113.

DIGEST

OF

British and Foreign Patent Laws

BY

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PREFACE.

IT is hoped that this work, embracing as it does, in a compact form, the provisions of the patent laws of the various countries of the world, will be found useful as a book of reference, and may assist in clearing up some of the difficulties which necessarily arise, in dealing with many separate, and often conflicting, patent laws.

It is also designed to supply the information which an intending patentee usually needs, to enable him to understand the chief provisions of the laws of the various countries. With this end in view, a portion is devoted to a consideration of the International Convention, and the bearings of patents in various countries, one upon another, so that the inventor may understand which patents should be filed first, and which may be safely delayed.

The foreign laws have been arranged in alphabetical order, and not according to the geographical position of the various countries, to facilitate the finding of any particular law in the body of the work, without the necessity for referring to the Index.

The cost of applying for patents, in the different countries, is not stated in this book, but will be supplied upon application.

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London, W.C.

INDEX.

NOTE.—For convenience of reference, the laws of the various countries are arranged in alphabetical order, and not according to their geographical position.

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British Honduras
Canada
Cape of Good Hope
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Congo Free State
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Germany
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India
Italy
Jamaica
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Leeward Islands
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Mauritius
Mexico
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Norway
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Tasmania
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Turkey
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Uruguay
Venezuela
Victoria
Western Australia

DIGEST
OF
BRITISH & FOREIGN PATENT LAWS.

ENGLISH LAW.

THE GRANT OF LETTERS PATENT.

The grant of Letters Patent, as a reward for meritorious invention, may be said, in this country, to date from the Statute of Monopolies passed in 1624, in the reign of King James I. Since then various Acts of Parliament have been passed with a view to providing and regulating the machinery by which the grant is carried into effect, because as the number of inventions to be protected increased with the increase of population and the development of industrial processes, extra facilities had from time to time to be provided, and the expense of obtaining the grant, at one time very great, reduced. Thus, the law remaining substantially as settled by the before-mentioned Statute of Monopolies and by the subsequent decisions of the Courts, it was found in 1852 necessary to give increased facilities in consequence of the greater demands, and so that Act, which was an excellent one in many respects, and proved sufficient for the then requirements of the community, was passed. Again, in 1883, the Act of 1852 was found to be out of touch with the requirements of the time, and so was

passed a new Act, in many respects completely altering the procedure by which Letters Patent were obtained, and this, again, was amended in 1885, 1886, and 1888, and even now rumours of a further amending Act are heard.

Under the later Acts the cost of obtaining Letters Patent is greatly reduced from what it used to be, and even in the comparatively short time which has elapsed since the passing of the Act of 1883, it has been found necessary to further reduce the yearly payments for maintaining the patents; but those who are interested in ascertaining the cost of Letters Patent before the passing of the Act of 1852, may amuse themselves by a perusal of Dickens' account of "A Poor Man's Tale of a Patent." There he can learn how the unfortunate inventor and prospective patentee was sent from pillar to post, and from post to pillar, for months, in his endeavour to obtain his patent, and how he had to fee everybody, from the Lord Chancellor down to the Deputy Chaff-wax, and having come to London for the express purpose of obtaining his patent, returned at last to his home with the coveted grant in his possession.

All these Acts, however, have, as above indicated, not altered the fundamental law, but only the procedure under that law, and it is with the procedure, as settled by the Acts from 1883 to 1888, that we have at present to deal. It may be well to briefly state that the grant of Letters Patent is a grant from the Crown to the patentee in return for a full and unreserved statement of the invention and the manner of carrying it into effect,

and that any reservation or failure to give the full disclosure, which would enable a person skilled in the art to which the invention appertains to carry out the invention without the assistance of anything, except the specification and its drawings, and the knowledge which such a person would possess of the art in question, would invalidate the grant, by reason of the recipient of the grant, the patentee, having failed in his part of the contract.

OBSTRUCTIVE PATENTS.

The patent is granted as much for the benefit of the whole community as for that of the patentee himself, and many have been the suggestions to restrict the patentee in the free enjoyment of his rights under his patent. It has been thought by some that a great danger existed in what have been called Obstructive patents, the idea being that a man would patent an invention, and then hold his patent for the purpose of preventing others from carrying on their businesses, and that the community must, therefore, be protected against undue restrictions upon trade. Probably it is as much with this idea in view, as for the income derived from them (although this latter is very considerable), that the yearly payment of taxes has been devised, the theory being that if the patentee is not working his patent he will not go to the expense of paying the yearly taxes to keep it in force, so that the patent would then lapse, and anybody could use the invention as he pleased.

COMPULSORY LICENSES.

An ingenious device, which, though having this object in view, has, nevertheless, probably not proved detrimental to patentees, was inserted in the Act of 1888, viz., the power given to the Board of Trade of granting compulsory licenses—upon fair terms of royalty to the patentee—should a patentee use his patent in restriction of other people's trade, and refuse to grant licenses upon reasonable terms where these were necessary for the working of other inventions, or to supply the articles when required. In many foreign countries a much more objectionable plan than this for preventing obstruction is adopted, and the patentee is forced to put his invention into commercial operation within a limited period from the grant of the patent, failure to comply with this requirement entailing the forfeiture of the patent. In America the opposite course is pursued, and the patentee is subjected to no vexatious restrictions, either in the payment of yearly taxes, the working of his patent, or the granting of compulsory licenses. However, of the systems adopted in different countries to prevent obstructive patents, there can be hardly two opinions that the one which works best, and causes least hardship to the patentee, is the English system of compulsory licenses. Actually, very few applications have been made for the grant of these licenses, the mere power to grant them possessed by the Board of Trade being sufficient to prevent the exercise of obstructive tactics on the part of patentees.

PUBLICATION OF INVENTION.

An invention must not be published, that is, disclosed to the public, until it has been protected, or the patent subsequently obtained would be invalid; it is, however, difficult to give a general definition as to what constitutes publication, so much depending upon the circumstances of each individual case. In the case of Adamson's patent, tried in 1856, the patentee was erecting a pier, and used for the purpose certain machinery for several months, and then applied for the patent, which Lord Chancellor Cranworth declared to be invalid. He added, however, that if the subject of the invention had been used simply for the purpose of testing the invention, though the public could see it, this publicity would not have been an objection to the grant of the patent. On the other hand, far less manifest publication than this might be held to invalidate the subsequent patent, and intending patentees cannot exercise too much care in avoiding publication before obtaining protection.

SUBJECT-MATTER.

It is important that the intending patentee should have some idea of the kind of invention for which Letters Patent may be validly granted, and this point becomes of increasing importance as time goes on, because, as a little thought will show, every year the extent of patentable subject-matter in any particular branch grows less; so that whereas in bygone years it was possible to obtain a patent embracing

some broad principle, it is now, owing to the extension of the public knowledge upon any particular subject, generally possible only to obtain a patent for some details in the apparatus or process, or the combination of mechanism or processes. As an example of this, let us consider James Watt's great invention of the separate condenser; *he* was able to obtain a patent covering the broad principle of the condenser separate from the cylinder of the condensing steam-engine, and any person employing a separate condenser would be infringing his patent. (Prior to Watt's invention, it was the custom to condense the steam in the cylinder itself, a wasteful practice, and attended by many drawbacks.) At the present day, however, no such broad patent upon a condenser could be obtained, and the patentee making an improvement in the condensing of the steam in a steam-engine would have to confine his claim to some particular construction of the condenser itself, or some particular means or method of its application, and thus while Watt could cover the ground broadly, the present inventor could cover only a detail. In later years, again, Watt's separate condenser was immensely improved by the introduction of what is known as the surface condenser, a condenser in which cold water is circulated through pipes upon which the exhaust steam is discharged for the purpose of condensation. A patentee of the surface condenser, though able to claim broadly any *form of surface condenser, would still be much more restricted* in the scope of his patent than James Watt, who could have covered any form of separate condenser, surface or other. And, again, an improver of the surface condenser would

only be able to protect some detail improvement in the construction of the surface condenser, as, for example, the fixing of the tubes in the tube-plates with india-rubber rings, so that his patent, again, would be more restricted than that of the inventor of the surface condenser. And so on in the various departments of industrial progress.

A patent, therefore, which fifty or a hundred years ago might have been of a very wide and far-reaching scope, would to-day have to be restricted to some trifling detail in a construction or process, and even then many, or perhaps all, of the separate elements of this detail of construction or process would in themselves be old. Supposing this to be the case, can the inventor obtain a valid patent for this relatively small (though it may be commercially much more valuable) subject-matter for invention? The answer is—Yes, as it has been laid down in well-known cases that, notwithstanding that some, or even all, of the elements in a special combination were old, a valid patent could be obtained supposing the result obtained were new. So that notwithstanding that a separate condenser was old, and that a surface condenser was already known, it would be competent for the inventor of the method of fastening the tubes by means of india-rubber rings or washers in the tube plates, to obtain a valid patent for his invention, whether separately or in combination with the known separate condenser or surface condenser. Or, again, suppose instead of a simple fastening of the tube, a typical inventor had constructed a condenser which was a separate condenser, and was also a surface condenser, nevertheless, though using these old elements, he would

still be entitled to a valid patent if his combination, as a whole, was now.

Then, again, suppose that his complete combination was now, but that also some subsidiary combination or element (described by Lord Cairns in the well-known case of Clark *v.* Adie as a subordinate integer) was also now, he would be entitled not only to a claim for his complete combination, but to a separate claim for his subordinate integer or combination, or more than one, if more than one was now.

It may be well to remark at this point that in judicial decisions upon patent cases there have been waves of feeling, at one time in favour of the patentee (the "benevolent" construction, described by Jessel, M. R., in the case of Hinks & Son *v.* Safety Lighting Co.) and at other times against the patentee. A few years ago patentees were passing through one of these adverse waves, and it was customary for a patentee to be told by the judge that he could not expect to have a patent for so small an invention, or that there was not sufficient subject-matter, to sustain a patent, in his invention; but latterly the tide appears to have turned, and our judges in patent causes seem to have realised that at the present day it is impossible to have such broad subject-matter as was formerly considered necessary to support a patent, and that if the commerical results indicate that the invention was needed, and the invention, small as it may appear, possesses novelty, the patent would be upheld. Thus, in a celebrated case decided a few years ago, the chief point in favour of the patent appears to have been the

enormous sales which resulted upon the introduction of the patented article, and the Courts appear now to be following very much in the footsteps of that decision. From this it will be seen that even though the subject-matter may appear to be exceedingly small, it does not by any means follow that it is too small to support a patent. There may not be very much subject-matter in a common hair-pin, and yet there have been a number of patents, presumably valid, upon that small article. Or in pneumatic tyres for cycles, there may not seem to be very much scope for invention, and yet a very large number of patents have within the last few years been taken out upon the apparently simple matter of constructing those tyres, or attaching them to the wheels.

DURATION OF PATENT.

A great conflict of opinion has existed as to the length of time for which a patentee should be allowed to have the exclusive right to his invention, before it lapses and becomes public property. In this country the patent is granted for fourteen years. Abroad, the most usual term for the patent is fifteen years, but in Belgium it is twenty, and in the United States it is seventeen. It may, however, be pointed out that whereas in most foreign countries the life of the patent is dependent upon the life of a prior patent for the same invention in another country, in England the patent does not expire with the prior foreign patent. By the 25th section of the Act of 1852, a British patent did expire with the prior foreign

patent, but this section was repealed by the Act of 1888, and the British patent is now independent of the prior foreign patent.

PROLONGATION OF PATENT.

The *Judicial Committee of the Privy Council* have the power, in cases where the patentee, or proprietor of the patent, can satisfy them that he has not been sufficiently remunerated within the original term of the patent, of extending the grant for a longer term, usually for another seven years. These extensions are not very often granted, as the requirements of the Committee are exceedingly exacting, and if it is shown that the owner of the patent has made what the Committee consider to be a sufficient sum of money out of his whole business during the life of the patent, it is probable that the applicant for the extension will be sent empty away, and will not succeed in prolonging the life of his patent.

ONE INVENTION.

What is the definition of one invention? This is a question to which many different answers are given, in as many different patents. In the old days it was thought a fine thing to include in one patent everything remotely relating to a single subject, and very often not relating to that subject at all, and numerous instances of these "omnibus" patents could be adduced; but particularly since the Act of 1883 specifications of this nature have been more rare, a patent being, as a rule, now confined to what may fairly be defined as a single invention. There is a curious specification of recent date which comprises no less than

880 figures of drawings, has 58 claims, and 189 printed pages of specification, and yet this enormous mass of descriptive and illustrative matter does appear to a large extent to come within the definition of one invention, as a particular fundamental feature, forming the essence or ground-work of the invention, does appear to pervade the various arrangements of the invention described.

Another specification, a very recent one, however, appears to contain no less than ten entirely separate inventions, which, although they might in a sense be all applied to different parts of one machine or apparatus, are, nevertheless, applicable individually to elaborate mechanical structures and to simple articles of domestic use. The explanation of such a specification being allowed in the present day to pass as "one invention," is probably what is stated above, that all these separate inventions might be applied to different parts of the same machine; nevertheless, it seems a mistake to allow so many different things to pass in the same specification as one invention, and more especially so since, according to section 33 of the Patent Act, it is not competent for any person to take objection to the patent upon the ground that it comprises more than one invention. In this sense, then, the patentee who succeeds in getting such a specification through the Office may congratulate himself and feel tolerably safe under section 33, but it must be recollected that to protect all these different parts and prevent others using them without paying royalty, the patentee must claim each of them separately, and that every such claim is open to attack upon the ground of want of novelty. So that whereas if he had taken ten separate patents for the ten separate inventions, and one of them was attacked and upset, the other nine would still be intact;

in case of the upsetting of one of the claims in the combined specification, the whole patent would be upset, until the offending claim was removed by disclaimer. Even then, when the disclaimer was made, the whole patent, for the purposes of infringement, would only bear the date of the disclaimer, so that any infringements committed before that date could not be proceeded against, whereas in the case of the single patent being upset, the other nine would retain their original dates and validity, and infringements could be dealt with accordingly.

However, if the inventor be wise, he will restrict his specification to what sound common sense will tell him is fairly one invention, and if he is in doubt about it let him take competent advice upon the subject. A patent is only weakened by embracing many different inventions, and in most cases the inventor will probably make more profit out of his patent by confining it to one good strong subject, than by spreading it over a number of different subjects more or less remotely connected. He should remember that an "omnibus" patent is hateful in the eyes of a judge, who is apt to be prejudiced against the greedy patentee who seeks to include everything he can lay hands on in a single patent.

WHO MAY BE A PATENTEE.

Patents are granted to the true and first inventor or importer of an invention. In the former case, the applicant applies for the patent in his own name as his own invention; in the latter case, he applies for it in his own name as a communication from some person abroad. In the year 1878 a rather curious case, Marston *v.* The Saville

Street Foundry and Engineering Co., Ltd., was tried, in which the wife of a deceased inventor applied for the patent as a communication from her late husband. In deciding against the validity of this patent, Jessel, a former Master of the Rolls, said:—"This is a mere experiment. From the time of the passing of the stat. 21 Jac. I., c. 8, down to the present time, no one, so far as I know, has contended in a Court of law, much less has any Court of law allowed, the validity of such a contention, as that a communication made in England by one British subject to another British subject can be patented by the receiver of the communication, so as to make the receiver the true and first inventor within the meaning of the patent laws." It is evident, therefore, that a communicated invention to be validly patented in this country must be communicated from abroad.

PROVISIONAL PROTECTION.

As it is manifestly desirable to provide some means by which the inventor may test and develop his invention before the necessity arises of minutely explaining and binding himself down by his claims to his precise invention, as he must do in his Complete specification, the plan of filing a Provisional specification, which shall roughly indicate the nature of the invention, but not all the minute details, has been resorted to; this system has worked well for many years, notably under the Act of 1852, but it is now to a large extent out of keeping with the requirements of the times, and it is most probable that in the next alteration in the patent system in this country Provisional specifications will be abolished—at all events, in their present form. What will be put in their place it is difficult to say;

perhaps some modification of the American system, by permitting publication before application for patent. Perhaps some modification of the French system, by which Patents of Addition to an existing patent are permitted, and an inventor having patented his main idea is able, by taking out Patents of Addition, to protect modifications suggested to him in the commercial development of his invention, attaching these Patents of Addition to the original patent, as the branches of a tree to its stem, all expiring with the original patent, but enabling the patentee to protect his developed ideas as time goes on. Or, possibly, an improved form of Provisional protection, modified so as to give the inventor the protection he requires while developing his invention, but avoiding the abuses to which the system of Provisional specifications at present in force undoubtedly lends itself. The most serious of these abuses is the power which an inventor has of filing a broadly worded Provisional specification, particularly upon some subject which at the time is engaging a considerable amount of public attention, keeping it secret for a long time, and delaying the filing of his Complete specification to the latest possible moment, so as to be able to include and claim therein inventions or developments which the applicant, at the time of filing his Provisional specification, never contemplated. Owing to the vague terms of his Provisional specification these developments may be said to come within the scope of that specification, and therefore to be properly included in the Complete specification, and of late years this power has been much abused and demands immediate attention. A difficulty inherent in the system of

Provisional specifications is that since the object of the specification is to enable the applicant for patent to develop his invention, it is clearly to his interest to draw his specification as widely and vaguely as he can, and it then becomes extremely difficult to say what is, and what is not, properly included in such vague expressions. A great deal of quite unnecessary work is on this account thrown upon the Patent Office and the Examiners, and much time, which might be better employed, is spent in endeavouring to read, by the light of the Complete specification, a Provisional specification which, as likely as not, contains merely a vague germ of the developed idea. Of course, there are many cases where the Provisional specification accurately describes the invention, and in such cases this difficulty does not arise.

COMPLETE SPECIFICATION.

Just as the function of the Provisional specification is to be vague and general in its terms, so the function of the Complete specification is to be precise and specific in its terms, to fully and minutely disclose and claim the invention shadowed forth in the Provisional specification. If the nature of the invention permits of it, it is desirable, and in many cases necessary, to accompany the specification with drawings, clearly showing how the invention can be carried out, and in all cases a specification must end with a short and distinct statement of the invention claimed. As the whole value of the patent is absolutely dependent upon the correct drawing up of these claims and it often happens

that at the time they are drawn neither the inventor himself, nor his advisors, really know to what extent, or even in what precise direction, the invention may ultimately develop, and since it is necessary, while carefully guarding against claiming what is already known to the public, to fully cover the invention, it will be readily appreciated that the drawing up of a Complete specification, and the formulating of the claims, require all the care, skill, and experience that can possibly be bestowed upon them, and no expense need be considered unwisely incurred which ensures the proper drawing up of the Complete specification. Within a few hours of penning these words the writer was consulted in the case of an invention which bore all the evidence of a prosperous future, but the claim had been so drawn as to just miss the essential feature of the invention, and this not having been claimed it was thrown open to the public, and it is highly improbable that the inventor will ever reap proper benefit from his really meritorious invention. The proper claim could easily have been made and the invention saved, but *it was not*, and it being now too late to remedy the defect, the patent is practically lost to the inventor.

PROVISIONAL OR COMPLETE?

An application for a patent may be accompanied either by a Provisional or a Complete specification, and it may be useful to glance for a moment at the respective advantages of the two systems.

The application with Provisional specification is the

form most commonly adopted, and this has many advantages over the application with Complete specification, notable amongst them being that the Provisional specification being kept secret until the filing and acceptance of the Complete specification, the inventor does not publish to the world his invention, and does not endanger the validity of foreign patents which he may subsequently desire to obtain, and also does not prematurely inform the world at large as to the nature of his claims. Also, owing to the broad general terms in which the Provisional specification is drawn, he is able to develop and even to modify his invention before formulating his specific claims; and, lastly, he is, as pointed out above, sometimes able to incorporate in his Complete specification an invention which he did not contemplate at the time of filing his application, and to which he is not really even entitled at all! On the other hand, it must be remembered that the Provisional specification only protects the inventor against *his own* acts, and does not give him any power of stopping infringement of his invention, neither, even after his patent is completed, is he entitled to date back for infringements made during the time of Provisional protection only.

The chief advantage of filing at once the Complete specification is that the patent is obtained more quickly, and as infringements would date from the acceptance of the Complete specification, which usually takes place in one month from the date of filing it, there is only a short time during which infringements can be made with impunity. This is an important consideration in the case

of small inventions which can be quickly and cheaply made, and may be placed upon the market in large quantities, before the inventor with only a Provisional specification, perhaps finds it out, or even if he is aware of it, can get his Complete specification prepared and accepted.

OPPOSITION TO THE GRANT OF A PATENT.

The grant of a patent can be opposed upon the grounds presently set out, and attention is drawn to this matter here, because the writer believes that the operation of this power of opposition has been, and is, productive of excellent results to both patentees and the public. It affords, at a small cost, the opportunity of restricting a too-ambitious patentee to that only to which he is entitled, or, in cases where he is not entitled, to a patent at all, it gives the opponent the opportunity, should he succeed in satisfying the Comptroller that his opposition is well founded, of preventing the issue of a patent at all, and thus perhaps saving him from more expensive litigation subsequently.

The grounds upon which opposition is allowed are well defined and so restricted as to discourage, and in most cases prevent, vexatious oppositions, and in practice it rarely happens that an opposition is entered without substantial reason. Before the Comptroller it is customary to allow any person to enter the opposition, so long as he confines himself to one or more of the three grounds set forth in section 11 of the Patent Acts; but upon appeal to the Law Officer only those persons can appear in

opposition who can show such interest in the matter as would, in the opinion of the Law Officer, entitle them to be heard in opposition. This point was clearly established in the appeal *re* Glossop, No. 6801, of 1884, heard before the then Solicitor-General Horschell, and confirmed in subsequent cases.

The grounds of opposition are three:—

1st.—That the applicant obtained the invention from the opponent or from a person of whom the opponent is the legal representative:

2nd.—That the invention set forth in the specification of the applicant has been patented in this country on an application of prior date, and

3rd.—"That the Complete specification describes or claims an invention other than that described in the Provisional specification, and that such other invention forms the subject of an application made by the opponent in the interval between the leaving of the Provisional specification and the leaving of the Complete specification." Opposition upon the ground of want of novelty in the invention itself, or that the opponent is already using the invention commercially, is not allowed in this country.

Evidence can be filed by the opponent in support of his opposition; where the opposition is upon the ground of a prior patent, the evidence, if any be filed, usually takes the form of declarations setting forth the points of similarity between the applicant's specification and the opponent's, with, perhaps, declarations by expert persons in the branch of industry concerned, enforcing the similarity and showing

how the granting of the applicant's patent would commercially injure the proprietor of the earlier patent upon which the opposition is based. Should the opponent allege that the applicant obtained the invention from him, declarations would be filed in support of this statement, showing when and how the invention was so obtained from the opponent. In this latter case the whole of the evidence would be by declaration, and ought to be very carefully prepared. Where the third ground of opposition is taken, the opponent would seek to demonstrate the difference between the applicant's Complete and Provisional specifications, and to show that the matter involved in this difference was already included in an application for patent filed by the opponent between the filing of the Provisional and Complete specifications by the applicant.

The applicant, on the other hand, in replying, would, in the first case, point out the differences between the specifications, and in the last case, the similarity between his Provisional and Complete specifications, and would also probably obtain expert evidence with a view to rebutting the evidence of the opponent. Two weeks time (subject to extension if approved by the Comptroller) is allowed to each party for filing evidence, but after the applicant has answered the first declarations of the opponent the latter has a final reply, for which only seven days time is allowed.

It will thus be seen that the proceedings in opposition matters before the Comptroller are simple and to the point, and by no means expensive. Upon the completion of the evidence, and after the two months, during which time the specification is open to opposition, has expired, the Comp-

troller will proceed to hear the parties and consider the evidence, and decide whether to allow the patent to be sealed or not. His decision is subject to appeal to the Law Officer, when the same evidence which was used before the Comptroller will be considered, no other evidence, excepting by the special leave of the Law Officer, being admissible.

AMENDMENTS AND DISCLAIMERS.

The patentee has the right of amending his patent by Disclaimer, Correction, or Explanation. The power to do this is frequently of great importance, because, according to English Patent Law, a patent which contains a single invalid claim, even amongst many valid ones, is entirely bad until the obnoxious claim is amended or erased, and amendment of specifications is, therefore, a proceeding which is often resorted to. There is, however, a drawback attending amendments which should not be lost sight of, and that is, that a patent, the specification of which has been amended, only dates back for the purposes of infringement to the date of the amendment; an infringement, therefore, committed prior to the amendment would, by the very fact of the amendment being made, be condoned, and the infringer would escape the consequences of his act. Besides disclaiming or absolutely striking out claims or other portions, a specification may be amended by correction or explanation; the former would allow of the correction of a clerical error or other mistake or mis-statement in the specification, while the latter would allow of a passage or a drawing, the meaning of which was not clear, being rendered intelligible.

REVOCATION.

A patent can be revoked if sufficient cause be shown, and every ground allowable in the old proceedings for repeal by *scire facias* may be used in an action for revocation. Where a patent has been revoked on the ground of fraud, the Comptroller has the power to grant to the true inventor a patent in place of the patent revoked.

INFRINGEMENTS.

This is a subject upon which volumes could be written without exhausting it, but it will be sufficient here to indicate a few of the questions involved in an action for infringement.

The first point to be considered would naturally be whether the supposed infringement is in fact an infringement at all; it is not an unknown thing to find patentees, with large ideas as to the ground covered by their patents, accusing rivals in trade of infringing patents, which very possibly may not be infringed at all. It is, therefore, most important, before commencing proceedings for infringement, or even threatening a supposed infringer, for the patentee to satisfy himself that an infringement has in fact been committed, and the best advice, though the most expensive, will be found in the long run to be the cheapest, and it is much wiser to take it at this early stage than to wait until an action has been commenced, and then find out that after all the supposed infringement had not been committed. Another reason for being careful at

this stage is the provision in section 32 of the Patent Acts, of a right of action by an aggrieved party who has been improperly threatened with an action for infringement of a patent; so that a patentee ought to be sure of his ground before sending any threats alleging infringement.

The next point to be considered is the validity of the patent alleged to be infringed, because should it appear at the trial of the action that even a single claim was bad, the whole patent would be held to be bad, and although the other claims might be perfectly good, the patentee would lose his action, which might have been avoided had he properly investigated his position before commencing, and removed by disclaimer the doubtful claim or claims. Therefore he should most carefully investigate his position as soon as ever he has reason to suspect infringement, by having a careful search made through prior patent specifications, to ascertain whether anything like the subject of his patent existed before the date at which it was applied for. He should also make all possible investigation as to what was the state of public knowledge, particularly in the trade to which the invention applies, at the date of his patent, as he might find that the identical thing covered by his patent had been used in some unexpected place long before.

SEARCHES.

It is always wise to have a search made before preparing the Complete specification, so that by ascertaining the true state of public knowledge at the date of the application for the patent, the patentee may be saved from including in his

specification claims which the search may prove he is not entitled to. Formerly it was a common practice to make a search before obtaining even Provisional protection (and this is always a useful proceeding where it can readily be done), but since the cost of Provisional protection has been reduced, and the march of invention so greatly quickened, it is becoming more the practice to obtain Provisional protection without making the search, and to delay searching until the inventor has satisfied himself of the commercial value of his invention, and then to make it before drawing the claims of his Complete specification. By this means the expense of the search may be avoided until the success of the invention has been demonstrated, and the cost of Provisional protection being now so slight, the actual loss, should the invention prove to be old, may be less than the cost of the search.

BOARD OF TRADE.

The Patent Office, and the machinery for carrying out the grant of Letters Patent, are now under the control of the Board of Trade, in place of the old Commissioners of Patents, who held sway under the Act of 1852. The Board of Trade has formulated rules for the various processes to be carried out in applying for and obtaining Letters Patent, but the working of these rules is entrusted to the Comptroller-General and his staff at the Patent Office.

PATENT OFFICE.

The staff, under the direction of the Comptroller-General of Patents, has had to be greatly increased since the Act of 1883 came into force on 1st January, 1884, for with the advent of that Act the number of applications for patents rose quickly from about 6,000 to 20,000, and latterly to 25,000 applications per year, and the staff of Examiners to deal with this increased number of applications has had to be increased accordingly. The Patent Office itself is in process almost of re-building, a large proportion of the total accommodation, lately and now in process of being added, being new; amongst the new portions are the Court, in which opposition cases are heard by the Comptroller, and the new Public Library.

THE PATENT OFFICE LIBRARY.

The Patent Office Library is an excellent one, and there can be found an immense mass of information upon every subject of importance to inventors. Copies of the specifications of this, and also of those foreign countries which print their specifications, are there to be found, besides nearly all of the most important technical papers of the world, and a large number of scientific and technical works on various subjects and in various languages.

THE PATENTS, DESIGNS AND TRADE MARKS ACTS, 1883 TO 1888.

These Acts, which are practically consolidated, and may be read together, are divided substantially into five parts:—

The First, preliminary.

The Second, relating to Patents.

The Third, to Designs.

The Fourth, to Trade Marks; and

The Fifth, General.

For our present purposes, of the

FIRST PART,

which merely relates to the short title, and to the fixing of the dates at which the respective Acts shall come into force, it is sufficient to say that the Act of 1883 came into force on the 1st of January, 1884, and the Act of 1888 came into operation on the 1st day of January, 1889. For the short Acts of 1885 and 1886, no special date for their commencing being fixed, it may be assumed that they came into operation on their respective dates, viz.: 14th August, 1885, and 25th June, 1886.

SECOND PART.

The Second Part contains Sections 4 to 46, relating to the following subjects :—

Sections 4 to 13, the application for, opposition to, and grant of Letters Patent.
Section 14, Provisional protection.
Section 15, Protection by Complete specification.
Sections 16 and 17, the Patent.
Sections 18 to 21, Amendment of specification.
Section 22, Compulsory Licenses.
Section 23, Register of Patents.
Section 24, Fees.
Section 25, Extension of term of Patent.
Section 26, Revocation of Patent.
Section 27, Effect of Patent upon the Crown.
Sections 28 to 32, Legal proceedings.
Sections 33 to 44, Miscellaneous.
Section 45, Existing Patents ; and
Section 46, Definitions.

APPLICATION FOR AND GRANT OF PATENT. SECTIONS.

The principal features under this heading are the following :—

Any person or persons, whether British subjects or not, may apply for the grant of a patent, separately or jointly, and patents may be granted jointly to more than one person, even though they are not all inventors.

The application may be accompanied by a Provisional specification, which must describe the nature of the invention, and be accompanied by drawings if required, or by a Complete specification, either left with the original application in place of a Provisional specification, or subsequently, which must particularly describe and ascertain the nature of the invention and how it is to be carried out, and end with a statement of the invention claimed, and must also be accompanied by drawings if required.

Every application is referred by the Comptroller to an Examiner, *to ascertain and report to him whether* the nature of the invention has been fairly described, and whether the various documents have been prepared in the prescribed manner, and the title sufficiently indicates the subject-matter of the invention.

Amendments of the specification must, if required by the Comptroller, be made, but in this, as in nearly all matters before the Comptroller-General, appeal can be made from his decision to the Law Officer.

If the Complete specification be not left with the application, it must be left during the succeeding nine months from the date of application, an extension of which time to ten months may be allowed by the Comptroller upon payment of a fee of £2. Unless the Complete specification *is left within that time the application is deemed to be* abandoned.

When the Complete specification is filed after the Provisional the Examiner compares the two specifications to see that the inventions are substantially the same, and should he be of opinion that they are not, the Comptroller may

order the Complete specification to be so amended as to agree with the Provisional specification, appeal being allowed to the Law Officer.

A Complete specification must be accepted within twelve months from the date of the application, unless an extension of this time, up to fifteen months from the date of the application, which may be procured with the consent of the Comptroller and upon the payment of the prescribed fee, be obtained, failing which the application will become void. The fees for these extensions are for one month £2, for two months £4, and for three months £6.

Reports of Examiners are not published or open to public inspection, except by order of the Court.

On the acceptance of the Complete specification the Comptroller will advertise such acceptance, when the specification and drawings will forthwith be open to public inspection; the specification and drawings are also printed as soon as practicable after the acceptance, and are usually procurable about three weeks after the acceptance.

OPPOSITION.

At any time within two months from the date of the advertisement of the acceptance of the Complete specification, any person is at liberty to give notice at the Patent Office of opposition to the grant of the patent on any of the following three grounds:—

1st.—That the applicant obtained the invention from him, the opponent, or from a person of whom he is the legal representative.

2nd.—On the ground that the application has been patented in this country on an application of prior date, and

3rd.—"On the ground that the Complete specification describes or claims an invention other than that described in the Provisional specification, and that such other invention forms the subject of an application made by the opponent in the interval between the leaving of the Provisional specification and the leaving of the Complete specification."

OPPOSITION; APPEAL TO LAW OFFICER.

Concerning appeals in opposition matters to the Law Officers, it may be noted:—

1st.—That the Law Officer has the power to give costs.

2nd.—That if he likes he can obtain the assistance of an expert, and

3rd.—That he can conduct *a viva voce* examination of witnesses who may have filed evidence in the case. Although, according to the section (11), "any" person may give notice of opposition, it appears, according to subsection 3, that it is only those persons giving notice, and "in the opinion of the Law Officer entitled to be heard in opposition to the grant," whose opposition will be considered, and there are decisions of the Law Officers bearing out this view.

PATENT.

The patent when issued is sealed with the Seal of the Patent Office, which has the same effect as if it were sealed with the great Seal of the United Kingdom. The patent

must be sealed within fifteen months from the date of the application, excepting where delayed by opposition to the grant of the patent, when it may be sealed at such time as the Law Officer may direct; if the person making the application dies before the expiration of the fifteen months, the patent may be granted to his legal representative, and sealed at any time within twelve months after the death of the applicant.

Where the previously described extensions of time of one and three months respectively for the leaving and accepting of the Complete specification have been allowed, a further extension of four months after the said fifteen months shall be allowed for the sealing of the patent.

DATE OF PATENT.

Every patent shall be dated and sealed as of the day of application, but no proceedings shall be taken in respect of infringements committed before the publication of the Complete specification.

NO PUBLICATION OF LAPSED APPLICATION.

Where an application for patent has been abandoned or become void, the specification will not at any time be open to public inspection, or be published by the Comptroller.

PROVISIONAL PROTECTION.

Where an application has been accepted, the invention may be considered to be provisionally protected, and the applicant for the patent protected against publication of the invention during the period of Provisional protection. The application in this case is accompanied by a Provisional specification.

COMPLETE PROTECTION.

Upon the acceptance of a Complete specification, and until the date of the sealing of the patent or the expiration of the time for sealing, the applicant has the like privileges and rights as if a patent had been sealed on the date of the acceptance of the Complete specification, excepting that he is not entitled to institute proceedings for infringement until the patent has been actually granted to him. However, infringement would date back to the acceptance of the Complete specification.

THE PATENT.

Every patent when sealed shall have effect throughout the United Kingdom and the Isle of Man.

DURATION OF PATENT.

The duration of the patent is fourteen years, subject to the payment of the following fees:—

Before the expiration of the 4th year from the date of the patent and in respect of the 5th year, £5

Before the expiration of the 5th year from the date of the patent and in respect of the 6th year, £6

Before the expiration of the 6th year from the date of the patent and in respect of the 7th year, £7

Before the expiration of the 7th year from the date of the patent and in respect of the 8th year, £8

Before the expiration of the 8th year from the
date of the patent and in respect of the 9th year, £9
Before the expiration of the 9th year from the
date of the patent and in respect of the 10th year, £10
Before the expiration of the 10th year from the
date of the patent and in respect of the 11th year, £11
Before the expiration of the 11th year from the
date of the patent and in respect of the 12th year, £12
Before the expiration of the 12th year from the
date of the patent and in respect of the 13th year, £13
Before the expiration of the 13th year from the
date of the patent and in respect of the 14th year, £14

These fees are due upon the anniversary of the date of the application for the patent, but the Comptroller has power, upon sufficient cause being shown, to enlarge these times to the extent of three months upon payment of a fine of £1 for one month, £3 for two months, and £5 for three months.

AMENDMENT OF SPECIFICATION.

A specification may be amended by leave of the Comptroller upon proper application made, but no amendment will be allowed that would make the specification, as amended, claim an invention substantially larger than, or different from, the invention claimed by the specification as it stood before amendment. By this means errors in a specification may be corrected, invalid claims may be restricted or removed altogether by disclaimer, and the meaning of obscure parts of the specification made clear by explanation.

Before an amendment is allowed it has to be advertised in certain papers, according to the requirements of the Comptroller, and amendments may be opposed before the Comptroller, subject to appeal to the Law Officer, who may impose conditions. Should there be no opposition, but the Comptroller refuse to allow the amendment, an appeal to the Law Officer may be made.

Leave to amend is conclusive evidence as to the right of the proprietor of the patent to make the amendment allowed, unless fraud can be shown.

As a rule, amendments cannot be made during an action for infringement, but the Court may give permission to the patentee to amend, subject to such terms as to costs or otherwise as may seem desirable, and the trial of the action may be stayed while the amendment is being made.

Where a patent has been amended it dates back, for the purposes of infringement, only to the date of the amendment, as any infringement committed before that date would not be the subject of damages.

COMPULSORY LICENSES.

The Board of Trade has power to grant licenses under any patent on such terms as to the amount of royalties, security for payment, or otherwise, as in the nature and circumstances of the case the Board of Trade may deem just, and any such order may be enforced by mandamus. To obtain such a license, however, it would be necessary

to satisfy the Board of Trade that by default of the 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.

REGISTER OF PATENTS.

A *register of patents is kept at the Patent Office*, wherein are entered the particulars of the patents, proprietors, and so forth, notifications of assignments, licenses, amendments, extensions, revocations, "and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed."

This register of patents is *prima facie* evidence of any matters entered therein under the Acts.

EXTENSION OF PATENT.

A patentee, after proper notice or advertising of his intention to do so, may present a petition to Her Majesty in Council praying for an extension of the term of his patent, such petition to be presented at least six months before the time limited for the expiration of the patent. Any person may oppose the extension. The Judicial Committee of the Privy Council, before whom the case is heard, have power to grant an extension for fourteen years, but seven or even five years is the usual term.

