistent with the context:

"Law officer" shall mean Her Majesty's attorney-general or solicitor-general for the time being of the Colony of Tasmania:

"Invention" shall mean any manner of new manufacture the subject of letters patent and grant of privilege within the meaning of this Act:

"Petition," "declaration," "specification," "appointment to hear application," "warrant," and "letters patent," respectively, shall mean instruments in the form and to the effect in the schedule, subject to such alterations as may, from time to time, be made therein under the powers and provisions of this Act.

2. *Power to grant letters patent for inventions.* It shall be lawful for the Governor, with the advice of the Executive Council, in the name and on behalf of Her Majesty the Queen, to make and issue, in the manner hereinafter mentioned, letters patent and grants of privilege for any term not exceeding fourteen years from the date thereof of the sole working or making of any manner of new manufactures within this colony to the true and first inventor of such manufactures, which others at the time of making such letters

* Notes printed in this form are from Carpmaels' edition.

† This law is published in 32 Pat. Off. Gaz. 771, as act of November 5, 1885, and without the insertion of "Registrar of Patents."

patent and grants do not use, so as also they be not contrary to law nor mischievous to the community by raising prices of commodities, or hurt of trade, or generally inconvenient.

3. *Governor to make rules for executing Act.* It shall be lawful for the Governor, with the advice of the Executive Council from time to time, to make such rules and regulations, not inconsistent with the provisions of this Act, as may appear to be necessary and expedient for the purposes of this Act; and all such rules and regulations shall be laid before both Houses of the Parliament of Tasmania within fourteen days after the making thereof if Parliament is then sitting, and if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

4. *Mode of applying for letters patent for inventions.* Every application for the grant in this colony, under this Act, of letters patent for inventions, shall be made by petition to the Governor, the allegations of which petition shall be supported by a declaration, to be made and subscribed by the applicant, that he is the true and first inventor, and that the article has not to his knowledge or belief been before made or used in this colony; and such petitions and declarations shall be lodged at the office of the *registrar of patents*, and shall be in the form in the schedule, or to the like effect.

5. *On application for letters patent, inventor to deposit specification.—Specification may be amended before patent issues.* The applicant for letters patent for an invention shall, at the time of lodging such petition and declaration as aforesaid, deposit at the said office of the *registrar of patents* an instrument in writing under his hand and seal, hereinafter called a specification, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, which specification shall be mentioned in and annexed to the declaration; and shall also then deposit at the said office a copy of such instrument, and of the drawings accompanying the same, if any; and the day of the deposit of every such specification shall be recorded at the said office and indorsed on such specification, and a certificate thereof given to such applicant or his agent; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act for the term of six months from the day of such deposit, and the applicant shall have during such term the like powers, rights, and privileges as might have been conferred upon him by letters patent for such invention issued under

this Act, and duly sealed as of the day of such deposit; and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any letters patent to be granted for the same; and where letters patent are granted in respect of such invention, such letters patent shall be conditioned to become void if such specification does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed: Provided always, that in case the title of the invention or the said specification is too large or insufficient, it shall be lawful for the law officer during the said term of six months, and before the grant of the letters patent, to allow or require the same to be amended, or another and sufficient specification to be deposited in lieu of such specification as aforesaid; and every such amended or new specification shall have the same force, effect, and operation as if it had been originally deposited in its amended or new state.

6. *Forms and size of specification and copy.* Every such specification shall be in the form in the schedule, or to the like effect, and shall be written upon parchment upon both sides, and every page thereof shall be of the exact size of twenty inches in length by fifteen inches in breadth, leaving a margin of at least one inch and a-half on each side of every such page in order and to the intent that the same may be bound into books for safe custody, but the drawings accompanying such specifiations, if any, may be made upon larger sheets of parchment, leaving a margin of the size and for the purpose aforesaid; and every copy of any such specification as aforesaid, and of the drawings accompanying the same, if any, shall in like manner be written upon paper of the size and with the margins aforesaid.

7. *Petition of true inventor not to be affected by protection obtained in fraud of true inventor.* In case of any application for letters patent for an invention, and the obtaining of protection for the same by reason of the deposit of any such specification as aforesaid in fraud of the true and first inventor, any letters patent granted to the true and first inventor of such invention shall not be invalidated by reason of such application or of such protection as aforesaid, or of any use or publication of the invention subsequent to such application and before the expiration of the said term or protection.

8. *Mode of proceeding after deposit of specification.* The applicant, so soon as he thinks fit after the deposit of such specification as

aforesaid, and of the drawings and models accompanying the same, if any, may give notice in writing at the office of the law-officer of his intention to proceed with his application for letters patent for the said invention, stating in such notice the title of the said invention, and the day on which the specification thereof was deposited at the office of the *registrar of patents*, and shall at the time of giving such notice produce the certificate of deposit; and thereupon the law-officer shall deliver to the applicant or his agent an appointment to hear the application in the form in the schedule, or to the like effect; and such applicant or agent shall cause the said appointment to be published once in the Gazette and twice in some newspaper published in Hobart Town and in Launceston; and any person having an interest in opposing the grant of letters patent for the said invention shall be at liberty to leave particulars in writing of their objections to the said application at the office of the law officer within such time, not being less than one month, as the law officer by such appointment may direct.

9. *Law officer to hear application and objections.* At the time and place named in the said appointment the applicant shall produce the Gazette and newspapers containing the same; and the law officer shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and for that purpose shall obtain from the office of the *registrar of patents* the copy of the specification and of the drawings and models accompanying the same, if any; and the law officer may call to his aid such scientific or other person as he may think fit, and may cause such remuneration to be paid to such person as he thinks proper: Provided always, that the applicant, the objectors, and their respective witnesses and evidence, shall be respectively heard, examined, and considered separately and apart from and in the absence of the other and his witnesses and evidence.

10. *Law officer may order by and to whom costs to be paid.* It shall be lawful for the law officer, if he sees fit, by certificate under his hand, to order by and to whom the costs and expenses of any hearing or inquiry upon any objection, or otherwise in relation to the grant of such letters patent, shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid are not paid within four days after the amount thereof is so ascertained, it shall be lawful for such law officer to make an order for the payment of the same; and every such order may be made a rule of the Supreme Court.

11. *Law officer may issue warrant for sealing letters patent.* It shall be lawful for the law officer, after such hearing and consideration as he may think fit, to issue a warrant under his hand and seal for the sealing of letters patent for the said invention, and such warrant shall set forth the tenor and effect of the letters patent thereby authorized to be granted, and shall direct the insertion in such letters patent of all such restrictions, conditions, and provisos as the law officer may deem usual and expedient in such grants, or necessary in pursuance of the provisions of this Act; and the said warrant shall be the warrant for the making and sealing of letters patent under this Act according to the tenor of the said warrant; and every such warrant shall be in the form in the schedule or to the like effect.

12. *Writ of scire facias.* The writ of scire facias shall lie for the repeal of any letters patent issued under this Act in the like cases as the same would lie in England for the repeal of letters patent which may now be issued under the Great Seal; and in case the grantee does not reside in this colony, it shall be sufficient to file such writ in the proper office of the Supreme Court, and serve notice thereof in writing at the last known residence or place of business of such grantee.

13. *Nothing to affect prerogatives of Crown in granting or withholding letters patent.* Nothing herein contained shall extend to abridge or affect the prerogatives of the Crown in relation to the granting or withholding the grant of any letters patent; and it shall be lawful for the Governor in Council to direct such law officer to withhold such warrant as aforesaid, or that any letters patent for the issuing whereof he may have issued a warrant as aforesaid shall not issue, or to direct the insertion in any such letters patent of any restrictions, conditions, or provisos, in addition to or in substitution of any restrictions, conditions, or provisos which would otherwise be inserted therein under this Act; and it shall also be lawful for the Governor in Council to direct the specification in respect of the invention described to be canceled in any case in which letters patent may have been refused to be granted, and thereupon the protection obtained by the deposit of such specification shall cease.

14. *Letters patent to be void on non-performance of conditions.* All letters patent for inventions granted under this Act shall be in the form in the schedule or to the like effect, and be made subject to the condition that the same shall be void, and that the powers

and privileges thereby granted shall cease and determine, at the expiration of three years and seven years respectively from the date thereof, unless there is paid before the expiration of the said three and seven years respectively the sum or sums of money in that behalf by this Act required to be paid; and the colonial treasurer shall issue under his hand a certificate of such payment, and shall indorse a receipt for the same on the letters patent.

15. *Registrar of patents to issue letters patent.* The *registrar of patents*, so soon after the receipt by him of the said warrant as he is required by the applicant, shall cause to be prepared letters patent for the invention according to the tenor of the said warrant; and it shall be lawful for the Governor in Council to cause such letters patent to be sealed with the seal of the colony; and such letters patent shall be made applicable to this colony, and shall be valid and effectual within the same.

16. *Letters patent to be issued within certain time.* Save as hereinafter mentioned, no letters patent shall issue on any warrant granted as aforesaid unless application is made to seal such letters patent within three months after the date of the said warrant, nor shall any letters patent be issued or be of any force or effect unless such letters patent are granted during the continuance of the protection conferred under this Act by reason of such deposit as aforesaid.

17. *Letters patent may issue after that time in certain cases.* Where the letters patent have not been sealed during the continuance of such protection as aforesaid, and the delay in such sealing has arisen from accident and not from the neglect or willful default of the applicant, it shall be lawful for the Governor, if he thinks fit, to seal such letters patent at any time, not being more than one month after the expiration of such protection; and where the applicant for letters patent dies during the continuance of such protection as aforesaid, such letters patent may be granted to the executors or administrators of such applicant during the continuance of such protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the letters patent so granted by virtue of this section shall be of the like force and effect as if they had been granted to such applicant during the continuance of such protection; and in case any letters patent are destroyed or lost, other letters patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the Governor in

Council may direct, be issued under the authority of the warrant in pursuance of which the original letters patent were issued.

18. *Letters patent to bear date of the deposit of specification and to be conclusive as to preliminary steps and proceedings.* Notwithstanding any law to the contrary, all letters patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such specification as aforesaid; and such letters patent shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date; and after any letters patent have been issued under this Act it shall not be necessary or material to inquire or ascertain whether such appointment to hear the application as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

19. *Letters patent for foreign inventions not to continue after expiration of foreign patent.* Where upon any application made under this Act letters patent are granted for or in respect of any invention first invented in parts out of this colony, and a patent or the like privilege for the monopoly or exclusive use or exercise of such invention in any part out of this colony is there obtained before the grant of such letters patent in this colony, all rights and privileges under such letters patent shall, notwithstanding any term in such letters patent limited, cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such part out of this colony continues in force, or where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which first expires or is determined of such several patents or like privileges: Provided always, that no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid has been obtained abroad, granted in this colony after the expiration or determination of the term for which such patent or privilege was granted or was in force, shall be of any validity.

20. *Letters patent not to prevent the use of inventions on foreign ships resorting to ports of this colony.* No letters patent for any invention granted in pursuance of this Act shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of this colony, or in any of the waters within the jurisdiction of any of Her Majesty's courts in this colony, where such invention is not

so used for the manufacture of any goods or commodities to be vended within or exported from this colony: Provided always that this enactment shall not extend to the ships or vessels of any foreign State, the laws of which authorize subjects of such foreign State having patents or like privileges for the exclusive use or exercise of inventions within its territories to prevent or interfere with the use of such inventions in British ships or vessels, or in or about the navigation of British ships or vessels while in the ports of such foreign State, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from the territories of such foreign State.

21. *Specifications, &c. to be filed.* Every specification deposited at the office of the *registrar of patents* as aforesaid, and the drawings and models accompanying the same, if any, and all such petitions and declarations, as aforesaid, shall forthwith after the grant of the letters patent, or if no letters patents are granted then immediately on the expiration of six months from the time of such deposit, or upon the specification being so canceled as aforesaid, be transferred to, kept, and filed in such office as the Governor in Council from time to time appoints for that purpose; and the copies of such specifications, and the drawings and models, if any, accompanying the same, shall also be forwarded to and kept at the same office.

22. *Application to disclaim or make alterations.* Any person who obtains letters patent under this Act, or in case such person parts with the whole or any part of his interest by assignment, such person together with the assignee if part only has been assigned, or the assignee alone if the whole has been assigned, may apply to the law officer for leave to enter a disclaimer of any part of either the title of the invention or of the specification, or a memorandum of any alteration in the said title or specification, not being such a disclaimer or such an alteration as extends the exclusive right granted by the said letters patent; and thereupon the law officer shall deliver to such applicant or his agent an appointment to hear such application in the form in the schedule or to the like effect; and such applicant or his agent shall thereupon cause such disclaimer, stating the reason for the same, or such memorandum of alteration, to be written at the foot of the said appointment, and cause the same respectively to be published in the manner hereinbefore required with respect to the publication of the appointment

to hear an application for letters patent; and any person having an interest in opposing the said application shall be at liberty to leave particulars in writing of their objections to the same at the office of the law officer, within such time not being less than one month as the law officer, by such appointment, may direct: Provided always, that where such application as aforesaid is for leave to enter a disclaimer of any part of the title of the said invention or a memorandum of any alteration in such title, the law officer may dispense with such appointment and publication, and in that case shall certify in the fiat hereinafter mentioned that he has dispensed with the same.

23. *Law officer to hear applications for leave to disclaim.* At the time and place named in such appointment the applicant shall produce the Gazette and newspapers containing the same, and the said disclaimer, or memorandum of alteration at the foot thereof; and the law officer shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and all such power and authority shall and may be exercised upon that occasion by the law officer as by virtue of the provisions hereinbefore contained can and may be exercised in relation to the hearing and considering an application for letters patent and objections to the same, and shall and may be enforced in like manner.

24. *Disclaimers and alterations to be entered and filed.* After such hearing and consideration, or without such hearing and consideration where the said appointment and publication have been dispensed with as aforesaid, such applicant may, by leave of the law officer, to be certified by a fiat under his hand to be written at the foot of the same parchment with the disclaimer or memorandum, enter such disclaimer, stating the reason for the same, or such memorandum of alteration; and such disclaimer or memorandum of alteration and fiat shall be filed in the office in which specifications are appointed to be filed as aforesaid, with the specification of the invention to which the same relate; and such disclaimer or memorandum of alteration, being so filed in such office, shall be deemed and taken to be part of the letters patent or the specification, and subject to the several incidents thereof, in all courts whatever, and shall be valid and effectual in favor of any person in whom the rights under the said letters patent may then be or thereafter become legally vested; and such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the law officer certified as aforesaid shall, except in cases of fraud, be con-

clusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Act, and no objection shall be allowed to be made in any proceeding upon or touching such letters patent, specification, disclaimer or memorandum of alteration, on the ground that the person entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf : Provided always, that no action shall be brought upon any letters patent in which or on the specification of which any disclaimer or memorandum of alteration has been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the law officer certifies in his said fiat that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration ; and that no such disclaimer or memorandum of alteration shall be receivable in evidence in any action or suit, save and except in any proceeding by scire facias pending at the time when such disclaimer or alteration was filed as aforesaid, but in every such last mentioned action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the letters patent have been granted : Provided also, that when any such fiat has been issued under this Act, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act.