REVOCATION.

A patent may be revoked on petition to the Court, and every ground applicable under the old proceeding of *scire facias* will be available as a ground of revocation, or of defence, to an action for infringement. Any of the following persons may present a petition for revocation of a patent:—

(*a*) The Attorney-General in England or Ireland, or the Lord-Advocate in Scotland.

(*b*) Any person authorised 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.

NEW PATENT.

Where a patent has been revoked on the ground of fraud, the Comptroller has power, upon the application of the true inventor, to grant him a patent in lieu of the one revoked; this new patent will bear the date upon which the previous patent was revoked, but will expire upon the date at which such revoked patent would in ordinary course have expired.

CROWN.

A patent has the same effect as against the Crown as it has against a subject, but any invention may be appropriated to the use of any department of the service of the Crown, on terms which may be settled by the Treasury.

THREATENING CIRCULARS, &c.

By section 82 any person claiming to be the patentee of an invention, who, by "circulars, advertisements, or otherwise," threatens legal proceedings or liability on the ground of infringement of his alleged patent, and does not with due diligence commence and prosecute an action for infringement of his patent, renders himself liable to have an action brought against him for an injunction against the continuance of the threats, and such damages as may have been occasioned if actually no infringement was committed.

PATENT FOR ONE INVENTION.

A patent is granted for one invention only, but it is not competent for a party to an action to take objection to a patent on the ground that it comprises more than one invention.

DECEASED INVENTOR.

Should the inventor die without making application for a patent, application may be made by his legal representative, and the patent granted to him, but such application must be made within six months of the decease.

FRAUD.

A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him.

ASSIGNMENT.

A patentee may assign his patent for the whole or any portion of the United Kingdom or the Isle of Man.

DUPLICATE PATENT.

A duplicate of any patent may be sealed, should satisfactory reason for the non-production of the original be produced to the Comptroller.

LAW OFFICERS.

The Law Officers may examine witnesses on oath.

INDUSTRIAL EXHIBITION.

The exhibition of an invention at an Industrial or International Exhibition, certified by the Board of Trade, or the publication of the description, or the use of the invention for the purposes of the exhibition in the Exhibition grounds by the inventor, or the use of the invention during the period of the Exhibition by any person elsewhere without the consent of the inventor, will not prejudice the right of the inventor to obtain a patent subsequently; but the exhibitor must, before exhibiting, give notice to the Comptroller of his intention

to do so, and the application for the patent must be made within six months of the date of the opening of the Exhibition. (It having been found that many persons, believing themselves to be protected by exhibiting at Exhibitions certified by the Board of Trade, did so exhibit without giving the prescribed notice, an order in Council can be issued making the delivery of such notice unnecessary.)

ILLUSTRATED JOURNAL.

An illustrated journal of patented inventions is issued weekly, and also reports of patent cases which have been decided by the Courts.

MODEL.

The Department of Science and Art may require a patentee to furnish them with a model of his invention on payment to him of the cost of the model.

FOREIGN VESSEL.

A patent shall not prevent the use of an invention for the purposes of navigation of a foreign vessel within the jurisdiction of the Court in the United Kingdom or the Isle of Man, nor the use of an invention in a foreign vessel within that jurisdiction, provided it is not used for the manufacture or preparation of articles to be sold in, or exported from, the United Kingdom or the Isle of Man. (This clause, however, does *not apply to foreign countries* which do not extend similar advantages to British patentees.)

SECRETARY OF STATE FOR WAR.

In the case of instruments or munitions of war, the patents or inventions may be assigned to the Secretary of State for War, who may notify the Comptroller and prevent the publication of the specification, so that the invention may be kept secret.

PATENTS BEFORE THE ACT OF 1888.

The clauses as to patents binding the Crown and compulsory licenses do not apply to patents issued before the coming into force of the present Act on 1st January, 1884.

DESIGNS

Sections 47 to 61 relate to copyright in designs. These are granted for the term of five years, and are not open to inspection by the public until the copyright has expired. Should, however, the registration of a design be refused on the ground of identity with a design already registered, the applicant for the new design is entitled to inspect the previous design.

By supplying the Comptroller with the registered number of a design, or other satisfactory means whereby he can identify it, it is possible to ascertain from the Comptroller whether the registration of such design is still in force, and the class of goods to which it applies, and the name and address of the registered proprietor.

In making an application for design registration, the applicant must furnish to the Comptroller samples of the article, or photographs, drawings, or tracings, to enable the design to be properly identified.

If a registered design is used in manufacture in any foreign country and is registered here, but not used in this country within six months of the date of registration, copyright will cease.

A register of designs is kept at the Patent Office, in which are entered the names and addresses of proprietors, notifications of assignment, and the like. This register is *prima facie* evidence of registration.

The same privileges and requirements concerning the exhibition at Industrial and International Exhibitions exist with regard to designs, as have already been described with reference to patents, and the same power to dispense with the necessity for giving notice of intention to exhibit exists for designs as for patents.

The penalty for piracy of a registered design is limited to £50 for every offence, and this may be recovered as a simple contract debt by action in any Court of competent jurisdiction, but the total sum forfeited in respect of any one design must not exceed £100.

Notwithstanding the above remedy, the registered proprietor of a design may, if he thinks fit, bring an action for the recovery of damages arising from the improper use of the design or fraudulent imitation.

Sections 60 and 61 are appended *verbatim*.

"Section 60. 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 the year 1814 (54, George III., chap. 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.

"Section 61. 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."

TRADE MARKS.

Any person claiming to be the proprietor of a trade mark may apply for registration, the application being accompanied by representations of the mark, and a statement of the particular goods or classes of goods in connection with which the mark is to be used.

The Comptroller can refuse to register, but such refusal is subject to appeal to the Board of Trade; the Board may decide the case or refer the appeal to the Court.

In the case of an application which is not completed within twelve months from the date of the application, by reason of default on the part of the applicant, the Comptroller will give notice of the non-completion, and should this produce no result the application will be deemed to be abandoned.

Section 64 (1, 2, and 3) determines what may be registered as a trade mark, and it is subjoined in full.

"Section 64. (1) For the purposes of this Act, a trade mark must consist of or contain at least one of the following essential particulars:—

"(*a*) A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or

"(*b*) A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark; or

"(*c*) A distinctive device, mark, brand, heading, label, or ticket; or

"(*d*) An invented word or invented words; or

"(*c*) A word or words having no reference to the character or quality of the goods, and not being a geographical name.

"(2) There may be added to any one or more of the essential particulars mentioned in this section any letters, words, or figures, or combination of letters, words, or figures, or of any of them, but the applicant for registration of any such additional matter must state in his application the essential particulars of the trade mark, and must disclaim in his application any right to the exclusive use of the added matter, and a copy of the statement and disclaimer shall be entered on the register.

"(3) Provided as follows:

"(*a*) A person need not under this section disclaim his own name or the foreign equivalent thereof, or his place of business, but no entry of any such name shall affect the right of any owner of the same name to use that name or the foreign equivalent thereof:

"(*b*) Any special and distinctive word or words, letter, figure, or combination of letters or figures, or of letters and figures used as a trade mark before the thirteenth day of August, one thousand eight hundred and seventy-five, may be registered as a trade mark under this part of this Act."

A number of marks resembling each other in the material particulars, but differing in such matters as the statement of goods for which they are used, or statements of numbers, price, quality, &c., may be registered as a series in one registration. Such a series is assignable and transmissible only as a whole, but, otherwise, they may be regarded as separate registrations.

A trade mark may be registered in any colour or colours,

but the registration will extend to the use of the trade mark in that or any other colour or colours.

An application for registration is advertised in the *Trade Marks Journal*, and within one month or such extended time, not exceeding three months, as the Comptroller upon application may allow, any person may give notice of opposition to the registration. The Comptroller will send a copy of the notice of opposition to the applicant, who, within one month after receipt of the notice, may file a counter statement, and should he neglect to do so, he will be deemed to have abandoned his application. The Comptroller will furnish a copy of the counter statement to the opponent, and will then, in due course, hear the applicant and the opponent, and decide, subject to appeal to the Board of Trade, whether to register or not.

A curious feature in regard to oppositions to the registration of trade marks is to be found in sub-section 5 of section 69:

"If the applicant abandons his application after notice of opposition in pursuance of this section, he shall be liable to pay to the opponent such costs in respect of the opposition as the Comptroller may determine to be reasonable."

A registered trade mark can be assigned and transmitted only in connection with the goodwill of the business to which it appertains, and will be determinable with that goodwill.

Should several persons claim to be registered as the proprietor of the same trade mark, the Comptroller may refuse to register any of them until a Court has decided who is the rightful applicant.

Except where a Court has decided that more than one person is entitled to be registered for the same mark, the Comptroller will not register for the same goods a mark identical with one already on the register, nor yet one having such resemblance to a registered mark as to be calculated to deceive.

Words calculated to deceive are not registerable.

In the case of marks used before the 13th of August, 1875, the Comptroller may register as an addition to any trade mark any of the following :—

"Any distinctive device, mark, brand, heading, label, ticket, letter, word, or figure, or combination of letters, words, or figures, though the same is common to the trade in the goods with respect to which the application is made."

In the case of marks not used before the 13th of August, 1875, the Comptroller may register as an addition to any trade mark : "Any distinctive word or combination of words, though the same is common to the trade in the goods with respect to which the application is made ;" but the applicant must state in his application the essential particulars of the mark, and must disclaim any right to the exclusive use of the added matter, and a copy of the statement and disclaimer will be entered on the register. However, in this section a person need not disclaim his own name or the foreign equivalent thereof, or his place of business, but, nevertheless, no such entry shall affect the right of another person bearing the same name to use that name or the foreign equivalent thereof.

Any device, mark, brand, heading, label, ticket, letter, or figure, or combination of letters, words, or figures publicly

used before the 13th of August, 1875, by more than three persons on similar goods, shall be deemed common to the trade in such goods.

The date of the application for registration will be deemed to be the date of registration, and the registration of a person, as proprietor of a trade mark, is *primâ facie* evidence of his right to the exclusive use of the mark, and after the expiration of five years from the date of registration will be conclusive evidence of his right to the exclusive use of the mark, subject to the provisions of the Act.

No proceedings to stop infringement or recover damages for infringement of a trade mark can be taken unless the mark has been registered, or in the case of marks prior to the 13th August, 1875, the application to register has been refused; the Comptroller, however, may on request grant a certificate that such registration has been refused.

A register of trade marks is kept at the Patent Office, and in the register are entered the names and addresses of proprietors, notifications of assignments, and transmissions, and the like.

A mark will be removed from the register at the expiration of fourteen years, or within three months thereafter, unless the prescribed fee for maintaining the registration in force be paid; within the term of the fourteen years the fee only need be paid, but if the three months or any portion thereof be taken advantage of, a fine of 10s. must be paid in addition to the fee.

A trade mark removed from the register will, nevertheless, for purposes of other applications for registration,

be treated for one year after its removal as though it was still on the register, unless the Comptroller be satisfied of the death or bankruptcy of the registered proprietor, or of his having ceased to carry on business, and that no person claiming under that proprietor or under his bankruptcy is using the mark.

SHEFFIELD MARKS.

Marks relating to cutlery, edge tools, raw steel, or goods made of steel, or steel and iron combined, are submitted to the Cutlers' Company. Where the application is made by a person carrying on business in Hallamshire, or within six miles thereof, the application must be made direct to the Cutlers' Company at Sheffield, who keep a register of trade marks, called the Sheffield register, and will notify the Comptroller of the application, and unless he raises objection the Cutlers' Company will deal with that application; outside that limit the application may be made to the Comptroller. Appeal is allowed from the Cutlers' Company to the Court. A mark registered by the Cutlers' Company will also be entered upon the register of trade marks at the Patent Office, and will bear the date of application at the Cutlers' Company, and have the same effect as if the application had been made to the Comptroller upon that day.

Should a person outside the Hallamshire limit apply to the Comptroller to register a trade mark on metal goods, he will notify the application and proceedings thereon to the Cutlers' Company.

The term "metal goods" used above is understood to mean all metals, whether wrought, unwrought, or partly wrought, and all goods composed wholly or partly of metal. For the purposes of legal proceedings in relation to trade marks entered on the Sheffield register, the certificate of the Cutlers' Company will have the same effect as the certificate of the Comptroller.

GENERAL.

Sections 82 to 117 complete the Act, except as to schedules, &c., and deal with matters pertaining to the Patent Office, International and Colonial arrangements, Scotland and Ireland, and offences, and may be briefly dealt with.

The Comptroller may refuse to grant a patent for an invention or to register a design or trade mark, the use of which would be contrary to law or morality.

Printed or written copies or extracts, certified by the Comptroller, and bearing the seal of the Patent Office, shall be admitted in evidence in all Courts in Her Majesty's dominions, without the necessity for producing the originals.

The Comptroller may, upon request and payment of the prescribed fee, correct clerical errors in specifications or other documents, or in the name or address of a registered proprietor, or may cancel an entry or part of an entry of a trade mark on the register, but such cancelment will only be effected if the applicant accompanies his request with a statutory declaration to the

effect that he is the person whose name appears on the register as the proprietor of the mark. An application for registration of design or trade mark may be amended by omitting any particular goods or classes of goods.

Any person causing a false entry to be made in any register under the Act will be guilty of a misdemeanour.

Whenever the last day fixed for leaving a document or paying a fee under this Act falls on Christmas Day, Good Friday, on a Saturday, a Sunday, or on any day observed as a holiday at the Bank of England, or a day of public fast or thanksgiving, the said leaving or paying may be effected on the following day.

The Board of Trade has power to make rules for carrying out the various provisions of the Act.

The Comptroller prepares an annual report, to be laid before both Houses of Parliament before the first day of June in every year.

The International and Colonial arrangements are chiefly for carrying out the provisions of the International Convention previously referred to.

Section 105 deals with persons representing an article sold to be a patented article when no patent has been granted for the same, a liability not exceeding £5 for every offence on summary conviction being incurred. By sub-section 2 of section 105, it is enacted that marking an article with the word "patent," "patented," "registered," or the like, would come within the section.

By section 106 the use in connection with trade of the Royal Arms or imitations thereof, so as to lead the public to believe that the said trade is being carried on under the

authority of Her Majesty, or any member of the Royal Family, or of a Government department, renders the person so offending liable, on summary conviction, to a fine not exceeding £20.

The Act of 1888 had particular reference to persons practising as Patent Agents, and enacted that after the first day of July, 1889, no person should be entitled to describe himself as a Patent Agent unless he was registered as a Patent Agent in pursuance of the Act, under a penalty not exceeding £20. "Patent Agent" means exclusively an agent for obtaining patents in the United Kingdom. The Board of Trade is empowered to make rules to carry out the Act. Every person proving to the satisfaction of the Board of Trade that he was *bonâ fide* practising as a Patent Agent prior to the passing of the Act shall be entitled to be registered.

INTERNATIONAL CONVENTION.

The desire for a universal patent law has often been expressed, and efforts have been made towards this end, probably the only one of a practical nature being the International Convention for the Protection of Industrial Property, established a few years ago, and to which the following countries have given in their adhesion :—

BELGIUM.
BRAZIL.
CURACOA and SURINAM.
DENMARK and FAROE ISLES. (Patents, 20th June, 1895 ; Designs and Trade Marks, 20th March, 1895.)
EAST INDIAN COLONIES of the NETHERLANDS.
FRANCE.
GREAT BRITAIN.
GREECE. (Designs and Trade Marks, 15th February, 1895, to date from 8th November, 1895.)
ITALY.
NETHERLANDS.
NEW ZEALAND.
NORWAY.
PORTUGAL.
QUEENSLAND.
SANTO DOMINGO.
SERVIA.
SPAIN.

SWEDEN.
SWITZERLAND.
TUNIS.
UNITED STATES of AMERICA.
WESTERN AUSTRALIA. (1st January, 1895.)

Similar arrangements have been made between Great Britain and the following countries:—

ECUADOR. (Designs and Trade Marks only.)
MEXICO.
PARAGUAY.
ROUMANIA. (Designs and Trade Marks only.)
TASMANIA.
URUGUAY.

By Article 4 of this Convention an inventor, having *bonâ fide* filed in one of the countries of the Union an application for a patent, is entitled to priority of date in any of the other countries of the Union during the periods fixed by the Convention, that is to say, for six months, if not beyond sea, and for seven months, if beyond sea; his rights would not be prejudiced by applications by other patentees made in the interval, or by disclosure of the invention, to which the said *bonâ fide* applicant was not a party. The operation of this Convention is, however, very irregular, and inventors in some countries obtain more advantage from it than those in others. For example, in England the authorities acted in the spirit as well as the letter of the agreement, and as soon as this country gave in its adhesion to the Convention, prepared proper forms of application for patent in

which the earlier date of the application in the prior foreign country was stated and demanded; British patents thus applied for bear this earlier date so claimed under the International Convention. So far as the present writer has been able to ascertain, no other country belonging to the Union has so thoroughly carried out the provisions of the Convention as Great Britain, the inventor being left to his own devices, and an action at law, to prove priority under the Convention, and no special forms, being provided for an application under it. Citizens of the United States of America, for example, freely avail themselves of the terms of the International Convention to obtain earlier dates for their patents in this country; but should an Englishman, having duly filed an application for a patent here, apply for one in the United States, and as lawfully entitled by the Convention demand the date of his earlier English application, he would soon find how entirely futile was his demand. Although the authorities here deserve great credit for the straightforward manner in which they have carried out the conditions of the International Convention, as applied to this country, it seems time that they should put some pressure upon the other countries belonging to the Union to secure for Englishmen the same facilities which England grants to foreigners in this respect; failing this, it is difficult to see why English inventors should be prejudiced to the benefit of foreign inventors, and why the facilities hitherto provided in this country for giving to foreigners an earlier date under the Convention, should be accorded to the citizens or subjects of those countries which do not accord similar facilities to Englishmen. While upon the subject,

it may be mentioned that whereas Holland has belonged to the Union since its establishment in 1888, and undertook to forthwith promulgate a patent law, it has up to the present time never carried out this promise, and at the present moment it not only does not accord to Englishmen the privileges which English patent law accords to Dutch subjects, by giving an earlier date to a patent, but it absolutely refuses to grant to the Englishman any patent at all. Surely, pressure could be put upon the Dutch authorities to cause them to carry out, even at this late date, the undertaking they gave when they joined the Union?

FOREIGN PATENTS.

Before proceeding to enumerate the special requirements of the various foreign patent laws, it may be well to give here a few hints, which apply more or less to all of them.

First, as to the effect of the International Convention upon patents in the various countries.

Assuming that the patentee resides in England, and has applied for his English patent, what is his position under the International Convention, as to priority of date, in the countries that belong to the International Union for the protection of industrial property?

According to Article 4 of the Convention, the applicant for a patent in any one of the States of the Union is entitled to priority of date in any of the other States of the Union to the extent of six months if not beyond sea, and seven months if beyond sea, for patents, and three

months for industrial designs and models, and four months for trade marks. The subsequent registration of his patent in the other States of the Union during this period will not be invalidated through acts accomplished in the interval, whether by publication of the invention, by the registration of another patent, by the working of the invention by other parties, or by the sale of copies of the design or model, or the use of the trade mark. It is, however, important to bear in mind that, of all the countries adhering to the Union, Great Britain is the only one which has provided proper facilities for carrying out the above conditions, consequently, the protection under the International Convention can only be established in the other States of the Union by an action at law, to prove that the patentee was entitled to the earlier date which he claims. No special forms are provided, and no facilities accorded, even for registering the claim to the date, and much less is any acknowledgment of the justice of that claim admitted. On the other hand, in this country a special form of application, in which the earlier date is demanded, and the particulars of the former application in consequence of which it is claimed, are set forth, is very properly provided; and upon proper proof of the previous application, together with a duly certified copy of the specification originally lodged in the former country, the patent, when issued, bears upon its face a statement to the effect that the application was made upon such a date, but a specified earlier date is claimed under the International Convention, and this is even carried out in the printed copy of

the specification where the earlier date is fully set forth. It follows, therefore, that a person having made an application for a patent in some other State of the Union does reap very substantial benefit under the Union in applying for an English patent, but it is by no means so clear that the British applicant will reap anything like the same benefit under the Convention when he applies for continental or other foreign patents.

Another point to be carefully remembered is that publication in this country is an absolute bar to the validity, and in some cases to the obtaining, of a patent, in some other countries. Thus, the acceptance of the British specification (immediately after which any person can see the specification at the Patent Office by paying a shilling) is accepted in France as publication, which would invalidate a French patent subsequently applied for. This condition, however, would be over-ruled by the International Convention should the French patent be applied for within the term allotted by the Convention. In this country this term is generally understood to be the longer term of *seven months*, the English Channel being taken as bringing England in relation to France, as "beyond sea."

The same remarks would apply in the case of Switzerland.

In Germany the acceptance of the specification is not regarded in that sense as publication, but the issue of the printed copy of the specification, usually about three weeks after the acceptance, is regarded in Germany as an absolute bar to the issue of the patent at all In yet other countries, Austria, for example, the arrival of the printed copy of the specification is publication, which

would invalidate a patent applied for after that date. In this connection the following illustration may be given. A certain specification, together with a number of others, was despatched by the British authorities in the usual way to Vienna, but the parcel containing these specifications was not opened for several months after its arrival there, and during this period a German inventor applied for, and obtained, a patent for the same invention as was contained in this particular specification. Notwithstanding that this specification, which, if "published" in Austria, would have been full anticipation of the German invention, was actually in Austria, though not accessible to the public, the German's Austrian patent would be a valid one, and was actually used to anticipate the Austrian patent of the English inventor, who applied for his patent at a date subsequent to that of the German applicant, but before his own English specification was published in Austria.

In other countries, again, Italy and Belgium, for instance, the arrival of the printed specification is not in itself publication, which would bar the obtaining of a valid patent, but other publication may have this effect. This brings us to a point commonly lost sight of by patentees, but one which may be of the greatest moment to them nevertheless. This is the insertion of notices, very often illustrated by views of the apparatus or article patented, in weekly periodicals, scientific and other journals, and special technical publications. A feature, which, from the point of view of the inventor, is, though he is usually not aware of it, a very objectionable one, has of late

yours developed in connection especially with scientific weekly papers, of sending round to every applicant for a patent a circular, offering, if he will supply a wood-cut, to give him, without charge, an illustrated article describing his invention. Unless he is advised in time of the danger of such notices, the inventor, most likely pleased with the publicity thus easily to be obtained for his invention, readily gives the required consent and supplies the wood-block, little dreaming that in doing so he is raising an insuperable bar to his subsequently obtaining valid patents in many of the important countries of the world. Yet, a little thought will show that this is inevitable, since these papers, containing this full and illustrated description of his invention, are circulated largely immediately upon publication in these very countries in which, if the invention be worth describing at all, he will subsequently require to obtain patents; and thus many an inventor has been prevented from reaping the benefit of his invention in countries where, had he refrained from such untimely publication, he might have obtained valid patents. In the countries adhering to the Union, should he apply within the stipulated term for his patents there, this publication would, according to Article 4 of the Convention, not invalidate the subsequent patent, but the danger is a very real one nevertheless, and the inventor would do wisely not to allow any notices, whether illustrated or not, of so complete a nature that the invention can be understood from them, to appear in any newspaper, until he has protected himself in all the countries where he wishes to do so.

Another point deserving of consideration here, is, that in most countries outside this realm, the patents are dependent for their life upon one or more of any prior patents in other countries, which the inventor may have obtained. This was also the case in Great Britain until the passing of the Act of 1888, but since then, fortunately for patentees, this condition has ceased to exist here. To illustrate this, suppose the inventor obtains a British patent, which runs for fourteen years, and afterwards obtains a Belgian patent, which, nominally, runs for twenty years, the Belgian patent would cease at the end of fourteen years and he would lose six years of life of the Belgian patent, which, had he applied for the latter at the same time as his English one, so that the Belgian patent was independent of the date of the English one, he would have saved.

Not many years ago Austrian patents were issued for the term for which the taxes were paid, and although they could be extended up to fifteen years by the payment yearly of certain taxes, still the patent bore upon its face the statement that it was issued for such shorter period, say, for example, one year; the result of this was that patents in other countries, obtained subsequently to the Austrian one, lapsed with the Austrian, and an American patent, nominally issued for seventeen years, might lapse during the first year of its existence owing to the prior Austrian patent. In consequence of this very serious danger the Austrian authorities altered the wording upon their Letters Patent, which are now issued for the full term, subject to the payment of the yearly taxes, but this will serve to show intending patentees

how important it is to make their various applications for patent, wherever possible, bear the same date. Some complication has arisen owing to the English patent, when issued, bearing the date of the original application, but as the English Provisional specification is not published until the acceptance of the Complete specification, it is generally sufficient to make the foreign applications prior to the publication of the British specification, the patentee taking care to maintain his British patent so as to keep up the foreign patents.

In America the Letters Patent bear upon them the dates and particulars of all prior foreign patents; it was at one time thought that the prior application in England would make the American patent dependent upon the life of the English patent, but as no publication takes place under the Provisional specification in England, recent American decisions have varied this interpretation of the American law, so that an English patent, which at the time of the issue of the American patent, is only in the Provisional stage, is not recorded upon the face of the Letters Patent, and it is understood that the American patent would not lapse with such prior English patent.

ARGENTINE REPUBLIC.

Duration of Patent: five, ten, or fifteen years.

Working: must be proved within two years of the date of issue, and every two years after.

Taxes: none.

International Convention: does not apply.

Patents are granted under the law of the 11th October, 1864.

Patents are granted for new discoveries or inventions in all classes of industry, and confer upon their authors the exclusive right of working the inventions. Inventions made and patented abroad may also be patented in the Argentine Republic by the inventor or his legitimate successor. New industrial products, and new means, and new applications of known means, for obtaining an industrial result or product, may be patented, but pharmaceutical compositions, financial schemes, inventions already known to the public in Argentina or out of it, or set forth in print, purely theoretical inventions without the disclosure of their industrial application, and anything contrary to morality or the laws of the Republic, are not patentable.

Patents are granted for five, ten, or fifteen years, according to the merit of the invention and the desire of the applicant. In the case of the ratification of foreign patents, ten years will be the outside limit, and in no case will the home patent exist after the lapse of the original foreign patent. A tax of $80 for a five year patent, $200 for a ten year patent, and $350 for a fifteen year patent, is payable, one-half with the application for the patent, and the other half by successive annuities, and in the case of the ratification of a foreign patent, a sum proportionate to the time for which it is granted.

No employé of the Patent Office may have any interest in a patent, under the penalty of dismissal and a fine of from $100 to $1,000.

Every application for a patent will be examined under the direction of the Commissioner by the Sub-Commissioners, who must have special knowledge of the sciences commonly applied to industrial pursuits.

An application for a patent must be addressed to the Commissioner of the Department; the application must be accompanied by a specification and drawings in duplicate, and samples, and a list of the articles forming or accompanying the application. The date and hour of the lodging of applications will be noted, and the order in which they are lodged and registered at the Patent Office, the applicant being entitled to an office copy of the entry. Applications must be written in the Spanish language, and any erasures or additions must be attested; the patent must be limited to one single principal object. Drawings must be made in ink to a metrical scale. Office copies of specifications can be procured upon payment of a fee of $5 each. If all the requirements are not complied with, the patent will be refused, and half the fee paid will be returned. Appeals against the refusal of patents may, within ten days, be made to the Minister of the Interior, and if he should confirm the refusal, the whole of the sum deposited will be forfeited.

Every three months the Commissioner will forward to the Government a list of patents granted and refused, and these will be published.

Patents of addition or improvement are granted for the term of the principal patent, should this not exceed ten years, or should the improvement diminish the cost of production, by at least one-half, or effect a corresponding

reduction in risks or the time occupied in the patented operation. The same formalities are necessary for a patent of addition as for the original patent, but the tax payable will be only one-fourth of the tax upon the original patent, if the application be made by the original patentee, and one-half if by another person. Where the patent of addition is obtained by a stranger, he must pay royalty to the original patentee, the amount to be determined by the Commissioner, the original patentee having the right to choose whether he will accept the royalty or work the improvement in competition with the later inventor; in the latter case, a patent of addition will be granted to him as well as to the later inventor. The improver does not acquire the right to work the original patent, and the original patentee may only work the improvement in case he accepts the royalty prescribed by the Commissioner. Should two persons apply for a patent of addition for the same invention, it will not be issued, and the same regulation applies to principal patents.

What are called precautional patents may be issued for one year only, subject to renewal, to cover inventions which the applicants are developing, a fee of $50 being required with each such application, together with a specification of the invention. The specifications of precautional patents will be entered in a special register, and kept secret. While the precautional patent is running, no patent will be granted relating to the subject of the same invention, without notice being first given to the proprietor of the precautional patent, who may, within three months after the notice, oppose the grant of the other patent. Should he not do

so, or should he have failed to keep the Office advised of his address, he will lose his rights. In the case of an opposition to a precautional patent, the Commissioner will hear both parties separately, and if the inventions be alike, he will not grant either of them, except they come to terms; if the inventions are not alike, he will grant the patent applied for.

Patents may be transferred or assigned by public deed, which must be registered at the Patent Office. Advertisements will be made in the newspapers of the issue of a patent, giving the name of the grantee, the term of the patent, and an account of the invention. Specifications are open for inspection at the Patent Office free of cost, and copies can be obtained upon payment.

Each year a list of the patents granted will be published, with descriptions and drawings; a copy of this publication will be kept at the Patent Office, and be open to inspection.

Patents will be of no effect if they are for any of the prohibited objects, or are filed under a false title, or if the specification and drawings are incorrect or incomplete, or in the case of a patent of addition if it refers to a patent which is not obtained, or in the case of a foreign invention if the foreign patent has lapsed, or if the invention was already worked in the Republic at the date of the application for patent.

Failure to work a patent within two years from the date of issue will cause it to lapse, or allowing an interval of two years without working, unless it can be shown that it was impossible to put the invention into operation and

keep it in operation, or some special circumstance can be proved which will satisfy the authorities.

Only those interested can bring actions for the nullity or lapsing of a patent before the Sectional Courts.

The subject of the patent becomes public property immediately upon the patent lapsing or becoming of no effect, a judicial declaration not being necessary to ensure this. Should the proprietor of a lapsed patent dispute the free working of the invention, application may be made to the sectional judges for a proper declaration of nullity. Summary proceedings may be taken, and any legal evidence admitted. The patentee may not produce evidence contrary to that of his patent documents. The judge determines the period for proof, which shall never exceed six months, and even that is only granted in exceptional cases referring to matters beyond sea, and security would be required. The judgment is given within a fixed period of ten days after the expiration of the period of proof, costs being given against the defeated party. An appeal may be brought within three days before the Supreme Court, which will receive a report from the Patent Office, and then decide without further proceedings. When the lapsing of a patent has finally been judicially declared, the fact will be published.

Defrauding the patentee of his rights (falsification) is punishable with a fine of from $50 to $500, or imprisonment from one to six months, as well as the forfeiture of the infringing articles, without affecting his claim to damages, and persons co-operating in the fraud, by selling, exhibiting, or introducing the subject of the

invention, will be liable. A repetition of the offence, within five years from the date of the first punishment, will involve double penalties, and if the person committing the offence shall have been employed by the patentee, or have obtained by surreptitious means his knowledge of the invention from the patentee, it will be an aggravation of the offence. An action for the said penalties is private, and comes before the Sectional Courts, and the only defence which may be raised is the nullity or the exclusive ownership of the patent. Security must be given by the defendant, should the latter desire to continue working the invention, or should this security not be forthcoming, the patentee may apply for the working to be stopped and the attachment of all the apparatus, &c., concerned, but in this case the plaintiff will have to give security.

The penalties for falsification apply to any person other than the patentee who pretends to the enjoyment thereof; fines imposed by the law are equally divided between the Treasury and the accusers.

AUSTRIA.

Duration of Patent: *fifteen years.*

Working: must be proved within one year of grant, and every two years after.

Taxes: for Austro-Hungarian and Austrian patents, yearly from date of grant. Letters Patent must be produced for tax payment to be endorsed thereon.

International Convention: does not apply.

The granting of Letters Patent in Austria is regulated by the statutes of the 15th August, 1852, 27th June, 1878, 20th December, 1879, and 1st January, 1894.

Patents are granted for every new discovery, invention, or improvement directed towards a new product of industry, a new means of production, or a new method of production, and the patent may be granted to an Austrian subject or a foreigner. It is explained that discovery means the finding out of an industrial process which, though it may have been used in former times, has been lost sight of, or was unknown in the Empire. Invention is described as producing a new object by new or old means, or a known object by new means. Improvement or alteration includes every apparatus, arrangement, or process added to an object already known, by means of which a better result or greater economy is effected in the object, or the means of arriving at it. New, means any discovery, invention, or improvement which has neither been known through publication, nor worked in the Empire.

No patent will be granted for preparations of food, beverages, and medicines, nor for anything contrary to public health, morals, or safety, or the general interests of the State. A patent may be granted for a foreign invention, provided it has not been published in the Empire, but only during the currency of the foreign patent, and only to the foreign patentee or his lawful representative.

Abstract principles cannot be patented, even if they admit of direct application to industrial purposes, but the patent may be granted for the new application of a

principle which leads to the creation of a new industrial product, means, or method of production.

Two or more inventions differing from each other may only be included in one patent if they relate to the same object as component parts or operative means.

Applications for patents may be lodged with the Governors of provinces or the judges of districts, to be forwarded by them to the proper authorities. An application must be accompanied by a petition, stating

(*a*) The full name, profession, and residence of the applicant, and in case of a foreigner, giving particulars of an attorney domiciled in the Empire.

(*b*) The title of the invention.

(*c*) The number of years for which the patent is demanded, which cannot exceed fifteen years, except by a special grant of the Emperor. Inventions already patented abroad can only be patented for the unexpired term of the foreign patent.

(*d*) A statement as to whether the patent is to be secret or not.

The petition must be accompanied by the receipt for the tax on application, the power of attorney, the specification, and in some cases the foreign Letters Patent or a legalised copy. The amount of the tax payable upon an application varies according to the number of years for which the patent is, in the first instance, demanded, but the tax for the whole of those years must be paid down at once, or the application will be rejected.

The specification must be written in German, or in the

usual language of the province where the application is made, and must be signed by the applicant or the attorney. It must give a full and clear description of the invention, pointing out what is new, and must not keep back anything, nor indicate means that are more expensive or do not produce the intended effect. Drawings, patterns, or models must be supplied, if necessary for the better understanding of the invention.

An examination, restricted to the proper form of the documents, and ascertaining that the tax has been paid, is made, and the day and hour when the application was filed is noted on the cover of the specification, the priority of the invention being reckoned from the day and hour so set down. Amendments in the petition or specification may be ordered, and a limit of time stated within which such amendment is to be made.

No examination is made as to the novelty or utility of the invention, and no guarantee is given by the Government.

The working of a patent is subject to the usual laws and regulations of the country.

The patent secures for the patentee the exclusive use of his invention, according to his specification, for the number of years for which the patent runs. Patentees are authorised to establish workshops, engage workmen, and erect establishments or depôts for the working or sale of their inventions or the subject thereof. They may form partnerships, work or dispose of their patent, bequeath or sell it, and grant licenses.

The patent is co-extensive with the Austrian territory; the exclusive privilege commences on the day of the delivery of the patent.

The grant, prolongation, or extinction of a patent will be published, in the same manner, and within the same time, as is provided for laws. A patent may cease in its effect if it be proved that the description was insufficient, or on account of prior publication, or if it be proved that the invention had been imported from abroad, and that the Austrian patent had not been granted to the original proprietor of the foreign patent, or his lawful representative.

The patent must be worked within one year from the date of the patent, and the patent will lapse if the working be interrupted for two complete years. A patent may be surrendered voluntarily.

A register of patents is kept at the Ministry of Commerce and Trades, and the name of the firm working the invention must be entered therein, as well as that of the patentee; every alteration is also noted in the register. Any person is at liberty to inspect the register or specifications, and may take copies. The specifications, drawings, models, &c., are kept in a special Record Office.

Specifications of expired patents are printed yearly, according to their apparent utility.

Patents can be assigned entirely or partially, or left by will. Assignments, together with the Letters Patent, must be promptly submitted to the Minister of Commerce and Trades, and must be legalised. Assignments must be

inserted in the special register, and must be confirmed on the Letters Patent themselves; in the case of a partial transfer, a special certificate will be delivered. Assignments are published immediately upon registration, and after such publication no one is allowed to plead ignorance thereof. The following constitute infringements of the patent:—

> Counterfeiting or imitating the object of the patent in the manner described in the specification. Importing or bringing articles, manufactured in accordance with the patent, from abroad, or storing or exhibiting the same for sale.

In the case of open specifications, the very first infringement comes under the law, but if the specification be a secret one, the repetition only of the infringement comes under the law, infringement being punishable at the request of the injured party, by the confiscation of the existing counterfeit goods and a fine of from 25 to 1,000 florins, say, £2 10s. to £100. If the infringer be unable to pay, the fine may be discharged by imprisonment, at the rate of one day for five florins. All tools and means used exclusively for such counterfeits are to be destroyed, transformed, or made useless, unless special agreement be made between the plaintiff and defendant. The infringing objects are to be destroyed, unless the plaintiff accepts them in payment of damages.

If the defendant has taken advantage of any knowledge of the invention acquired in the service or by the trust of the plaintiff, this will be considered an aggrava-

tion of the offence, and the punishment increased accordingly. Should the patentee not proceed criminally, or should the patent be a secret patent, he can only demand the discontinuance of the infringement and security against the continuance of the infringement during the term of the patent; if the goods were manufactured abroad, they may be re-exported. The Ministry of Commerce and Trades is the tribunal before which infringement suits are taken. The examination of infringement cases belongs primarily to the tribunal of the district in which the infringement took place; an appeal to the higher tribunal of the respective province may be made, and if the first decision be modified, an appeal may also lie to the Ministry of Commerce and Trades, but each of these appeals must be made within fourteen days of the delivery of the judgment appealed from.