25. *Specifications, &c., to be open to inspection.* All specifications, and the drawings and models accompanying the same, if any, and all petitions, declarations, disclaimers, and memoranda of alterations filed in the office appointed for filing specifications under and in pursuance of this Act, and also the copies of the specifications, and drawings and models accompanying the same, if any, kept at the said office, shall be open to the inspection of the public at all reasonable times, subject to such regulations as the Governor in Council may appoint in that behalf.

26. *Mode of obtaining extension of the term.* If any person having obtained letters patent under this Act, or in case such person has parted with his whole or any part of his interest by assignment, if such person, together with the assignee where part only has been assigned, or if the assignee alone where the whole has been assigned, six months before the expiration or other determination of such letters patent, presents to the Governor a petition

for the extension of the term in such letters patent mentioned, and sets forth in such petition that he has been unable to obtain a due remuneration for his expense and labor in perfecting such invention, and that an exclusive right of using and vending the same for some further period to be named in such petition, in addition to the said term, is necessary for his reimbursement and remuneration, it shall be lawful for the Governor in Council to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

27. *Mode of obtaining confirmation of invalid patent.* If in any suit or action it is proved or specially found by the verdict of a jury that any person who has obtained letters patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented or used the same or some part thereof in this colony, before the date of such letters patent, or if such patentee or his assigns discover that some other person had, unknown to such patentee, invented or used the same or some part thereof in this colony before the date of such letters patent, such patentee or his assigns may petition the Governor to confirm the said letters patent, or to grant new letters patent, and it shall be lawful for the Governor in Council to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

28. *Appointment of commissioners.* For the purpose of considering any such petition as aforesaid, it shall be lawful for the Governor in Council, if he thinks fit, to issue and direct a commission in the name of Her Majesty to five or more persons, of whom the judges of the Supreme Court shall be two, reciting such petition and requiring or authorizing such persons or any three of them, of whom one of the said judges shall be one, to meet at some time, not being less than two months from the publication of the said commission in the Gazette, and at some place to be fixed in the said petition, and to report to the Governor, in case the petitioner prays for an extension of the term in the letters patent mentioned, whether any, and if any what, further extension of the said term should be granted, or in case the petitioner prays for a confirmation of the letters patent or for a grant of new letters patent, whether such confirmation or grant should be made, and upon what, if any, conditions the prayer of any such petition should be complied with.

29. *Notice of commission to be published and caveats entered.*

Two months at least before the time named in the commission for the consideration of any such petition as aforesaid, the petitioner shall cause an advertisement of the contents of the said commission, in the form in the schedule or to the like effect, to be published in the same manner as is hereinbefore required with respect to the publication of the appointment to hear an application for letters patent; and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the *registrar of patents*, at any time not being less than one week before the time named in the commission for the execution thereof.

30. *Commissioners to hear all parties and report.* At the time and place fixed in the commission for that purpose the commissioners, shall meet and proceed to consider such petition; and the petitioner shall be heard by his counsel and witnesses to prove his case as stated in such petition, and the publication of the said last mentioned advertisement as required by this Act; and the persons entering caveats shall likewise be heard by their counsel and witnesses; and all such witnesses shall be examined upon oath, which oath any one of the commissioners is hereby authorized and required to administer; and the proceedings before the said commissioners may be adjourned from time to time as may be necessary.

31. *Extension of term may be granted.—Invalid patents may be confirmed.—Parties to actions to have notice of petitions.* If upon hearing and inquiry of the whole matter the commissioners, in case the petitioner prays for an extension as aforesaid, are of opinion, and so report, that a further extension of the said term should be granted, it shall be lawful for the Governor in Council, if he thinks fit, to grant to the petitioner new letters patent for the said invention for any term not exceeding fourteen years after the expiration of the term of the first letters patent, anything hereinbefore contained to the contrary in anywise notwithstanding; and if the commissioners, in case the petitioner prays for a confirmation or grant as aforesaid, upon examining the said matter, and being satisfied that such patentee as aforesaid believed himself to be the first and original inventor, and that such invention, or part thereof, had not been publicly and generally used in this colony before the date of the first letters patent, report their opinion that the prayer of such petition ought to be complied with, the Governor in Council may, if he thinks fit, grant such prayer; and the said letters patent shall be available at law and in equity to give to such peti-

tioner the sole right of using, making, and vending such invention as against all persons whatsoever, anything hereinbefore contained to the contrary notwithstanding : Provided, that any person, party to any former suit or action touching any such first letters patent as in this section are mentioned, shall be entitled to have notice in writing of the time and place fixed as aforesaid for the first meeting of the said commissioners to consider the said petition ; and that after any such report has been made it shall not be material or necessary to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner hereinbefore directed in that behalf.

32. *Conditions may be inserted in new patents.—Date of new patents.* It shall be lawful for the Governor in Council to insert in any such new letters patent as in the preceding section are mentioned any restrictions, conditions, and provisions which may be recommended by the commissioners in their report, or which to the Governor in Council may seem proper ; and such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the first letters patent.

33. *Indexes to specifications, &c.* The Governor may cause indexes to all specifications, declarations, disclaimers, and memoranda of alterations, deposited and filed as aforesaid, to be prepared in such form as may be thought fit ; and such indexes shall be open to the inspection of the public, subject to the regulations to be made by the Governor.

34. *Register of patents to be kept.* There shall be kept at the office appointed for filing specifications as aforesaid a book, to be called the "Register of Patents," wherein shall be entered and recorded in chronological order all letters patents granted under this Act,—the deposit and filing of specifications, disclaimers and memoranda of alterations filed in respect of such letters patent,—all amendments in such letters patent and specifications,—all confirmations and extensions of such letters patent, the expiry, determination, vacating, or canceling of such letters patent, with the dates thereof respectively,—and all such other matters and things affecting the validity of such letters patent as the Governor in Council may direct ; and such register or a copy thereof, shall be open at all convenient times to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

35. *Register of Proprietors to be kept.* There shall be kept at

the same office a book, entitled the "Register of Proprietors," wherein shall be entered, in such manner as the Governor directs, the assignment of any letters patent, or of any share or interest therein,—any license under letters patent, and the district to which such license relates, with the name or names of any person having any share or interest in such letters patent or license,—the date of his or their acquiring such letters patent, share, and interest, —and any other matter or thing relating to or affecting the proprietorship in such letters patent or license; and a copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be *prima facie* proof of the assignment of such letters patent, or share or interest therein, or of the license or proprietorship, as therein expressed; and such register or a copy thereof shall be open to public inspection, subject to such regulations as the Governor may make: Provided always, that until such entry has been made, the grantee of the letters patent shall be deemed and taken to be the sole and exclusive proprietor of such letters patent, and of all the licenses and privileges thereby given and granted.

36. *More than twelve persons may be interested in patent.* It shall be lawful for a larger number than twelve persons to have a legal and beneficial interest in letters patent granted under this Act.