The Criminal Court may order an inspection or enquiry by an expert, and if the infringement be established, 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 used in making them. But due care must be taken not to inflict irreparable injury upon the infringer, except in case of stringent necessity, and for this purpose security may be demanded from the plaintiff for any injury and damages that may occur.

A person who unlawfully lays claim to the invention of another, in order to work it personally or through a third party, and thus commits a fraud, is to be tried by the Criminal Courts.

BARBADOS.

Duration of Patent: seven years; may be renewed for further term of seven years, and again for seven years.
Working: must be proved within three years.
Taxes: none, other than for renewal of patent.
International Convention: does not apply.

Patents are granted in Barbados under the law of the 12th December, 1889.

The applicant for a patent in the Island of Barbados must file, with his application, a Complete specification, fully describing the invention, and how it may be carried out. This being done, the patentee has the exclusive right of the invention for seven years, and none but the patentee, or those authorised by him, may, during the said term of seven years, either directly or indirectly, make, use, or practise the invention described in the specification filed, or any part thereof, or in any wise counterfeit, imitate, or resemble the same, or make or cause to be made an addition thereto, or subtraction from the same, excepting with the consent of the proprietor of the patent in writing.

The patent may be extended for a further term of seven years, upon payment of a fee of £10, and again to a further term of seven years more, upon payment of a further fee of £20, making in all twenty-one years, which is the extreme limit to which the patent can be extended; the application for the extension must, in each case, be made on or before,

but not after, the expiration of the then-existing term of the patent. A notice of each extension, and of the original filing of the specification, will be published three times in the Official Gazette.

The patentee is entitled to the same remedies against infringers, both at law and in equity in the Courts of the Island, as he would be entitled to by the law of England, and all matters may be urged in defence that would be admitted in an action for infringement in the High Court of Justice in England.

To make the patent valid, the invention must have been new at the date of the application, and not in public use in the Island, and the inventor must have been the true and first inventor within the Island, and the invention must not have been well known elsewhere, and also known to some person or persons in the Island, other than the applicant for the patent.

The patent does not give to the patentee the privilege of using or imitating any invention or work whatever, found out or invented by any other person, and publicly used within the Island prior to the date of filing of the application, and already patented.

The patent lapses if the invention, as described in the specification, is not worked within a period of three years after the filing of the specification.

All specifications are numbered consecutively in the Colonial Secretary's Office.

This Act repeals an Act of the 26th August, 1852.

BELGIUM.

Duration of Patent: twenty years.

Working: must be proved within one year of commencement of working elsewhere; if the invention is not in practical commerical operation in any country, this is usually calculated from the date of proof of working in some country where proof has to be made—Austria, for example.

Taxes: yearly, from date of application.

International Convention: applies.

The granting of Letters Patent in Belgium is regulated by the law of the 24th May, 1854, March 27th, 1857, and July 5th, 1884.

Patents of Invention, Addition, or Importation are granted for every discovery or improvement capable of being worked as an article of industry or of commerce; they are granted without previous examination, and at the risk of the applicants.

The duration of the patent is twenty years, except in the case of patents of importation, which will not exceed that of the patent for the longest term previously granted abroad. No tax is payable upon patents of addition granted to the owner of the principal patent. The proprietor of the patent has the exclusive right of working the subject of the patent for profit personally or through others, and of prosecuting infringers, whether by manufacturing, selling, or exposing for sale, or importing into Belgian territory infringements of the patent.

If infringers have infringed knowingly, the tribunals will order a confiscation of the infringing articles and the tools, &c., used in their manufacture, or award a sum equal to the price of the articles, which may have been already sold. If the infringers have acted in good faith, the tribunals will prohibit them, under similar penalties, from using, with a commercial object, the apparatus used in the manufacture of the infringing articles, and from manufacturing the articles themselves; in either case damages may be granted to the patentee or persons entitled under him.

A foreign patentee may obtain by himself, or his assigns, a patent of importation in Belgium, the duration of which will not exceed that of the patent previously granted abroad for the longest term, and in no case shall it exceed the limit of twenty years.

Patents of addition may be obtained for improvements, these patents expiring with the original patent; should the owner of the new patent not be the original patentee, he cannot, except with the consent of the latter, make use of the original discovery, and, similarly, the original patentee cannot work the addition without the consent of the owner of the patent of addition.

An applicant for a patent must deposit under seal, in duplicate, a clear and complete specification in one of the languages used in Belgium, together with drawings to a metrical scale, if necessary. A memorandum of the day and hour of the deposit will be entered in a register kept for the purpose, and signed by the applicant or his repre-

sentative, and the legal date of the invention is proved by this memorandum.

When the patent is granted, the specification will be published entirely or substantially in a special collection three months afterwards; after this time, the public will be at liberty to inspect the specification, and copies can be obtained by the patentee or by the public upon payment of the cost of making them.

Every transfer of a patent must be registered.

Should a tax not be paid within a month of the time of its coming due, it can still be paid at any time within six months from its due date, upon payment of a fine of ten francs in addition to the annuity.

A Belgian patent must be worked in Belgium within one year from the commencement of working in any other country, but this term may be extended by one year by royal decree. At the expiration of the said term, the patent may be annulled by royal decree, and the annulment may also take place, should the working of the patent be stopped for a whole year in Belgium while continued abroad, unless the patentee is able to justify his inaction.

NOTE.—According to the law, it would appear to be incumbent upon the authorities to annul the patent immediately the statutory limit or the extended time had expired, should the working not have taken place, but as a matter of practice this does not appear to be carried out, and it is generally understood that if the working be effected at any time during the life of the patent, before

an action for the annulment of the patent, upon the ground of failure to work, has been entered, the patent may be sustained.

A patent may be annulled by the tribunals should it be proved

(*a*) That the invention had been made use of within the Kingdom for a commercial purpose, prior to the application for the patent.

(*b*) If the patentee has intentionally kept back a portion of his invention, or shall have indicated it in an incorrect manner.

(*c*) If the Complete specification and drawings of the patented article appeared in some work, or were printed in a published collection, prior to the date of the application, excepting as regards patents of importation, where the publication is exclusively the result of a legal requirement.

A patent of invention will be declared void by the tribunals, in the event of the subject of the patent having been previously patented in Belgium, or in some foreign country, but this would not apply to a patent of importation if such publication was in consequence of a legal requirement.

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BOLIVIA

Duration of Patent: not less than ten years, nor more than fifteen years.

Working: within one year and one day.

Taxes: none.

International Convention: does not apply.

Patents are granted in Bolivia under the law of the 8th May, 1858.

An inventor is entitled to the full or entire enjoyment of an invention which is not contrary to law or morality. Methods or means for improving any manufacture or industry would be considered inventions, and may be the subject of Letters Patent, but anything that is destined solely to the production of modifications of shape, as well as objects of ornament only, are not patentable.

The State may purchase a secret invention which would be useful in any industry for the general benefit.

Patents are granted for not less than ten, or more than fifteen years.

Patents are not granted to the inventors of secret remedies, but it is the duty of the inventor to publish them in return for fair compensation.

Persons importing machinery, or new methods of manufacture or industry, not already known in the Republic, are entitled to patents, the terms of which are governed by the outlay required to introduce the invention. Thus, if the required outlay be $25,000, the patent will be for three years; if $50,000, for six years; and if $100,000 or upwards, for ten years. These patents are restricted to the

locality in which the machine is worked, or to the territory necessary to secure its benefits.

A person applying for a patent, not of importation, must explain the nature of the invention or improvement, but may reserve to himself the secret of the method, or the ingredients used, or the instruments employed; he must supply a specimen of the manufacture or product. Where the patent is one of importation, drawings or models of the machine, or a detailed description of the principles, methods, or processes of the industry, as well as a specimen of the product which he proposes to elaborate, must be supplied. The Government will appoint a commission, consisting of three experts, presided over by a political chief of the locality in question, and two members of the Municipal Council, all of whom, excepting the political chief, will make oath not to reveal the secret of the invention, and to fulfil their commission faithfully. They will then, without the presence of the interested party, investigate the matter and report to the Secretary of the Interior, with an endorsement that the contents are to be kept secret, and enclosing in the same packet the description of the invention.

The patent issues within three months of the receipt of the report of the commission, and the packet is kept secret at the office of the Secretary of the Interior.

The Letters Patent bear a statement to the effect that the patent does not guarantee the reality, merit, or utility of the invention, improvement, or importation, and that it is taken at the charge and risk of the interested party.

Variations in the patented invention may be protected by a declaration in writing, with a description of the

new methods, but these will not extend the duration of the privilege.

A patentee has the exclusive enjoyment of the exercise and fruits of his invention, and has the right of forming establishments in any part of the Republic covered by his patent, or in the locality to which it is restricted, and may license others to use it, and may dispose of his rights as objects of personal property. Patents are only allowed to be assigned by public instrument, and if otherwise assigned the patent will lapse.

The day and hour when the application is lodged are noted, and settle any question of priority.

The patent commences from the date of the grant. All patents are registered at the office of the Secretary of the Interior, where the specifications and other documents are kept. The granting of the patents is published in the Official Journal, and will also be registered in the collection of laws and decrees.

At the expiration of the patent the invention becomes public property, and the specification will be published and deposited in the public library of the capital of the State, and similar publication will take place, if the patent lapse through causes other than the expiration of the period for which it was granted.

Copies of lapsed patents are made by the Government, and copies forwarded to the political chiefs of the district.

In case of infringement, the patentee may, upon giving security and sufficient bond, apply for the seizure of the infringing articles, and, if the infringer be convicted, he may be condemned to the confiscation of the property seized,

in the favour of the patentee, and to pay damages proportionate to the extent of the infringement. Should, however, the infringement not be made out, the patentee will be condemned to pay the damages caused by the seizure, and a fine equal to that which the alleged infringer would have had to pay had he been convicted. Interference with the rights of the patentee may be settled in the ordinary Courts of law, but in case of dispute as to the validity of the patent, the trial must take place in the tribunal for contentious adminstrative cases.

In the case of two patents for the same thing, the one bearing the earlier date will prevail, and the later patentee will be considered as the improver of the invention. No patent can be upheld which is contrary to the laws of the State, to public safety, or to police regulations.

A patent will lapse :—

(*a*) If the inventor is convicted of not disclosing in his specification the true methods of working the invention.

(*b*) If he is convicted of using secret methods not disclosed in his specification or subsequent declaration of modification.

(*c*) If the patentee is convicted of having obtained his invention from some previous published descriptions within or without the Republic.

(*d*) If the patentee fails to put his invention into complete practice within a period of one year and a day after the grant of the patent, unless he is able to justify such omission according to the law.

(*e*) If either the inventor or the assignee contravenes any of the obligations attaching to the patent.

BORNEO.

Duration of Patent: fourteen years; may be extended for further term of fourteen years or less.

Working: none.

Taxes: none.

International Convention: does not apply.

By a Proclamation No. 1 of 1887, which came into force on the 1st April, 1887, the Ordinance No. 12 of the 15th November, 1871, of the Legislative Council of the Straits Settlements, was adopted for the territory of British North Borneo. For particulars, see Straits Settlements.

BOSNIA.

By the Austrian law of December 20th, 1879, the law of June 27th, 1878, relating to the Commercial and Tariff Union with the Ministry of the countries of the Hungarian Crown, was extended to Bosnia.

BRAZIL.

Duration of Patent: fifteen years.

Working: within three years, and every year after.

Taxes: yearly.

International Convention: applies.

Patents are granted in Brazil under the law of the 14th October, 1882. Patents are granted to the author of any invention or discovery, these being defined as

(*a*) The invention of new industrial products.

(*b*) The invention of new processes, or new applications to known processes, for obtaining an industrial product or result.

(*c*) The improvement of an invention already patented, if it facilitates the manufacture of a product, or the use of the patented invention, or if it increases its utility.

An invention is considered new where the subject of the patent has never before been employed or used within or without the Empire, or described or published, so that it could be employed or used. Inventions which are contrary to law or morality, dangerous to public security or hurtful to public health, or which do not offer practical industrial results, are not patentable.

Patents of invention are granted for fifteen years, and patents for improvements (patents of addition), for the term of the original patent, remaining at the date of the grant of the patent of addition. Should the patent be required for public use, or for the exclusive use of the State, it may be appropriated.

A patent can be assigned in accordance with the law, but the transfer will be of no effect until it is registered in the office of the Secretary of State for Affairs of Agriculture, Commerce and Public Works.

Proprietors of patents in other countries may have these confirmed in Brazil, and this confirmation will give the same rights as a patent. A foreign patentee applying in Brazil

within seven months of his application in the foreign country, will be entitled to his patent, notwithstanding publication, which may have taken place in the interval. An inventor, who desires to experiment or exhibit his invention in public, before obtaining a patent, may obtain a certificate authorising him to do so without forfeiting his rights to the patent.

During the first year of the patent, only the inventor himself or his legal successors may obtain patents of improvement; other parties during that period may present their petitions for patents for the purpose of establishing their rights. Inventors of improvements can only use them under licenses from the principal patentee, and *vice versâ*, if the improvement forms the subject of a patent of addition.

Excepting in the case of the seven months after filing an application for a foreign patent, as previously described, where two or more persons apply at the same time for patents for the same invention, they will have to settle between themselves, either by agreement or in a competent Court, which of them shall have the patent.

A specification, in duplicate, clearly setting forth the nature of the invention, and accompanied by drawings, models, or samples, if necessary, and clearly stating the characteristic features of the invention, must be deposited with each application, and the rights under the patent will be limited to these features, and it will be so stated in the Letters Patent. A patent is granted for one invention only. If it should appear that an application for a patent is for a prohibited subject, or relates to alimentary, chemical, or pharmaceutical products, a secret examination of one of

the samples deposited will be ordered, and, according to the result, a patent will or will not be granted; an appeal from this decision can be made to the Council of State. With this exception, patents are issued without previous examination, and without guarantee by the Government. In the case of a prior foreign patent, the Brazilian patent will lapse with it, and will in no case exceed the term of fifteen years. Yearly taxes are required to maintain a patent in force, and in no case will any of these annuities be refunded. In the case of patents of addition applied for by the original patentee, there will be a single payment corresponding in amount to the annuity next coming due. Within a period of thirty days after the issuing of the patent, the specification will be published in the "Diario Official," and, together with the drawings, models, or samples, will be open to public inspection; copies may be taken.

The Government may order verification of the specification by testing samples, &c., after the patent is issued.

A patent will be invalid

(*a*) If the application has been informal.

(*b*) If the patentee did not have priority.

(*c*) If the applicant has falsified the truth or concealed essential particulars in the specification.

(*d*) If a fraudulent title has been employed.

(*e*) If an improvement has not an absolute relation to the principal industry, and would form the proper subject of a separate patent.

(*f*) If the invention is not worked within three years from the date of the patent.

(*g*) If the working is suspended for more than one year, except by reason of circumstances beyond the control of the patentee. (By working is meant the effective exercise of the patented industry, and the supply of the patented article in proportion to the amount of its employment or consumption; should this be clearly insufficient, the privilege may be restricted to a particular zone or district by decree of the Government.)

(*h*) If the patentee fails to pay the annuities.

(*i*) If the patentee, who resides abroad, fails to appoint an attorney to represent him before the Government or the Court.

(*j*) If the patent is expressly renounced.

(*k*) If the prior foreign patent lapses.

(*l*) At the expiration of the term of the privilege.

The nullity of a patent will be notified by a decision of the Commerical Court, by the summary process of Decree No. 737, of the 25th November, 1850. An action for nullity may be brought by the Solicitor of the Treasury or his assistants, and any interested party with their assistance; during the progress of an action for nullity, the effect or working of the patent must be suspended until the decision. If the patent be not annulled, the patentee will be reinstated in the enjoyment of his privileges.

The lapse of a patent will be declared by the Minister and Secretary of State for Affairs of Agriculture, Commerce and Public Works, subject to appeal to the Council of State.

Infringers are those who manufacture the patented products, or use the processes, or apply the patent, or import,

sell, or expose for sale, conceal or receive for the purposes of sale, infringements, knowing them to be such. Infringers may be fined from $500 to $5,000, for the benefit of the Treasury, and from 10 to 50 per cent. of the damage caused, for the benefit of the patentee, and it will be an aggravation of the offence if the infringer is, or has been, employed in the works of the patentee, or has associated with an employee of the patentee, for the purpose of obtaining information as to the invention.

On the petition of the patentee, or his legal representative, warrants for search, apprehension, and deposit may be issued by the district judges, where the infringement occurs, who will prescribe the order of proceedings, which will be governed by Law No. 562 of the 2nd July, 1850, and Decree No. 707 of the 9th October, 1850, so far as they apply to the case. The infringing products, instruments, or apparatus may be awarded to the patentee by the sentence condemning the infringers. The prosecuting of an action for infringement will not hinder the patentee from taking action and obtaining compensation for damage.

All cases relating to industrial privileges under this law are subject to commerical jurisdiction.

Fines of from $1 to $500, for the benefit of the Treasury, may be inflicted for any of the following offences:—

1. Marking, or otherwise indicating, upon products or articles, that they are the subject of a patent, which, in fact, does not exist.

2. Pursuing an industry as patented, when the patent has lapsed or been suspended, or annulled.

3. Mentioning patents in prospectuses, advertisements,

placards, or other public notices, without specifying the special object of the patent.

4. The disclosing the secret of an invention by the professional men or experts, employed by the Government for the secret examination, previous to the grant of the patent; this would not prejudice any commercial or civil actions permitted by the laws in the circumstances.

All these offences may be prosecuted and judged as simple police offences.

A patent granted to two or more inventors, or which has become common property by deed of gift or succession, may be used freely by each of the co-proprietors.

A person who has had the benefits of a patent must, when his rights cease, either by the withdrawal of the privilege or the extinction of the patent, give to the owner the estimated value calculated with reference to the time during which the benefits have been enjoyed. Patents granted before the passing of the present Act, continue to be governed by the old law of the 26th October, 1830, subject, however, to those provisions of the present law which apply to them.

All enactments contrary to the new law are by it repealed.

BRITISH GUIANA

Duration of Patent: fourteen years; may be extended for further term of seven years.

Working: none.

Taxes: before the expiration of seventh year

International Convention: does not apply.

Patents are granted in British Guiana under Ordinance No. 18 of the year 1861.

An application for patent must be made by the inventor at the office of the Government Secretary, accompanied by an affidavit by the petitioner that he is the true and first inventor, that the invention is not in use in the Colony, and a Provisional specification describing the nature of the invention; these are entered in a register kept at the Office. Should the inventor reside outside the Colony, the papers may be lodged by his agent, but the papers must be legalised by a Mayor, Notary Public, or Justice of the Peace, British Consul or Vice-Consul, or other equivalent officer.

Applications are referred to the Attorney-General for examination and report, and he may call in a scientific or other person, whose remuneration he can fix, and may grant Provisional protection for the term of twelve months from the date of the application, and may allow or require the title, if too broad, to be amended. The risk of the novelty or utility of the invention must be taken by the applicant.

Instead of a Provisional specification, a Complete specification may be filed with the application, the deposit of which will confer for twelve months the same rights as Letters Patent. Complete specifications are open to public inspection from the time of deposit.

Where Letters Patent have been granted to the true and first inventor, they will not be invalidated by a patent or protection granted in fraud of him. Upon the protection of the invention, whether by Provisional or Complete specification, the Government Secretary will give public

notice in the Official Gazette, and will deliver to the Registrar for the counties of Demerara and Essequibo, the Provisional specification, after the term of the protection has expired, to be entered in the register of patents.

Upon the grant of Provisional protection, or upon the filing of the Complete specification, if filed with the application, the applicant may give notice, at the office of the Government Secretary, to proceed with his application for a patent; this will be advertised in the Official Gazette, and any person having an interest in opposing the grant of the patent will be at liberty, within one month from the date of such notice, to file particulars, in writing, of his objections in the office of the Government Secretary. The case will be referred to the Attorney-General for decision. The Attorney-General will report upon the case, and, after submission to the Governor, the report will be published in the Official Gazette for two successive weeks, after which, if the report is in favour of the applicant, the Letters Patent will be granted. During the two weeks, any party interested and aggrieved by the report may petition the Supreme Court of Civil Justice, or the Chief Justice, should the Court be not sitting, for judgment upon the question at issue. The Court, or the Chief Justice, after the hearing, will give judgment and award the costs, and the Attorney-General will alter and amend his report in accordance with this judgment, if necessary.

Letters Patent extend to the whole of the Colony, for a period of fourteen years from the date of the application, and no person may use or imitate the invention protected thereby.

The patent may be upset if it be proved in the Supreme Court of Civil Justice of the Colony that the grant of the patent is contrary to law, or prejudicial or inconvenient to the public, or that the invention is not new, or that the inventor is not the true and first inventor; and the patent does not extend to any invention publicly used or exercised in the Colony, the subject of a previous patent.

The patent must be recorded in the Registrar's Office for the counties of Demerara and Essequibo, within ten days from the date thereof, under penalty of the voiding of the patent, which will also lapse upon the applicant's failure to deposit the Complete specification, within six months from the date of the patent, or if the specification, when deposited, was not sufficiently full and explicit. The patentee must supply, for Her Majesty's service in the Colony, any of the patented articles required, upon terms to be settled by the Governor.

Before the expiration of seven years from the date of the patent, a fee of $100 must be paid, and notice of such payment will be advertised in the Official Gazette.

The patent must be issued within three months from the date of the Attorney-General's report, and will not be issued after the expiration of the period of protection, unless the sealing has been delayed by reason of a caveat, or an application to the Supreme Court, in which case it may be sealed at such extended time as the Court, or the Chief Justice, may decide.

In case of the death of the applicant during protection, the patent may be granted to his heirs, executors, or

administrators, during the continuance of protection, or within three months after the death of the applicant.

Letters Patent bear the date of the day of application, or the Governor may direct another date, between the day of application and the day of sealing, and the patent will be of full force as from such date, but where the Complete specification was filed with the application, no proceedings can be taken for infringement committed before the actual grant of the patent.

Where a patent is granted in the Colony, for an invention already patented elsewhere, the Colonial patent will expire with such prior foreign patent, or with the first, if there be more than one. Should the patent have been granted after the expiration of the prior foreign patent, it will not at any time have been valid.

The patent does not prevent the use of the invention in foreign vessels in the ports of the Colony, if the country concerned grants like privileges in relation to British vessels when in their ports.

This Act does not affect patents already granted in the United Kingdom, and made applicable to the Colony.

A disclaimer, or memorandum of alteration, may be made by the proprietor of the patent, in the title or specification, so long as they do not extend the scope of the patent, and the Attorney-General's fiat being first obtained. The amendment will be published in the Official Gazette, and will then form part of the Letters Patent. Before the amendment can be made, however, three weeks' notice in the Official Gazette must be given, and any person aggrieved by the Attorney-General's decision may, within

two weeks thereafter, petition the Supreme Court, or Chief Justice, against it. The Court, or the Chief Justice, will decide the case and give costs, and the Attorney-General will alter his decision as may be necessary.

Within a period of three weeks, any person may enter a caveat against a disclaimer, and the case will be heard by the Attorney-General, subject to appeal to the Court, or Chief Justice. No disclaimer can be cited in evidence, in an action or suit pending at the time that the amendment was made, but the notification in the Official Gazette will, except in case of fraud, be conclusive as to the right to make the amendment. Where a patentee *bonâ fide* believed himself to be the inventor, but was subsequently proved not to be so, the Letters Patent may be confirmed upon petition to the Governor, with the advice and consent of the Court of Policy, or new Letters Patent may be granted, if the Court of Policy is satisfied that the patentee believed himself to be the original inventor, and that the invention had not been publicly and generally used in the Colony before the date of the Letters Patent. Any person may oppose such confirmation, or the granting of the new Letters Patent, and any party to any former suit or action under the Letters Patent will be entitled to have notice of the petition before it is presented.

The proprietor of the patent may, after advertising for one month in the *Official Gazette* his intention, apply to the Governor to grant him, with the advice and consent of the Court of Policy, prolongation of the term of his patent, against which any person may enter a caveat at the office of the Government Secretary. The matter will be referred

to the Court of Policy, all the parties being heard, and should the Court decide by resolution that an extension of the term of the patent, not exceeding seven years, should be granted, the Governor may thereupon grant new Letters Patent. The petition must be made to the Governor at least six months before the expiration of the original term of the patent, and must be prosecuted with due diligence. Witnesses may be summoned by the Governor and the Court of Policy, disobedience to the summons subjecting the person to a fine, not exceeding $240, which may be recovered by summary execution at the instance of the Attorney-General. Evidence must be given upon oath, false swearing laying the guilty party open to a charge of perjury before the Supreme Court of Criminal Justice. All summonses are served by the Provost-Marshal of the Colony, or his Deputy, a sum of 50 cents being chargeable for each copy, plus travelling expenses or distance money.

A register of patents is kept at the Registrar's office, wherein are entered, in chronological order, records of all Letters Patent granted under this ordinance (but nothing contained in section 24 of Ordinance 8 of 1860), all Provisional specifications, after the period of protection has expired, all Complete specifications, and disclaimers and assignments, confirmations, or extensions of patents, as also the cancelling or lapsing of the patents, with the dates thereof. This register can be inspected by the public.

In an infringement suit, the plaintiff must deliver, with his claim and demand, particulars of the breaches complained of, and the defendant, particulars of the objections upon which he relies. A suit is brought in the Supreme

Court, or before the Chief Justice, when the Court is not in session, and an interdict, inspection, or account may be ordered by the Court, or the Chief Justice. In the taxation of costs, regard will be had to the particulars delivered in a suit, and the judge may certify that the validity of the Letters Patent came in question and the patent was maintained or upset, as the case may be, which would entitle the successful litigant to his full costs as between attorney and client, unless the judge certified that such costs should not be allowed.

Copies of the Official Gazette, and certified copies of the Letters Patent, are to be received in evidence in all matters relating to patents.

All patents granted prior to the present ordinance are extended to the full term of fourteen years, and applications pending will be dealt with under the present ordinance.

In case of the absence or inability of the Attorney-General, the Solicitor-General may act in his stead.

The prerogative of the Crown is not affected by this ordinance.

"Invention" means any manner of new manufacture within the meaning of the Statute of Monopolies of the 21st James I., A.D. 1623.

This ordinance came into operation as soon as published.

BRITISH HONDURAS.

Duration of Patent: fourteen years; may be extended for further term of seven or fourteen years.
Working: none.
Taxes: before the end of third and seventh years.
International Convention: does not apply.

Patents are granted in British Honduras under the law of the 10th September, 1862.

The Lieutenant-Governor and members of the Executive Council are appointed Commissioners of patents, with power to add to their number, and the warrants for all Letters Patent issued under this Act are subscribed by three or more of these Commissioners; all copies of extracts from documents from the Commissioners' office are certified by the clerk to the Commissioners, and these will be evidence in all legal proceedings in the Colony.

The Commissioners have power to make rules and regulations in accordance with the Act, but these have to be laid before the Legislative Assembly within fourteen days from the time when they are made, or within fourteen days after the next meeting of the Assembly, and until this has been effected they do not come into force. The Colonial Secretary's office is selected by the Commissioners, and the Colonial Secretary is appointed their clerk.

A petition for a grant of Letters Patent must be accompanied by a declaration left at the office of the Colonial Secretary, together with a Provisional specification. The application will be referred to the Attorney-General, who has power to call in such scientific or other aid as he may think necessary, and appoint the fees to be paid for such service; and if he is satisfied that the nature of the invention is described in the Provisional specification, he will give a certificate of allowance, which will be filed in the office of the Colonial Secretary, whereupon the invention will be provisionally protected; the Attorney-General may alter the title if it be too large or insufficient.

In lieu of a Provisional specification a Complete specification may be lodged with the application, which will confer, for a period of six months, the like rights and privileges as if the Letters Patent had been granted.

Letters Patent granted to the true and first inventor will not be invalidated by protection obtained in fraud of him.

The grant of protection, whether Provisional or Complete, will be advertised by the Commissioners as they may see fit, and any person having an interest in opposing the grant of the patent can leave particulars in writing of his objection, at such place, and within such time, as the Commissioners may direct. The matter is referred to the Attorney-General, who will decide upon the case, and can order costs as he may think fit, and if the costs be not paid within fourteen days, the order for payment may be made a rule of the Supreme Court, and execution pass in the usual form.

The Attorney-General can issue a warrant for the sealing of Letters Patent, but the Lieutenant-Governor has discretion as to the granting thereof.

A patent may be repealed by a writ of *scire facias*.

Letters Patent are subject to the payment, before the expiration of three years from the date of the patent, of $50, and before the expiration of the seventh year, of $100, plus respectively $2 and $3 to the Colonial Secretary; these payments have to be endorsed upon the Letters Patent themselves, as well as upon the warrant for the Letters Patent. Letters Patent are sealed with the public seal of the Colony, and extend to the whole of the Colony of British Honduras.

No patent can be issued after three months from the date of the warrant, nor after the expiration of the protection, whether Provisional or Complete, except in the case of opposition to the grant of the patent, when the patent may be sealed at such time as the Lieutenant-Governor directs.

In case of the death of the applicant, the Letters Patent may be granted to his personal representative, during the time of the protection, or within three months after the applicant's death. Duplicate Letters Patent may be issued by the Commissioners in place of those destroyed or lost.

Letters Patent may be dated as of the day of application for the patent, and are of the same authority as if actually sealed upon that day, but no action for infringement can be taken before the actual sealing.

Patents granted in the Colony for inventions previously patented abroad, expire with the prior foreign patent, or with the first of such patents, should there be more than one.

The patent will not prevent the use of the invention on board foreign vessels (granting reciprocal privileges) within the jurisdiction of British Honduras, unless the invention is used for the manufacture of commodities to be sold in, or exported from, the Colony.

Specifications are filed in the office of the Colonial Secretary, and do not require to be enrolled; where drawings accompany the specification, an extra copy of the drawings must be left with the specification.

Copies of all specifications, except Provisional specifications during the period of Provisional protection, and all disclaimers and other matters appertaining to the patents, are open to the public inspection at the office of the

Colonial Secretary, where also a register of patents is kept, in which all matters appertaining to the patents are entered. A register of proprietors is also kept, wherein assignments, licenses, and the names of proprietors, with their dates and other matters affecting the proprietorship of patents, are entered, and a copy of any entry, certified by the Colonial Secretary, will be given to any person requiring it, upon payment of the prescribed fee, and such copy will be received in evidence in the Courts. Should an assignment, license, &c., not be recorded, the proprietor of the patent, whose name appears in the register, will be accepted as the present proprietor of the patent. A writ of *scire facias* to repeal a patent may be issued to the Provost-Marshal where the grantee resides in the Colony, or if he resides outside the Colony, the writ may be filed in the office of the clerk of the Courts, and notice in writing served at the last known residence or place of business of the grantee. The register, or copy, will be open to the inspection of the public at the Colonial Secretary's office. The falsification or forgery of an entry in the register of proprietors is a misdemeanour, and is punishable by fine and imprisonment accordingly.

A person aggrieved by any entry in the register of proprietors may apply to the Supreme Court by motion, or to the Chief Justice in chambers, by summons, for an order to have the entry expunged, vacated, or varied, and this may be done by the Colonial Secretary, upon production of the order made.

A disclaimer or memorandum of alteration may be made in a specification, by lodging with the Colonial Secretary

an application for leave; the application will be referred by the Commissioners to the Attorney-General, who, if satisfied, will issue his fiat, and the alteration will then be taken as part of the Letters Patent. A caveat may be entered against any alteration, and this also will be referred to the Attorney-General. No disclaimer can be received in evidence in any pending suit or action (excepting in any proceeding by *scire facias*). Before the amendment is allowed, the Attorney-General may require the applicant to advertise the disclaimer in such manner as he may indicate, the leave of the Attorney-General, when obtained, being conclusive evidence, except in case of fraud, of the right of the party to make the amendment. After an amendment, no action can be brought in respect of any infringement committed before the filing of the disclaimer or amendment.

A patentee may apply to the Commissioners for a prolongation of the patent, and must advertise his intention to apply, and enter a petition with the Colonial Secretary, addressed to the Lieutenant-Governor; any person may enter with the Colonial Secretary a caveat against the prolongation, and all parties will subsequently be heard by the Commissioners, who may issue their warrant for the grant of new Letters Patent, for a period not exceeding seven years from the expiration of the original term, but the petition must always be presented before the expiration of the original term. In exceptional cases, the Commissioners may extend the term for a period of fourteen years beyond the original term. The Lieutenant-Governor will cause the Letters Patent, according to the warrant, to

be made and sealed, the new patent bearing date as of the day after the expiration of the original term.

In an action for infringement before the Supreme Court, the plaintiff must, at least two weeks before the entering of the complaint, deliver to the defendant particulars of breaches, and the defendant will deliver particulars of objections, in which the place or places, and the manner in which the invention may be alleged to have been used or published before the date of the Letters Patent, should be stated. Particulars can be amended by order of the Chief Justice in chambers, and in an action for repeal by *scire facias*, the defendant will be entitled to begin, and to give evidence in support of the patent; the defendant may reply.

The Supreme Court, or the Chief Justice, if the Court be not sitting, may, in an action for infringement, upon the application of the plaintiff or defendant, make an order for injunction, inspection, or account. In taxing the costs, regard will be had to the particulars delivered in the action, and costs will not be allowed in any particular, unless the Chief Justice certifies that it has been proved; and should the Chief Justice certify that the validity of the patent came in question, and the record of this certificate be given in evidence in any suit or action for infringement or proceeding by *scire facias* to repeal the patent, the plaintiff in the suit, or the defendant in the proceeding, will, upon obtaining judgment, be entitled to his full costs as between attorney and client, unless the Chief Justice certify against such costs.

The Lieutenant-Governor and Council have power to

allow the sums necessary for carrying out the Act, from moneys provided by the general Assembly, or from unappropriated moneys in the public Treasury.

No Letters Patent obtained in Great Britain or elsewhere will have effect in the Colony, unless Letters Patent are obtained in this Colony, in compliance with this Act.

"Invention" means any new manner of manufacture according to the Statute of Monopolies of the 21st of the reign of James I. of England, 1623.

CANADA.

Duration of Patent: patents granted prior to 9th July, 1892, were granted for five, ten, or fifteen years. Patents granted since 9th July, 1892, are for six, twelve, or eighteen years respectively.

Working: must be proved within two years of date of grant.

Taxes: none, other than fees for extension of patent from five (six) to ten (twelve) years, or ten (twelve) to fifteen (eighteen) years.

International Convention: does not apply.

The granting of patents in Canada is regulated by the Acts of 1886 and 1892.

"Invention" is defined as "any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement in any art, machine, manufacture, or composition of matter."

Any person who has invented a new invention, as above defined, not known or used by any other person

before his invention thereof, and not in public use or on sale in Canada, with his consent or allowance, for more than one year previous to his application for patent, may apply for and obtain a patent. No patent, however, will be granted for any invention which has an illicit object in view, or for any mere scientific principle or theory.

No inventor will be entitled to a patent, if a patent for his invention has been in existence in any other country for more than twelve months prior to the application for the Canadian patent, and should any person have commenced to manufacture in Canada the invention for which the patent is afterwards obtained, that person will have the right to continue manufacturing and selling, notwithstanding the patent. The Canadian patent, if a prior foreign patent exists, will expire at the earliest date at which any foreign patent for the same invention expires.

An improvement upon an existing patented invention may be patented, but such patent will not give the right of using or selling the original invention, and, conversely, the original patent will not give the right of using or selling the patented improvement.

Every applicant for a patent must make an oath or affirmation that he verily believes himself to be the inventor of the invention for which the patent is desired, and that the statements in his petition are true. This oath may be made before any Justice of the Peace in Canada, or, if the inventor be not at the time in Canada, it may be made before any Minister plenipotentiary,

Chargé d'Affaires, Consul, Vice-Consul, or Consular agent, Notary Public, Judge of a Court of Record, Mayor, or other Chief Magistrate of a city.

The applicant must elect his domicile at some known and specified place in Canada.

The specification must correctly and fully describe the mode of operating the invention, and the contrivances and things which he claims as new, and must be signed by the inventor if alive, or, if dead, by the applicant and two witnesses to the signature. Drawings in duplicate, illustrating the invention, must be supplied where the invention admits of illustration, and each drawing must be signed by the inventor or the applicant, or by his attorney.

A working model or specimens of ingredients must be supplied if required.

The Commissioner may refuse to grant a patent when he is of opinion that

"(*a*) The alleged invention is not patentable in law;

"(*b*) The invention is already in the possession of the public, with the consent or allowance of the inventor;

"(*c*) There is no novelty in the invention;

"(*d*) 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;

"(*e*) The invention has already been patented in Canada or elsewhere for more than twelve months, unless the Commissioner has doubts as to whether the patentee or the applicant is the first inventor."

Notification of such refusal will be made to the applicant, who may, at any time within six months after the date of

the notice, appeal from the decision of the Commissioner to the Governor in Council.

In case of conflicting applications, the matter will be submitted to the arbitration of three skilled persons, two selected by the applicants, and the third by the Commissioner or his representative, and the decision of the arbitrators, or of any two of them, shall be final.

If either of the applicants refuses to appoint an arbitrator when required to do so by the Commissioner, and if there are only two such applicants, the patent will issue to the opposing applicant.

If there are more than two conflicting applications, and if the applicants do not unite in appointing three arbitrators, the Commissioner or his representative may appoint them. The arbitrators are sworn before undertaking their duties.

Any of the arbitrators, when sworn, has power to summon before him the applicant or other person, and may take evidence upon oath, and require production of any document or thing he may deem necessary to a full investigation of the case, but no applicant or person shall be compelled to answer any question his answer to which might render himself liable to a criminal prosecution. The fees of the arbitrators will be a matter of agreement between the arbitrators and the applicants, and must be paid by the applicants who name them, excepting those named by the Commissioner, who will be paid by the applicants jointly.

In the case of joint applications, the patents will be granted in the names of all the applicants.

The Commissioner may refer a patent to the Minister of

Justice, who shall examine it, and if he finds it conformable to the law, certify accordingly.