37. *Certified copies to be evidence.* The Governor may cause a seal to be made for the purposes hereinafter mentioned; and all courts, judges, and other persons whomsoever shall take notice of such seal, and receive impressions thereof in evidence in like manner as impressions of the seal of the colony are received in evidence; and copies or extracts, certified and sealed with such seal, of letters patent, specifications, disclaimers, memoranda of alterations. and all other documents or books recorded, filed, and kept in pursuance of this Act, shall be received in evidence in all proceedings relating to letters patent for inventions in all courts, and by all judges and other persons whomsoever.

38. *Falsification or forgery of entries.* If any person willfully makes, or causes to be made, any false entry in the said Register of Proprietors, or willfully makes or forges, or causes to be made or forged, any writing falsely purporting to be a copy of any entry in the said book, or produces or tenders, or causes or suffers to be produced or tendered in evidence, any such writing knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall

be liable to be imprisoned, with or without hard labor, for any term not exceeding two years, or to be fined and imprisoned at the discretion of the court.

39. *Entries may be expunged from Register of Proprietors.* If any person deems himself aggrieved by any entry made under color of this Act, in the said Register of Proprietors, it shall be lawful for such person to apply by motion to the Supreme Court in term time, or by summons to a judge of such court in vacation, for an order that such entry may be expunged, vacated, or varied; and upon any such application, such court or judge respectively may make such order for expunging, vacating, or varying such entry, and as to the costs of such application, as to such court or judge may seem fit; and the officer having the care and custody of such Register, on the production to him of any such order, shall expunge, vacate, or vary the said entry according to the requisition of such order.

40. *Penalty for unauthorized use of word "patent."* If any person writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks upon anything made, used, or sold by him, for the sole making or selling of which he has not obtained letters patent, the name or any imitation of the name of any other person who has obtained letters patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns, or if any person upon such thing, not having been purchased from the patentee, or some person who purchased it from or under such patentee, or not having had the license or consent in writing of such patentee or his assigns, writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks the word "patent," the words "letters patent," or the words "by the Queen's patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, he shall for every such offense forfeit and pay the sum of one hundred pounds, one half to Her Majesty, and the other half with full costs of suit to any person who sues for the said penalty by action of debt: Provided always, that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "patent" upon anything made for the sole making or vending of such letters patent before obtained have expired or been otherwise determined.

41. *In actions for infringement, particulars of breaches and objections to be delivered.* In any action for the infringement of letters patent the plaintiff shall deliver with his declaration particu-

lars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his pleas, and the prosecutor in any proceeding by scire facias to repeal letters patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declarations in the proceeding by scire facias respectively; and at the trial or proceeding by scire facias no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such letters patent which are not contained in the particulars delivered as aforesaid: Provided always, that the place at or in which and in what manner the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars: Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid, upon such terms as to such judge seems fit. Provided also, that at the trial of any proceeding by scire facias to repeal letters patent the defendant shall be entitled to begin and to give evidence in support of such letters patent; and in case evidence is adduced on the part of the prosecutor impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

42. *Court may grant injunction in case of infringement.* In any action for the infringement of letters patent, it shall be lawful for the court, if the court is then sitting, or if the court is not sitting then for a judge, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such court or judge may seem fit.

43. *Particulars to be regarded in taxing costs.* In taxing the costs in any action for infringing letters patent, regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular unless certified by the judge before whom the trial was had to have been proved by such plaintiff or defendant respectively, without regard to the general costs of the cause; and it shall be lawful for the judge before whom any such action is tried to certify on the record that the validity of the letters patent in the declaration mentioned came in question: and the record with such

certificate being given in evidence in any suit or action for infringing the said letters patent, or in any proceeding by scire facias to repeal the letters patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by scire facias, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, taxed as between attorney and client, unless the judge making such decree or order, or the judge trying such action or proceeding, certifies that the plaintiff or defendant respectively ought not to have such full costs.

44. *Fees on obtaining patents.* There shall be paid in respect of letters patent applied for or issued under or in pursuance of this Act, the depositing of specifications, the filing of disclaimers and memoranda of alterations, certificates, entries, and searches, and other matters and things respectively mentioned in the schedule, such fees as are enumerated in the schedule; and such of the said fees as are hereby made payable to the law officer shall and may be received and retained by such law officer for his own proper use; and the residue of the said fees shall form part of the general revenue, and shall be forthwith paid into the colonial treasury by the persons receiving the same in pursuance of this Act.

45. *English patents.* All letters patent which are granted in the United Kingdom of Great Britain and Ireland after the 30th day of June, 1859, for any invention, shall, so far as the same relate to this colony, be utterly void and of none effect, and in nowise be put in execution; but all such letters patent granted in the said United Kingdom on or before that day, and which if this Act had not been passed would have been valid in this colony, shall be deemed and taken to have been granted under this Act, and may be dealt with accordingly.

46. *Forms in schedule may be varied.* The Governor in Council may, if he thinks fit, vary and alter the several forms in the schedule as occasion may require.

47. *Short title.* In referring to this Act it shall be sufficient to use the expression the Patent Law Act.

SCHEDULE.

Forms.

Petition.

No.

To His Excellency the Governor of the Colony of Tasmania.

The humble petition of [*here insert name and address of petitioner,*] for, &c.

Showeth,—

That your petitioner is in possession of an invention for [*the title of the invention,*] which invention he believes will be of great public utility; that he is the true and first inventor thereof; and that the same has not been before made or used in this colony by any other person or persons, to the best of his knowledge and belief.

Your petitioner therefore humbly prays that Your Excellency will be pleased to grant unto him, his executors, administrators, and assigns, letters patent for the term of fourteen years, pursuant to the provisions of the Patent Law Act.

And your petitioner will ever pray, &c.

Declaration.

No.

I, *A. B.*, of , in Tasmania, do hereby solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as in petition*], which invention I believe will be of great utility; that I am the true and first inventor thereof; and that the same has not been before made or used in this colony by any other person or persons, to the best of my knowledge and belief; and that the instrument in writing under my hand and seal, hereunto annexed, particularly describes and ascertains the nature of the said invention, and the manner in which the same is to be performed; all which matters I conscientiously believe to be true; and I make this declaration under the provisions of the Act of Council, entitled *An Act for the abolition of extra-judicial and unnecessary Oaths.*

A. B.

Taken before me, this day of , 18 .

C. D.,
Justice of the Peace.

Specification.

No.

To all to whom these presents come,

I, *A. B.*, of , in Tasmania, Engineer, send greeting:—

Whereas I am desirous of obtaining letters patent for securing unto me Her Majesty's special license that I, my executors, administrators, and assigns, or such others as I or they should at any time agree with, and no others, should and lawfully might from time to time, and at all times during the term of fourteen years, to be computed from the day on which this instrument is left at the office of the *registrar of patents* at Hobart Town, make, use, exercise, and vend within the Colony of Tasmania, an invention for

[*insert the title of the invention*] ; and in order to obtain the said letters patent, I must by an instrument in writing under my hand and seal particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed: Now know ye, that I, the said *A. B.*, do hereby declare the nature of the said invention, and the manner in which the same is to be performed, to be particularly described and ascertained in and by the following statement; that is to say [*describe the invention*].

In witness whereof I, the said *A. B.*, have hereunto set my hand and seal this day of , 18 . *A. B.* (L. S.)

Appointment to hear Application for Letters Patent.