Previous to the 9th July, 1892, Canadian patents were granted for five, ten, or fifteen years, the fees upon application being paid either for the full term or for five, or for ten years; since that date, however, the terms are extended to six, twelve, and eighteen years, the partial fees being for six and twelve years.

A patent may be re-issued for the purpose of correcting insufficient description of specification, or removing or restricting the claim, should the error have arisen from inadvertence, accident, or mistake, without fraudulent or deceptive intention, the new patent being issued only for the unexpired residue of the term for which the original patent was granted; and in the event of the death of the original patentee, or of his having assigned the patent, a like right shall rest in his assignee or legal representative. In the case of re-issue, the invention may be split up, separate patents being issued for distinct and separate parts of the invention.

Anything included in a patent by mistake may be disclaimed, the disclaimer being in writing, in duplicate, and attested under oath, as in the case of an application for patent.

The disclaimer will not affect any action pending at the time of the disclaimer, excepting in so far as relates to the question of unreasonable neglect or delay in making it.

Patents may be granted to any person to whom the inventor has assigned or bequeathed the right of obtaining the patent, or to the legal representative of the deceased inventor.

Patents are assignable, but the assignment must be registered in the Patent Office, otherwise the assignment will be null and void.

The patent will be invalid if any material allegation in the petition or declaration in respect of such patent be untrue, or if the specification or drawings contain more or less than is necessary for carrying out the invention, should such omission or addition be wilfully made and for the purpose of misleading; should it, however, prove to be an involuntary error, and it be proved that the patentee is entitled to the remainder of his patent, a judgment to that effect will be given by the Court. Every person infringing will be liable to an action by the patentee, or his legal representative, for damages for so doing, and the judgment can be enforced, and damages and costs recovered in the same manner as in other cases in the Courts in which the action is brought.

An action for infringement may be brought in any Court of Record having jurisdiction to the amount of the damages claimed, and in the province in which the infringement is alleged to have taken place, and in that particular Court which holds its sittings nearest to the place of residence or business of the defendant. An injunction, restraining the defendant from further infringement, may be issued, subject to appeal, in a manner similar to that from other judgments.

Where the plaintiff fails to sustain his action, on account of it having been shown that his specification and claims embraced more than he was entitled to, and it is found that the defendant infringed a part of the patent for which the

claim could be maintained, the Court may discriminate and render judgment accordingly.

A patent may be repealed by the process of *scire facias*, and a certificate of the judgment avoiding a patent may be recorded at the Patent Office.

A judgment in a patent case shall be subject to appeal to any Court having appellate jurisdiction in other cases from the same Court.

A patent may be declared void if, after two years from the date thereof, the patentee has not commenced to manufacture the invention in Canada, and also should he fail to continuously carry on such manufacture, so that any person desiring to use the subject of the invention may be able to obtain it at a reasonable price; or further, if, after the expiration of twelve months from the date of grant, the patentee or his legal representative, or assignee, imports, or causes to be imported, into Canada, the subject of the invention. The term of twelve months, during which the patented articles may be imported into Canada, may be extended, upon application to the Commissioner, for a further term not exceeding one year, during which extended time he may import the patented articles into Canada. No such extension will be granted, however, unless application be made to the Commissioner at some time within three months before the expiration of the first twelve months, or of any extension thereof.

An intending applicant for a patent, who has not yet protected his invention, may file in the Patent Office a description of his invention as far as it has gone, and this document may be called a caveat, and preserved in secrecy,

excepting upon demand of the applicant or a judicial tribunal, but the secrecy will cease when the applicant obtains a patent for his invention.

If, during the existence of the caveat, an application be made by another person for a patent, which would interfere with the caveat in any respect, the Commissioner must forthwith give notice of such application to the person who filed the caveat, who, within three months after the date of the notice, must, if he wish to avail himself of the caveat, file his application for patent. A caveat lasts one year only.

No fees are returned by the Office, excepting in the case of an application where the invention is not susceptible of being patented, or when the petition for a patent is withdrawn; in these two cases the fees may be returned, less the sum of $10.

The Government of Canada may use any patented invention, and may pay the patentee any sum as compensation which the Commissioner reports to be reasonable.

No patent will extend to prevent the use of any invention in any foreign ship or vessel, unless the invention be so used for the manufacture of goods to be vended within, or exported from, Canada.

Any person who, during the twelve months previous to the application for a patent, may have purchased, constructed, or acquired the subject-matter of the patent, shall have the right of using and vending to others the specific article, machine, or composition of matter without being liable to the patentee, but the patent will not be invalid as regards third parties.

All specifications, drawings, models, disclaimers, judgments, and other papers, except caveats, are open for public inspection at the Patent Office.

Clerical errors may be corrected by order of the Commissioner, and a destroyed or lost patent may be replaced by a duplicate.

No officer or employé of the Patent Office may buy, sell, acquire, or traffic in any invention or patent, but this provision does not apply to an original inventor, or to an acquisition by bequest.

An annual report will be prepared by the Commissioner, and laid before Parliament.

Every patented article sold, or offered for sale, must bear the year of the date of the application for the patent, or if this cannot be done, the date must be affixed to the package; failure to comply with this requirement renders the offender liable to a penalty not exceeding $100, or, in default, to imprisonment for a term not exceeding two months.

The false marking of goods, or the counterfeiting of the stamp, mark, or device of the patentee, so as to deceive the public, or offering for sale, as patented, an article not patented in Canada, for the purpose of deceiving the public, is a misdemeanour, and renders the offender liable to a fine not exceeding $200, or to imprisonment for a term not exceeding three months, or to both.

Making a false entry, or false or altered copy of any document, is a misdemeanour, and renders the offender liable to punishment by fine and imprisonment.

Patents issued before the Act of 1886 will remain in

force for the term and extent of territory originally granted, but subject to the provisions of the new Act so far as they apply. The Commissioner may extend a provincial patent to the other provinces of Canada for the remainder of the term of the provincial patent, if the subject of the patent has not been known or used, nor, with the consent of the patentee, been on sale, in the other provinces.

Every patent issued prior to the 8th April, 1875, under the Acts then in force in Canada, shall extend over the province of Prince Edward Island for the remainder of its term.

CAPE OF GOOD HOPE.

Duration of Patent: fourteen years.

Working: none.

Taxes: before expiration of third and seventh years.

International Convention: does not apply.

Patents are granted in the Colony of the Cape of Good Hope under Act No. 17 of 1860.

Patents are granted to the true and first inventor of any invention, for the term of fourteen years from the date of the patent. The Governor and Executive Council may, from time to time, make rules and regulations under this Act, but these must be laid before both Houses of Parliament within fourteen days, if Parliament be sitting, or within fourteen days after the next meeting of Parliament.

An applicant for a patent must deposit at the office of the Colonial Secretary a specification and copy, together with drawings, if any, and record will be taken at the

office, and endorsed upon the specification of the day of deposit; the invention will thus be protected for the term of six months, the applicant having the same rights and privileges as if he had a full patent. The Attorney-General 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 specification to be deposited in lieu of it.

A patent granted to the true and first inventor will not be invalidated by protection obtained in fraud of him. Models may accompany the application, and notice to proceed with the application may be given at the office of the Attorney-General, who will make an appointment for hearing the case, which appointment will be advertised once in the Government Gazette, once in some newspaper published in Cape Town, and twice in some newspaper published in the place where the applicant works the invention; or, if the invention is not in operation where he resides, or should no newspaper be published in that place, then the advertisement will be inserted twice in some newspaper circulating in the neighbourhood. Any person having an interest in opposing the grant of the patent may leave particulars in writing at the office of the Attorney-General, within such time, not less than one month, as the Attorney-General by his appointment may direct.

The Attorney-General will hear the whole case, and may call in scientific or other experts, and order their remuneration, and may also give costs in the hearing; the applicant and his witnesses being heard, examined, and considered, in the absence of the opponent and his witnesses and evidence.

The Attorney-General, after the hearing, may issue his warrant for the granting of the patent, with any restrictions, conditions, or provisoes that he may deem necessary.

A patent may be repealed by a writ similar to a writ of *scire facias* in England, and the Governor may order the Attorney-General to withhold the warrant for the patent, or to prevent the issuing of the patent for which a warrant may have been granted, or to insert restrictions, conditions, or provisoes. He may also order a specification, upon which the Letters Patent have not issued, to be cancelled, whereupon the protection obtained by the deposit of the specification will cease.

Application for the sealing of the patent must be made within three months after the date of the warrant, and the Letters Patent must be granted during the continuance of the protection. Further time may, however, be allowed by the Governor for the issue of the patent in case of accident, and not wilful neglect or default. Where the applicant dies during the continuance of the protection, the Letters Patent may be granted to the executors during the continuance of the protection, or at any time within three months after the death of the applicant. Duplicate Letters Patent may be issued in the case of patents lost or destroyed.

A payment of £10 before the expiration of the third year, and of £20 before the expiration of the seventh year, is required to keep the patent in force.

All patents bear the date of, and are of full force from, the deposit of the specification.

The Cape of Good Hope patent will expire with a prior

foreign patent, or with the earliest, if there be more than one, and should the Cape patent be granted after the expiration of a foreign patent, it will not be of any validity.

Letters Patent do not prevent the use of the invention in a foreign ship or vessel in the port of the Cape of Good Hope, unless the invention is used for the manufacture of goods to be sold within, or exported from, the Colony.

Specifications may be amended by disclaimer or memorandum of alteration, by application to the Attorney-General for leave; the Attorney-General will then make an appointment, upon which the proposed disclaimer or memorandum of alteration must be written, and it will then be advertised in the manner previously described with reference to notice to proceed with the application for patent, and may be opposed in like manner. Should the alteration relate to an alteration in the title of the invention, the appointment and publication may be dispensed with by the Attorney-General.

At the appointment made by him, the Attorney-General will hear both parties, and determine as to the allowance or otherwise of the alteration, the proceedings being similar to those already described with reference to the giving of notice to proceed. Should the decision be favourable, the applicant may enter his disclaimer or memorandum of alteration, and deposit a copy in an office to be named by the Governor, and the alteration will then be taken as part of the Letters Patent; but no action can be brought in the case of an amended patent for any infringement committed prior to the filing of the amendment, excepting by the especial leave of the Attorney-General. No disclaimer

or alteration will, except in the proceeding of the nature of a *scire facias*, be receivable as evidence in any action or suit pending at the time when the amendment was made. The filing of the alteration, after leave of the Attorney-General, is conclusive right of the party concerned to make such alteration.

All specifications and drawings are open to public inspection after the grant of the Letters Patent, or if no patent be granted, immediately upon the expiration of six months from the time of the deposit.

Application may be made for an extension of the term of the patent at least six months before the expiration of the term, a petition being presented to the Governor, who may refer the petition to Commissioners appointed for the purpose, and consisting of five or more persons, two of whom shall be judges of the Supreme Court.

Application for confirmation of an invalid patent may be made to the Governor, and referred by him to a similar commission.

The petitioner must, at least two months before the time named for the consideration of the petition, advertise in the same manner as when giving notice to proceed with the application for a patent; and any person having an interest in opposing the extension is at liberty to enter a caveat against it at the office of the Colonial Secretary, but not later than one week before the time named for the hearing. The Commissioners will hear all the parties, counsel being employed, and decide upon the case. If it be an application for an extension of the term of the patent, the Government has power to grant new Letters Patent for

a term not exceeding fourteen years after the expiration of the original term, or in the case of confirmation of a patent, to confirm the patent. Any person, being a party to a former action, shall be entitled to notice of the hearing.

Indices to all specifications, disclaimers, &c., will be prepared, and open to public inspection, at such places, and under such regulations, as the Governor may appoint.

A register of patents is kept, in which a record of all Letters Patent, and matters pertaining to them, will be entered, such as the filing of the specifications, disclaimers, confirmations, extensions, cancelling or otherwise. This register will also be open to public inspection. There will also be kept a register of proprietors, wherein will be entered the particulars of the grantees of patents, and all transfers of the patents or licenses, and until any transfers have been entered in the register of proprietors, the original grantee will be taken to be the present proprietor of the patent. The falsification or forgery of any entry in this register renders the perpetrator liable to imprisonment, with or without hard labour, for a period not exceeding five years. Any entry in the register may be expunged or varied by order of the Supreme Court, the application being made by motion to the Court, which will make such order as to the costs, as seems fit.

The false marking of articles as patented, or with words having a similar meaning, or the imitating or counterfeiting the mark or device of a patentee, renders the perpetrator liable to a fine of £100, one-half to go to the Crown, and

the other half, together with full costs of the action, to the person who shall sue for it; this provision, however, does not apply to a person marking goods patented, when in fact Letters Patent have been granted for the same, although the Letters Patent may have expired.

In an action for infringement, particulars of breaches must be supplied by the plaintiff, and the defendant will deliver particulars of objections, upon which he will rely at the trial, the place and manner, in which the invention has been published before the application for the patent, being fully stated. Amendments in the particulars may be made by permission of the judge in chambers. In an action to repeal Letters Patent, the defendant is entitled to begin, and to give evidence in support of his patent.

In fixing the costs for an action for infringement, regard will be had to the particulars delivered in the action, and the Court may certify that the validity of the patent came in question, such certificate entitling the plaintiff in an action for infringement, or the defendant in a proceeding for repeal in the nature of a *scire facias*, to obtain a decree or judgment to his full costs as between attorney and client, unless the Court certify that he should not have these.

All Letters Patent granted in the United Kingdom of Great Britain and Ireland after the 1st July, 1860, will be void, and of no effect in the Colony, but all such Letters Patent granted on or before that day, and if this Act had not been passed, effective in the Colony, will be deemed to have been granted under this Act, and may be dealt with accordingly.

CEYLON.

Duration of Patent: fourteen years; may be renewed for further term of seven years, or in exceptional cases, fourteen years.

Working: none.

Taxes: before expiration of fourth year and every year after.

International Convention: does not apply.

Patents are granted in Ceylon under the Act No. 16 of 1892, which came into force on the 1st July, 1893.

In this ordinance "invention" includes improvement, but the term "inventor" does not include the importer into Ceylon of a new invention, unless he be the actual inventor; but the terms "inventor," "actual inventor," and "petitioner," include the executors, administrators, or assigns of an inventor, actual inventor, and petitioner, as the case may be. Manufacture includes any art, process, or *manner* of producing, preparing, or *making* an article, and also any article prepared or produced by manufacture.

Any inventor of a new manufacture (whether a British subject or not), or two or more persons, even if they are not all inventors, may petition the Governor for leave to file a specification. The petition must contain a declaration that the petitioner is in possession of an invention, and that he, or one, or more of the applicants, is the inventor or inventors, must give name, occupation, and address, and the date of the patent and the actual sealing thereof, if a patent has been already obtained in the United Kingdom, and describe with reasonable precision and detail the nature

of the invention, and the particular features of novelty, and be supplemented by drawings or photographs, and further particulars should the Governor in Council require them. A model, neatly and substantially made in durable material, must be supplied, if required.

The Governor may make an order authorising the petitioner to file a specification of his invention, but before doing so the petition will be referred to a proper person for enquiry and report, the applicant paying the fee for the *referee* within a time to be fixed by rule, or otherwise by the Governor. If the fee be not paid within the prescribed time, the petition may be rejected. Amendments may be required. If two petitions, apparently for the same invention, be made on the same day, the Governor may order that both parties may file the specification; should the petitions have been left on different days, the first petitioner will have a preferential claim to the filing of his specification. A specification must be filed within six months from the date of the order, or within such further time not exceeding three months, as the Governor may allow, and the applicant will then be entitled to the grant of a patent for a term of fourteen years from the date of the delivery to, or receipt by, the Colonial Secretary of the petition.

Yearly taxes are payable to keep the patent in force, and these may be paid in full or in part at any time before they become due. The time for paying these taxes may, upon application to the Governor in Council, be enlarged for a period not exceeding three months upon payment of fines, varying with the length of the respite

obtained; but in any action for infringement, committed after failure to pay the tax at the proper time, and before the enlargement of that time, the Court may refuse to give any *damages in respect of the infringement.*

A specification must commence with the title, and clearly and specifically indicate the invention, and if this be for an improvement only, it must, in explicit language, distinguish between what is old and what is new, and must end with a distinct statement of the invention claimed.

A register of inventions will be kept at the office of the Colonial Secretary, wherein every petition for leave to file a specification, the filing of the specification, and all subsequent proceedings, excepting the report of the referee, will be entered. Petitions are numbered consecutively, and entered in the order in which they were received, and dated as of the day of receipt, and entered in the register of inventions in the order of their respective numbers. An address book is also kept at the same office, containing the addresses of parties connected with the patents, so that any rule or proceeding relative to the patent may be served on them. These books are open to public inspection, but the report of the referee can only be produced in legal proceedings by order of the Court. The books kept under sections 13 and 32 of the Inventions Ordinance of 1859 will be deemed to be part of the above-mentioned books.

A patentee may petition the Governor in Council for the extension of term of the patent, the petition to be lodged not more than one year, and not less than six months, before the expiration of the original term. The petition may be

referred to the District Court of Colombo for report, the Court having regard to the nature and merits of the invention in relation to the public, and to the profits made, and generally to all the circumstances of the case. Citations may be issued, calling upon any persons, claiming to have any interest in the reference, to appear before the Court, and give evidence. If the petition be successful, the patent may be extended for a term not exceeding seven years, or, in exceptional cases, fourteen years, from the expiration of the original term.

The order authorising the filing of a specification may be subject to any conditions that the Governor in Council thinks fit.

The patent has the same effect against the Crown as against the subject, but the invention may be appropriated for the service of the Government, upon terms to be agreed on.

A specification may be altered by a memorandum of alteration, should the patentee find that, through mistake or inadvertence, he has erroneously made mis-statements, or included in the specification, something which at the time of the application was not new, or that the specification is defective or insufficient. For this purpose, he must present a petition in writing, signed by himself, and stating how the error occurred, and that it was not fraudulently intended. No amendment will be allowed that would make the specification, as amended, claim an invention substantially larger than, or different from, the invention claimed by the specification, as it stood before amendment. The amended specification will have the same effect as the

original one, excepting as regards any action relating to the patent pending at the time of the amendment.

A patent, or exclusive privilege as it is called, will not be granted if the invention is of no utility, not new at the date of the application, or if the applicant was not the true inventor, or if the specification, whether original or amended, does not fulfil the requirements of this ordinance, or if the petition contain any wilful or fraudulent misstatement, or if the application was made after the expiration of one year from the date of the acquisition of a patent for the same invention, in any place beyond the limits of the Colony or the United Kingdom.

An invention will be considered new if, before the date of the petition, it has not been publicly used in the Colony or in the United Kingdom, or made known therein by means of a written publication. If public use or knowledge, prior to the date of the petition, was obtained surreptitiously or by fraud from the inventor, or if the invention has been published in fraud, it will not be deemed to be a bar to the validity of the patent, if the inventor has not acquiesced in the public use, and files his petition within six months thereof.

The use of an invention in public by the inventor or his agent or licensee, for a period of not more than one year prior to the filing of the petition, or knowledge of the invention resulting therefrom, will not be deemed to be use or knowledge to invalidate the patent.

Where the inventor has obtained a patent in the United Kingdom, and files his petition in the Colony within twelve

months from the date of the actual sealing of the patent in the United Kingdom, the invention will be deemed to be a new invention, unless it was publicly known in the Colony, at or before the date of the application for the patent in the United Kingdom, and notwithstanding that it may have been publicly known in the Colony, or in the United Kingdom, before the filing of the petition in the Colony.

If the inventor files his petition while his application for a patent in the United Kingdom is pending, and the interval between the date of his application for patent in the United Kingdom, and the filing of his petition in the Colony, does not exceed twelve months, the invention will not be considered to have been publicly known, even if it should have been used, or a description of it published, in the Colony, or in the United Kingdom, during the interval. An invention, exhibited at an industrial or international exhibition, certified by the Governor to be such, will not be considered to have been published, if the inventor files his petition in the Colony within six months from the date of the admission of the invention into the exhibition, if the invention has only been publicly known after its admission into the exhibition.

The exclusive privilege will cease if the Governor in Council declares the privilege, or the mode in which it is carried on, to be mischievous to the State, or prejudicial to the public, or in case of a breach of any condition upon which the privilege was granted.

Where a patent has previously been obtained in the United Kingdom, the exclusive privilege in Ceylon will

cease on the expiration of that patent, and where a patent has not been obtained in the United Kingdom, but has been obtained elsewhere, the privilege will lapse with such prior foreign patent.

The proprietor of the exclusive privilege may institute an action in the District Court of Colombo against infringers, and the action cannot be defended upon the ground of any defect or insufficiency of the specification, or that the petition or specification contains a wilful or fraudulent misstatement, or that the invention is of no utility, or that the plaintiff was not the inventor, unless the defendant shows that he is the actual inventor, or has obtained from the actual inventor the right to make, sell, use, or imitate the invention. Nor, can an action be defended upon the ground that the invention was not new, unless the defendant has publicly used the invention in the Colony, or in the United Kingdom.

Any person may apply at the District Court of Colombo for a rule to show cause why the Court should not declare the privilege, or a portion thereof, invalid, upon the ground that the invention or a part of it is of no utility, or is distinct from the rest, or was not new at the date of the application, that the petitioner was not the true inventor, that the specification is not in order, that something not new, or whereof the petitioner was not the inventor, was fraudulently included in the specification, that the petition contains a wilful or fraudulent, misstatement, or that the specification is insufficient, and that this insufficiency was fraudulent and is injurious to the public.

The Court may require the applicant to give security for the payment of all costs.

Any person authorised by the Governor in Council may apply to the District Court of Colombo for a rule to have the question of the breach of any condition, upon which the privilege was granted, tried in the form of an issue directed by the Court. If the rule be made absolute, the Court may direct the issue to be tried, and certify the result to the Governor.

Notice of any rule or proceeding will be served on all persons appearing in the address book as proprietors, and delivering at that address, or posting thereto, will be deemed to be sufficient notice. If the Court finds the objection proved, it may order the privilege to cease. Should it appear that a portion of the matter included in the specification was old, or that the specification was defective or insufficient, but not fraudulently so, the Court may adjudge the privilege valid, save as to the part affected, or if an amendment can be made without injury to the public, the Court may adjudge the whole invention valid, and may order the specification to be amended on such terms as it thinks right, whereupon the petitioner, within the time fixed by the Court, may file in the office of the Colonial Secretary an amended specification.

The privilege will not be invalidated merely upon the ground that the petition contained a misstatement, unless such misstatement is wilful or fraudulent.

In an action for infringement, particulars of the breaches complained of must be delivered by the plaintiff, and the

defendant will reply with his particulars of objections, and only such particulars can be argued at the trial. If prior publication be urged, the places where, and the manner in which, the publication took place, must be stated in the particulars. Amendments in the particulars may be made with the sanction of the Court. Where it is proved that the petitioner had obtained his knowledge from the actual inventor, surreptitiously, or in fraud of him, the privilege may be transferred from the petitioner to the actual inventor, and the previous proprietor may be called on to account for, and pay to, the actual inventor, the profits derived from the invention, or such portion of them as the Court may think fit, having regard to the degree of diligence used by the actual inventor in prosecuting his action.

When a privilege has lapsed, or been declared invalid, the Colonial Secretary will cause an entry to be made in the Register of Inventions. Any person aggrieved may apply to the District Court of Colombo to have an entry in the register corrected, and the Court may make an order if it thinks fit, and will forward a copy to the Colonial Secretary, who will enter it in the Register of Inventions, and in the address book, if needful. If the Colonial Secretary be a party to an application for rectification, he will not pay the costs of any other party to the application. The Governor in Council can compel the proprietor of the exclusive privilege to grant licenses on reasonable terms, if it be proved that the exclusive privilege is not being worked in Ceylon, that the reasonable requirements of the public with respect to the invention cannot be supplied, or that any

person is prevented from working, or using to the best advantage, an invention of which he is possessed.

Every decision in the District Court of Colombo is subject to appeal to the Supreme Court, which must be conducted under, and subject to, the provisions of the Civil Procedure Code of 1889, and from the Supreme Court the parties may appeal to Her Majesty in Council.

The Governor in Council has power to reduce the fees, or to revoke or vary the reduction, No proceeding, in respect of which a fee is payable, will be of effect, unless the fee has been actually paid.

The Governor in Council may make rules, and prescribe forms for carrying out the ordinance.

CHILI.

Duration of Patent: ten years.

Working: term fixed by Government, and every year after such term.

Taxes: none.

International Convention: does not apply.

Patents are granted in Chili under the laws of the 9th September, 1840, 1st August, 1851 and 1st September, 1874.

Patents are granted to the author or inventor of an art, machine, instrument, or manufacture, or of the preparation of materials or improvements thereof, upon his presenting, at the Ministry of the Interior, a correct and clear specification of the invention, distinguishing it from previous knowledge, and defining the methods or principles involved,

so as to enable any competent person to work the invention, in order that the public may be able, upon the lapsing of the patent, to avail themselves of it. He must also set forth that the invention is original, and not known in the country, and supply models, samples, or drawings, and solicit the grant of a patent.

A commission of one or more experts, to examine into the originality and utility of the invention, and the inconvenience to industry or commerce from the grant of a patent, and the difficulties and expense incurred by the applicant for the patent, will be appointed by the Ministry of the Interior, and this commission, in presence of the applicant-inventor, will take an oath for the faithful discharge of their duties, and for the keeping of the secret of the invention during the whole time prescribed by the law.

The specification is sealed up in the presence of the commission, the title appearing upon the envelope, and the applicant for the patent must declare that he has faithfully carried out the conditions imposed by the law, and this will be certified by the commission. During the life of the patent, the patentee may examine the specification to satisfy himself it has not been tampered with, but remains sealed as he originally left it.

Subject to this investigation, patents are granted for a period of not more than ten years by the President of the Republic, the Letters Patent bearing his signature, and the seal of the Republic. A register is kept in the office of the Ministry of the Interior, in which patents are registered in full.

Accommodation is provided in the National Museum for the sealed specification, drawings, models, or samples, the former, except in certain cases, not being opened until the expiration of the patent. The application fee will be applied towards the maintenance of the Patent Department of the Museum.

A patent can be assigned like other property, the Ministry of the Interior being first informed, and the reason for the transfer stated. If the grounds are found to be satisfactory, the assignment is entered in a book kept for the purpose; if they are not satisfactory, the same liabilities are incurred as in the case of false testimony in the name of the inventor.

Infringement of the patent renders the offender liable to a fine of from 100 to 1,000 pesos, the infringing articles, and the instruments involved in their manufacture, being confiscated, the value to be divided between the Treasury and the patentee, without prejudice to the right of the patentee to commence action for damages.

A patent improperly obtained, as by false testimony in the name of the inventor, or where the invention was not new, will be immediately annulled, and the patentee may be condemned in the costs of the enquiry, and is liable to a fine of from 100 to 1,000 pesos, or imprisonment for three to twelve months.

Where two patents have been granted for the same invention, the matter will be settled by arbitration, one arbitrator being appointed by each party, and the third by the Ministry of the Interior, from whose decision no appeal is allowed.

Patents may be granted to cover the whole of the territory of the Republic, or for one department or province only.

According to the nature of the invention, a term, proportionate to the preparations required, is allowed for the establishment of the machinery, engines, or manufacture, the patent commencing to run at the expiration of this term. The privilege will lapse at the end of this term, if the invention has not been brought into operation, and it will also lapse if the working be abandoned for more than one year, or if the products are adulterated so as to become inferior to the samples or models deposited with the application.

An application for an extension of the term of the patent must be lodged at least six months before the expiration of the patent, and can only be entertained when the patentee is proved to be really deserving of it, by reason of accidents or circumstances beyond his control. The present law does not deal with the Mining Ordinance, nor with the law of the 24th July, 1834, referring to copyright in books and works of art.

COLOMBIA.

Duration of Patent: from five to twenty years.

Working: every year.

Taxes: none.

International Convention: does not apply.

Patents are granted in the United States of Colombia under the law No. 35 of the 13th May, 1869. Patents of inventions are granted for new discoveries or inventions,

in whatever kind of industry, to any Colombian or foreigner who shall invent or improve any machines, mechanical apparatus, combinations of materials, or processes, of useful application to industries, arts, or sciences, or manufacture, or industrial product, the term being from five to twenty years.

Patents are granted for the importation of natural or manufactured products. Patents may be obtained in Colombia by inventors who already possess patents in other countries, provided the invention has not become public property, but the Colombian patent will fall with the prior foreign patent. The inventor, or his agent, must apply to the executive power, clearly specifying his invention and asking for the patent, and if this be granted, he must, before receiving it, and within forty days, furnish correct drawings or models of the machine or apparatus, or a full and complete description of the method or process, or a sample of the manufacture or product if it will keep, to be deposited in the office of the proper Secretary of State. Every patent will contain a copy of the law, and of the grant, specifying the invention and the duration of the patent, and this will be published at least twice in the Official Gazette.

No investigation as to utility or novelty is made, and no guarantee is given on the part of the Government, all these matters being subject to proof in the Law Courts.

Thirty days before granting the patent, the executive power will announce in the Official Gazette that an application for a patent has been made.

A patent will not be granted unless all the formalities are fulfilled, or if the invention would be prejudicial to public health, or security, morality, or existing rights.

When the patent expires, the subject of the patent becomes free, and the descriptions will be published, and copies of the drawings or models may be obtained by any person at his expense.

The same will occur should the patent be declared void before the expiration of the term. Actions for infringement or falsification, and similar offences against the proprietors of patents, must be conducted in accordance with the penal laws.

A patent granted to the prejudice of the rights of another party, can be declared void by the tribunals of the State.

A patent must be worked within a year, and the working must not cease for a whole year, unless the patentee can prove that it was out of his power to effect or continue such working. The patent is subject to a yearly payment. When applying for the patent, the applicant must state the number of years desired, and deposit at the General Treasury the application fee, to be forfeited if the patent is not granted, and to be taken in part payment if it be granted. The law of the 15th May, 1848, is repealed.

CONGO FREE STATE.

Duration of Patent: twenty years.
Working: none.
Taxes: none.
International Convention: does not apply.

Patents are granted in the Congo Free State under the law of the 20th October, 1886, by Léopold II., King of the Belgians, and Sovereign of the Independent State of the Congo.

Patents of invention, importation, or improvement may be obtained for every discovery or improvement capable of being worked as an object of industry or commerce; no examination is made, and the patents are granted at the risk of the applicants, and without guarantee of the Government, and without prejudice to the rights of other parties. The patent dates from the day of application, and, if a patent of invention, is granted for a term of twenty years. A patent of importation lapses with the prior foreign patent, and patents of improvement expire with the principal patent; but patents of improvement are not liable to a tax. The payments must be made in advance.

The issue of the patent is announced in the "Bulletin Officiel." Patentees can prosecute infringers before the tribunals and recover damages, and have the infringing articles confiscated. Patents are issued in the name of the King by the Administrator-General of the Department of Foreign Affairs.

The application for patent must be lodged at the Department of Foreigh Affairs, either directly, or through the agency of the Administrator-General of the Congo. The application must be accompanied by copies, in duplicate (of which one goes to the Director of Justice at the Congo), of the specification, which must be certified, and of such drawings, models, or specimens as may be necessary. The application will be on unstamped paper, and will give

the residence, profession, Christian and surname of the inventor. Should the application be for a patent of importation, the petition must state full particulars of the original patent, and the country in which it was granted. The papers must be dated and signed by the applicant or his legalised attorney. The day and hour of the application will be noted. One copy of the patent will be given free of charge all subsequent copies will be certified and subject to payment.

Assignments or transfers must be notified at the Department of Foreign Affairs, and be accompanied by an authentic extract of the deed of assignment. Such deeds will be published in the "Bulletin Officiel," in the same way as grants of patents.

DENMARK.

Duration of Patent: fifteen years.

Working: must be proved within three years of grant, and continuously every year.

Taxes: yearly, from date of grant.

International Convention: applies. Patents, 20th June, 1895; Designs and Trade Marks, 20th March, 1895.

Patents are granted in Denmark under the law of the 28th March, 1894.

Patents are granted for inventions which can be industrially utilised, but the following are not patentable:—

(1) Unimportant inventions.

(2) Inventions contrary to law, morality, or public order.

(3) Inventions which, at the date of the application for

the patent, were described in some accessible printed publication, or were otherwise known in the country to experts.

(4) Medicines, and other healing devices. Articles of food, and processes for the production thereof.

Patents are also granted for alterations in existing patents, if they are of a sufficiently substantial nature. A patent of this description is called a patent of dependence (patent of addition), and must refer to the main patent, stating that the patent of dependence does not give to its owner the right to exercise the main patent.

Patents can be obtained only by the inventor, or by a person to whom his right has been legally transferred, in the same manner as with rights in other classes of property.

Creditors have no right to obtain a patent, but may avail themselves of the rights in an existing patent. The first applicant of two or more applying for patents for the same thing, will have the preferential right to the patent. No person in the employ of the State has the right to obtain a patent during such employment, or within three years afterwards (excepting with the assent of the Minister of State concerned), for any invention resulting from such employment.

Patents are granted for fifteen years, counting from the date of issue of the patent. No prolongation of this term is allowed.

Patents of addition are allowed, but they expire with the original patent.

Without the patentee's consent, no one can make, import, or sell the patented article, or the result of working the patented process; neither can he use the patented process.

Any person who has used an invention in Denmark before the application for the patent was made, or made substantial preparations for doing so, cannot be stopped by the patentee.

Any person knowingly infringing a patent can be held liable for doing so, even before the publication of the specification; after such publication everybody is supposed to know of the patent.

Yearly taxes are payable upon every patent (excepting patents of addition) at the rate for each of the first three years of 25 crowns, and for each of the next three years 50 crowns, and for each of the subsequent three years 100 crowns; for each of the following three years 200 crowns, and for each of the remaining three years 300 crowns. The tax for each year is due before the beginning of that year, and if not paid by that time, an extension of three months can be obtained, within which the tax may be paid, but the tax in that case will be increased to the extent of one-fifth, and if not paid then the patent will lapse. More than one yearly tax may be paid at once if desired, but if the patentee afterwards abandon the patent, none of these taxes will be returned to him.

A patent may, without the patentee's consent, be appropriated for use by the State, or be declared void, so as to be obtained for use by the public, but in either case full compensation shall be given to the patentee. This compensation is payable by the State, and if terms cannot be agreed between the parties, four experts, two appointed by the Minister of the Interior, and two by the patentee,

together with an umpire unanimously elected by the experts, may decide this point. If they cannot agree, the Court of the Domicile of the patentee may appoint an umpire, or if the patentee be a foreigner, an umpire may be appointed by the Court of Justice at Copenhagen, who can finally settle the amount of compensation within the limits proposed by the experts.

Each application for patent is referred to the Patent Commission sitting at Copenhagen, which consists of five members, each of whom sits for five years, and is elected by the Minister of the Interior. Four of these are technical experts, and one must be a qualified lawyer. Experts may be called in by the Patent Commission; reasons for their decisions are given by the Commission in writing. None of the members of the Commission can directly or indirectly take out patents, or act as patent agents.

An application for a patent must be addressed to the Patent Commission, in duplicate, and must contain a description of the invention, and, if necessary, drawings, both in duplicate, and, if required, a model or specimens. The fee on an application is 20 crowns, which the Commission may forego, if the applicant prove that he is unable to pay. The applicant must state who is the inventor, and if he himself be not the inventor, he must produce evidence that the invention has been legally assigned to him. All the documents must be in the Danish language.

Only one invention can be patented upon one application.

A formal examination is made in the case of Danish applications, and any amendments required must be made by the applicant within the time fixed by the Patent Commission.

Upon acceptance, the application is advertised by the Patent Commission, giving the full particulars of the applicant's name, calling, and residence, and the title of the invention, and the specification is then open for public inspection at the offices of the Patent Commission.

Upon special request, this publication may be delayed to the extent of three months after the Patent Commission has passed the application.

Within eight weeks from the date of publication, any person may enter an objection to the grant of the patent, the objection being founded upon the ground that the application was not in order, or that the grant would be inimical to the interests of the opponent. Oppositions must be in writing, and state the reasons for the opposition, and the applicant will have an opportunity of replying. The Commission may call in experts if required, and the Patent Commission shall, within sixteen weeks after the publication, decide whether the patent should be granted or not.

Should the applicant feel aggrieved by the decision of the Patent Commission, he may, within six weeks after the decision, apply for a re-hearing, accompanying his request for the re-hearing by a fuller explanation.

The applicant may, within four weeks after receiving the subsequent decision, apply to the Minister of the Interior to have the matter examined by a special Commission, consisting of a chairman and four members, appointed by the Minister of the Interior; the request for this Commission must be accompanied by a fee of 100 crowns, which will be refunded if the decision of the Patent Commission be upset.

Upon the granting of the patent, a further fee of 10 crowns is payable, which, again, if the applicant can prove that he is unable to pay, the Commission may waive. Should the fee not be paid, and not be remitted, the application will be considered to have lapsed.

A register of all patents issued is kept by the Patent Commission, and in this is stated the dates of issue and duration, the objects of the inventions, and the patentees' names, callings, and residences. The expiration, or whole or partial invalidity of a patent, will be entered in the register. All notices of assignments, change of attorney, &c., must be entered in the register, and until such entry has been made, legal actions may be brought against the previous patentee or his attorney. The Patent Register is open to inspection, as well as specifications, &c.

The Patent Commission will issue a special journal, in which detailed descriptions of the patents granted will be published, and public announcements will be made by the Patent Commission partly in that paper and partly in the *Berlingske Tidende*.

Failure to pay the yearly tax involves the lapsing of the patent, and a patent will also lapse should the patentee leave the country, or the patent be assigned to someone residing outside the country, without the appointment of an attorney, which must be lodged with the Patent Commission within six weeks of such change of residence or assignment. A patent will become void should the attorney appointed by the patentee no longer attend to his duties, and the patentee, after being informed of this fact by registered letter by the Patent Commission, or, his residence being unknown, after

notification by advertisements by the Commission, does not, within a period fixed by the Commission, appoint a new attorney.

Failure to work a patent within three years of the issue of the patent, or to work it yearly afterwards, will result in the voiding of the patent; but the Patent Commission has power to prolong these terms should it be proved to their satisfaction that the failure to comply with them is due to circumstances beyond the control of the patentee. Also should it be proved to the satisfaction of the Commission that the costs connected with the working would be out of reasonable proportion to the consumption of the goods in Denmark, they may release the patentee from the obligation to work the patent, but the patentee must, as a condition, always keep the object on sale in Denmark.

Any person may bring an action for the revocation of a patent if he considers that the tax has not been paid, or that the patent is contrary to his own rights, or ought not to have been granted.

An infringer must make good to the injured party all damage, and deliver up, if so required, all the objects illegally imported or manufactured, or sold by him, upon payment of their value or deduction from the compensation due. Should he have infringed wilfully, he may be punished with fines up to 2,000 crowns, or for subsequent offences, up to 4,000 crowns or imprisonment. These punishments may be enforced after the lapse of the patent, if the infringement took place during the life of the patent, and those cases involving punishment are treated as private police cases.

In so far as the condemnation or acquittal of the defendant depends upon it, the objection that the patent is bad will be taken into consideration during the action. Any action for punishment or indemnity must be commenced within one year of the knowledge of the infringement being obtained by the patentee, and in any case within three years from the time the infringement was committed.

Before this present law came into force, patents were granted under certain rules, and this law does not apply to such patents. At the request of the patentee, however, within three years of the commencement of this law, a patent, which is still valid under the old law, may be exchanged for a patent granted under the present law; after such exchange, yearly taxes, according to the present law, will have to be paid upon the patent.

A patent applied for before the coming into force of the present law, will be granted as under the old rules, unless, within fourteen days of the time of the new law coming into force, the applicant lodged a written request to the Minister of the Interior that the patent might issue under the new law, and paid the required taxes.

The exhibition of an article at an international exhibition in Denmark, certified by the Minister of the Interior, will not debar the inventor from subsequently obtaining a patent, provided the application for patent be made within six months of the invention being first shown at the exhibition. This condition may apply by royal ordinance to inventions shown at other international exhibitions held in foreign States, and acknowledged to be such by the State in question.

A royal ordinance may also be made to the effect that an

applicant for a patent in a foreign State may obtain a patent in Denmark, irrespective of the publication of the invention in Denmark, if the application be lodged within the following seven months, and the earlier date of the foreign application will, relatively to other applications, be allowed.

Rules for the procedure of the Patent Commission will be made by the Minister of the Interior.

ECUADOR.

Duration of Patent: not less than ten, nor more than fifteen, years.

Working: within one year and a day.

Taxes: none.

International Convention: applies between Great Britain and Ecuador for Designs and Trade Marks only.

Patents are granted in Ecuador under the law of the 18th October, 1880.

Patents are granted for inventions not contrary to law or morality, and for methods or means for the improvement of any manufacture or industry; modifications of shape, and objects of mere ornament, or secret remedies, are not patentable.

The secret of any invention, applicable for the public benefit, may be purchased by the State.

Patents are granted for not less than ten and not more than fifteen years. Patents are also granted to the importers of machinery, or methods of manufactures or industries new in the Republic, the length of time for which the patent is

granted being so regulated that, if the establishment of the business requires an outlay of $25,000, the patent will be for three years, if of $50,000, for six years, and if of $100,000 or more, for ten years. Patents granted to importers of inventions, already known and used abroad, are restricted to the locality in which the invention is worked, or to the territory necessary for securing the benefits of the privilege.

A person desiring a patent makes an application to the executive power, and describes in what the invention consists, but not the method, or ingredients, or the apparatus, used in carrying out the invention; he also supplies with his petition a specimen of the manufacture or product of the invention. If the privilege be for an importation, drawings, or models of the machine, must be supplied, or a full description of the principles, methods, or processes employed in carrying out the industry which he proposes to introduce, as well as the product obtained.

A commission of three experts is appointed, presided over by the Political Chief of the Canton concerned, or, if the patent is for the whole Republic, by the Political Chief of the Canton in which the application is made, with two members of the Municipal Council, the five members taking an oath, before the Political Chief, to faithfully carry out the commission, and not to reveal the secret of the invention. They discuss, in the absence of the interested party, their report, taking a note of differences of opinion; the report, together with the description, is remitted to the Minister of the Interior, with an endorsement that the contents are to be kept secret.

Within three months the executive power delivers all the papers to Congress, which, after examining them, will grant or refuse the patent; if the patent be granted, the documents are returned to the executive power, and the patent issued on stamped paper of the tenth class, and the petition and the description are locked up at the Ministry of the Interior.

The patent bears upon it a statement that the Government does not guarantee the reality, merit, or utility of the invention, these being at the charge and risk of the patentee.

The applicant, or patentee, who desires to vary his invention, either before, or after, the issue of the patent, must *file a declaration in writing, together with a* description of the variations, but the duration of the patent will not thereby be extended.

Besides enjoying exclusively the right to exercise the invention, and the effects thereof, the patentee has the right to form establishments in any part of the Republic, if the patent extends to the whole of it, or in a particular locality if it be restricted, and to license others to work it, or to sell his rights in the patent entirely.

An assignment, or sale, of the rights can only be made by public instrument, otherwise the patent will be lost. The question of priority, in the case of rival applicants, is settled by the certificate of the Under-Secretary of the Interior, the day and hour when the applications are filed being noted.

The patent runs from the date of grant, and is entered in a special register at the Ministry of the Interior. The granting of a patent is communicated officially to the

Provincial Governors by the Ministry of the Interior, and published in the Official Journal, and also registered in the collection of laws and decrees.

At the expiration of the patent, the invention becomes public property, and the petition and description are published and kept in the public library at the capital of the Republic.

The lapsing of a patent is published. Copies of the specifications and drawings are printed, and forwarded by the Government to the Provincial Governors.

Upon giving security, a patentee may apply for the seizure of infringing articles in conformity with the laws, and should the infringer be convicted, the property seized may be confiscated in favour of the patentee, who may also recover damages proportionate to the infringement. Should the infringement not be proved, the patentee will have to pay similar damages to the alleged infringer. A patentee, who is interfered with, may proceed in the ordinary course of law for the infliction of penalties, but, if the question be one of the validity of the patent, it must come before the Minister of the Interior as an administrative tribunal.

In the case of two patentees of identical inventions, the one holding the earlier patent will prevail, the later patentee being considered an improver of the invention.

A patent granted for an invention, contrary to the laws of the State, public safety, or police regulations, will be null and void, and the patentee will not be entitled to damages for infringement.

A patent will lapse for any of the following causes:— A false or insufficient description of the invention; if the

invention has been already described and published in the press, within the Republic or out of it; if the invention has not been worked within a year and a day of the grant of the patent, unless the patentee can satisfy the Court that he was justified in omitting to work it; if the patentee, or his assignee, fails to carry out the obligations attaching to the patent.

Every patentee must expressly renounce all diplomatic claims, or intervention, and must undertake to be governed entirely by the laws of the country in any matter in respect of the patent.

This law affects, as to the lapsing of their patents, the proprietors of all patents existing at the time when it came into force.

EGYPT.

The Turkish law is supposed to extend to Egypt also, but it is doubtful whether it in fact does so; it, nevertheless, appears possible to obtain protection in Eygpt, by filing a specification, with the usual power of attorney. No examination as to novelty is made, and no Letters Patent are issued; but if the inventor can prove that he filed his papers, and applied for protection, he can take action to stop infringement.

FIJI.

Duration of Patent: fourteen years.
Working: none.
Taxes: none.
International Convention: does not apply.

Patents are granted in Fiji under the Ordinance No. 8 of the 18th January, 1879, repealing Ordinance No. 24 of 1877.

"Invention" means any manner of new manufacture, process of manufacture, method of applying known processes, or improvement in any known process, and the word "inventor" includes the heirs, executors, administrators, or assigns of an inventor.

Patents are granted under the seal of the Colony, and convey the sole right of using, selling, or making the invention in the Colony for the term of fourteen years from the date of the patent.

Patents will *not* be granted if the invention be lacking in utility or novelty, if the alleged inventor was not the true and first inventor, or if the petition or specification contains a wilfully false statement. The Attorney-General may apply to the Supreme Court for the cancellation or revocation of a patent upon any of these grounds, but he must give at least one month's notice by publication, in not less than three issues of the Royal Gazette, of his intention to do so, the period of one month commencing with the last of these notices.

An applicant for a patent must file a petition, Complete specification, and drawings in duplicate, at the office of

the Colonial Secretary.; the application must be accompanied by a declaration that the applicant believes the invention will be of great public utility, that he is the true and first inventor, that it is not used by other persons, and that the specification accurately describes the invention, and how it is to be carried out. All the documents, and any certificate of the Attorney-General, and the Letters Patent, and a memorandum of any order relating thereto, will be filed by the Colonial Secretary, and those are open to public inspection, copies being obtainable.

Certified copies are receivable in evidence in any Court of law in the Colony.

A specification may be amended by leave of the Attorney-General, or upon appeal from him, by leave of the Governor in Council, the amended specification having the same effect as the original one, excepting as to proceedings pending at the date of the amendment; the amendment must not extend or enlarge the scope of the patent.

The application is referred by the Colonial Secretary to the Attorney-General, who, if satisfied, will issue a certificate, entitling the applicant to complete protection for six months, but this period can be extended by the Attorney-General in case of opposition to the patent. Should the Attorney-General refuse his certificate, appeal may be made to the Governor in Council, who may order the certificate to issue under conditions, but the appeal must be made within one month from the receipt of the Attorney-General's decision, and the certificate of the Governor must be issued within three months from the date of the appeal. Within two months from the issue of the certifi-

cate of the Attorney-General, or of the Governor, the applicant must give notice, twice in the Royal Gazette, and once in some other paper published in Fiji, of the application, and inviting opposition to the grant, and if no opposition be entered within three months from the first notice, the Attorney-General will report to the Governor, and the Governor will, within three months from the date of the report, issue the patent with any conditions he may think fit.

An opponent must give notice in writing, accompanied by the grounds of opposition, to the Attorney-General, who will hear the parties, together with witnesses, if he thinks it necessary, and will give his decision and communicate it to the Governor in Council, who, within three months, will cause the Letters Patent to issue if the Attorney-General's report is favourable. If the report be unfavourable, the applicant may appeal to the Governor in Council, who, within three months, will either direct the issue of the patent, or otherwise deal with the matter as he thinks fit.

A patent granted for an invention, already patented abroad, will lapse with such prior foreign patent, or with the first prior foreign patent, if there be more than one. If a prior foreign patent has already lapsed, the Colonial patent will have no validity. The proprietor of a British patent may, upon producing satisfactory proof, obtain a patent in the Colony, subject to the conditions as to foreign patents.

All patents and assignments are registered in the office of the Registrar-General.

The Governor in Council may annul a patent prejudicial to the public interests, or, if the conditions upon which it was granted have not been observed, notice of any annulment, together with the reasons, will be inserted in the Royal Gazette. On the issue of a patent, the documents relating thereto are transferred from the office of the Colonial Secretary to that of the Registrar-General, where they are filed.

A patent is granted for one invention only, but a single patent may cover an invention applicable to the improvement of several manufactures, or several inventions applicable to the improvement of one manufacture.

Where a patent is cancelled or revoked, by order of the Supreme Court or a judge, a copy is sent to the Registrar-General for record.

The Court may order the amendment of any petition or specification, reserving its decision for a sufficient time for the amendment to be made, and make such order as seems fit as to costs or otherwise.

The making of a false declaration is equivalent to perjury, and renders the offender liable to imprisonment, for not more than two years, without prejudice to the rights of the injured parties, who may bring actions against him.

FINLAND.

Duration of Patent : from three to twelve years.
Working : within two years, and every year after.
Taxes : none.
International Convention : does not apply.

Patents are granted in Finland under the law of the 30th March, 1870.

Finland is a portion of the Russian Empire, but has a separate law for patents.

Patents are granted for new inventions relating to the arts or industries, and for improvements upon previous patents, without prejudice thereto. Patents are not granted for medicinal preparations, nor if the invention be contrary to existing laws, public safety, or morals, or for a new principle.

The patentee is entitled to make, exercise, and vend by himself, or others, the invention, to the exclusion of other persons, during the term of the patent, but he must strictly conform to the law with regard to the manufacture or sale of goods, but is not compelled to acquire the position of a master craftsman or the freedom of a citizen.

Patents are personal property, and may be left by will or assigned.

Patents are granted for not less than three nor more than twelve years, according to the importance of the invention. A patent may be granted for an invention already patented in a foreign country, but only for the unexpired term of the previous grant. Patents are granted to the inventor only. With the application for his patent, the inventor must present a petition to the Finance Department of the Senate, and, with a statement of the object of the patent, must supply a full and accurate specification, accompanied by drawings and models if necessary, and state whether it is a new invention or merely an improvement, the points of novelty being specially

indicated; he must state the period for which the patent is desired, and whether the invention has been already patented in a foreign country, with proof as to the date and term of such prior grant.

If the applicant is unable to send in his specification with his petition, a period of one month may be allowed him within which to do this; should he fail to supply the specification within that period, the application will lapse, but he may make a new application for the same invention.

Where the inventor does not reside in Finland, he must present his application through a person domiciled in the country, and provide him with a proper power of attorney.

The Letters Patent contain a statement of the period for which the patent is granted, the privileges conferred, and the obligations enjoined by it, and an explicit statement of the subject of the invention, and that it is new and advantageous. Patents are classified and catalogued, for public inspection and information, by the Direction of Manufactures.

Where two or more applications for the same thing are filed, the authorities will examine the applications, and decide whether the patent should be granted to the first applicant, or whether both shall be refused. In addition to the fees payable upon the grant of a patent, a yearly tax is to be paid to the State Treasury during the life of the patent.

The applicant for the patent is bound to publish three times, in the official Swedish and Finnish newspapers, a description of his invention, in the terms of the petition; this must be done within two months from the issue of the

patent. The invention must be worked within two years of this advertisement, and proof of this must be given to the Direction of the Manufactures, but this term of two years may be restricted to one year by the Finance Department of the Senate, or extended upon petition to a period not exceeding four years, according to the nature of the invention. The invention must be continuously worked, and yearly proof of this given to the Direction of Manufactures.

An assignment of a patent, or the receipt of it by inheritance, must be notified to the Direction of Manufactures, who will refer it to the Finance Department of the Senate; if the person to whom the patent is transferred does not reside in Finland, he must appoint an attorney.

A patent lapses if the patentee has failed to advertise the invention in the newspapers as indicated above, or to work the invention, or should the patent be annulled by the tribunal; the lapsing of a patent is finally published in the official Swedish and Finnish newspapers.

Should the patent have been improperly granted, any person prejudiced may, within a year after the publication in the newspapers, and also the State attorney, should that be necessary for the public protection, bring an action against the patentee before the tribunal at the place of domicile, and should the tribunal revoke the patent, a copy of the judgment will be immediately forwarded to the Direction of Manufactures, who will publish it.

A patentee may bring an action by a citation before the public tribunal to which the infringer belongs, and if the patentee can substantiate his claim, the defendant is liable

to a fine of from 100 to 800 Finnish marks in a first case, or, for a subsequent infringement, of from 800 to 600 marks, and to give compensation for the full damage; half of the fines go to the owner of the patent, who is the only party competent to bring the action, and the other half to the poor and workhouse fund. If the infringer be unable to pay, he may be imprisoned. The defendant will not be liable, if it be proved that the invention was known at the date of the patent, or that the specification was incomplete, or if the patentee falsely declared himself to be the inventor.

A month may be reckoned as thirty days.

FRANCE.

Duration of Patent: fifteen years.

Working: must be proved within two years from grant, and every subsequent two years.

Taxes: yearly, from date of application.

International Convention: applies.

The granting of patents in France is regulated by the laws of the 5th July, 1844, 21st October, 1848, 5th June, 1850, 31st May, 1856, and 23rd May, 1868.

Foreigners, as well as Frenchmen, may obtain patents in France.

Patents are granted for any new discovery or invention in all departments of industry, the invention of new industrial products or new methods, or the new application of known methods being proper subject-matter for the grant of Letters Patent.

Pharmaceutical compositions and medicines are not patentable, these being under special laws, and particularly the decree of the 18th August, 1810. Schemes and combinations dealing with credit or finance, also, are not patentable.

The duration of the patent is five, ten, or fifteen years, but the almost invariable practice now is to apply for the patent for the full term of fifteen years, but paying upon application the tax for the first year only. The taxes are 100 francs for each year, and failure to pay them involves the loss of the patent. No extension of the time for the payment of taxes is allowed by the French authorities, and it may be taken as a rule that if the tax be not paid within the statutory limit the patent has lapsed.

An applicant for a patent must deposit, at the office of the Secretary for the Prefecture in the Department in which he has, or elects, his domicile, a petition to the Minister of Agriculture and Commerce, a specification in duplicate, and drawings or specimens if necessary, and a memorandum of the documents deposited.

The application must be limited to a single principal object, but including all necessary details, and indicating the practical application of the invention. The specification must be written in the French language, and without alterations or interlineations. All words erased have to be counted and verified, and the pages and references initialled. Any denominations of weights and measures must be such as set forth in the law of July 4th, 1837. Drawings must be made in ink to a metrical scale. All documents must be signed by the applicant or his attorney. Every appli-

cation for patent is entered at the Prefecture, in a register kept for the purpose, and signed by the applicant, the day and hour of deposit being noted. A copy of the entry may be obtained by the depositor.

The term of the patent will commence with the day of the deposit.

Patents are delivered without examination, and at the risk of the applicants, and without any guarantee by the Government as to the reality, novelty, or merit of the invention, or correctness of the specification. (The letters S.G.D.G., to be found upon French patented articles, signify the words "*Sans garantie du Gouvernement*," either the letters or the words having to be placed upon all patented articles.)

A decree of the Minister of Agriculture and Commerce, signifying the regularity of the application, will be delivered to each applicant, and will constitute the Letters Patent, to which the certified duplicate of the specification and drawings will be attached. The first copy of each patent is delivered without extra charge, but each subsequent copy or duplicate, which can be procured by the patentee or persons showing good cause, will be subject to a tax of 25 francs, and the cost of the drawings, if any, will also have to be paid.

Applications not conforming to the requirements will be rejected, one-half of the sum paid for an application remaining with the Treasury, but the whole sum will be placed to the account of the applicant if he renews his application within three months of the date of the rejection. When a patent is refused, the tax will be repaid. (As the

examination of a French patent is merely nominal, it may be considered that an application for a patent in France always goes through, unless it relates to some war material.)

An ordinance will be inserted in the *Bulletin des Lois* every three months announcing the patents issued.

The term of a patent can only be extended by a special law.

The patentee, or those claiming under him, are entitled, during the existence of the patent, to make alterations, improvements, or additions to the invention by applying for patents of addition, each of which is subject to a tax of 20 francs, but is covered in the yearly taxes payable upon the original patent, and is not required to be separately worked. A patent of addition taken by one person will be for the benefit of all the others interested.

No person but the patentee, or those claiming through him, can legally obtain a patent of addition during the first year of the life of the principal patent, but any person may during that year make an application, which will remain under seal at the Ministry of Agriculture and Commerce until the expiration of the year, when the seal will be broken, and the patent delivered. Notwithstanding this, the original patentee will have the preference for any patents of addition which he may file during the said year.

The proprietor of a patent connected with the subject of a previous patent will have no right to work the previous patent, and, similarly, the proprietor of the prior patent cannot work the subject of the later patent without the consent of the other party.

Every patentee may transfer the whole or a portion of his interest in his patent, but this can only be effected by notarial act, and after the payment of the taxes for the whole life of the patent.

No transfer will be valid against third parties until it has been registered with the Secretary of the Prefecture of the Department where the deed was executed. A copy of each entry will be forwarded to the Minister of Agriculture and Commerce within five days from the date of the entry. (From this it will be seen that the assignment of the whole or a part of a French patent involves serious outlay, so that it is always well, where possible, to take the French patent in the name of the person, firm, or company in whom it is intended ultimately to vest.)

All changes of ownership will be entered in a register kept for the purpose at the Ministry of Agriculture and Commerce.

A licensee under a patent, or others having power to work a patent, shall also have the benefit of any patents of addition which may afterwards be obtained by the patentee, or persons claiming through him, and, similarly, a patentee, or those claiming through him, shall have the benefit of patents of addition obtained by the licensees.

Copies of patents of addition may be obtained by those entitled at the Ministry of Agriculture and Commerce upon payment of a fee of 20 francs.

All specifications, drawings, specimens, and models, during the life of the patents, remain at the Ministry of Agriculture and Commerce, and can there be inspected by any person applying, who, at his own expense, may obtain a copy of the specification or drawings.

Specifications and drawings are to be published after the payment of the second annuity, either in part or in full, and at the beginning of each year a catalogue, containing the title of patents issued during the preceding year, is published. These catalogues can be inspected free of charge.

At the expiration of a patent, the original specification and drawings are deposited in the Conservatory of Arts and Trades.

The author of an invention or discovery patented abroad *may obtain a patent* in France, but the French patent will expire with the previously obtained foreign patent, and no invention will be considered new, which, before the date of the application, has received sufficient publicity, either in France or abroad, to enable it to be worked.

Patents will be void if the invention were not new or not patentable, or referred to theoretical or purely scientific principles, methods, systems, or discoveries, without indication of the industrial applications, or if contrary to law, public order, safety, or morals, or if a fraudulent object be indicated by the title, or the specification be not sufficient, or, in the case of a patent of addition, if it has been obtained during the first year by a person not entitled.

The patent will lapse if the patentee has failed to pay his tax before the beginning of each year. Or, if the patentee fails to work his invention in France within the term of two years from the issue of the patent, or ceases for any two consecutive years, unless he succeeds in justifying to the authorities his inaction.

The introduction into France of the patented articles

would also vitiate the patent, unless the introduction has been sanctioned by the Minister of Agriculture, Commerce, and Public Works. (This clause is over-ridden by Article 4 of the International Convention, which see.) Any person describing himself on sign-boards, advertisements, prospectuses, placards, marks, or stamps, as a patentee, without possessing a patent, or after the patent has lapsed, or even having a patent, and omitting the words "Without guarantee of the Government," is liable to a fine of from 50 to 1,000 francs, and this fine may be doubled upon a repetition of the offence.

Any person may bring an action for annulment of a patent, and the Public Prosecutor in any such action may intervene, and take steps to have the patent absolutely annulled; he may also commence an original action on his own account for the same purpose. Where the Public Prosecutor does intervene, all persons interested in the patent, and whose titles have been registered at the Ministry of Agriculture and Commerce, must be parties to the action.

The annulment of a patent will be published in due course.

Infringements are punishable by a fine of from 100 to 2,000 francs, and those who have knowingly received, sold, or exposed for sale, or have introduced into French territory any of the infringing articles, will be liable to the same penalty as infringers.

For a repetition of the offence, in addition to the fines, imprisonment of from one to six months may be inflicted, and an infringement will be considered a repetition of the offence, if the accused has suffered a first punishment during the previous five years.

Imprisonment from one to six months may also be inflicted should the infringer be a workman or employee who has worked in the factory of the patentee, or should the the infringer have associated himself with such workmen, and have become acquainted through the latter with the invention; in the latter case, the workman or employee may be prosecuted as an accomplice. Art. 408 of the Penal Code may be applied to these offences.

Action for imposing these penalties can only be brought by the Public Prosecutor, on the complaint of the injured party.

The Court, in deciding upon an action for infringement, will consider the question raised by the accused as to the nullity of the patent, or questions concerning the ownership of the patent.

By an order of the President of the Tribunal of First Instance, the proprietors of a patent, through the officers of the Court, may have all infringing articles declared, with or without seizure; this order may be issued merely upon the production of the patent and request, and an expert may be nominated to assist the officer if necessary. When such seizure is to be made, the person applying for the order may have to give security before proceedings are commenced, and security will always be required in such a case from a foreign patentee. A copy of the order must be left with the person from whom the goods are seized. The seizure will be legally void, if the person obtaining the order does not proceed within eight days, or a further time, according to the distance between the place where the objects were seized, and the residence of the infringer.

Even in cases of acquittal, the objects held to be infringed will be confiscated, and will be delivered to the owner of the patent, without prejudice to his claiming greater damages.

By the decree of the 21st October, 1848, the law of the 5th July, 1844, is extended to the Colonies; actions for infringement to be tried before the Courts of Appeal in the Colonies.

The decree of the 5th June, 1850, extended the application of the law of the 5th July, 1844, to Algeria; actions for offences and infringement to be tried by the Courts in Algeria.

By the decree of the 24th June, 1893, the law of the 5th July, 1844, 31st May, 1856, and 23rd May, 1868, are extended to French Indo-China, and whoever desires a patent there must supply the papers required by the law of 1844 in triplicate.

Assignments of patents will be registered in the office of the Secretary-General, or of the superior resident, and copies of the entries in the register, with authenticated extracts from the deeds, and the tax, will be forwarded to the Minister of Commerce and Industry.

Proceedings for infringement will be tried by the correctional tribunals of Indo-China.

GERMANY.

Duration of Patent: fifteen years.

Working: must be proved before the expiration of three years from grant, and subsequently every year.

Taxes: yearly, from date of application.

International Convention: does not apply.

The issue of patents in Germany is regulated by the law of the 7th April, 1891, which superseded the previous law of the 1st July, 1877.

Patents are granted for inventions which are new and allow of industrial application; but an invention will not be considered now if, at the time of the application for the patent, it has already, during the preceding 100 years, been described in any printed publications, or publicly used within the realm, so that those skilled in the art to which it appertains could carry it into effect from such description or use.

Patents will not be granted upon inventions contrary to law or public morals, or relating to articles of food, medicines, or for chemical processes, excepting a definite process for the preparation thereof.

In the case of applications by foreigners residing in countries granting reciprocity to Germany, and where this fact has been certified by a publication in the Imperial Gazette, the foreign official publication of specifications will only be considered as anticipations after the end of three months from the date of issue.

The person first applying for the patent is entitled to it. The patent will be refused upon opposition entered, if the applicant has, without his consent, taken the essential parts of the invention from descriptions, drawings, &c., of another person, or from a process used by him. If the opponent succeeds in stopping the application, he may himself apply within one month from the date of the decision for a patent for the same invention, and have it dated as of the day before the date of the stopped application.

A patentee has the exclusive right to manufacture, bring into use, and sell the subject of the patent, and if the patent be for a process, the products of that process will also be included.

Persons who have already used, or made the necessary arrangements for using, the subject of the patent at the date of the application, will not be affected by the grant of the patent. This right can only be inherited, or disposed of, in conjunction with the business to which it appertains.

A patented invention may, by order of the Imperial Chancellor, be used for the Army or Navy, or otherwise in the public interest, but the patentee would have a claim against the Empire, or the particular State, which may have desired the limitation of the patent in its special interests, for proper compensation, the amount of which, if no arrangement can be come to, may be settled in a Court of law.

The patent does not extend to vessels or vehicles only temporarily present in the realm.

The heirs of the deceased inventor have the right in the claim to the grant, and the claim to the grant, or the rights in the patent, may transferred partially or entirely by agreement, or by testamentary enactment, in case of death.

The patent lasts for fifteen years, commencing from the day following that upon which the application for the patent is lodged.

Patents of addition, dependent upon the original patent, and terminating therewith, may be obtained. If the principal patent be declared void, and the patent of addition thus becomes an independent patent, its duration will date

from the day of the commencement of the principal patent, and the taxes will be estimated from the same date.

The taxes payable are 30 marks upon application, 50 marks at the commencement of the second year, increasing by 50 marks for each subsequent year. These taxes must be paid within six weeks from the time that they become due, but another six weeks can be obtained upon payment of a fine of 10 marks. In the case of a patentee who proves that he has not the means to pay, the payment of the tax for the first and second years may be postponed until the third year, and should the patent then expire, the taxes would be entirely remitted.

Taxes may be paid before they become due, and should the patent subsequently be abandoned, revoked, or declared invalid, those taxes which have been prepaid, but are not due, will be refunded.

By special decree of the Federal Council, the amount of taxes may be reduced. A patent will expire if the owner relinquishes it, or fails to pay the taxes within the prescribed time.

A patent will be declared void, if it be proved that it was granted for improper subject-matter, or that the subject-matter has been previously patented, or that the essential part of the invention has been obtained from another person. Should any one of these positions be only partially proved, the patent will be limited to a corresponding extent.

Should the owner of a patent fail to work it adequately within the realm, or to take all steps to ensure such working within three years from the date of the grant, the patent can be revoked, and a similar result would ensue

if the owner declined to grant licenses for reasonable compensation and adequate security.

(NOTE.—It may be well here briefly to explain some of the more important points bearing upon workings of German patents. In the first place, it must be understood that the working clause in a patent law is essentially in the nature of a protective tariff, the object being to foster home industries at the expense of foreign industries, and the German Courts will decide any cases based upon the working clause of the law, in this spirit. There are several decisions of the German Patent Office and Superior Courts bearing upon this question, one or two of which may be cited as showing how necessary it is for a patentee to fully comply with the requirements of the law in this respect. Thus, in a case decided by the German Patent Office on the 6th January, 1887, relating to sewing machine shuttles, it was proved that three thousand shuttles had been manufactured in Germany. This, in itself, would probably have been accepted as sufficient compliance with the requirements of the law, had it not been also proved that no fewer than two hundred and fifty thousand of these shuttles had been imported into Germany, and, as a consequence, it was decided that sufficient working had not taken place.

Again, more recently, in the German Superior Court on the 21st September, 1891, very similar quantities of manufactured in Germany and imported articles were dealt with, viz., three thousand made in Germany and three hundred thousand imported, and the decision was against the patentee. As a rule, therefore, manufacture in

Germany is essential, unless, indeed, the commercial advantage would accrue from its use, and not from its manufacture; under these special circumstances, importation might suffice, but such a case as this should be considered the exception, and not the rule.)

A foreign resident must appoint a representative in the country, who will represent him in all proceedings under the Act, or in civil litigation concerning the patent.

The Patent Office is situated in Berlin, and consists of a President, and of legal and technical members; the members are appointed by the Emperor, and the President is nominated by the Federal Council. All questions of the revocation, declaration of nullity, or the grant of a patent, are decided by the Patent Office. The legal members, if they occupy another appointment in the service of the Empire, are appointed in the Patent Office for a term lasting only during the term of the previous appointment, but should they not hold such other appointment, the appointment in the Patent Office would be for life. Technical members are appointed either for five years or for life.

There are three departments in the Patent Office: (1) for applications for patent, (2) for suits of declaration of nullity or revocation of patents, and (3) for appeals. In the applications department, only those technical members who hold life appointments can act. Not less than three members can decide any question in the applications department, and of these at least two must be technical members. In the appeals and revocations departments,

decisions are given by two legal and three technical members; for other decisions, three members are sufficient. Experts, other than members, may assist at consultations, but cannot take part in decisions. Decisions must be in writing, and accompanied by the grounds upon which they are based, and would be sent officially to all the interested parties. Decisions of the applications and revocations departments are subject to appeal, but no member who has taken part in the decision appealed against can take part in the appeal decision.

The Patent Office is bound, at the request of legal tribunals, to give opinions upon questions concerning patents, if contradictory opinions are given in a law suit by experts. Otherwise, the Patent Office cannot, without the consent of the Imperial Chancellor, give decisions or opinions outside its proper sphere of business.

A register of patents is kept at the Patent Office, in which the names and places of residence of the proprietors or representatives, together with the subject-matter, and the duration of the patents, are entered, and facts concerning patents, such as the commencement, expiration, or revocation of the patents, will be noted in the register, and published in the Imperial Gazette. Transfers of patents are noted in the register, and published in the Gazette, upon proper evidence being supplied at the Patent Office, and until such entry has been made, the original owner, or his legal representative, remains authorised and liable in respect of the patent. Any person can inspect the register, or the descriptions, drawings, models, and samples of patents. The essential

features of specifications and drawings will be published by the Patent Office in the Official Journal, which will also repeat the notifications from the Imperial Gazette.

The specification must be clear and intelligible, and so describe the invention, that others skilled in the art to which it appertains can fully carry it into effect, and a specification must end with a statement of claim.

An application is subjected to a preliminary examination in the applications department, and should it not appear to comply with the rules, the applicant will be required to amend it. Should this preliminary examination show the subject-matter of the application to contain no patentable invention, the applicant will be notified accordingly, and should he not reply within the prescribed time, the application will be considered to be abandoned. Should he reply, the applications department will come to a decision upon the matter. Should the application not comply with the requirements, or not be found to contain patentable subject-matter, the application will be refused. The examiner who made the preliminary decision will not take part in the final decision. Should the refusal be based upon circumstances not indicated in the first notification, an opportunity will be afforded the applicant of replying within a fixed time. If the application be accepted, it will be published, and the legal rights under the patent come provisionally into force; publication takes place in the Imperial Gazette, the name of the applicant, and the essential features of the invention, being stated, together with a notification that the invention is provisionally protected. The specification will then be open for public

inspection at the Patent Office. Publication may be made at other places besides Berlin.

Publication may be delayed on the demand of the applicant, for a period not exceeding six months from the date of the notification; an application for postponement for three months will not be refused. In the case of applications in the name of the Imperial Administration for purposes of the Army or Navy, the patent may be granted without publication, and no entry will be made in the register.

The first yearly tax becomes due within two months after the publication, and if this payment be not punctually made, the application is considered to be abandoned.

Opposition to the grant of the patent may be entered within this period of two months, the grounds of the opposition being stated, and the opposition being made in writing. The only ground of opposition is, that the invention is not patentable, or that the applicant is not entitled to the patent, and should the ground of opposition be that the applicant obtained the invention from another, the opposition can only be made by the person from whom the invention is alleged to have been obtained.

(NOTE.—Although these grounds appear to be sufficiently restricted, experience shows that patents are opposed in Germany, upon grounds which would not be allowed here, nearly every kind of publication, or previous user in factories or elsewhere, being admitted as grounds for the opposition.)

At the end of the two months' term, the Patent Office will decide whether to grant the patent or not. At the

preliminary examination in the applications department, the parties interested, as well as witnesses and experts, may be heard or examined, and any enquiries considered necessary may be made. Appeal from the decision upon the application, should the latter be refused, may be made within one month from the date of the notification, and a similar period is allowed for appeals in the case of oppositions. Twenty marks have to be paid with each appeal, without which it will not be considered. An appeal made too late, or in an informal manner, will be rejected. The summoning and hearing of the parties will be made upon the demand of one of them, and this demand can only be rejected should the applicant already have been summoned in the proceedings upon the application. Both parties will have the opportunity of making a statement, if the decision, on the appeal, be based on different grounds from those upon which the original decision was given. The Patent Office can decide how far the costs in an appeal shall be borne by the losing party, and may also order that the 20 marks shall be repaid to the successful appellant.

Upon the grant of the patent, notification will be published in the Imperial Gazette, and the Letters Patent issued. Should an application be withdrawn after publication, this fact will be published; in these cases, the annual taxes already paid will be refunded. Protection ceases if the patent be refused. No action for revocation of a patent, upon the ground of want of patentable subject-matter, can be taken after five years from the publication of the grant of the patent. A fee of 50 marks has to be paid with any application for declaration of nullity; this

fee is refunded, should the matter be decided without the parties being heard. Persons domiciled abroad, and applying for revocation of a patent, may be required to give security for costs, the amount to be determined by the Patent Office, and should the security not be given, the application will be considered withdrawn. The patentee may be called upon to answer the charges brought against his patent within one month, and if he does not reply within that time, the case may be decided without the parties being heard, and in such case every assertion made by the applicant will be taken as proved.

Experts and witnesses may be summoned by the Patent Office, and the depositions will be taken down in writing by a sworn recorder. The Law Courts will afford the Patent Office legal assistance; the determining of fines against witnesses or experts, who do not appear when called upon, or refuse to give evidence, or to take the oath, may be effected through the Law Courts. Appeals to the Imperial Court may be made from the decisions of the Patent Office within six weeks from the date of the notification.

Whoever wilfully, or by gross negligence, infringes a patent, or asserts a patent against those who have rights to use the invention, will be liable to pay damages to the injured party. In the case of an invention which relates to a process for the production of a new substance, all substances of a like nature will be considered as made by the patented process, unless the contrary be proved. Fines, not exceeding 5,000 marks, or imprisonment, not exceeding one year, may be inflicted; in the case of these

punishments being awarded, the injured party may publish the sentence at the cost of the defendant; the mode and time of publication are stated in the sentence. In place of damages, according to this law, at the request of the plaintiff the Court may award, in addition to fine or punishment, a penalty, not exceeding 10,000 marks, to be paid to the plaintiff, and all the defendants are liable to this penalty as joint debtors. Such a penalty will stay any further action for damages.

No action for infringement can be taken after the expiration of three years from the date of any one of the infringements alleged.

A fine, not exceeding 1,000 marks, may be incurred by any person who places upon unpatented articles, or on their packings, misleading marks or descriptions, suggesting that they are the subject of a patent, or in advertisements, on sign-boards, business cards, or the like, employs means to lead persons to suppose that the objects mentioned therein are patented, when such is not the fact.

GUATEMALA.

Duration of Patent: from *five to fifteen* years.
Working: within *a year* of *grant*, and *every year after.*
Taxes: *yearly.*
International Convention: *does not apply.*

Patents are granted in Guatemala under the law of the 21st May, 1886.

Patents are granted for any discovery or invention in any kind of industry, or for the invention or perfecting

of any machine, instrument, or mechanical apparatus, manufacture, or process, which can be usefully applied in the sciences or arts, and the patent conveys the exclusive right to utilise the invention according to the law.

Patents are of two kinds: patents of inventions, or patents of improvement, and are granted for terms of from five to fifteen years, to natives of Guatemala, or to foreigners domiciled in the Republic.

Application must be made to the Minister of the Interior, with a declaration of the invention or improvement, and a clear statement of the invention, for the grant of the patent. Should the application be acceded to, the grantee must, within forty days, supply an exact drawing of the apparatus, or detailed description of the process, together with specimens, if practicable. The proprietors of foreign patents may obtain patents in Guatemala, provided the invention has not been published in the Republic, and subject to an agreement between the countries; such patents expire with the prior foreign patents, and in no case will the Guatemalian patent last for longer than fifteen years.