Patent for [*insert the title as in specification*]. This is to notify that *A. B.*, of , in Tasmania, Engineer, did on the day of instant [*or last*] deposit at the office of the *registrar of patents* at Hobart Town a specification or instrument in writing under his hand and seal particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, and that by reason of such deposit the said invention is protected and secured to him exclusively for the term of six months then next ensuing: And I do further notify that the said *A. B.* has given notice in writing at my office of his intention to proceed with his application for letters patent for the said invention, and that I have appointed [*Thursday*] the day of next, at o'clock in the noon, at my office, to hear and consider the said application, and all objections thereto; and I do hereby require all persons having an interest in opposing the grant of such said letters patent, to leave before that day at my office at Hobart Town particulars in writing of their objections to the said application, otherwise they will be precluded from urging the same.

Given under my hand this day of , 18 .

F. S., [*Attorney*] *General*,
Macquarie Street, Hobart Town.

Warrant.

I have heard and considered the application of *A. B.*, of , in Tasmania, Engineer, for letters patent for [*insert the title as in the specification*], and [*also all objections to the same, if any*], and having perused the specification and the usual and necessary advertisements, am of opinion that as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, letters patent may be issued to the said *A. B.*, in the form contained in the schedule to the Patent Law Act; [with the following additional clauses; that is to say, *here set them out if any*].

Given under my hand and seal, this day of , 18 .

F. S. (L. S.),
[*Attorney*] *General.*

Letters Patent.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith:—

To all whom these presents come, greeting:—

Whereas *A. B.*, of , in , Tasmania, Engineer, has represented

that he is desirous of obtaining letters patent for securing unto him our special license that he, his executors, administrators, and assigns, and such others as he or they should agree with, and no others, should and lawfully might, make, use, exercise, and vend within our Colony of Tasmania an invention for [*insert the title of the invention*]; and by an instrument in writing under his hand and seal deposited in the office of the *registrar of patents*, the said *A. B.* has particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed.

And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said *A. B.* the privileges hereinafter mentioned: Know ye, therefore, that we, of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents, for us, our heirs, and successors, do give and grant under the said *A. B.*, his executors, administrators, and assigns, our especial license, full power, sole privilege, and authority that he the said *A. B.*, his executors, administrators, and assigns, and every of them, by himself and themselves, and his or their deputy or deputies, servants or agents, or such others as he or they at any time agree with, and no others, during the term herein expressed, shall and lawfully may, make, use, exercise, and vend his said invention within our said colony, in such manner as to him, his executors, administrators, and assigns, or any of them, seems meet, and that he, his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention during the said term; to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages unto and by the said *A. B.*, his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years now next ensuing: And to the end that the said *A. B.*, his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit, and the sole use and exercise, of the said invention according to our gracious intention, we do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other our subjects whatsoever of what estate, quality, degree, name, or condition soever they be, within our said colony, that neither they nor any of them at any time during the said term, either directly or indirectly, do make, use, or put in practice the said invention or any part of the same so attained unto by the said *A. B.* as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor make or cause to be made any addition thereunto or subtraction from the same whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, license, or agreement of the said *A. B.*, his executors, administrators, or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this our Royal command, and further to be answerable to the said *A. B.*, his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned: Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted it appears that this our grant is contrary to law or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said *A. B.* is not the true and first inventor thereof within this colony, these our letters patent shall forthwith cease, determine,

and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided also, that these our letters patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said *A. B.*, his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which has heretofore been found out or invented by any other of our subjects whatsoever and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use, exercise, and benefit thereof, within our said colony: It being our will and pleasure that the said *A. B.*, his executors, administrators, and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions by them invented and found out according to the true intent and meaning of the same respective letters patent, and of these presents: Provided likewise nevertheless, and these our letters patent are upon this express condition, that if the said instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said *A. B.*, his executors, administrators, and assigns, shall not pay at the office of the colonial treasurer of our said colony the sum of fifteen pounds within three years next after the date of these presents, and the sum of twenty pounds within seven years next after such date, and also if the said *A. B.*, his executors, administrators, or assigns shall not supply or cause to be supplied for our service all such articles of the said invention as he or they are required to supply by the persons administering the department of our service for the use of which the same are required, in such manner, at such times and at and upon such reasonable prices and terms as are settled for that purpose by the said persons requiring the same, that then and in any of the said cases these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted: And lastly we do by these presents, for us, our heirs, and successors, grant unto the said *A. B.*, his executors, administrators, and assigns, that these our letters patent shall be in and by all things good, firm, valid, sufficient and effectual in the law according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said *A. B.*, his executors, administrators, and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors, in our said colony, and amongst all and every the subjects of us, our heirs and successors, whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging. In witness whereof we have caused these our letters patent to be made patent, and to be sealed and bear date as of the day of , 18 .

Appointment to hear Application for Leave to enter Disclaimer.

Patent for [*insert the title*]. This is to notify that C. D., of , in Tasmania, has applied to me for leave to enter a disclaimer of part of [*or*, a memorandum of

alteration in] the title of the said invention [*or as the case may be*] the particulars whereof are stated below; I do therefore appoint [*Thursday*], the day of next, at o'clock in the noon, at my office, to hear and consider the said application, and all objections to the same; and I do hereby require all persons having an interest in opposing the said application, to leave before that day, at my office at Hobart Town, particulars in writing of their objections to the same; otherwise they will be precluded from urging such objections.

Given under my hand, this day of , 18 .

F. S. [*Attorney*] *General,*
Macquarie Street, Hobart Town.

The following is the disclaimer [*or, as the case may be*] which I desire to make in, &c. [*The applicant must here set forth what he wishes to enter, and the reasons for the disclaimer, and sign it.*]

Notice of Appointment of Commission.

Patent for [*insert the title*]. Notice is hereby given that I have presented a petition to His Excellency the Governor, praying for the confirmation of [*or*, extension of the term in, *or, as the case may be*] the said patent; and that a commission has issued authorizing and requiring certain commissioners therein named to consider and report upon the subject to His Excellency the Governor, which said commissioners will meet for that purpose on the day of next, at o'clock in the noon at : All persons objecting to the said confirmation [*or* extension, *or, as the case may be*] must enter a caveat against the same at the office of the *registrar of patents*, Hobart Town, not less than one week before the time named for the said meeting, otherwise they will be precluded from objecting to the said petition.

Dated this day of , 18 .

A. B.

FEES.

Fees on obtaining Patents.

	£	s.	d.
On depositing specification	2	10	0
To the law officer for any appointment	2	4	6
On obtaining letters patent	2	10	0
At or before the expiration of the third year	15	0	0
At or before the expiration of the seventh year	20	0	0
To the law officer with particulars of objections	2	4	6
On presenting petition for extension or confirmation	2	10	0
Every search and inspection	0	1	0
Entry of assignment or license	0	10	0
Certificate of assignment or license	0	10	0
Filing disclaimer or memorandum of alteration	2	10	0
Entering any caveat	2	10	0
Copy or extract of any writing per common law folio	0	0	6

From *Carpm. Pat. L. of World*, 535.

See also, AUSTRALASIA.

TRINIDAD.

Ordinance No. 25, *of* (*September* 2), 1867.

An Ordinance enacted by the Governor of Trinidad, with the advice and consent of the Legislative Council thereof, for amending the Law for granting Patents for Invention.