Grants are entered in a book kept for the purpose in the Secretary's office. The Letters Patent are sealed with the seal of the Minister of the Interior, and bear upon them the terms of the grant, the patent law, a statement as to the invention protected, the term of the patent, and the proprietor of the patent. Patents are granted at the risk of the patentee, no guarantee being given by the Government.

The application is published four times in the Official Journal during one month, and the grant of the patent not less than twice in the said Journal.

Patents will be void if

(*a*) A competent tribunal decides that they have been issued in prejudice of the rights of another person.

(*b*) If the patent has not been "worked" within one year.

(*c*) If the working is discontinued for more than one year.

(*d*) If the patented articles are inferior to the specimens lodged with the application, whether by adulteration or otherwise.

Where the subject of the proposed patent is contrary to law, or the public health, security, morality, or good manners, or when the proper formalities have not been complied with, the patent will not be granted at

A patent does not cover the product, but only the means of production, so that if the same article can be made by another process, it may be so made. Any person may improve upon the invention of another person, but may not use the original invention, except under license from the original inventor, and the original inventor would be under a like disability, with regard to the improvements.

When a patent expires, the specification is published, and copies of the drawings or models can be obtained upon application, and payment of the cost, and the subject of the patent becomes public property.

Infringement, falsification, and other offences against the patent, are punishable under the penal code.

The Executive has the power to make grants to promote enterprises of public utility, or for the establishment of new industries, the grants comprising the reduction of duty upon imported machinery or materials, or total exemption from the duty, the use of national buildings or land,

exemption from military service by the operatives, and subsidies or rewards.

When applying for relief from duties, the applicant must state to the Custom House, that the undertaking is restricted to the patentee, that the articles concerned do not exceed what are required for the undertaking, the name of the ship, the marks and numbers of the packages, and must state accurately the goods previously warehoused. The statements will be verified by the officers entrusted with the delivery of the goods, who will stop delivery if the statement is found to be incorrect. When the grant ceases, a copy of the inventory of the articles, appertaining to the undertaking, has to be presented to the Custom House, and if the articles are for consumption or subsequent use, the duties must then be paid.

Any person desiring such a grant, must apply to the office of the Minister of the Interior, explaining fully the conditions of the grant sought. The application will be forwarded to the Council of State, with the report of two or more experts. The Minister may make the grant if he thinks fit, subject to approval by the Assembly in the next session, and the grantee may immediately commence to utilise the concession, but will not receive indemnification, should the grant not be confirmed by the Assembly. Every petition for a grant will be published four times in the Official Journal, during one month before it is forwarded for consideration, in order to allow persons who are prejudiced, to appear in opposition before the Minister.

No concession will be made for the introduction of articles and machines for domestic use or ordinary trade,

and should it be found that a trade in the materials or articles introduced exists, the concession will lapse, and the grantee will have to pay full duties on whatever he has imported, and 40 per cent. over the total amount.

The grant will lapse at the expiration of the period within which it should have been put into operation, or should the working of it be abandoned for more than a year.

The present law repeals Articles 486 and 7 of Chapter 2, Title X. of the Civil Code, Book I.

HAWAII.

Duration of Patent: ten years.

Working: none.

Taxes: none.

International Convention: does not apply.

Patents are granted according to the Act of August 29th, 1884, and sections 255 and 256 of the Civil Code. They are issued by the Minister of the Interior, with the approval of the King, to the inventor or improver of any new and useful art, machine, manufacture, process, or composition of matter, not already patented or described in any printed publication, in the Hawaiian Kingdom or any foreign country, for any period, not exceeding ten years. A clear specification of the invention, and the mode of applying it, together with drawings, and a complete model if necessary, must be supplied with the application to the Minister of the Interior.

Patents are issued in the name of the King, and under the seal of the Department of the Interior, and are signed by the Minister of the Interior, and countersigned by the

Commissioner of Patents, and are recorded with their specifications, in books kept for that purpose, at the office of the Department of the Interior. The patent contains a short title or description of the invention, and a statement of the grant to the patentee, and the term of the grant, whereby the patentee is exclusively entitled to make, use, and vend the subject of the patent, throughout the Hawaiian Islands; a copy of the specification and drawings is annexed to the patent.

A patent may be granted for an invention already patented abroad, unless the subject of the patent has already been in public use in the Hawaiian Islands, for more than one year prior to the application for the patent; but in such case, the Hawaiian patent will expire with the prior foreign patent, or, if there be more than one, with the one having the shortest term, and in no case will it last for more than ten years.

A full and clear specification must be lodged with the Minister of the Interior, in which a clear statement of what is claimed must appear. Drawings must be supplied, if necessary, and specimens of the ingredients and composition, should the invention relate thereto, sufficient for experimental purposes, must also be supplied, and where the invention admits of it, a model must also accompany the application. The applicant must make an oath that he believes himself to be the original and first inventor or discoverer, and does not know or believe that the same was ever before known or used, and must also state of what country he is a citizen or subject. Applications are examined by the Commissioner of Patents, to ascertain if the subject of each is sufficiently useful and important to

justify the granting of a patent, and if the claimant appears to be entitled to it; he then reports to the Minister of the Interior, who may cause the patent to be issued.

Caveats for the term of one year may be obtained by inventors, so as to give time for maturing the invention, and conveying protection of the invention for that period.

The Commissioner of Patents is appointed by the Minister of the Interior, and examines and reports upon all applications for patents, receiving a fee for each application examined and reported upon, which has to be paid to him by the applicant in advance.

This Act repeals the previous Act of the 22nd June, 1868.

HERZEGOVINA.

By the Austrian law of December 20th, 1879, the law of June 27th, 1878, relating to the Commercial and Tariff Union with the Ministry of the countries of the Hungarian Crown, was extended to Herzegovina.

HONG KONG.

Duration of Patent: remainder of term of English patent.
Working: none.
Taxes: none.
International Convention: does not apply.

Patents are granted in Hong Kong under the Ordinance No. 2 of the 1st April, 1892.

Application for patent may be made by the inventor, or the assignee, of an invention already patented in England,

the application to be accompanied by a specification, identical, as far as possible, with that filed in England, and by a declaration, to the effect that the applicant is in possession absolutely, or, so far as it relates to Hong Kong, of the invention, which he believes will be of great public utility in Hong Kong, that it is not publicly used in the Colony, and that the specification properly describes the invention. The declaration must be made before a person duly authorised to administor oaths, in the country where the declaration is made; the making of a false declaration renders the offender liable to the penalties for perjury.

The application papers are filed at the office of the Colonial Secretary, and notice of the application, and such other particulars as the Governor may require, are inserted twice in the Gazette, and may be further advertised according to the Governor's orders. The Governor in Council may grant Letters Patent for the remaining term of the British patent, the grant conferring upon the grantees, so far as concerns the Colony of Hong Kong, all the rights and privileges conveyed by Letters Patent in England. Where an extension of time is granted for the English patent, the Governor in Council may similarly extend the Colonial patent.

A register of patents is kept at the Colonial Secretary's office, in which the names and addresses of the parties concerned are entered; this register is *primâ facie* evidence of all matters it contains. Assignments are entered in the register of patents, and a body corporate is entitled to be an assignee. The person appearing upon the register of patents will be regarded as the proprietor, subject to any prior title, properly recorded, before the passing of this

ordinance, and will have power to assign, grant licenses, or otherwise deal with the patent.

The register of patents is open to public inspection at all convenient times, and certified copies, under the hand of the Colonial Secretary, can be obtained.

The Governor is empowered by an order, to be published in the Gazette, to remove the patent records from the Colonial Secretary's office, to such place and custody as he may think fit.

The Governor has power to make and alter, or revoke, rules and regulations, and to fix the fees for carrying out the orders, all of which must, from time to time, be notified in the Government Gazette.

Ordinances Nos. 14 of 1862, 6 of 1890, and 8 of 1891, are repealed, but without affecting any right, or privilege, or act, lawfully done, under those ordinances.

HUNGARY.

Duration of Patent: fifteen years.
Working: within one year of grant, and every two years after.
Taxes: yearly.
International Convention: does not apply.
Prior to the 27th December, 1898, the granting of patents was in accordance with the Austrian laws of the 15th August, 1852, 27th June, 1878, and the 21st May, 1887, but upon that date a special ordinance was passed by which separate patents were required for Austria and for Hungary.

The law in Hungary is substantially the same as the Austrian, which see.

INDIA.

Duration of Patent: fourteen years; may be prolonged for further term of seven years, or, in exceptional cases, fourteen years.

Working: none.

Taxes: before the end of fourth year, and every year after.

International Convention: does not apply.

Patents are granted in India under the Act No. 5 of 1888, called the Inventions and Designs Act, 1888. It extends to the whole of British India, and came into force on the 1st July, 1888.

"Invention" includes improvement. "Inventor" does not include the mere importer into India of a new invention. "Manufacture" includes any art, process, or manner of producing, preparing, or making an article, and also the article produced.

The inventor of a new manufacture, whether a British subject or not, may present an application to the Governor-General in Council, for leave to file a specification of his invention. Where a patent has been obtained in the United Kingdom, the date of the patent, and the date of the actual sealing, must be given, and the application must be accompanied by a reasonably full description of the invention, and be accompanied by drawings, photographs, or model if required, the latter to be neatly and substantially made of durable material, and to specified dimensions. The Governor-General in Council may make such enquiry into the invention as he thinks fit, and may authorise the applicant to file a specification. He may refer the appli-

cation to an expert of his own selection, the applicant defraying the expense of the reference. Where two or more applications are made on the same day, for the same invention, it is within the discretion of the Governor-General in Council to allow both, or all, the applicants to file specifications of their respective inventions.

If applications for the same inventions are made on different days, the first applicant will be considered to have a preferential claim to the filing of his specification. The specification must be filed within six months from the date of the order, but this time may be extended for a period, not exceeding three months, by the Governor-General in Council, and upon the filing of his specification, the applicant is entitled to the exclusive right to make, sell, or use the invention in British India, for a period of fourteen years, from the date of the filing of the specification. From the end of the fourth year of the patent, a tax is payable each year to keep the patent in force. Or the whole of these fees may be paid up at once if preferred. The Governor-General in Council has power to extend the time for paying these fees, for a period not exceeding three months, subject to the payment of a fine; but should an action be brought for infringement committed in the interval, the Court, in dealing with the suit, may refuse to give damages in respect of the infringement.

The specification must contain a clear and explicit statement of the invention, so that any person skilled in the art to which it appertains, or is most closely related, will be able to use the invention, with the assistance only of the specification. At least four copies of the specification

have to be supplied with the application, one of which is retained by the Secretary, and one each is sent to the Governors of Fort George and Bombay, one to the Chief Commissioner at Burmah, and others, if required, to such authorities as the Governor-General in Council may decide. These copies are open to public inspection.

A register of inventions is kept at the office of the Secretary, and in this are recorded all applications for leave to file specifications, the orders for filing the specifications, as well as any subsequent proceedings relating to the inventions. The applications are numbered consecutively, and dated as of the date of their delivery or receipt, and entered in the register in numerical order. An address book is also kept at the office of the Secretary, in which an address in India is entered against every application for leave to file a specification, or who has acquired an exclusive privilege or share thereof. All these entries are open to public inspection.

An exclusive privilege may be extended for a further term of not exceeding seven years, or, in exceptional cases, fourteen years, but the application for such extension must be made, not more than one year and not less than six months, before the expiration of the original period; the application must be made to the Governor-General in Council, who may refer it to the High Court for report. The nature and merits of the invention, as regards the public, and the profits made by the inventor as such, and the general circumstances of the whole case, will be considered by the Court in making this report.

Citations may be served upon persons claiming any

interest in the reference, who must appear, when called upon, to make their statements.

The Governor-General in Council may impose any conditions he thinks right, when authorising the filing of the specification, or extending the term of the privilege.

The privilege has the same effect against Her Majesty as against a subject, but the use of the invention may be appropriated for the services of the Government, on terms arranged between the parties, or settled by the Governor-General in Council.

Specifications may be amended by leave of the Governor-General in Council, where the error has arisen through mistake or inadvertence, an application in writing, signed by the applicant, and stating how the error arose, and that it was not fraudulently intended, being required. The amendment must not extend the scope of the specification, but after amendment the specification will have the same effect as before, except as to any action pending at the time of the amendment. The privilege will not be granted, if the invention is of no utility, was not new at the date of the application, or if the applicant was not the inventor, or if the specification is not sufficient, or contains wilful or fraudulent misstatements, or if the application was made more than one year after the date of the acquisition of a patent for the same invention, in any place beyond the limits of British India and the United Kingdom. An invention will be deemed new, if it has not been publicly used in any part of British India or the United Kingdom, or known therein by written publication, before the date of the application. The public use or knowledge of the in-

vention in fraud of the original inventor, before the date of his application, will not be a bar to the grant of the privilege, unless the inventor has acquiesced in the public use of the invention for six months, before he applied for leave to file his specification.

The use of the invention in public by the inventor, or his nominee, for a period of not more than one year preceding the date of the application, will not be considered to be use within the meaning of the Act.

Where an inventor has obtained a patent in the United Kingdom, and applies in India within twelve months of the sealing of the British patent, the privilege will not be invalidated, although the invention may have been publicly used in British India or the United Kingdom, before the application was made in India, provided that it was not known or publicly used in British India, prior to the date of the British patent.

A person who has applied for a patent in the United Kingdom, and applies in India within twelve months thereof, while the British application is still pending, may obtain a valid concession, although the invention may have been used, or a description thereof published, in British India or the United Kingdom, in the interval.

Where an invention has been exhibited at an industrial or international exhibition, certified by the Governor-General in Council, the inventor must apply for a concession in India within six months from the date of the admission of the invention to the said exhibition; the publication, consequent upon such exhibition, will not then invalidate the grant.

The rights under the privilege will lapse, if the Governor-General in Council declares it, or the mode in which it is exercised, to be mischievous to the State, or prejudicial to the public, or that any of the conditions upon which it was granted have not been fulfilled, such failure being proved upon an application to the High Court.

Where the invention has been already patented in the United Kingdom, or, not being patented in the United Kingdom, has been patented elsewhere outside British India, the privilege in India will cease when such prior patent is revoked.

The proprietor of a privilege may prosecute, in the District Court, infringers who make, sell, or use, counterfeit, or imitate the subject of the privilege, without the license of the proprietor.

The *following* may *not* be urged in *defence*:—

That the specification is defective or insufficient.

That the specification contains a wilful or fraudulent misstatement.

That the invention is of no utility.

That the plaintiff was not the inventor, unless the defendant is able to prove that he is himself the actual inventor, or has obtained the right to the invention from the actual inventor.

That the invention was not new, unless the defendant, or the person through whom he claims, has publicly or actually used the invention in some part of British India or the United Kingdom, prior to the date of the application in India.

The privilege may be attacked, on application to the High Court, upon any of the following grounds:—

That the invention is of no utility.

That it was not new.

That the applicant was not the inventor.

That the specification does not fulfil the requirements of the law.

That the applicant has included in his specification something which he did not invent.

That the application contains a wilful or fraudulent misstatement.

That the specification was not sufficient, and that the insufficiency was fraudulent and injurious to the public.

Similarly, a portion of the alleged invention may be attacked on the ground

That that part is wholly distinct from the rest of the invention.

That that part was not new.

That the applicant was not the inventor of that part, and that that part is not sufficiently described, and this insufficiency is injurious to the public.

The High Court may, in such proceedings, and without reference to the provisions of the Code of Civil Procedure, require the plaintiff to give security for costs.

The privilege may be attacked upon the ground of the breach of some condition upon which the privilege was granted, but leave of the Governor-General in Council, to apply to the High Court for a rule, must first be obtained.

Notice of any action, or rule, to show cause, will be

served upon all persons appearing in the address book as whole or part proprietors of the privilege, and it will not be considered necessary to serve notices upon any other persons; the leaving of a copy at the address in the book, will be considered sufficient serving of the notice, or even sending the notice through the post, registered.

The High Court may direct some other Court, or District Court, to try the issue, which will certify the finding to the Court directing the issue. Where a District Court tries the case, the finding will not be subject to appeal, but the evidence will be transmitted to the High Court, which may act upon the finding of the District Court, or otherwise deal with the case, or direct a new trial, as may seem necessary for the furtherance of justice. The Court may declare that the privilege has not been acquired, and all rights will accordingly lapse.

If the proprietor of the privilege satisfies the Court that some portion of the specification describing matter which was not new, or of which he was not the inventor, was erroneously included, or if the specification be defective or insufficient, that this was not fraudulently intended, the Court may confirm the privilege for the rest of the specification. Or, if the matter can be corrected without injury to the public, it may order the specification to be amended upon terms, whereupon the applicant will file an amended specification, within the time fixed by the Court. The privilege will not be upset upon the ground that the application contains a misstatement, unless it be wilful or fraudulent.

In a suit for infringement, the plaintiff must deliver particulars of the breaches complained of, and the

defendant will deliver particulars of objections, and those particulars must contain all the evidence to be used at the trial. Nevertheless, the Court may allow the particulars to be amended. If it be alleged that the invention was known, or publicly used, before the date of the application, the places, and manner of such use or knowledge, must be set out in the particulars of objection.

Where the applicant was not the actual inventor, and the latter satisfies the Court that the knowledge of the invention was obtained surreptitiously, or in fraud of him, the Court may decree an exclusive privilege to the actual inventor for the remainder of the term of fourteen years from the date of the original application, and require the first applicant to account fc., and pay to the actual inventor, the profits derived for the use of the invention, but the diligence with which the actual inventor has asserted his claim, and the other circumstances of the case, will be taken into consideration.

Decrees of the Court are entered in the register of inventions, and in the address book.

Privileges will lapse upon failure to pay any of the fees within the proper times, or if revoked by the Governor-General in Council, or upon the lapsing of a prior patent, or by an order of the Court, or by the expiration of the term for which it was granted, and an entry to the necessary effect will be made, in the register of inventions.

Application may be made to the High Court for an order for the rectification of the register of inventions, or address book, by any person aggrieved.

Should the Secretary be a party to such an application,

he will not be liable for the costs of any other party. The High Court may stay proceedings or dismiss applications, or refer them to another Court.

The Governor-General in Council may order the proprietor of the privilege to grant licenses, or the Governor-General himself may grant licenses, on such terms as he may think fit, if it be shown that the invention is not being worked in British India, or the reasonable requirements of the public, as regards the invention, cannot be supplied, or that any person is prevented from working, to the best advantage, another invention. The privilege may be assigned for any particular place.

An application to file a specification, or amended specification, must be verified by the applicant or by his agent.

The Governor-General in Council may make rules, and appoint forms, for the carrying out of the law. The enactments No. 15 of 1859, No. 1 of 1879, and No. 16 of 1888, are repealed in whole or in part.

ITALY.

Duration of Patent: maximum, fifteen years; but patents can be taken out for any shorter term, and then prolonged.

Working: if patent taken out for less than six years, within one year of grant, and yearly; but if for six years and upwards, within two years of grant, and every two years.

Taxes: yearly, due at end of quarter in which application is filed.

International Convention: applies.

Patents are granted under the law of the 31st January, 1864, by which the existing Sardinian law of the 30th October, 1850, was extended to the whole of the kingdom of Italy.

The following form patentable subject-matter :—

(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.

The invention will be considered now, if not known before the date of the application for the patent, or even when known, if the information concerning it was not sufficiently precise to enable it to be put into practice. An invention patented abroad may be patented in Italy during the life of the previous foreign patent, if the invention has not been freely imported and worked in the kingdom before the date of the application. A modification of a patented invention may be patented without prejudice to the original patent.

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 more theoretical nature;

(4) All kinds of medicines.

Patents are granted without any guarantee as to utility or reality, and confer the exclusive right to manufacture and sell the subject of the patent, and patents may be obtained for the application of chemical agents, processes, methods, instruments, machines, tools, apparatus, or mechanical arrangements of any kind. The supplying by the patentee of the subject of the patent, gives to the recipient the right to use them, excepting in the case of an express agreement to the contrary.

Patents of addition may be obtained for the remainder of the term of the patent. Patents take effect against other parties from the date of application, and in the order thereof. Patents are granted for not less than one year, nor more than fifteen years, the date being reckoned from the last day of the months of March, June, September, and December next following the application. Where a prior foreign patent exists, the Italian patent will lapse with the previous foreign patent having the longest term, but in no case will the duration exceed fifteen years. Patents granted for a shorter term than fifteen years may be extended up to fifteen years, the prolongation extending to certificates of addition.

Patents are subject to a proportional tax, payable at the time of the application, according to the number of years for which the patent is applied for, and to an annual tax payable yearly throughout the life of the patent. The proportional tax consists of as many times 10 lire as the years

of the patent applied for; the annual tax will be 40 lire for the first three years, 65 lire for the next three years, 90 lire for the next three, 115 lire for the next three, and 140 lire for the remaining three years. The first yearly tax and the proportional tax must both be paid when the patent is applied for; the remaining taxes are payable in advance on the first day of each year during which the patent exists. A patent of addition is subject only to a tax of 20 lire. Besides the proportional tax and the yearly taxes there is also payable upon the certificates of prolongation a tax of 40 lire.

The Minister of Agriculture, Industry, and Commerce has charge of all matters relating to patents.

The application must give full particulars as to the applicant for the patent and his attorney, and a full title of the invention, and a statement of length of time for which the patent is desired. Only one application can be made for one patent, and only one patent can be included in one application. The application must be accompanied by the description and drawings and models if necessary, and in cases of patents of importation, the original foreign patent, or a legalised copy; also power of attorney, and memorandum of the documents and objects delivered. The specification must be in Italian or French, and must be clear and complete, so as to enable the invention to be carried into effect. Specification and drawings must be in triplicate, and all copies must be identical.

During the first six months of the patent, the patentee, or those entitled through him, may reduce the scope of the patent by disclaiming the parts not required, and the dis-

claimed portions will be considered as never having formed part of the patent. A tax of 40 lire is payable upon the disclaimer, and the specification and drawings of the disclaimer must be in triplicate; the certificates issued upon these disclaimers are termed certificates of reduction. At the end of the six months, the applicant can withdraw his application for a certificate of reduction, and have the fees returned to him.

To prolong a patent, the Letters Patent must be produced, together with the power of attorney and memorandum, and the necessary fees must be paid.

According to the Act, all applications relating to patents had to be delivered in Turin at the office appointed by the Minister, but by the royal decree of the 23rd October, 1884, the Patent Office was transferred to Rome.

The day and hour of the application will be noted in a register kept for the purpose. With the Letters Patent, a copy of the specification is presented to the patentee free of cost, but after this all other copies (which bear the consecutive number of their delivery) are charged for at the rate of 15 lire each.

The Superior Board of Health will report upon all inventions relating to beverages or eatables before the patent is delivered; otherwise no investigation is made.

Patents may be refused, if the applicant has not complied with the statutory requirements, and within fifteen days after notice to that effect, the errors may be corrected. If the corrections be not made within fifteen days, and no appeal be lodged, the application will be considered abandoned.

Appeals are submitted to a Commission, comprising fifteen members, three of whom are magistrates for life, or members of the Faculty of Law, of the Royal University of Turin, the remaining twelve being selected from members of the Royal Academy of Sciences, Professors and Doctors of the Royal University, and Professors of the Polytechnic Schools. The members of the Commission are nominated every year by the Minister. The Commission is divided into three sections: one for mechanics, one for physics, and one for chemistry, each section comprising one legal and four technical members. Every appeal must be accompanied by a deposit of 50 lire.

Assignments of patents are registered at the Ministry, and published in the Official Gazette at the expense of the applicant, and are only valid against third parties after registration. Where an entire patent is assigned, the assignee must pay all the fees, but if the patent be assigned to several persons collectively, they are jointly liable for the payment. If a partial assignment be made to several distinct persons, the deed can only be registered upon payment of the annuities for the entire term of the patent.

All registers relating to patents are open to the public, and copies can be obtained upon payment. Specifications are open for inspection at the chief office after the expiration of three months from the date of the delivery of the patent, after which time copies can be obtained. A list of the patents delivered every three months is published in the Official Gazette, and every six months specifications are published in full. In certain cases, however, only extracts of the specifications will be published.

Patents are invalid if granted for one of the proscribed subjects, or if for beverages or eatables, and the patent has been granted against the advice, or without the knowledge, of the sanitary authorities, if a fraudulent title has been given, if the specification be not sufficient, or conceals some important part of the invention, if the invention be not new or does not relate to industrial pursuits, if improperly granted for a modification during the first six months to a person other than the inventor, or those entitled through him. A patent of addition is invalid if not connected with the original invention.

A patent lapses if the annual tax be not paid within three months after it becomes due, if the invention be not worked within the first year of the grant, or be not worked during a whole year afterwards, supposing the patent has been granted for five years or less; should the patent be granted for more than five years, working must take place within two years, and must not cease for a period of two years during the life of the patent, unless the inventor can show that the omission was due to causes beyond his control, but the want of pecuniary means will not be considered as beyond his control.

Actions for nullity and annulment are decided by summary process, and are communicated to the Public Prosecutor. If the partial annulment of a patent has been twice pronounced, the Public Prosecutor may demand the absolute and peremptory annulment of the patent. Three experts may be called in by the Court upon the demand of one of the parties, and appeal may be made from the decision of the Court, and the Court of Appeal may order an *ex-officio*

examination. The judgments of the Courts are published in the Official Gazette.

Infringing a patent is punishable with a fine not exceeding 500 lire, and all infringing objects may be seized and handed to the patentee, and the injured party may also claim damages, but should it be shown that the owner of any of these objects acted honestly, he will only be subject to the loss of the objects.

JAMAICA.

Duration of Patent: fourteen years.
Working: within two years.
Taxes: none.
International Convention: does not apply.

Patents are granted in Jamaica under the law of 1857, as amended in 1891.

Any person may apply, by petition, to the Governor for the grant of Letters Patent, for some new and useful art, machine, manufacture, or composition of matter, or some improvement thereof, not previously known or used within the Island of Jamaica, and the Governor, with the advice and consent of the Executive Committee, may grant Letters Patent for a term not exceeding fourteen years, unless they deem it expedient to insert in the Letters Patent a provision extending them for a further period of seven years.

The application must be accompanied by a petition, specification, and declaration, which are referred to the Attorney-General, who may call in expert assistance, at the expense of the applicant. The Attorney-General, if satisfied that the

application may be granted, may issue his fiat, or if not satisfied, may refuse the application, notifying the Governor of his reasons for the refusal. The applicant must make a declaration, or, if he be an absentee, his attorney must make it for him, before a Justice of the Peace in the Island, that he believes himself to be the true inventor or discoverer of the invention for which a patent is solicited, and that the same, to the best of his knowledge and belief, has not been known or used in the Island. A specification and drawings the former fully and clearly describing the invention, and the manner of carrying it into effect, must be lodged with the application, as well as specimens or ingredients for the purposes of experiment, where necessary, and the specification must be signed by the applicant, or his attorney, and be attested by two witnesses. The specification must commence with the title of the invention. A model was originally required, but by the Act of 1891 is dispensed with.

Notice must be published in the Jamaica Gazette by authority, and in one other newspaper of the Colony, for at least four weeks, to the effect that the application has been made, and full particulars of the newspapers, in which the advertisements appeared, must be supplied to the authorities.

The patent must be worked in Jamaica within two years from its date, under penalty of loss of the patent; the patent dates from the day of application, but the date of sealing, or any other date, may be fixed by the Attorney-General, or the Governor in Executive Committee, as the date of the patent.

The Letters Patent must be applied for within three months from the date of the filing of the application, or in

case of the death of the applicant, they must be issued to the executors or administrators, within three months after his death.

Duplicate Letters Patent may be issued in place of those lost or mislaid, subject to such regulations as the Governor in Executive Committee may enforce.

Letters Patent granted in fraud of the true inventor, or any use, or publication of the invention, subsequent to the grant of such Letters Patent, will not invalidate those issued to the actual true and first inventor.

Where a patent is granted for an improvement, upon an existing patent, to another person, he shall not be at liberty, without the consent of the original patentee, to use the original patent, and *vice versâ*.

The proprietor of a foreign patent may obtain a patent in the Colony, provided that the subject of the invention has not come into public and common use in the Colony, before the application for patent is made; the Jamaican patent will lapse with the prior foreign patent, or in case there be more than one, with the one which first lapses, and should the grant of the patent in Jamaica take place after the lapse of a prior foreign patent, the Jamaican patent will never be of any effect or validity.

Patents may be assigned in whole or in part, but the assignment must be recorded in the office of the Island Secretary.

Patents may be granted to the assignee of an invention patented in a foreign country, but will not be granted for an invention made abroad, for which no Letters Patent have been obtained; the invention assigned must not have been

introduced into public use in the Colony, prior to the application for the patent, and the applicant must file with his application, the assignment duly proved, and an affidavit proving the date of the foreign patent, and that the subject of the patent has not been publicly introduced into the Colony, and that he is the assignee for good consideration.

Where a patentee has claimed in his specification, matter to which he was not entitled, but without wilful default or intention to mislead the public, and this be proved in a suit or action, the patent will, nevertheless, be deemed good and valid for the remaining portion of the invention, supposing that to be a substantial and material portion of the whole, and he may maintain suits at law or in equity for infringement, notwithstanding that his specification may embrace more than he is legally entitled to. In such case, however, should the patentee obtain a judgment in his favour, he will not be entitled to costs, unless, before the commencement of the suit, he has filed, in the office of the Island Secretary, a disclaimer, witnessed by one or more persons, disclaiming the portion to which he is not entitled; but to entitle himself to the benefit of this clause, he must not have unreasonably delayed recording his disclaimer.

Where a patent becomes inoperative, or invalid, through defective or insufficient description, or by reason of more being claimed than the patentee is entitled to, and this is not due to wilful default or intention to deceive, the Governor in Executive Committee may grant a new patent in place of the one surrendered, or if the original applicant be dead, the new patent may be granted to his representatives.

A patentee, or his legal representative or assignee, whether

of the whole or a portion of the patent, may, after obtaining the Attorney-General's fiat, enter at the office of the Island Secretary, a disclaimer of any portion of the specification or title, setting forth the reason for the disclaimer, and this may be entered and recorded at the office. A disclaimer must not extend the scope of the patent, and will be deemed to be part of the Letters Patent, and specification. Any person may enter a caveat at the office of the Island Secretary against the disclaimer, a copy being left with the Attorney-General, who will give notice when the application and opposition are to be heard. The disclaimer will not be admitted in any action or suit, excepting a proceeding by *scire facias*, which may be pending at the time of the disclaimer. Before granting his fiat for the disclaimer, the Attorney-General may require the applicant to advertise the disclaimer, in such manner as the Attorney-General shall think fit, and may certify in his fiat that the advertisement has been made. The Attorney-General may award costs, and, if these be not paid within four days, may make an order for payment, which may be made a rule of the Supreme Court of the Island.

An original patentee may add a specification, of an improvement upon an original invention, made by him subsequent to the date of the patent; he may, by applying, in a manner similar to that when applying for an original patent, have the new specification annexed to the original one, the Island Secretary certifying the time of the lodging of the new specification, which will afterwards have the same effect in law as if it had formed part of the original specification.

Infringers must pay to the patentee, a sum equal to three times the actual damage sustained by the patentee, and this is recoverable, together with the costs of the action, by an action in the Supreme Court of the Island.

Using the name of a *bonâ fide* patentee, in connection with articles made in imitation of the patented articles, without the permission of the patentee, or marking the goods as "Patent," "Letters Patent," "Queen's Patent," or the like, with a view of imitating the stamp or other device of the patentee, renders the offender liable to a penalty of £50, recoverable by an action of debt, bill, plaint, process, or information, in the Supreme Court of the Island, one-half of the penalty going to the Crown, and the other to the person suing. This penalty would not apply to a person marking the word "Patent" upon an article, for which a patent had been granted, although the patent might have expired.

In case of doubt, the Act must be construed by analogy to the laws of England at present in force, or subsequently coming into force, concerning the granting of patents for inventions, so far as such laws may be applicable.

The Governor may, from time to time, appoint whoever he thinks fit, to be commissioners under the Act during his pleasure, the commissioner being liable to be summoned to attend any meeting, or take part in any proceedings, of the Governor in Executive Committee, in any matter arising under this Act.

The words "invention," "discovery," or "improvement" are interpreted as meaning respectively, any manner of new manufacture, or new mode of manufacture, the subject of

Lettors Patent, and grant of privilego within the meaning of the Act of the twenty-first year of the reign of King James I., chaptor 3.

The previous law, 10 Victoria, chapter 12, of the Legislature of the Island, is repealed.

Lettors Patent obtained in Great Britain are of no effect in the Island of Jamaica, where special patents must be obtained.

JAPAN.

Duration of Patent: five, ten, or fifteen years.
Working: within two years, and every two years after.
Taxes: none.
International Convention: does not apply.

Patents in Japan are not granted to foreigners, but are granted to the Japanese under the Imperial Proclamation No. 17 of the 18th April, 1885, which came into force on the 1st July, 1885. This proclamation repealed the previous rules relating to patents, passed in April, 1871, and March, 1872.

Inventors of useful articles may apply to the Minister of Agriculture and Commerce for a patent, accompanying the application by a specification and drawings in triplicate, together with a specimen if necessary, and when there is more than one inventor, all of them must sign the documents. The applications and specifications are to be sent under seal, and will be forwarded, without opening, to the Minister of Agriculture and Commerce. The application must state the title of the invention, the term of the

patent desired, a declaration that it is not contrary to the regulations, and that there are no misrepresentations in the application, or specification. The specification must clearly describe the invention referring to the drawings, if any, and fully elucidate the manner of carrying out the invention, and the uses to which it may be applied, and must also state the social rank, name, and address of the inventor. The term of the patent will not exceed fifteen years from the date of the grant.

Patents are not granted for

Articles previously invented by others, unless the patents have been transferred by their owners.

Articles publicly known or used before the date of the application.

Articles that are injurious to health, or contrary to law or morality.

Medicines.

Patents will not be granted upon inventions considered necessary for the purposes of war, or of general use, an appropriate sum being awarded, by the Minister of Agriculture and Commerce, to the inventor, as compensation.

Patent privileges, as well as the patents themselves, may be hereditary, but the person inheriting them must, within three months, report the fact to the Minister of Agriculture and Commerce, who shall endorse the fact upon the Letters Patent, under a penalty of not less than one yen (one dollar), and not more than two yen, but the provisions of the Criminal Code, as to simultaneous commission of several crimes, do not apply to contraventions of this regulation.

Patents may be assigned, but permission from the Minister of Agriculture and Commerce must first be obtained.

A patentee making an improvement may apply for a fresh patent, which, however, will not extend in its effect beyond the original patent.

Persons who improve upon an existing patent, must obtain the consent of the original patentee, if they desire to patent the improvement; should the patentee refuse, the Minister of Agriculture and Commerce may, if he considers the refusal to be obstructive, give special permission for the grant of the patent upon the improvement, the improver to pay an appropriate amount of compensation to the original patentee. Two applications must be sent in by the improver in this case.

The date and term of patent must be marked upon the patented article, or where that is impracticable, on its cover; failing this, no claim for damages under the patent can be made. A register of patentees, and other matters relating to patents, is kept for public inspection by the Minister of Agriculture and Commerce.

Patentees must report to the Department of Agriculture and Commerce, within three months, any change of registration, residence, or name, under a penalty of not less than one yen, and not more than two yen, but the provisions of the Criminal Code, as to simultaneous commission of several crimes, do not apply to contraventions of this regulation. Should the patent certificate be lost or damaged, the patentee must apply for a fresh certificate to the Minister of Agriculture and Commerce.

A patent will be declared void, and the return of the certificate will be ordered, should it be found that the patent,

or the working of it, is contrary to the regulations, or should the specification, or application, be found to misrepresent the facts. A patent will also lapse if it has not been practically and publicly worked within two years from the grant of the patent, or if the working has been suspended for two years, without notification to the authorities, or when the subject of the patent has been imported from abroad, and sold.

Public notification is made by the Department of Agriculture and Commerce of the grant or cancelling of a patent, or other loss of the rights in the patent.

No official concerned, in the granting of Letters Patent, is allowed to apply for a patent.

Infringements of a patent, or the importation from abroad, or the secret use of the patent, renders the offender liable to imprisonment with labour, for a period of not less than one month, and not more than one year, and a fine of not less than four yen, and not more than forty yen.

The application of marks, resembling those used by the patentee, to similar articles not manufactured under the patent, renders the offender liable to imprisonment with labour, for a period of not less than fifteen days, and not more than six months, and a fine of not less than two yen, and not more than twenty yen.

Persons infringing the patent, or selling articles falsely marked, with guilty knowledge, are liable to a fine of not less than four yen, and not more than forty yen. The infringing articles, or the appliances used in effecting the infringement, will be confiscated, and handed to the patentees, and the price of articles actually sold must be repaid to the patentee by the infringer.

Obtaining a patent by fraudulent means, or obtaining a sham patent, renders the offender liable to imprisonment for not less than fourteen days, and not more than six months, and a penalty of not less than two yen, and not more than twenty yen.

Infringements may be dealt with at the instance of the patentee, and, when the patentee has made his appeal, the judge may, for the time being, suspend the sale of the articles concerned.

Persons desiring to patent articles invented after the publication of the rules of the 7th April, 1871, and reported under the notification, 105 of March, 1872, and before the date of the present proclamation, may apply for a patent within six months from the time of the present proclamation coming into force, even though the said articles are at the time well known, or in general use, but persons using such articles may, within one year from the date of the coming into force of the present proclamation, send in two applications, giving a detailed account of the previous use of such articles, to the Minister of Agriculture and Commerce, for special permission to continue their use; the cost of such an application will be the same as for a patent.

Applications and reports upon patents must be sent, through the local authorities, to the Department of Agriculture and Commerce.

A person desiring to assign the whole or a part of a patent, must submit two letters of application, together with a copy of the agreement between the assignor and the assignee, the Letters Patent, and the fee.

Duplicate Letters Patent may be obtained, but a detailed

account of the circumstances of the case must be submitted.