Be it it enacted by his Excellency the Governor, with the advice and consent of the Legislative Council, as follows :—

I. *On delivery of declaration and specification, the registrar-general to issue certificate to inventor.* The registrar-general, on an application by or on behalf of any person claiming to be the inventor within this colony of any invention, and on the delivery to such registrar-general of a declaration in writing according to the form in the schedule to this Ordinance, together with a specification signed by the applicant or his agent, particularly describing and ascertaining the nature of the invention and in what manner the same is to be performed, shall deliver to such person or his agent a certificate according to the form in the schedule to this ordinance, and a copy of such certificate shall be inserted by the registrar-general in the Royal Gazette.

II. *Specification may be open or if closed, opened in six months.* Any specification of an invention may be delivered to the registrar-general, open or closed, in an envelope, with a note of the name of the invention to which the specification refers indorsed on such envelope, and signed by the applicant or his agent, and where any such specification shall be so delivered closed, the registrar-general shall, on the expiration of six calendar months from the day of granting the certificate, or at any earlier day, on the request of the applicant, his executors, administrators, or assigns, break the seal of such envelope and enregister the specification.

III. *Inventions to be duly recorded, and specifications numbered.* The registrar-general shall number with a distinguishing number, and shall, in a book to be kept by him for that purpose, to be called The Book of Inventions, enter and record in its chronological order every such invention, and the christian and surnames of the inventor, and the day of the date of the certificate of such invention; and shall cause every specfication to be marked with the distinguishing number of the invention to which the specification refers, and such

Book of Inventions and such specifications shall be open to the inspection of the public.

IV. *Certificate to vest exclusive right for fourteen years.* Every certificate granted under this ordinance shall vest in the applicant, his executors, administrators, or assigns, the sole right and benefit of using within this island the invention mentioned in such certificate for and during the space of fourteen years next after the granting of such certificate.

V. *Disclaimer may be entered.* Any person who, as grantee, assignee, or otherwise, shall obtain a certificate under this ordinance, may, if he think fit, enter with the registrar-general a disclaimer or disclaimers, of any part or parts of either the title of the invention or of the specification, stating the reason for such disclaimer, or may enter a memorandum of any alteration in such title of specification, not being such disclaimer or such alteration as shall extend the exclusive right vested by such certificate; and such disclaimer or memorandum of alteration, being filed by the said registrar-general, shall be deemed and taken to be part of such specification in all courts whatever; provided always, that no action shall be brought on any certificate in any case where any disclaimer or memorandum shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration.

VI. *Where the invention assigned, who may enter disclaimer.* In case any person obtaining such certificate shall part with his or their whole or their part or any part of his or their interest by assignment to any other person or persons, it shall be lawful for the person obtaining such certificate, together with such assignee or assignees, if part only hath been assigned, and for the assignee or assignees, if the whole hath been assigned, to enter a disclaimer and memorandum of alteration under the powers of this ordinance; and such disclaimer and memorandum of such alteration, having been so entered and registered as in this ordinance mentioned, shall be valid and effectual in favor of any person or persons in whom the rights under the said certificate may then be or thereafter become legally vested; and no objection shall be made in any proceeding whatsoever on the ground that the party making such disclaimer or memorandum of such alteration had not sufficient authority in that behalf.

VII. *Disclaimer recorded, and note thereof indorsed on specification.* The registrar-general shall cause every such disclaimer and memorandum to be entered in a book to be kept by him for

that purpose, and to be marked with the distinguishing number of the invention and specification to which such disclaimer or memorandum shall refer, and shall indorse on the declaration and specification to which such disclaimer or memorandum shall refer a memorandum in writing of the date and entry of every such memorandum and disclaimer.

VIII. *Penalties for infringement of exclusive right.* If any person shall, during the said term of fourteen years from the granting of a certificate for an invention, directly or indirectly make, use, or put in practice the said invention, or any part of the same, or in anywise counterfeit or imitate the same, or make or cause to be made any addition or subtraction from the same, whereby to pretend himself the inventor thereof, without the license in writing of the inventor, his executors, administrators, or assigns, the inventor, his executors, administrators, or assigns, shall have and be entitled to such and the like remedies against such persons, both in law and in equity, as the grantee of any letters patent for any invention would be entitled to in the like case by the law of England.

IX. *Exclusive right to cease in certain cases.* Provided always, that if at any time during the said fourteen years, it shall be made to appear that the said invention is not a new invention as to the public use and exercise thereof in this colony, or that the said invention is prejudicial or inconvenient to the subjects of our Lady the Queen in general, then all privileges and advantages hereby granted to the inventor, his executors, administrators, and assigns, in respect of such invention, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary in anywise notwithstanding.

X. *Fees to be paid.* There shall be paid to the registrar-general the several fees mentioned in the schedule to this ordinance, and such fees shall be paid over monthly by the registrar-general to the receiver-general for the use of the colony.

Form of Declaration.

I of declare that I am in possession of an invention for (*state the title of the invention*), which invention I believe will be of great public utility, and that the same is not in use by any person or persons in the Island of Trinidad to the best of my knowledge and belief, and that the instrument in writing under my hand herewith delivered particularly describes and ascertains the nature of the said invention and the manner in which the same is to be performed.

Signature.

Form of Certificate.

I, J. B., Registrar General of the Island of Trinidad, do hereby certify that on the day of has been delivered to me by (*or* on behalf of *the name and place of abode of the inventor*), a declaration in writing, signed by the said of a certain invention whereof the said claims to be the inventor in this island, being an invention (*state the name of the invention*), together with a specification (*open or under seal, as the case may be,*) describing the nature of the said invention, and the manner in which the same is to be performed.

In witness whereof, I have hereunto put my hand at Port of Spain, in the Island of Trinidad, this day of in the year one thousand eight hundred and .

Fees to be paid to the Registrar-General.

	£	s.	d.
On leaving any declaration of invention and specification.....	10	0	0
Every disclaimer.....	2	0	0
Publication in the Royal Gazette of any declaration, disclaimer, or memorandum of alteration.....	0	10	0
Every search or inspection of the Book of Inventions.....	0	1	0
Every inspection of any specification.....	0	2	0
For every copy of any specification, for every 120 words.....	0	1	0

From *Carpm. Pat. L. of World*, 561.

TUNIS.

See FRANCE.

See also INTERNATIONAL CONVENTION.

TURKEY.

Law of the 20th Day of the Month of Rabia I., A. H. 1297 (*February* 18, 1879 *).

SECTION I.

GENERAL PROVISIONS.

ARTICLE 1. Every new discovery, invention, or improvement in any branch of industry, confers on its author, under the conditions and for the time hereinafter mentioned, the right to work the said discovery, invention, or improvement for his own benefit. This right is confirmed by a *berat* (patent) delivered by the government.

ART. 2. The following shall be considered as new inventions :

The invention of new industrial products.

The invention of new means, or a new application of known means, for obtaining an industrial result or product.

ART. 3. The following are not patentable :—

1. Pharmaceutical compounds and medicines of all kinds.

2. Devices or combinations relating to banking or finance.

ART. 4. The duration of patents delivered in accordance with article 1 will be five, ten, or fifteen years. Every patent shall be subject to the payment of a fixed tax, as follows :—

Ten Turkish pounds for a patent for five years.

Twenty Turkish pounds for a patent for ten years.

Thirty Turkish pounds for a patent for fifteen years.

This tax shall be paid in installments of two Turkish pounds, payable at the commencement of each year, under penalty of forfeiture if the patentee omits the payment of any annuity.

SECTION II.

THE FORMALITIES IN RELATION TO THE DELIVERY OF PATENTS.

CHAPTER I.

APPLICATIONS FOR PATENTS.

ART. 5. Whoever shall desire to obtain a patent shall deposit, in

* A translation of this law differing very slightly from that presented in the text may be found in 20 Pat. Off. Gaz. 2.

The date of the law as stated in the text is that given in Carpmaels' edition. The Patent Office Gazette, and the Encyclopædia Brit. assign March 2, 1880, as the date.

a sealed envelope, if in Constantinople, at the ministry of commerce and agriculture, and if in the provinces at the office of the provincial government, or, if he prefers it, at the said ministry :—

(1.) His application for a patent.

(2.) A specification of the discovery, invention, or appliance forming the subject of the application.

(3.) The drawings or samples which may be necessary to the understanding of the description.

(4.) A memorandum of the papers deposited.

If the applicant complies with these formalities in a place in which he has no domicile, he must elect domicile there.

ART. 6. The application shall be limited to a single main subject with its details. It shall mention the duration which the applicant wishes to assign to his patent, within the limits fixed by article 4, and shall contain neither restrictions, conditions, nor reservations. It shall have a title giving a short and precise designation of the object of the invention. The application and the specification shall be written without erasures, alterations, or interlineations. The drawings shall be made in ink, to a metrical scale. A duplicate of the specification and drawings shall accompany the application. All the papers shall be signed by the applicant or by his attorney, whose power shall be annexed to the application.

ART. 7. No deposit will be accepted unless accompanied by a receipt showing that the applicant has paid to the authorities, to whom he presented his application, the sum of two Turkish pounds on account of the tax on the patent. An official memorandum shall be drawn up, in Constantinople, at the ministry of commerce and agriculture, or in the provinces at the office of the provincial government. This memorandum will authenticate each deposit, showing the date of the remission of the application papers, and shall be signed by the applicant. A copy of the said memorandum will be sent to the depositor on prepayment of postage.

ART. 8. The term of the patent will begin from the date of the deposit prescribed in article 5.

CHAPTER II.

THE DELIVERY OF PATENTS.

ART. 9. After the application has been filed and the deposits made in the province, in accordance with article 5, the governor-general will transmit the application to the ministry of commerce

and agriculture within five days, accompanied by a letter, a certified copy of the memorandum, the receipt for the tax, the power of attorney (if there be one), and the memorandum of the pieces deposited, all under the seal of the applicant. If the applicant is at Constantinople, these formalities must be complied with at the ministry of commerce and agriculture.

ART. 10. The papers sent from the provinces and those remitted directly to the ministry of commerce and agriculture will be filed in the order of their reception on a special file, and the patent applied for will be delivered.

ART. 11. Patents applied for in due form shall be delivered without previous examination, at the risk and peril of the applicant and without guarantee either of the reality, novelty, or merit of the invention, or of the accuracy or exactness of the specification.

ART. 12. In case of the invention or arms, tools, or apparatus of war which may be used by the army and navy of the State, the inventors and their applications are directed at once to the grand masters of artillery and to the imperial admiralty. A patent will be given for any invention which is shown after examination to be useful and advantageous to the State, and will be bought, in conformity with a contract with the inventor, and paid for, in proportion to its usefulness, by that department of the army and navy which the invention chiefly concerns. A medal of invention is also conferred upon the inventor in accordance with article 14. Inventions not found useful or advantageous will be rejected.

ART. 13. The *berat* (patent) is the official document confirming the regularity of the application, and is delivered to the applicant. It will bear at the top the imperial arms, and at the bottom the seal of the ministry of commerce and agriculture. This document will be accompanied by a certified copy of the specification and drawings mentioned in article 6. Subsequent copies of the patent asked for by the patentee or parties interested require the payment of a fee of one Turkish pound for expenses, the cost of the drawings, if any, being borne by the applicant.

ART. 14. Gold, silver, and copper medals will be ordered. Ottoman subjects and foreigners who shall invent articles useful to the State and to the country will receive as a compensation for and according to the importance of their inventions, gold, silver, or copper medals. They will be required to use the design of the medal as a trade-mark for the object invented.

ART. 15. The first copy of a patent is delivered without charge.

ART. 16. Every application not in conformity with the formalities prescribed by numbers 2 and 3 by article 6 will be rejected. Half of the sum prepaid will remain in the treasury, but it will be placed on account of the sum payable by the applicant if he repeats his application within three months, counting from the date of the notification of the rejection of the application.

ART. 17. When an application is rejected in accordance with article 3 the tax prepaid will be returned.

ART. 18. A list of patents issued by the ministry of commerce and agriculture with a description of the inventions will be published every six months. This publication will be in the usual form of the proclamations of the laws of the Empire.

ART. 19. The duration of patents can be prolonged only by special law.

CHAPTER III.

CERTIFICATES OF ADDITION.

ART. 20. Patentees or parties interested will have the right during the whole term of the patent to make changes, improvements, or additions in the invention by complying with the formalities laid down in articles 5, 6, and 7. These changes, improvements, or additions will be confirmed by certificates, which will have from the date of their delivery, the same effect as the original patent, and will expire with them. Every application for a certificate of addition requires the payment of one Turkish pound. A certificate of addition taken by any person interested inures to the benefit of all the others.

ART. 21. Every patentee who, instead of a certificate of addition, wishes to take out a new patent for a change, improvement, or addition, shall comply with the formalities prescribed in articles 5, 6, and 7, and pay the fees mentioned in article 4.

ART. 22. Those who have transferred their patents to others lose the right of applying for a certificate of addition according to article 20.

ART. 23. No one besides the patentee or persons interested through him may, during one year from the date of the patent, apply for a patent for a change, improvement, or addition to the invention which was the subject of the original patent. Nevertheless, if such an application is received in the course of the aforesaid year, the application and the papers annexed will remain deposited under seal of the ministry of commerce and agriculture. When

the year has expired the seal will be broken and the patent issued. In all cases the original patentee will have the preference in the matter of changes, improvements, or additions for which he himself shall during the year apply for a certificate of addition or a patent.

ART. 24. Any one having taken out a patent for a discovery, invention, or appliance connected with the object of another patent shall have no right to work the invention already patented, and, reciprocally, the owner of the original patent shall not have the right to work the object of the new patent.

CHAPTER IV.

ASSIGNMENT AND TRANSFER OF PATENTS.

ART. 25. The right of ownership of a patent for an invention is divisible. Every patentee may assign the whole or a part of his patent. The assignment, total or partial, of a patent, either gratuitously or for a consideration, can only be made by notarial deed, or by an Act passed before a civil tribunal of first instance in localities where there are no notaries. This formality requires the payment of all the fees mentioned in article 4. No assignment will be valid until registered at Constantinople, at the ministry of commerce and agriculture, or in the provinces at the office of the local authorities of the place in which the Act was passed. The entry of assignments or transfers shall be accomplished by the deposit of a certified copy of the act of assignment or transfer. A copy of each official entry made in the provinces shall be sent by the local authorities to the ministry of commerce and agriculture within five days from the date of the official report. This copy will be accompanied by an extract of the Act aforementioned.

ART. 26. Every patentee may, in accordance with a contract, assign in part the right to work his patent for the manufacture or preparation of the article invented in any quantities, and for any time agreed upon. The owner of a patent for any object dangerous to the community can only work it with caution and under surveillance of the government. The assignee of such a patent is subjected to the same conditions.