Amendments may be made in the specification and drawings, should the patentee discover omissions or misstatements, but he must send in two applications, giving a detailed account of the circumstances; no amendment enlarging the scope of the patent, or materially altering it, will be allowed. Where a patentee licenses another person to use the invention, the fact must be reported, and the document signed by both parties.

Where a patent obtained by a person, other than the true inventor, has been declared void, the original inventor may obtain a patent for the remainder of the term of the original patent.

LEEWARD ISLANDS.

Duration of Patent: fourteen years.

Working: none.

Taxes: before third and seventh years. Letters Patent must be forwarded.

International Convention: does not apply.

Patents are granted in the Leeward Islands under Acts No. 12 of 1876, and No. 16 of 1878.

The Attorney-General, the Auditor-General, the Treasurer of the Presidency of Antigua, and such other persons as the Governor of the Colony of the Leeward Islands (the five presidencies of Antigua, Montserrat, St. Christopher, Dominica, and the Virgin Islands) shall appoint, are to be Commissioners of patents for inventions, holding office during Her Majesty's pleasure, three of them, the Attorney-

General being one, constituting a quorum. Every application for patent, whether accompanied by a Provisional, or a Complete specification, is advertised in the Royal Gazette, and in one of the newspapers published in each presidency of the Colony, or should there be no such newspaper, by being attached to the door of the Court House, in the principal town of the presidency. Copies of all specifications, disclaimers, or memoranda of alteration, and of Provisional specifications, after the expiration of the protection, are to be enrolled in the Registrar's office in every presidency of the Colony, except Antigua, and open to public inspection. A copy of the register of patents, and of the register of proprietors, will also be kept at the Registrar's office in each presidency of the Colony, for public inspection. The Commissioners will provide a seal, with which all patent documents under this Act shall be sealed, and documents stamped with it will be received in evidence, as in the case of the great seal of the Colony. An office under the Commissioners, and a clerk, are appointed for carrying out the provisions of the Act.

An application must be accompanied by a petition, declaration, and a Provisional specification, describing the nature of the invention, and the day of filing will be recorded at the office, and endorsed upon the papers. The application is referred to the Attorney-General, who may call in expert evidence, and appoint the remuneration of the expert, and if satisfied that the Provisional specification describes the nature of the invention, he will give a certificate of allowance, which will be filed in the office of the Commissioners, and the invention will thereupon be provisionally

protected. The Attorney-General has power to allow, or to cause to be amended, either the title, or the specification, if too large, or insufficient.

A Complete specification may be left with the application, instead of the Provisional specification, the Complete specification particularly describing and ascertaining the nature of the invention, and in what manner the same is to be performed, and the invention will then be protected for the period of six months, the applicant having, during that term, the like powers and privileges as if he were in possession of a full patent, and during the protection, whether Provisional or Complete, the invention may be freely published in the Colony, without invalidating the patent. The Complete specification is open to public inspection immediately after deposit.

A patent obtained by the true inventor, will not be invalidated by protection obtained in fraud of him, nor by any use or publication, subsequent to the application, during the term of the protection.

The protection, whether Provisional or Complete, is advertised by the Commissioners.

As soon as the protection is granted, or upon the deposit of the Complete specification, the applicant may give notice to the Commissioners of his intention to proceed with the application, and this will be advertised by the Commissioners, and any person will then be at liberty to enter an opposition to the grant of the patent, in such manner, and at such time, as the Commissioners may appoint. As soon as the period expires, the whole case will be referred to the Attorney-General. The Attorney-General can make such

order as he thinks fit, as to costs, and, if these be not paid within four days after the amount has been ascertained, he may make an order for the payment, which order may be made a rule of the Supreme Court.

The Attorney-General may issue his warrant for the sealing of Letters Patent, and may direct the insertion therein of any restrictions or conditions he may think desirable.

The prerogative of the Crown, as to the granting or withholding the grant of a patent, is not to be affected by this Act, and the Governor may, by warrant, direct the Attorney-General to withhold his warrant for the grant of the patent, or to insert any special conditions, or cancel a Complete specification, should such have been filed, whereupon the protection will cease.

Patents are granted for a period of fourteen years, subject to the payment of taxes before the expiration of the third and seventh years, the receipt for these payments having to be endorsed upon the Letters Patent.

Application to seal the patent must be made within three months of the date of the warrant, and except in the case of destroyed or lost Letters Patent, none can be issued after the expiration of the period of protection, unless the sealing of the patent has been delayed by opposition.

In case of the death of the applicant, the Letters Patent may be granted to his personal representatives, during the time of protection, or within three months after the applicant's decease. Where Letters Patent have been destroyed or lost, duplicates may be issued.

Letters Patent may be dated as of the day of application, unless otherwise ordered by the Attorney-General, or

Governor, and when the patents are thus antedated, they will be of the same effect and validity as if actually sealed on the day of application.

Patents may be granted for inventions already patented abroad, and in that case the Colonial patent will lapse with the prior foreign patent, or with the first prior foreign patent, if there be more than one; should the Colonial patent have been granted, after the lapsing of a prior foreign patent, the Colonial patent will never have had any validity or force.

Letters Patent will not prevent the use, in foreign vessels resorting to the Colony, of the patented articles, excepting in those of foreign countries where a similar privilege is not accorded to British ships.

All Complete specifications, disclaimers, and memoranda of alteration, and Provisional specifications, after the period of protection has expired, are open for public inspection at the office of the Commissioners. Specifications are to be printed and sold by the Commissioners as soon as convenient after publication, and copies may be presented to public libraries and museums, and as many as twenty-five copies may be presented, free of cost, to the patentee. Certified printed copies are to be taken as *primâ facie* evidence in Courts.

A register of patents is to be kept at the office of the Commissioners, in which are entered, in chronological order, all the patents granted, together with the various steps pertaining to their issue, as well as amendments, confirmations, extensions, expiration, or cancelling, and the dates of the various occurrences, the register to be open to public inspection. There will also be kept a register of proprietors,

in which all assignments, or licenses of patents, with all necessary particulars, as to names of proprietors, and dates, may be entered, and a certified copy of any entry in this book will be given to any person requiring it, upon payment, these certified copies to be proof of the matters to which they pertain. Until an assignment is registered, the person whose name appears upon the book will be regarded as the legal holder of the patent, and in case of the issue of a writ of *scire facias* to repeal a patent, the writ may be issued to the Provost-Marshal of the presidency, in which the patentee resided when the patent was granted, or if he did not reside in the Leeward Islands, the writ may be filed in the usual manner, and notice in writing be sent to the last known residence, or place of business, of such person. The register will be open to public inspection. Falsification, or forgery, of an entry in the register is a misdemeanour, and renders the culprit punishable by fine and imprisonment.

Any person aggrieved may apply by motion to the Supreme Court, or a judge, to have an entry expunged, vacated, or varied, and the Court may make such order as it thinks fit, upon the application, and also as to costs.

Disclaimers and alterations in patents and specifications may be made, the provisions 5 and 6 of William IV., chapter 83, and 7 and 8 Victoria, chapter 69, applying to the present Act, the applications and oppositions being referred to the Attorney-General for decision, and leave to make the amendment, being conclusive as to the right of the patentee to do so. No action can be brought for infringement, dated prior to the amendment, unless the Attorney-General gives his fiat to allow such action to be brought. Patents may

be confirmed, or the duration extended, in accordance with the provisions of the Acts 5 and 6 of William IV., chapter 83, and 2 and 3 Victoria, chapter 67, and 7 and 8 Victoria, chapter 69.

Actions for infringements of patents are to be regulated by the Code of Civil Procedure.

The Supreme Court, or, when the Court is not sitting, a judge, may make an order for injunction, inspection, or account.

"Invention" means 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.

LIBERIA.

Duration of Patent: twenty years.

Working: within three years.

Taxes: none.

International Convention: does not apply.

Patents are granted in Liberia under the Act of the 23rd December, 1864. The granting of patents is under the control of the Secretary of State, who attends to all matters concerning the granting of Letters Patent for new and useful discoveries, inventions, and improvements. Patents are issued in the name and under the seal of the Republic of Liberia, and are signed by the President of the Republic, and countersigned by the Secretary of State, the specifications, drawings, &c., being recorded in proper books kept for the purpose.

Patents are granted for terms of not exceeding twenty years, and contain a short title of the invention, correctly indicating its nature, a copy of the specification and drawings, being annexed to the patent.

Any citizen who has discovered or invented any "new and useful art, machine, manufacture, process, composition of matter, or any new and useful improvement therein, or application of any known substance or matter, or composition of matter, or new and useful application of any known article of manufacture, device, or apparatus," not known or used by others within the limits of the Republic, nor described in any book or publication therein, may apply for a patent. He must supply a specification of the invention, clearly setting forth the nature of the invention and the manner of applying it, so that any person skilled in that class of work may be able to make and apply the invention; he must also indicate particularly what he claims. Drawings must be supplied where necessary. The application must be accompanied by an oath or affirmation that the applicant believes himself to be the original and first inventor of the invention in question, that the same was not previously known or used within the limits of the Republic of Liberia, and that he is a citizen of the Republic.

An examination is made into the novelty of the invention as regards the Republic, and should the invention appear to be new, the patent will issue in ordinary course, but should the invention prove not to be new, the patent will be refused.

Foreigners may apply for, and have issued to them, Letters Patent for inventions new in the Republic, but

such applicant must deliver, with his application, a certificate signed and sealed by the Mayor or Governor of the city, or state where he resides, or by a Notary Public, setting forth that he is the original and first discoverer of the invention, or that he has purchased the right, title, and interest in the Republic of Liberia, to the said invention or discovery.

Where an alien has obtained a patent, he must put the invention into active operation within the Republic of Liberia, within three years from the date of the patent, under penalty of losing his patent. The amount payable with an application for a patent by a citizen of the Republic is one-half what an alien must pay. Patents can be assigned in whole or in part, and for the whole or any portion of the Republic, the assignment to be recorded in the office of the Secretary of State, within one year of its execution. Actions for infringement, and all suits or controversies appertaining to patents, may be conducted before the Supreme Court of the Republic of Liberia.

Copies of all specifications and drawings are classified and kept in the office of the Secretary of State, and are open to public inspection, certified copies being obtainable on reasonable terms.

LUXEMBOURG.

Duration of Patent: fifteen years.
Working: must be proved within three years of date of application, and annually thereafter.
Taxes: yearly.
International Convention: does not apply,

Patents are granted in Luxembourg under the law of the 30th June, 1880.

New inventions, which are capable of being worked industrially, may form the subjects of patents, but not where the working would be contrary to the law or morals, or where the object of the invention is an article of food or consumption, pharmaceutical product, or is obtained by chemical means, excepting so far as it relates to a definite process of manufacture.

An invention which at the time of applying for the patent has been described in public prints, or publicly worked in the Grand Duchy, or one of the States of the German Customs Union, to such extent that others skilled in the art to which it relates could work the invention, would not be patentable.

The first applicant for the patent has the right to the patent.

Only the proprietor of the patent may commercially make, deal with, or expose for sale the subject of the invention, and should the invention be a process, machine, or implement, the said process or machine can only be used with the consent of the patentee.

Those who had already worked the invention before the date of the application for the patent, or made the necessary preparations to that end, would not be affected by the patent, and a patent does not affect a locomotive engine which merely passes through the Grand Duchy. A patent can be terminated by Royal Grand Ducal decree if it is considered by the Council of State that the invention, in the interests of the public, ought not to be worked; compensation, however, will be awarded to the inventor.

The right of obtaining a patent, as well as the right in it, can be transferred to the representatives of the inventor, and may be assigned, either wholly or partially, and may also be transmitted by testamentary bequest. Assignments of patents are free from taxes; deeds of assignment must be registered, a fixed tax being payable.

Patents are granted for a term of fifteen years, commencing from the day after that upon which the application is made. Patents of addition, to expire with the principal patent, are granted, such patents being granted for the benefit of all those interested in the principal patent. The patentee may take a new principal patent for changes or improvements in the invention. A person, other than the patentee, taking a patent of addition cannot work the principal patent without permission, and, similarly, the owner of a principal patent cannot work the patent of addition without permission.

Taxes are not returnable in any event. Only the first tax is payable upon patents of addition. In the case of a foreigner, he must appoint his domicile with a representative within the Duchy.

An application for a patent requires a declaration setting out the full name and elected domicile of the person applying, and of the representative, and containing a short title of the invention, and accompanied by a specification in French or German, and drawings, models or samples; the specification and drawings to be in duplicate. No alterations or interlineations in the specification are allowed, and any words erased must be counted and identified by passages and references; the specification must be clear and com-

plete, and terminate with a statement of claim. All papers must be signed by the applicant or his representative. The day and hour of the application is entered in a register kept for the purpose, which will be evidence of the fact.

No examination is made, and no guarantee given, as to the reality, novelty, or merit of the invention, or correctness of the specification. Should the application be refused, an appeal is allowed to the Judicial Committee of the Council of State. A statement of an application for a patent is inserted in the memorial.

All changes relating to the ownership of patents must be authenticated, and be published in the memorial, and no change will actually occur in the ownership of the patent until this has been done.

Specifications are open to public inspection at the Government Offices, and copies can be obtained upon payment of the cost.

A patent lapses at the end of its natural term, or by renunciation by the owner, or by a single default in the payment of the annual taxes, within a period of three months after they become due. A further cause of the lapsing of a patent arises in case a patent for the same invention be not, within three months, applied for in those States with which the Grand Duchy may be connected by treaties of "Customs Union"; or should such patent be refused or withdrawn, annulled, or otherwise terminated. Should the annulment of the patent in one of these foreign States be pronounced, upon the ground of the invention not having been worked, the Government may continue the life of the patent in the Grand Duchy.

A patent will not be valid or effective, should the subject-matter not be patentable, or should the invention have been appropriated from another without his consent, or should a fraudulent title have been given to the invention, or should the specification be insufficient or misleading.

Any person can bring an action for nullity before the Civil Tribunal of the arrondissement. Should the petition be directed against the owner of the patent and one or more licensees, it must come before the tribunal at the elected domicile of the owner. Notices of actions against patents are communicated to the Public Prosecutor, and the proceedings taken under Article 405, and the subsequent Articles of the Civil Procedure Code. The Public Prosecutor may intervene, and apply to have the patent declared completely void; he may bring an independent action. The annulment of a patent will be published.

The invention must be worked within three years, or the patent may be withdrawn by Royal Grand Ducal decree, subject, however, to an appeal to the Judicial Committee of the Council of State. Should it appear to the Council of State that the public interests require the working of the invention, compulsory right may be granted to one or more persons, who have applied for it, under proper compensation to the patentee. The lapsing, annulment, or withdrawal of patents will be published in the memorial.

Infringers are punishable by fines of from 100 to 2,000 francs, besides being liable to a civil action for damages, should such have arisen, and in case of repetition of the offence, to imprisonment for from one to six months. It would be considered a repetition, if a judgment for the

same offence had been given against the accused person within the preceding five years. Only the aggrieved party can institute prosecution; the judgment may be published at the expense of the convicted party. Infringing articles may be destroyed or confiscated.

Falsely marking articles as patented, or making announcements calculated to deceive in this respect, is punishable by a fine of from 20 to 200 francs. Penalties are not cumulative.

No action for infringement can be taken after the lapse of three years from the date of the infringement.

MAURITIUS.

Duration of Patent: fourteen years.

Working: none.

Taxes: none.

International Convention: does not apply.

Patents are granted in Mauritius under the Ordinance No. 16 of 1875.

Every inventor of any manufacture is entitled to the grant of Letters Patent.

Invention includes discoveries, new chemical products, new mode of application of known processes or forces, obtaining a new product or preparation, and new processes or forces whereby an old product or preparation is obtained. Improvements are included in invention. Manufacture includes any art, process, or manner of producing, preparing, or making an article, as well as the article itself. Inventor, or actual inventor, includes the heirs, executors, administrators,

or assigns, and the word "assigns," includes the grantees of the sole use or benefit of an invention in Mauritius, or of the sole use of the exclusive privilege, for a limited period.

Financial schemes and operations of credit are not patentable.

Patents are granted for the term of fourteen years from the date of the patent, and may be extended for a further term, not exceeding fourteen years, with the approval of the Government in Executive Council, but the petition for an extension must be presented by the inventor, not more than one year, and not less than six calendar months, before the expiration of the first period.

An application must be accompanied by a petition, signed by the inventor himself, or if he be out of the Colony, by his authorised agent, and by a specification fully describing the invention, and accompanied by diagrams, plans, and drawings if necessary. Also by a declaration to the effect, that the applicant is in possession of an invention which he believes will be of great public utility, and of which he is the true and first inventor, and that the same is not being used by any other persons to the best of his knowledge and belief, and that his specification fully describes the invention. If the applicant make a false declaration, he will be deemed to be guilty of perjury, and is liable to imprisonment for not exceeding two years, without prejudice to any action which the injured party may bring against him. The application is laid before the Procureur-General, who may issue his certificate, and the invention will be provisionally protected; should he refuse his certificate, the aggrieved party may appeal to the Governor in Executive Council, who may order the issue

of the certificate, in which case it will be issued by the Secretary of the Executive Council.

The applicant must advertise the application in the Government Gazette, and any interested party may oppose the grant of the patent; if no opposition be entered within one calendar month from the date of the advertisement, the patent will issue, but if opposition be entered, the matter may be referred to the Procureur-General, who, with the consent of the parties, may give a final decision, but otherwise, he will refer it to the Supreme Court, which can hear and determine upon the case. According to the order the patent will issue, or the protection will cease.

A party opposing the grant of the patent, must give notice to the Colonial Secretary, stating the grounds of objection, and no other grounds can be considered at the hearing.

No guarantee is given by the Government. Before the sealing of the patent, the applicant must deposit with the Colonial Secretary a printed copy of his petition and specification, which are filed, and recorded in a book kept for the purpose, in the office of the Colonial Secretary, together with all orders made upon the application. This book is open to public inspection upon payment of a fee, and the Colonial Secretary must give a certified copy of any entry, to any person requiring it, on payment of the expense of copying. These certified copies are receivable in evidence in all proceedings in the Colony relating to Letters Patent, without further proof or production of the originals.

Disclaimers may be entered with the leave of the Governor in Executive Council, to correct any error, defect, or insufficiency in the specification, and the application to amend

must be accompanied by a petition, stating how the mistake occurred, and that it was not fraudulently intended, and by a declaration by the petitioner, or his authorised agent, that the contents of the petition are true to the best of his knowledge and belief. The proceedings, upon the application to amend, are substantially the same as those upon the application for the grant of the patent. An amendment must not enlarge the scope of the patent, and will not be available in suits pending at the time of the amendment.

Patents will not be granted for inventions of no utility, or not new at the date of the application, or if the petitioner was not the inventor, or if the specification is insufficient, or if the petition contained a wilfully fraudulent misstatement.

A patent will be withdrawn, if it be proved to the Governor in Executive Council, that the invention, or the mode of exercising it, is mischievous to the Colony, or prejudicial to the public, or if the patentee be proved guilty of a breach of any of the conditions under which it was granted; notice of such withdrawal, together with the reasons, will be inserted in the Government Gazette.

No patent will be granted for an invention upon which a foreign patent has been granted and expired.

An assignment will not be valid against third parties until it has been registered at the Mortgage Office.

Where more than one person is concerned in the invention, the patent must be taken in the joint names.

A patent will not be granted for several distinct inventions, but where the invention is applicable to several manufactures, or where several inventions are applicable to one manufacture, the whole may be included in a single patent.

The mere importing of an invention into Mauritius will not entitle the importer to the patent, unless he be the actual inventor.

A foreigner, whether resident abroad or not, may obtain a patent in Mauritius.

An invention will be deemed to be new if, before the date of the application, it has not been publicly used or disclosed by a written or printed document in Mauritius, or in any part of the United Kingdom. The public use or knowledge of the invention, obtained surreptitiously from the true inventor, will not invalidate the Letters Patent, if he apply for his patent within six months after the commencement of such public use, and has not previously acquiesced in such public use. The use of the invention in public, by the inventor or his nominees, for a period not exceeding one year, before the date of the application for the patent, will not prevent the issue of the patent.

An inventor, who has obtained Letters Patent in the United Kingdom, may, within twelve calendar months from the passing of the present ordinance, or of the date of the said Letters Patent, obtain a patent in Mauritius, even if the invention has been publicly known or used after the date of the British patent; but the patent in Mauritius will lapse with the British patent, and will in no case extend beyond the term of the British patent.

A person who used the invention in the Colony before the passing of this ordinance, may continue to use it, notwithstanding the issue of a patent upon it.

Actions for infringement may be brought in the Supreme Court, and the Court, or a judge in chambers, may issue a

writ of injunction, to restrain the defendant from infringing. In the defence, no defect, or insufficiency of the invention, may be brought against the patent, nor allegation of wilful misstatements in the petition or specification, nor may it be urged that the invention is not useful, or that the plaintiff was not the inventor, unless the defendant can prove that he (the defendant) is the actual inventor, or has obtained the right from the actual inventor. An action may be defended, upon the ground that the invention was not new. A patent may be attacked, upon the ground that the invention is of no utility, that it was not new, that the patentee was not the inventor, that the petition and specification, or any part thereof, are not sufficient, or contain wilful or fraudulent misstatements, or that some portion of the invention is wholly distinct from the rest, and is of no utility, or not new, or that the petitioner was not the inventor of that part. The Procureur-General may commence such an action, whenever he may think it necessary, on behalf of the public, and may serve notice upon the patentee or assignee. Only those breaches, or grounds of defence, specified in the declaration and plea, or of objections specified in the rule, to show cause, can be taken cognisance of by the Supreme Court in the action. The Supreme Court may cancel the whole or any portion of the patent, and make the rule absolute, and make such order as to costs as it may think right; a copy of the rule will be certified by the Registrar of the Supreme Court, and forwarded to the Colonial Secretary, and annexed to the original petition and specification. The Court may adjudge the patent cancelled, only as to the defective part, and, if satisfied that the defect was not due to any

fraudulent intention, and can be amended without injury to the public, it may order, upon terms, the amendment of the specification, the patentee to file the specification within the time fixed by the order, but no such amendment must enlarge the scope of the patent.

The Ordinance No. 11 of 1885 is repealed.

MEXICO.

Duration of Patent: twenty years.

Working: within five years.

Taxes: none.

International Convention: applies between Great Britain and Mexico.

Patents are granted in Mexico under the law of the 7th June, 1890.

Patents are granted to any person, Mexican or foreigner, for any discovery, invention, or improvement, having for its object a new industrial product, manner of production, or new application of means already known, for producing a result, or industrial product. Chemical or pharmaceutical products may be patented.

Should an invention have received, prior to the application for the patent, sufficient publicity in Mexico, or abroad, to enable it to be carried into effect, it will not be considered new, excepting the publicity due to the publication of a foreign patent specification, or publication in an exhibition held within the Republic, or abroad.

Patents are not granted for inventions contrary to the laws, or public security, or for speculative scientific principles or discoveries, not practically applied.

The grant of the patent does not guarantee the novelty or utility of the invention, the patent being granted without any examination into these points, or as to the sufficiency or otherwise of the specification. A patent is granted for only one object or industrial process; if two or more can be combined to produce the same industrial result, a separate patent must be obtained for each.

Where an invention has been previously patented abroad, or may subsequently be patented, the rights under the Mexican patent are independent of the rights under the foreign patent, and of the effects or results derived therefrom. The effect of a patent is to deprive others, without the consent of the patentee, of the right of making or selling the subject of the patent.

If a process, a machine, implement of labour, or other working device, be patented, it will have the effect of preventing others from practising, or realising, the object of the invention, without the consent of the patentee.

Any person who, prior to the filing of the application, has secretly put the invention into practice in the Republic, or has made all the necessary preparations for doing so, will not be prevented by the patent from working the invention.

Patents will not touch objects which are merely passing through the Republic, or temporarily abiding within its territorial waters.

Only the actual inventors, or improvers, or their legal representatives, of inventions patented abroad, can apply for patents in Mexico.

Only the patentee has the right of filing applications for

patents upon improvements, for one year from the date of the issue of the patent.

Patents are granted for twenty years, but where a prior foreign patent for the same thing exists, the Mexican patent will lapse at the expiration of such prior foreign patent, or of the earliest to expire, should there be more than one.

A patent may, at the discretion of the Executive, be extended for a period of five years beyond the original term, and should there be any patents for improvements upon the original patent, the extension of the original patent would involve the extension of the improvement patents.

The Executive has the power, upon payment of fair remuneration, to appropriate a patent to the public service, should it be found expedient to do so, or if the invention is of such a nature that its free use would prove a source of wealth to the Republic. This appropriation can only take place in case the patentee refuses to allow his patent to be worked, and the apparatus or process is capable of being made or used in the country.

The procedure to be observed with regard to the forfeiture of patents for the public good is set forth in the rules of practice.

An application for a patent must be made to the Department of Public Works, and the first applicant is presumed to be the first inventor, and also enjoys the right of possession.

Where the applicant cannot apply in person, he may appoint an attorney to do so for him, and also to conduct any law suit or other matters connected with the patent; a simple letter of authorisation is sufficient appointment by a citizen, but in the case of a foreigner, a regular power of

attorney, notarially attested, will be demanded, but this power of attorney ceases to be valid upon the issue of the patent, unless it is otherwise stated in the power.

At intervals of ten days, all petitions for the grant of patents are published by the Federal Government, in the Official Gazette, for a period of two months, during which time interference proceedings may be instituted by any person, for the purpose of stopping the grant of the patent. No proceeding can be taken after the above time has elapsed, and only the following are allowed as grounds upon which to base interferences :—

That the invention is not patentable.

That the applicant is not the true and first inventor, or his legal assignee, or that he has obtained the invention from some other person.

The first inventor will be entitled to the patent, where two have applied for a patent for the same thing, but if it cannot be ascertained who is the first inventor, the patent will be granted to the first applicant.

Where an interference is declared, the Department of Public Works will summon the parties, and reconcile their conflicting claims if possible, but if not, it will suspend proceedings, and transmit the evidence to the proper judicial authority. The party instituting the proceedings will be allowed two months in which to substantiate his claim, and if he cannot make good his case in that time, he will fail in his action.

Judicial sentences, after the period of appeal has passed, will be transmitted to the Department of Public Works, to be enforced.

Only a judicial sentence can cancel the decree of the Department of Public Works, granting a patent, and then only in case of the nullity of the patent. After the expiration of the two months, during which the patent is open to opposition, and after all formalities have been complied with, the patent will be issued, if a patent for a similar invention has not previously been granted.

The patent is granted in the name of the nation, and bears the signature of the President of the Republic, countersigned by the Secretary of Public Works, and under the great seal of Mexico. The patent contains a description of the invention patented, and the Letters Patent, with the specification, drawings, and samples, or models, constitute the title of the patent.

Patents are recorded in a special book kept for the purpose, wherein all entries appertaining to the patent are made.

All patents are published in the Official Journal, and every year a special publication, giving a clear and exact description of the inventions, with copies of the drawings, is made.

The subject of the patent must bear a mark, showing that it is patented, and the number and date of the patent.

The patent must be worked within five years from the date, and no extension of this term is allowed; an entry is made in the register of patents when this requirement has been complied with.

A patent is void—

(1) If issued contrary to the regulations; but should the patent contain more than the patentee is entitled to, the rest of the patent may be valid, so long as it is otherwise properly in order, and no fraud has been committed.

(2) If what is patented differs from what was demanded in the application.

(3) If the invention was not new at the date of the application.

All proceedings, to invalidate a patent, must be commenced within a period of one year, from the date of the working of it within the Republic. An action for invalidating a patent may be commenced in the name, or on behalf, of the District Attorney.

Any person already working the same industry will have the right of appearing in interference.

The patent will lapse—

(1) At the expiration of the legal term.

(2) If it is relinquished by the patentee.

(3) If not worked within the legal term.

Where a patent lapses through failure to work, the declaration of invalidity can only be made by the Court, upon the application of the District Attorney, or by the party interested, conducting an interference action; in other cases, the declaration may be made by the Department of Public Works. The nullity, or lapse of a patent, will be published in the Official Journal of the Federal Government, and recorded at the Department of Public Works. Lapsed patents revert to the public. Where only a portion of a patent is abandoned, only that part becomes public property, the patent remaining good for the rest. The abandoning of a patent must be done in writing, and recorded at the office of the Department of Public Works.

Patents may be assigned, in a manner similar to that adopted with regard to private property, but the assignment

only becomes operative against third parties, when recorded in the office of the Department of Public Works.

Infringement proceedings are conducted according to the provisions of the Criminal Code of the Federal District, and the Codes of Procedure.

All proceedings relating to applications pending at the date of this law, will be continued, and decided, in conformity with this law, and the proprietors of existing patents may avail themselves of the benefits of this law, upon payment of the fees set forth.

Regulations and rules of practice may be established by the Executive of the Union, as well as of the Patent Office, in connection with the Department of Public Works.

The law of the 7th May, 1882, is repealed.

NATAL.

Duration of Patent: fourteen years; may be extended.
Working: none.
Taxes: before the end of third and seventh years.
Letters Patent must be forwarded.
International Convention: does not apply.
Patents are granted in Natal under the Law No. 4 of 1870.
Patents are granted for a period not exceeding fourteen years from the date of the patent. Rules and regulations may be made by the Lieutenant-Governor and the Executive Council for carrying out the provisions of the law, all rules and regulations being laid before the Legislative Council within fourteen days after the making thereof, or within fourteen days of their next meeting.

An applicant for a patent must deposit, at the office of the Attorney-General, a Provisional specification, describing the nature of the invention, the date of which will be noted and endorsed upon it, whereupon the invention will be protected for six months, the applicant having, during that time, the like powers, rights, and privileges as if he possessed a full patent, and being at liberty to publish or use the invention without invalidating the Letters Patent, but the specification is kept secret until after the expiration of the six months. Should the title or the specification be too large or insufficient, the Attorney-General may allow or require amendment, and the specification, so amended, will then be considered to be a Complete specification, and liable to the conditions imposed upon a Complete specification.

Instead of a Provisional specification, a Complete specification, accompanied by drawings, if necessary, may be deposited with the application.

A patent obtained by the true inventor, will not be invalidated by protection obtained in fraud of him, nor by any use or publication subsequent to the application, during the term of the protection.

As soon as he pleases after the deposit of the specification, the applicant may give notice to the Attorney-General of his intention to proceed with his application for a patent, and the Attorney-General will deliver an "appointment," which is to be published once in the Government Gazette, once in some newspaper published in Pietermaritzburg, and twice in some newspaper published at the place where the invention is worked, or if he does not

work it, in or near where the applicant resides, and any person interested may oppose the grant of the patent, leaving particulars at the office of the Attorney-General, within such time, not less than one month, as may be directed in the "appointment." At the hearing, the applicant must produce the newspapers containing the notices, and the Attorney-General will then hear and consider the application and objections, calling in scientific aid, if necessary, and fixing the remuneration of the experts, and by whom they are to be paid, the applicant and the objector, with their respective witnesses, being heard separately.

The Attorney-General may grant his warrant for the sealing of the patent, with such restrictions as he may think necessary.

Patents may be repealed by a writ of *scire facias*, and the Lieutenant-Governor, with the advice of the Legislative Council, may order the Attorney-General to withhold his warrant for the grant of the patent, or to prevent the issuing of the patent, or to order any restrictions or conditions to be inserted in the patent, or to cancel any specification, thus terminating the protection under it.

Taxes are payable at the end of the third and seventh years, and the patent will expire if these be not paid. The payment must be endorsed upon the Letters Patent.

Letters Patent can only be issued, if application to seal be made within three months from the date of the Attorney-General's warrant, and the patent must be granted during the continuance of the protection. Should the application to seal, and the sealing, have been delayed from accident, and not from neglect, the patent may be sealed at any

time within a month after the expiration of the protection, as the Governor and Council may direct. Should the applicant for patent die while the application is pending, the patent may be granted to the executors during the period of protection, or within three months after the death of the applicant. Should the Letters Patent be destroyed or lost, duplicates may be issued, subject to such regulations as the Governor and Council may direct. The patent is dated as of the day of the application, and will be of the same validity as if it had actually been sealed on that day, and after the issue of the patent no enquiry can be made as to whether the formalities of the "appointment" have been duly carried out.

Patents may be granted upon inventions patented abroad, but the Colonial patent will lapse with the prior foreign patent, or with the first expiring thereof, and should the Colonial patent have been granted after the lapsing of a prior patent, the Colonial patent will never have had any validity.

The patent will not prevent the use of the invention upon any foreign ship or vessel in any part of the Colony, if the invention is not used for the manufacture of goods to be sold in, or exported from, the Colony. By the Law No 5 of 1871, the term "foreign ship or vessel" is defined as including "all ships and vessels used in navigation, not propelled by oars, nor being registered in, or hailing from, this Colony."

The specification and drawings are kept at the office appointed by the Lieutenant-Governor and Council.

The proprietor of a patent may apply to the Attorney-

General for leave to disclaim any portion of the title or specification, or to alter the same, but not so as to extend the scope of the patent; the disclaimer must be advertised in the same manner as with an application for a patent, and oppositions may be entered at any time, not less than one month, from the time directed by the Attorney-General. Where the application merely affects the title of the specification, the Attorney-General may dispense with the publication. At the hearing, the proprietor of the patent must produce the newspapers containing the advertisement, and the Attorney-General will consider the application, and the objections, if any, and deal with the case. Where the advertisement has been dispensed with, no hearing need take place, and the Attorney-General can, in either case, give his fiat allowing the disclaimer, which shall be evidence of the right of the party concerned to make the disclaimer, but no action can be brought for infringement committed before the date of the disclaimer, except by special leave of the Attorney-General. Excepting in case of an action by *scire facias*, the disclaimer cannot be received in evidence in an action pending at the time it was made.

Specifications and drawings are open to public inspection.

The proprietor of a patent may petition the Lieutenant-Governor for leave to extend the term of the patent, setting forth in his petition that he has not been properly remunerated for his labour and expense in perfecting the invention, and that further time is necessary; the Governor and Council may refer the application for consideration to the Supreme Court. A similar petition may be entered, where a verdict has been obtained in Court, to the effect that the

patentee was not the first inventor of the invention, or some portion thereof, by reason of some other person having previously invented or used the invention before the date of the patent, unknown to the patentee, and this application may be referred to the Supreme Court.

At least two months before the time fixed for considering his petition, the petitioner must publish, as in the case of an application for patent, the contents of his petition, and any person interested may enter an opposition at the office of the Attorney-General, at any time, not less than one week, before the time named for considering the petition. The petitioner will be heard by counsel and witnesses, and the publication of the advertisement must be proved; the opponents will also be heard by counsel and witnesses, the latter being examined upon oath, and the Court may report what extension, if any, may be granted, and the Lieutenant-Governor and Council will then grant new Letters Patent, for a term not exceeding fourteen years, from the period of the expiration of the original patent, the new patent commencing upon the day after the expiration of the term of the first patent. In the case of the confirmation of a patent, the Court being satisfied of the *bonâ fides* of the original inventor, and that his invention had not been publicly and generally used before the date of his patent, may accede to his request, and the Lieutenant-Governor and Council may concur, and confirm the patent. Any person who has been a party to a previous action touching the patent, is entitled to notice in writing, on behalf of the petitioner, of the fixture for the hearing of the petition. After the decision, it is not material to ascer-

tain whether the regulations, as to advertisement or notice, have been properly complied with.

Indices of all specifications and disclaimers are prepared by the Lieutenant-Governor, and are open to public inspection.

A register of patents will be kept, wherein are to be recorded, in chronological order, all patents, with notes of the filing of specifications, disclaimers, amendments, confirmations, or extensions, as well as the expiration or cancelling of patents, with dates and other matters affecting patents; this register, or a copy, to be open to public inspection. There will also be kept a register of proprietors, in which all assignments or licenses, and names of proprietors or licensees, and dates and other matters affecting the proprietorship of patents, will be entered, and a copy of any entry in this book will be given, upon payment, to any person requiring it, said copy to be *prima facie* proof of what it contains. Until an assignment is recorded, the patentee will be taken to be still the proprietor of the patent. The register will be open to public inspection. The making of false entries in the register, or forged extracts therefrom, renders the offender liable to imprisonment, with or without hard labour, for any period up to five years.

An aggrieved party may apply by motion to the Supreme Court, to have any entry expunged, vacated, or varied, and the Court may make the necessary order for this purpose.

Imitating the marks or devices of a patentee, or misleading the public by marking the goods with the words "Patent," "Letters Patent," "Queen's Patent," or the like, renders the perpetrator liable to a fine of £50, one-

half to go to the Colonial Government, and the other half, with full costs of suit, to the person suing.

Action for infringement can be taken in the Supreme Court during the life of the patent, and the defendant may not plead the defect or insufficiency of the specification, misdescription of the invention, or that the plaintiff was not the inventor, unless he can show that he (the defendant) was the actual inventor, or derives his title from the actual inventor. He may plead, however, that the invention was not new, if the defendant, or some person through whom he claims, before the date of the application for the patent, did publicly, or actually, use in the Colony of Natal, the invention, or part of it, infringed. Should the Court be of opinion that the patentee has included old matter, or matter of which he was not the inventor, or that the specification is defective, but that no fraud was intended, it may confirm the patent for the rest of the invention.

The plaintiff must deliver particulars of the breaches complained of, and the defendant, particulars of objections upon which they mean to rely in the action, and no other evidence will be allowed, unless the particulars be amended by leave of the judge. The places where the invention is alleged to have been used, before the date of the patent, must be fully stated.

In taxing the costs in an action for infringement, regard will be had to the particulars delivered, and costs will only be allowed for those particulars certified by the Court as being proved. The Court may certify that the validity of the Letters Patent came in question, and this certificate being given in evidence in any subsequent suit for infringement,

or repeal of the patent, will entitle the patentee, on obtaining a judgment in his favour, to his full costs as between attorney and client, unless the Court shall certify to the contrary.

By the Law No. 32 of 1884, it was enacted that, after the promulgation in the Colony of the Order in Council applying section 108 of the (British) Patents, Designs and Trade Marks Acts, 1883, all Letters Patent granted in the United Kingdom shall be deemed to have been granted under the provisions of the Natal Law No. 4 of 1870, and may be dealt with accordingly.