ART. 27. The ministry of commerce and agriculture will keep a register of the assignments and transfers of all patents. Every six months an official publication will announce in a form laid down in article 18, the assignments and transfers that have occurred during the half-year just expired.

ART. 28. Licensees under a patent and all who have acquired from a patentee or his agents the right to a patent shall have the full benefit of certificates of addition issued to the original patentee or to persons interested through him. In the same way the patentee and persons interested through him will profit by a certificate of addition issued to the licensees. All those who have the right to profit by a certificate of addition may obtain a copy of it from the ministry of commerce and agriculture on payment of a fee of one Turkish pound.

CHAPTER V.

INSPECTION AND PUBLICATION OF THE SPECIFICATIONS AND DRAWINGS OF PATENTS.

ART. 29. The specifications, drawings, samples, and models of patents issued will remain until the expiration of the patents deposited at the ministry of commerce and agriculture, where they may be inspected without expense by any applicant. Any one may obtain, at his own expense, copies of the said specifications and drawings.

ART. 30. After payment of the second annual fee the specifications and drawings will be published either entire or by extract only. Besides, there will be published every year a catalogue of the patents issued during the preceding year.

ART. 31. The specifications and drawings and the catalogue, when published, will be deposited at Constantinople, at the ministry of commerce and agriculture, and in the provinces, at the office of the secretary of the administrative council, where they can be consulted without charge.

ART. 32. At the expiration of the patents the original specifications and drawings will be deposited at the conservatory of the school of arts and trades at Constantinople.

SECTION III.

RIGHTS OF FOREIGNERS.

ART. 33. Foreigners may obtain patents in Turkey.

ART. 34. The formalities and conditions prescribed by the present law are applicable, without exception, to foreigners applying for patents.

ART. 35. The author of an invention already patented in a for-

eign country may obtain a patent in Turkey; but the duration of this patent shall not exceed that of the patent previously obtained in the foreign country.

SECTION IV.

ANNULMENTS AND FORFEITURES AND MATTERS RELATIN THEREUNTO.

Chapter I.

Annulments and Forfeitures.

Art. 36. Patents issued in the following cases will be null and void.

(1.) If the discovery or invention is not new.

(2.) If in accordance with article 3 the discovery or invention is not patentable.

(3.) If the patents relate to theoretical principles, methods, systems, discoveries, and conceptions, without indication of their industrial application.

(4.) If the discovery or invention is contrary to public order or safety, to morals, or to the laws of the empire.

(5.) If the title under which the patent was applied for gives a false or fraudulent indication of the real object of the invention.

(6.) If the specification annexed to the patent is insufficient for the execution of the invention or if it does not indicate completely and faithfully the true means employed by the inventor.

(7.) If the patent was obtained contrary to the provisions of article 23.

The manufacture and sale of articles prohibited by paragraphs 3 and 4 of this article incur the penalties enacted by the laws of the empire.

All certificates for alterations, improvements, and additions which do not relate to the subject of the original patent are likewise null and void.

Art. 37. No invention will be considered new which, up to the date of the application, has received, either in Turkey or elsewhere, sufficient publicity to enable the same to be worked.

Art 38. The following persons shall be deprived of all rights:—

(1.) Patentees who neglect to pay the yearly tax before the beginning of each year of their patent's duration.

(2.) Any patentee who has not worked his invention in Turkey within two years from the date of the issue of the patent or who has at any time ceased to work the same for any consecutive period of two years, unless in either case he can give a sufficient reason for his inaction.

(3.) Any patentee who shall have introduced into Turkey articles of foreign manufacture and similar to those forming the subject of his patent.

Nevertheless, the minister of commerce and agriculture may authorize the introduction into the empire of models of machines, and articles manufactured abroad intended for public exhibitions or for experiments made with the consent of the government.

ART. 30. Whoever shall in a sign, announcement, prospectus, advertisement, trade-mark, or stamp, pretend to the possession of a patent according to law without really possessing one, or after the same has expired, or shall, while having a patent, mention the same without adding the words "without guarantee of the government," shall be punished by a fine of not less than two nor more than forty-five Turkish pounds. For the second offense the fine shall be doubled.

CHAPTER II.

ACTIONS FOR ANNULMENT AND FORFEITURE.

ART. 40. Actions for annulment or forfeiture may be brought by any person having an interest in the matter, or who can be injured by the act of the defendant. These actions, as well as all disputes relating to the ownership of patents, shall be brought before a civil tribunal of first instance.

ART. 41. If the action is brought at the same time against the owner of a patent and against a licensee, it shall be brought before the tribunal of the domicile of the owner.

ART. 42. Whenever the annulment or forfeiture of a patent has been pronounced, notice of the same shall be sent to the ministry of commerce and agriculture, and it shall be published in the form prescribed by article 18 for the proclamation of patents.

SECTION V.

INFRINGEMENTS, PROSECUTIONS, AND PENALTIES.

ART. 43. Every interference with the rights of a patentee, either by the manufacture of articles or by the use of means forming the

subject of his patent, constitutes the offense of infringement. Every person who shall be judged guilty of this offense shall be punished by a fine of not less than five nor more than a hundred Turkish pounds.

ART. 44. All persons who shall have knowingly received, sold, or exposed for sale or introduced into Ottoman territory, infringing articles shall be considered guilty of infringement.

ART. 45. Any person who shall, without authority from the government, sell or expose for sale arms, tools, or apparatus of war, mentioned in article 12, and that could be used to the detriment of the country, shall be amenable to the penalties imposed by the appendix to article 166 of the Penal Code, without regard to the fact of these inventions having been accepted or rejected by the army and navy departments.

ART. 46. The penalties established by the present law are not cumulative. The heaviest penalty only can be inflicted for all acts committed prior to the prosecution.

ART. 47. For a second offense, in addition to the fine imposed by articles 42 and 43, there shall be inflicted a penalty of imprisonment for not less than one nor more than six months. Any act will be considered as a second offense when the accused shall have at any time during the previous five years been found guilty of any offense provided for by the present law. An imprisonment of not less than one month, nor more than six months, may likewise be inflicted upon any infringer who is or has been employed in any capacity in the shops or establishments of the patentee, or who has been associated with any one so employed in such a manner as to obtain knowledge from him of the processes described by the patent. In the latter case the employe from whom the knowledge was derived may be prosecuted as an accomplice.

ART. 48. At the request of the patentee and on presentation of the patent the president of the tribunal may issue an order providing that an officer of the court shall, assisted, if need be by an expert, make an inventory of articles alleged to be infringements. When a seizure is to be made, the order may require security of the person making the requisition. Security shall always be required of foreigners. The owner of the articles seized shall be provided with copies both of the ordinance and of the order requiring security, if there be one, under pain of annulment of the proceedings and of damages against the officer to the profit of the party injured.

Art. 49. In default of the party making the requisition presenting himself before the tribunal within a period of seven days, in addition to the time necessary to travel the distance between the place in which the objects seized or inventoried were found and the place or residence of the infringer, receiver, importer, or retailer, the seizure or inventory shall be void without prejudice to any damages that may be claimed.

Art. 50. The objects declared infringements must, and the implements and tools intended specially for the manufacture of the said objects may, at the discretion of the tribunal, be confiscated, even in case of the acquittal of the infringer, receiver, importer, or retailer. The objects, implements, and tools so confiscated shall, at the discretion of the judge, be delivered to the owner of the patent without prejudice to further damages or to the publication of the judgment.

From *Carpm. Pat. L. of World*, 566.

End of Vol. I.

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