NEWFOUNDLAND.

Duration of Patent: fourteen years.

Working: within two years.

Taxes: none.

International Convention: does not apply.

Patents are granted in Newfoundland under that portion of the *consolidated statutes relating to patents*, and being Title xv., cap. liv., section 1.

Patents are granted for the term of fourteen years for any new and useful art, machine, manufacture, or composition of matter, the Governor in Council having power to issue Letters Patent under the great seal of the Island, conveying the full and exclusive right and liberty of making, constructing, using, and vending the invention. Patents are recorded in the office of the Colonial Secretary, in a book kept for the purpose, and the Governor in Council has the power to insert in the grant a provision, extending the operation of the patent,

for a further term of seven years. Before granting the patent, the application is referred to the Attorney-General, who, if he finds everything in order, may certify accordingly, and within fifteen days return the patent to the office of the Colonial Secretary, to be signed and issued. Patents may be granted for improvements upon a patented invention, but the patentee of the improvement will not have the right of working the subject of the original patent, and *vice versâ*; merely changing the form or proportions, no matter to what extent, will not be considered a discovery or improvement, justifying the grant of a patent.

Copies of patents, specifications, or other papers relating to the application, can be obtained at the office of the Colonial Secretary.

The application must be accompanied by a petition, setting forth the facts, a specification, and an oath, taken before one of the Justices of the Supreme Court, or a Stipendiary Magistrate, or a Commissioner of Affidavits, to the effect that the applicant believes himself to be the inventor, or discoverer, of the invention, which has not, to the best of his knowledge and belief, been known or used in the Island, or elsewhere.

The specification must be ample and clear, distinguishing what is new, and such as to enable any person skilled in the art to which it appertains, to put the invention into operation, with the assistance of the specification and drawings only. If the invention relate to a machine, a model must also be filed, or, if to a composition of matter, specimens of the ingredients, enough for experimental purposes. The specification must be signed by the applicant, and attested by two

witnesses, and will be filed in the office of the Colonial Secretary; copies, certified by the Colonial Secretary, will be evidence in the Courts, of anything concerning the patent. Where the cost of the model would be so great as to prevent an ingenious, but poor person, from obtaining a patent for his invention, the Governor in Council may dispense with the model.

Patents may be assigned, the assignment to be recorded in the office of the Colonial Secretary.

An infringer must pay to the patentee a sum equal to *three times the actual damage sustained* by the patentee, in consequence of the infringement, the damages to be recovered with costs, by action in the Supreme Court. In defending such an action, the defendant may give in evidence any special matter, showing that the specification does not contain enough, or contains too much, either of these being for the purpose of misleading the public, or that the patentee was not the original inventor, as the invention had been in use, or publicly described, before the date of the alleged invention, or that the patentee had improperly obtained a patent for the invention of some other person, and should any of these pleas be sustained, judgment will be entered for the defendant with costs, and the Letters Patent will thereupon become void.

The proprietor of a foreign patent may obtain a patent in the Colony, provided the subject of the patent has not been introduced into public use in the Colony before the application, and that the Colonial patent shall not continue in force after the expiration of the prior foreign patent, or should there be more than one prior foreign patent, after the one

first lapsing. Should the Colonial patent have been applied for after the lapsing of a prior foreign patent, the Colonial patent will never have possessed any validity.

The Colonial patent may be issued by the Governor in Council to the assignee of the foreign patentee, but the Colonial patent will not be issued for a foreign invention, upon which no foreign patent has been obtained. The invention must not have been in public use in the Colony before the application for the patent, and the assignee of the foreign patent must file a duly legalised assignment, under which he claims the patent in the Colony, and must also file an affidavit, giving the date of the foreign patent, and stating that the patented article has not been in public use in the Colony, and that he is the assignee for a good consideration.

The patent must be worked within two years from the date of the patent, or the patent will lapse.

Notice has to be given, for at least four weeks, in the Royal Gazette, and one other newspaper of the Colony, of the intention to apply for the patent, and this notice must in general terms describe the invention to be patented. The inclusion in a specification by inadvertence, accident, or mistake, and not wilfully, or for the purpose of misleading the public, of matter, of which the applicant was not the inventor, will not invalidate the rest of the specification, providing the remainder be a material and substantial part of the patent, and that it is plainly distinguishable from the parts improperly included, and the proprietor of the patent may maintain suit, at law or in equity, for infringement of the valid part of the patent, notwithstanding the invalid portion; but should

the proprietor succeed in such action, and obtain judgment, he will not be entitled to costs, unless he has previously disclaimed the portion he is not entitled to, the disclaimer to be filed in the office of the Colonial Secretary, and to be attested by a witness. Neglecting to obtain the disclaimer, or unreasonably delaying to do so, will prevent the patentee from availing himself of this section. The disclaimer must be in writing, and state the interest of the party, making the disclaimer, in the patent. It must be attested by a witness, and recorded in the office of the Colonial Secretary, and, after recording, it will form part of the original specification, to the extent of the interest possessed by the person making the disclaimer, or those persons claiming under him. The disclaimer will not affect any action pending at the time of record, except in so far as the question of unreasonable neglect or delay may arise.

A specification may be amended, so far as it relates to defective, or insufficient description, or too extensive claims, where this has arisen from inadvertence, accident, or mistake, and without fraudulent intent; the patent must be surrendered to the Governor in Council, with a petition for the issue of a new patent for the remainder of the term, the new patent to be in accordance with the amended specification. In case of the patentee's death, or the assignment by him of the whole or a portion of the original patent, the right will vest in his legal representatives, according to their respective interests in the patent.

Improvements may be patented, the patent for the improvement, made subsequent to the date of the original patent, passing through the same proceedings as the original

application, and being annexed to the original specification, the Colonial Secretary recording the time when it is annexed, after which the additional specification will have the same effect as if it had formed part of the original specification.

No patent granted in England, or elsewhere beyond the Colony, and extending to the English Colonies, will have any effect in Newfoundland, until copies of the original specification and drawings, or duplicates of the models, upon which the patent was granted, have been lodged in the office of the Colonial Secretary, who will grant a certificate when this has been done.

Any oath rendered necessary by this law may be taken in the Colony, before a judge of the Supreme Court, or a Commissioner for taking affidavits, or in Great Britain and Ireland, before the Mayor of a city or borough, certified under the Corporate Seal, or in other country, before the British Consul, or Vice-Consul, certified under his Seal of Office.

NEW SOUTH WALES.

Duration of Patent: fourteen years.
Working: none.
Taxes: none.
International Convention: does not apply.

The original law for the granting of patents was dated 6th December, 1852, but the present law chiefly dates from the 8th July, 1887.

Patents are granted to any person claiming to be the author or designer, or agent or assignee of the author or

designer, of any invention or improvement in the arts or manufactures. The application must be accompanied by a petition to the Governor setting forth the facts, and by a specification, with drawings where necessary, detailing the particulars of the invention. The application is examined on behalf of the Minister of Justice, and, if he report favourably to the Governor, the latter has power to grant the Letters Patent.

Instead of the Complete specification above referred to, the application may be accompanied by a Provisional specification, when, upon the application being approved, Provisional protection for twelve months will be granted, the protection lapsing, if within that time the applicant fails to complete his patent. Upon the completion of the patent, after the filing of the Complete specification, the Provisional protection will cease.

The holder of a certificate of Provisional protection may, during the term of such protection, use and publish his invention, without prejudice to the subsequent issue of the Letters Patent.

Letters Patent, unless otherwise ordered by the Minister of Justice, bear the date of the application for the patent, whether accompanied by a Complete or Provisional specification, but no action is maintainable on account of any infringement committed before the filing of the Complete specification, and the patentee cannot institute any such proceedings until after the actual registration of the Letters Patent.

The issue of a certificate of Provisional protection will not prevent the issuing of a similar certificate or of Letters

Patent upon a subsequent application for the same invention, but this will be in the discretion of the Minister of Justice.

Every certificate of Provisional protection, and every Letters Patent, may be assigned by an instrument in writing under the hand and seal of the holder thereof, and by similar means, a license, exclusive or not, and for the whole or any portion of the Colony, and giving the right "to manufacture, adopt, utilise, or exercise proprietory or co-proprietory rights over the whole or any portion of the invention or improvement which may be specifically protected by the said Letters Patent," may be granted. Every such assignment or license must be registered within the prescribed limit of time, and in the prescribed manner, at the office of the Examiner of Patents.

The Governor has power to appoint a fit and proper person to be Examiner of Patents under the Minister of Justice, and it will be his duty to report to the Minister upon all applications for Letters Patent.

The Governor has power to make all necessary regulations for carrying the Act into force, and these shall be valid in law upon publication in the Government Gazette; but a copy of each regulation shall be laid before both Houses of Parliament, within fourteen days from the issue thereof, or if Parliament be not in Session, within fourteen days after the commencement of the next Session.

By this Act, the prerogative of the Crown is not prejudiced.

Sections 2, 3, and 4 of the Act 16 Vict., No. 24, dated the 6th December, 1852, are repealed, and the parts remaining set forth that the Governor of the Colony, with

the advice of the Executive Council, has power to grant Letters of Registration for all inventions or improvements in the arts or manufactures, to the author or authors, designer or designers thereof, or to their agents or assignees, for a period of not less than seven nor more than fourteen years.

Any such Letters of Registration may be repealed by writ of *scire facias* for the same causes, and in the same manner, as other grants of the Crown.

NEW ZEALAND.

Duration of Patent: fourteen years from date of acceptance of application.

Working: none.

Taxes: before end of fourth year, and before end of seventh year.

International Convention: applies.

Patents are granted in New Zealand under the law of the 2nd September, 1889.

The New Zealand law is almost identical with the English law as in the Acts of 1883, 1885 and 1886, including Patents, Trade Marks and Designs, so that for all general particulars, the reader is referred to the English law, and only one or two points of difference need be pointed out.

Any person being the true and first inventor may apply for a patent, and, with him, other persons may join in the application, and if the application be made within six months of the death of the inventor, his heirs may be included in the application.

Patents are granted for fourteen years.

The patent differs from the English patent, inasmuch as it is dated and sealed as of the day of the acceptance of the application, and not the date when the application was made.

Renewal fees are payable before the end of the fourth year, and before the end of the seventh year.

Licenses and assignments must be registered, and compulsory licenses may be obtained as in Great Britain.

Proceedings for revocation or infringement are similar to those of Great Britain.

NORWAY.

Duration of Patent: fifteen years.

Working: must be proved within three years of grant, and continually.

Taxes: annually, from date of application.

International Convention: applies.

Patents are granted in Norway under the law of the 16th June, 1885, which came into force on the 1st January, 1886.

Patents are granted for new inventions, useful in the industrial arts, but inventions contrary to law, morality, or public order, or for articles of food or medicine, are not patentable, though a patent may be obtained for a process or apparatus for manufacturing articles of food or medicine.

An invention will not be considered new if, before the application for the patent, it was so well known in the country as to be capable of being worked by experts; but publication by printed matter or public exhibition will not

invalidate the patent if applied for within six months from the date of such publication or exhibition. If the inventor at the time of such public exhibition announced (by a notice affixed to the article) his intention to apply for a patent, and gave previous notice thereof to the Patent Office, the patent will be effective from the date of such public exhibition.

The patent will be granted to the first inventor, or to any person who has obtained the right from him, but in case of dispute as to the rightful inventor, the patent will be granted to the earliest applicant.

During two years from the date of the application, only the proprietor of the patent is allowed to obtain patents of addition, and, in consequence, any application for an improvement of, or addition to, the invention will be detained under seal in the Patent Office, and will not be decided upon until the expiration of the two years, the original patentee not having himself applied in the interval.

The duration of patents will be fifteen years from the day of application.

The fee for lodging an application for patent is 30 crowns, and there is in addition an annual tax upon each patent, amounting to 10 crowns for the second year, and increasing 5 crowns each year. This tax is due at the beginning of each year, but may be paid at any time within the next three months, upon payment of a fine equal to one-fifth of the tax. Patented articles may not, without the consent of the patentee, be manufactured, imported, offered for sale, or sold, though a person may himself manufacture or import it for his own personal use. No unauthorised person is

entitled to use in his business the patented article, but the patent will be of no avail as against the patented article used on foreign vessels during their stay in Norwegian waters.

Those persons who have used the invention, or made the necessary preparations therefor, before the date of the application, may continue to do so.

The King has the power to order the patented invention to be used for the Government service, without obtaining the consent of the proprietor, and also that an invention of value to any particular trade may be appropriated to private use; in both cases the proprietor of the patent would be entitled to compensation, the amount of which may be settled by arrangement, or by arbitration.

Applications for patents are adjudicated upon by a Patent Commission sitting at Christiania, and consisting of a President, who must be specially qualified, and at least five expert technical members, all these being appointed by the King for periods not exceeding five years. Appointment of deputies for the technical members will also be made.

In applying for a patent, a petition for the grant must be presented to the Commission, together with a specification and drawings in duplicate, and models, and samples, if required, and a list of the documents, &c., comprised in the application.

An applicant not residing in Norway must appoint an attorney residing in the country. The specification must be clear and explicit, so that the invention can be carried into practice by qualified persons, and must end with a statement of claim; it must be in the Norwegian language.

The Patent Commission will order amendments in applications if found necessary, and fix the date within which they must be made, and should these not be carried out within the period fixed, the application will be rejected.

Where an application is manifestly not new, or according to law, the application will be at once rejected.

In the case of an application in proper form, the Patent Commission will, within four weeks, order a public announcement of the application, giving the subject-matter, and the name of the applicant, and the specification will then be open to public inspection. An additional fee of 20 crowns with the application, and a request, may result in the publication being delayed for a period of not more than four months from the date of the application. In this case a term of eight weeks is allowed for the preliminary examination instead of four, as in the former case, and experts may be called in.

During the eight weeks next following the date of publication, any person may enter an opposition to the grant of the patent; the opposition must be in writing, and be accompanied by the reasons.

Within sixteen weeks from the publication, the Commission will decide upon the application, and may require explanations from the parties in the case, or call in the assistance of experts. In case of dissatisfaction, the applicant may, within six weeks, lodge a protest against the decision of the Commission, who will then further consider the case. Notice of appeal from the final decision of the Patent Commission may, within four weeks, be given, and the appeal will be heard before a superior Patent Commission, consisting of

seven members, specially appointed for the particular investigation by the King. A fee of 150 crowns must be paid by the applicant for this special Commission, but this amount will be refunded him if the original decision be upset. An abstract of the specification, in the case of patents accepted, will be published by the Commission, or in case of refusal, the refusal will be published.

A register of patents will be kept at the Patent Office, in which important matters relating to patents, such as the expiration or assignment of a patent, will be entered, and will be also publicly announced. The register and specifications will be open to the public.

A patent lapses in case of failure to pay the annuities within the prescribed time, or if the appointed attorney fails in his duties, and the patentee does not register a new attorney within three months, after being warned by advertisements in the Gazette to do so.

A patent must be worked within three years from the date of the patent, or, at least, the patented articles must be put on sale in the kingdom, and such working or keeping on sale must not cease for one whole year, but the latter term may be extended by the Patent Commission upon petition. In special cases, the Patent Commission may decide what will be considered sufficient working.

Any person may bring an action to have a patent declared void. The action will be tried before the Court of Christiania. Four weeks' notice will be given in the summons.

Infringers must compensate the injured party, and if the infringement has been knowingly committed, but does not involve a more severe punishment, a fine of from 50 to

1,000 crowns, or if the offence be repeated, of 2,000 crowns, may be incurred. Infringing articles may be confiscated.

Neither penalties nor damages can be enforced, unless the action has been commenced within two years from the date of the infringement, or if the patentee has neglected to take proceedings, within one year from the time at which it is proved that he first became aware of the infringement, or if during the same period he fails to prosecute an action already commenced.

Antedating of specifications, corresponding with an application filed in a prior foreign country, may be made, if the application in Norway be filed within seven months of the date of the foreign application, provided the other State reciprocates in this respect. This, however, will not relate to patents granted before the present law came into force. The proprietor of a patent, granted before the present law came into force, may, within one year, apply to have that patent exchanged for one under the provisions of the present law. The term of such new patent will be reckoned from the date of the grant of the earlier patent, and the taxes will be payable accordingly.

ORANGE FREE STATE.

Duration of Patent: fourteen years.

Working: none.

Taxes: before end of third and seventh years.

International Convention: does not apply.

Patents are granted in the Orange River Free State under Ordinance No. 10 of 1888.

Every person making a new industrial invention, capable of being used as an object of trade or industry, has the right to obtain a patent therefor, whether he be a citizen of the Orange River Free State, or not, and the same right belongs to corporations and companies, if the inventor be one of the members, and be so distinguished in the application. Two or more persons may jointly obtain a patent.

With his application, the applicant may file either a Provisional or a Complete specification, the former will describe the nature of the invention, and, if necessary, be accompanied by drawings, the latter must clearly describe it with drawings, if necessary; both specifications must contain the title of the invention, and the use of the official language is compulsory.

A Provisional specification is deposited with the application, at the office of the States Attorney, and an entry of the date is made, and thereupon the inventor is protected for a period of six months, during which time he may publish his invention, without invalidating the patent to be subsequently obtained. The Provisional specification is kept secret. Should the States Attorney regard the specification as too voluminous, or not explicit enough, he may allow or require the title or specification to be altered, or amended, during the said period of six months, and before a patent is issued, and the specification, as amended, will be considered as a Complete specification, but the protection will, nevertheless, cease at the expiration of the six months, should the patent not be completed. Where a Complete specification is filed with the application, a note of the date is made, and Provisional protection for six months is obtained,

but the applicant is, during that period, in the same position as if he had the full patent, excepting that he cannot institute proceedings for infringement, until he obtains his patent.

An applicant desiring to obtain his patent, must give notice to the States Attorney of his intention to proceed, whereupon the States Attorney will provide a form of notice, appointing a hearing, not less than one month later than the date of the notice, to be forthwith published, once in the *Government Courant*, and in one other newspaper published in Bloemfontein, and twice in some newspaper published at or near the place where the invention is worked, should that not be the place where the applicant lives, or, should no newspaper be published there, the publication must be made in some newspaper circulating there. Any person interested may give notice to the States Attorney of his intention to oppose the grant of the patent, supplying, within the time fixed in the previously named notice, a written statement of his objections.

At the time and place set forth in the notice, the applicant must produce the newspapers in which the notice appeared, and the States Attorney will then hear the applicant, and the objectors, and their respective witnesses, separately, and not in each other's presence, and determine as to the granting, or otherwise, of the application. He may call in expert assistance, and fix the amount to be paid therefor by either party, as well as the costs of the hearing. An order as to costs by the States Attorney is recoverable at law. If no objections are entered, or if after hearing the objection the States Attorney decides in favour of the applicant he will

issue his certificate for the grant of the patent, with any conditions to be embodied, and upon request, and as soon as possible, will prepare a patent in the terms of the certificate. This draft is sent to the office of the States Secretary, to be signed by the State President, and countersigned by the State Secretary, and to have the State seal affixed.

The patent may be refused if contrary to law, morals, or order, or if the application be sent in more than three months after the date of the States Attorney's certificate, or if the six months' term of protection has expired. If the application for signing and sealing is made in due time, and the completion is delayed through no fault of the applicant, the grant may be completed within one month after the expiration of the six months.

Should the applicant die during the six months, the patent may be granted to his legal representative, at any time during three months after his decease, whether that takes it beyond the six months limit, or not

The patent bears the date of the application, and runs for a period of fourteen years, subject to the payment of taxes before the expiration of the third and seventh years, the payment of these to be noted on the Letters Patent. In case of failure, through chance, mistake, or inadvertence, to pay these fees within the stipulated time, application to the Government may be made for an extension of the time, and this may be granted upon payment of a fine, for a period not exceeding three months, but in case an action for infringement be commenced after the payment was due, and before the extension was obtained, the Court may refuse to award damages to the patentee.

The patent having once been granted, no enquiry can be made as to whether all the formalities have been properly complied with.

A duplicate Letters Patent may be obtained in place of a lost or destroyed one, if the Government is satisfied that the original cannot be produced.

Where a prior foreign patent exists, the Colonial patent will expire with that, or with the first to lapse, if there be more than one. Should the foreign patent have lapsed before the Colonial one was granted, the latter will never have been of any validity.

The specifications and drawings deposited at the offices of the States Attorney, are removed for safe custody to an office, appointed by the President of the State, immediately after the granting of the patent, or, if the patent be not granted, immediately after the termination of the six months. The applicant for, or proprietor of, a patent may, *at any time, apply to the States Attorney for leave to amend* his specification, whether by cancelling, amending, or explaining it, giving the proposed amendment, and his reason for desiring to make the alteration; he will then receive a notice, which must be published, as in the case of applications for patents, and the States Attorney will ultimately decide whether the amendment be allowed or not, the order being registered in the office named by the States Attorney.

No amendment will be allowed which would make the specification more comprehensive than, or different from, the original.

Permission to make the amendment concedes the right

to make it, except in case of fraud, and the amendment will, for all purposes, be accepted as part of the specification.

In an action for infringement, or for the nullification of a patent, the Court can, at any time, make an order allowing the patentee to remove some portion of the specification, and may postpone the case to allow of this being done.

Where an amendment has been made, no damages will be given for infringement committed prior to the amendment, unless the patentee can satisfy the Court that his original application was made in good faith, and with proper care.

Compulsory licenses may be granted by the Government, upon the advice and consent of the Executive Council, if it be satisfied—

(1) That the refusal of the patentee to grant licenses, on reasonable terms, prevents the invention being made use of in the State.

(2) That the ordinary demand for the patented articles cannot be met, or

(3) That some person is prevented from using, and obtaining the benefit of, an invention of which he is possessed.

The proprietor of a patent may apply to the State President for an extension of the term of his patent, but the application must be lodged six months before the expiration of the patent. Such an application may be referred to the High Court, and, at least two months before the hearing, the applicant must publish, in the manner described for patent applications, a notice stating the nature of his application, and any person interested may lodge particulars

of objections with the States Attorney, at least one week before the hearing. The parties interested may, at the hearing, appear in person or by counsel, the applicant opening by proving that the notice has been duly published. The Court will consider the nature of the invention, and its value to the public, the profit made by the patentee, and other circumstances connected with the case, and will report if the extension should be granted, and, if so, the terms and conditions. The State President can issue a new patent for the extended time, not exceeding fourteen years, and with such conditions and restrictions as he may deem desirable. The new patent will date from the day of the termination of the old one.

The State President can order an inventory to be made of all applications, specifications, and other writings, which will be open to public inspection, under the regulations that may be made. A register of Letters Patent will be kept, and in this will be entered, in chronological order, the particulars of applications for patents, specifications, drawings, and amendments, extensions, and expirations of patents, and other matters concerning them ; this register also will be open for public inspection.

A register of patent owners will also be kept, in which all transfers of patents, or alterations therein, licenses, and the like, will be entered. Certified copies of extracts from this register can be obtained, which will in itself be *primâ facie* evidence; this register also will be open for public inspection. Falsifying an entry, or copy of an entry, in the register, or publishing the same, renders the offender liable to five years imprisonment, with or

without hard labour. The High Court can correct or alter the register, upon the application of an interested party, and may make any order as to costs, and may make an order upon any question arising as to the correction of the register.

The patent may be challenged upon any of the following grounds :—

(1) That the patent was obtained fraudulently, to the detriment of some one else's rights.

(2) That the person alleged as the first and true inventor, was not so.

(3) That the invention was not new, that is, that already before the issuing of the Letters Patent, it was published, or applied, in this State.

(4) That the invention is not suitable to be patented, in the terms of Article 1.

(5) That the description has reference to theoretical principles, theories, methods, systems, discoveries, or conceptions, of which the manner of application has not been explained.

(6) That the complete description is not sufficient, that is, that it has been neglected to make mention of one part of the secret, or that it is indicated in an insufficient way.

(7) That the invention, o. its application, is in conflict with laws, public order, or good morals.

(8) That the title fraudulently indicates a different thing from the true invention.

(9) That the prescribed payments had not been made in time.

(10) That the Letters Patent had become void by reason of their having been lost or destroyed.

Only the following can challenge a patent on the above grounds :—

(1) The States Attorney.

(2) Every person expressly authorised thereto by the States Attorney.

(3) Every person who avers that the patent right has been obtained in opposition to his rights, or the rights of another person, from whom he derives his rights.

(4) Every one who avers that he, or another person from whom he derives his right, is the inventor of the invention in question.

(5) Every one who avers that he, or his partner, or another person from whom he derives his rights, has publicly made, used, or sold, before the time of the granting of the patent right, that which the patent right holder claims as his invention.

In an action for the cancellation of a patent, the plaintiff must in his application state the facts upon which he relies, and no other proof will be allowed, except by sanction of the Court, which, however, can allow the application to be amended. The defendant may begin with proofs in support of his patent, and if the complainant produces proof against the validity of the patent, the defendant may bring further proof.

Should a patent be cancelled on the ground of fraud, the true inventor may have a new patent issued to him dating from the cancellation of the original one ; this new patent will expire at the expiration of the term for which the original patent was granted.

The selling, as patented, of articles for which no patent has

been granted, is punishable by a fine not exceeding £25, but should the article be the subject of another person's patent, the fine will be increased to £50, half to go to the State, and the other half, with the costs of the action, to the proprietor of the patent, who may recover the amount by process of ordinary debt recovery. If the article bears the word "octrooi," "geoctrooieerd," "patent," "gepatenteerd," or the like, it will be deemed to be sold as patented.

An action for infringement may be brought in the High Court against anyone who, during the term of the patent, makes use of, sells, or imitates the invention, and all grounds allowed in an application to cancel a patent, may be used as a defence. The plaintiff must give particulars of infringement, and the defendant particulars of his objections, and must state his grounds, if he denies the validity of the patent, and if he alleges that the invention was not new, he must state the time and place of the alleged prior publication. Except with the consent of the Court, no proof, not stated in the pleadings, will be admitted at the hearing, but the plaint and answer may be altered later, by consent of the Court.

In taxing the costs, the nature of the plaint and answer will be considered, and no party will be allowed costs in respect of any statement, not proved, or not material to the case, irrespective of the general costs of the case. The Court can, of its own motion, or at the request of either of the parties, call in an expert, and fix his remuneration. The Court can, upon application, make an order for the suspension of work, production of accounts, inspection, or such other measures as may be necessary. It can certify that the

validity of the patent came in question, and where the Court so certifies, the patentee, in any subsequent action for infringement of his patent, can, upon obtaining judgment in his favour, claim the full costs as between attorney and client, unless the Court orders otherwise.

Only one invention can be included in the patent, but objection cannot be taken to the patent on the ground that it embraces more than one invention.

If the inventor dies before applying, his lawful representative may do so, and obtain the patent; but the application must be made within six months of the death, and the applicant must make a declaration that the deceased was the true inventor.

A patent to the rightful inventor will not be invalidated by an application, Provisional protection, or publication, after the deposit of the application, in fraud of him.

A patent can be assigned for the whole or any portion of the State.

Publication of an invention at an international or industrial exhibition, or in connection therewith, will not prejudice the inventor, if, previous to exhibiting, he informed the States Attorney, in writing, of his intention to apply for a patent, and made the application within six months from the opening of the exhibition.

The Government can require a model, upon payment of the cost, and in case of disagreement, the price can be fixed by arbitration.

Where a person is by youth, insanity, or otherwise incapacitated from carrying out anything under this law, his guardian or curator, or a person appointed by the High

Court, may do the needful, and the Act will have the same force as if actually done by the incapacitated person.

All fees paid in connection with patents go to the general revenue of the State. The State President can make regulations, and take measures for carrying out the law.

Ordinance No. 12 of 1884 is repealed.

PERU.

Duration of Patent: ten years.

Working: within two years.

Taxes: yearly.

International Convention: does not apply.

Patents are granted in Peru under the law of the 28th January, 1869.

The person making any invention or discovery, in any branch of industry, has the exclusive right of working it for his own benefit, subject to the grant of the patent by the Government, under the conditions, and for the period, fixed by the law. New industrial products, or new methods, or the new application of known methods, for obtaining an industrial result or product, are patentable; but pharmaceutical preparations, or remedies of any kind, schemes, or combinations of credit or funds, and processes for establishing known means for improving an industry already public property, in or out of the Republic, are not patentable. In the latter case, only proposals or contracts, permitted by law, will be admitted, and they must be put up to auction.

The limit of a patent is ten years, the annual taxes

going to the fund of Public Works of the Province where the invention is worked.

Patents are of two kinds: invention, or importation, and application must be made at the Prefecture of the Department where the invention is to be worked, or at the Prefecture of the domicile of the petitioner, if the invention is to be worked in two or more Departments.

An application must be accompanied by a specification or description of the invention, such plans or models as may be necessary, a list of the models, a statement of the term of the patent, and of the security offered for the carrying out of the project. The application must be in Spanish, and numbers, weights, and measures must be those known in the Republic.

A foreigner must explicitly renounce all diplomatic intervention, in connection with the patent, and must submit himself absolutely to the laws and tribunals of the Republic, otherwise the patent will not be granted. The Prefects will take the opinion of the Municipality, of the Fiscal, or Fiscal Agent, or other official, according to the nature of the case, and may also take expert opinions as well, and will deliver, with the preliminaries and report, the description, drawings, models, &c., to the Ministry concerned, at the cost of the applicant. The Ministry will take the opinion of the Fiscal of the Supreme Court, and such others as may be considered necessary, and grant or refuse the patent, according to the result of the investigation. Modifications or alterations of specifications, or prolongations of patents, can be granted only by a resolution of the Legislature, and must be solicited by the parties interested, supported by sufficient testimony.

A patent will be invalid—

(1) If the discovery, invention, or application is not new.

(2) If it is not comprised within the terms of Article 2.

(3) If it is based upon theoretical or scientific principles, methods, systems, or discoveries the industrial application of which is not indicated.

(4) If the discovery, invention, or application appears to be contrary to order, to public security, or to law; without prejudice in that case, to the penalties prescribed for the manufacture or sale of prohibited articles.

(5) If it is found that, in applying for the patent, fraud was committed, to obtain by that means another object distinct from the real invention.

(6) If, in carrying out the invention, it turns out to be not in accordance with the description which accompanied the application.

(7) If it was obtained in contravention of any of the provisions of this law.

(8) If in granting the privilege, there are also connected pecuniary subventions, not foreseen in the estimates of the Republic; or exemptions contrary to law. Authorisations which refer to changes, improvements, or additions, which are not comprised in the principal patents, are equally null, and of no effect.

An invention will not be considered new if, previous to the application for the patent, it had been sufficiently published either in Peru or abroad, to be put into operation.

Patents will lapse—

(1) If the annuity be not duly paid.

(2) If the invention be not worked within two years, or

such other term, as may be fixed in the patent, unless the delay is legally justified.

(3) If the articles manufactured abroad, are imported into Peru, excepting so far as relates to models of machinery, authorised by the Government, after investigation.

The assumption of the title of patentee, without legally possessing it, or after the patent has lapsed, renders the offender liable to a fine of from £8 to £160, the amount being doubled upon the repetition of the offence, and without prejudice to the penalties involved for the offence of fraud.

Bonâ fide interested parties are entitled to apply to the Courts for the revocation of a patent. The Fiscal will intervene, and if the patent be upset, he will notify the fact to the Ministry concerned.

Infringers are punishable with a fine, which goes to the injured party, and the confiscation of the infringing articles.

Patents granted prior to the passing of the present law, remain in force for the period for which they were originally granted.

PORTUGAL.

Duration of Patent: fifteen years.
Working: must be proved within two years of grant, and every two years.
Taxes: none.
International Convention: applies.

The Portuguese patent law dates partly from the Penal Code and a decree of the 31st December, 1852, and partly from the Civil Code, Chapter III., of the 1st July, 1867, by which Portuguese patents were extended to the Colonies; but by a decree of the 21st May, 1892, this extension was cancelled.

Patents are granted in Portugal for a period of fifteen years, for any new invention in any manufacture, product, or article of commerce or improvement therein, or for an easier or less expensive means of production. Where an inventor has patented his invention in a foreign country, the Portuguese patent will only run for the remainder of the term of the patent in the foreign country. Exclusive right of production is given under the patent. Patents will not be granted for inventions relating to unlawful industries or articles. The rights under the patent commence from the date of the grant of the patent. The exclusive property is strictly limited to the subject of the patent, and will not be allowed to extend beyond that upon the plea of intimate relation or connection. Patents of addition may be obtained during the life of the patent. Nobody but the original patentee can obtain a patent of improvement upon the invention during the first year; other persons applying during the year may deliver their applications in sealed packets, and a note of the delivery will be taken. This deposit will confer on the depositor priority over later applicants, other than the patentee, the latter having in every case the preference during the first year.

Assignment or transfer of patents, whether gratuitously or for a valuable consideration, can only be made by public

deed. Licensees under a principal patent will have the right to use patents of addition granted to the inventor or his representatives, excepting under special agreement to the contrary, and the patentee will enjoy the like privilege should the licensee obtain patents of improvement upon the original patent. Specifications, designs, and models are open to public inspection, and copies may be obtained upon payment of the cost. On the expiration of the second year of the patent, specifications are published wholly or in part, and public announcement is made of lapsed patents.

Any technical description at home or in foreign documents, or other form of publication, prior to the date of the application, would invalidate the patent, as also would the previous granting of a patent for the same object, and a patent would be invalid if the invention were prejudicial to public security or health, or contrary to law, if the title fraudulently set forth a different object, if the specification were insufficient, if the patent were obtained without the necessary formalities, or, in the case of a patent of addition, if it does not relate to something which facilitates the working or increases the utility of the invention, but merely changes the form or proportions, or relates to ornament.

The patent must be worked within two years from the date of the signing of the patent, and the working must not cease for two consecutive years, except by reason of difficulties beyond the control of the inventor. Actions for the nullity or withdrawal of a patent may be brought either by the Public Prosecutor or interested parties; if the action be brought by the Public Prosecutor, the interested

party may intervene, but the Public Prosecutor must always intervene. Where a previous patent has been granted for the same invention, an action for the nullity of the later patent upon that ground can only be brought during the first year of the later patent, but in all other cases action may be brought at any time during the life of the patent.

An infringer is responsible for the damage caused, and is also subject to the penalties of the Penal Code. Infringing articles, or implements that can only serve in their manufacture, may be seized after the patentee has given security, but the party seizing the goods must commence an action within fifteen days or the seizure becomes void, and the holder of the goods may sue the party who made the seizure for loss and damages. Where a successful action for infringement is concluded, the articles seized will be awarded to the plaintiff towards the compensation due, but if the matter has been tried by a criminal suit, the plaintiff can only obtain complete indemnification by a civil action.

A new law in Portugal is expected to come into force next December, of which the following are the chief provisions. The patent will only be granted to the actual inventor, and the maximum duration of the patent will be fifteen years, but it may be granted, at the request of the applicant, for any shorter period, the prolongation being effected by the payment of annual taxes, or these taxes may be paid in full at once.

Medicines and chemical products are not patentable, but processes of manufacture are patentable.

QUEENSLAND.

Duration of Patent: fourteen years.

Working: none.

Taxes: before the end of fourth and eighth years.

International Convention: applies.

Patents are granted in Queensland under the law of the 18th October, 1884, amended by the Acts of 1886 and 1890, collectively known as the Patents, Designs and Trade Marks Acts, 1884 to 1890. The law is practically a reproduction of the English law, as disclosed in the Acts of 1883 to 1888, and for all general particulars of the Queensland law, the reader is, therefore, referred to the English law.

The patents date from the day of application and last for fourteen years, subject to the payment of a fee of £5 before the end of the fourth year from the date of the patent, and of £10 before the end of the eighth year from the date of the patent. Or, in lieu of these fees, annual fees of £1 each before the end of the fourth, fifth, sixth, and seventh years; £1 10s. before the end of the eighth and ninth years, and £2 before the end of the tenth, eleventh, twelfth, and thirteenth years, may be paid.

An application for patent may be made by the true and first inventor or inventors, or by the assignee of the true and first inventor, or by an assignee jointly with the inventor.

RUSSIA.

Duration of Patent: three, five, or ten years.
Working: must be proved within first quarter of period for which patent is granted.
Taxes: none, but application can be extended to full or intermediate term before grant of patent, but not after.
International Convention: does not apply.

The granting of patents in Russia is regulated by a portion of the code of laws of the Russian Empire, the third section of the statute of manufacturing industry.

Patents are granted for new and useful discoveries, or inventions relating to manufactures, compositions of matter, machines, or improvements, and convey the right to make, use, or dispose of the invention during the life of the patent. The Government does not guarantee either the ownership or the utility of the invention. Patents can be sold or bequeathed, or licenses granted, and infringers may be prosecuted. Patents are granted to foreigners as well as natives, and may be obtained upon inventions, the subject of previous foreign patents not expired, but in such case the Russian patent will not extend beyond the term of the prior foreign patent. Only by special favour of the Government can a patent be obtained for an article known but not patented abroad.

Patents are not granted for elementary principles, unless there is a special application of the principle involving special apparatus. Inventions of a trifling or unimportant nature, indicating only inventive genius, but not offering real

advantage to the public, cannot be patented, neither can inventions dangerous to society.

No patents are granted upon inventions relating to implements of war and the like, unless they are also useful to private persons; for example, small fire-arms, metallic cartridges, and so forth, but even then these patents must not be used to hinder the military or naval authorities.

Patents are granted to foreigners, who, without becoming naturalised in Russia, are allowed to construct manufactories, &c. The application must be accompanied by a clear specification, indicating the particular improvement or combination claimed. The specification must be in Russian, and where translated from a foreign language, the original must be annexed for purposes of verification.

A model or sample must be supplied if required. The year, month, day, and hour of the lodging of the application are noted.

All applications are examined by the Council of Trades and Manufactures. The examination is directed towards the novelty and utility, and formality, of the invention and papers; particular attention is directed to see whether the invention contains anything of an unhealthy nature, or deleterious to the welfare of the people, and, if necessary, the Council may confer with the medical Board. The Council fix the term for which the patent may be granted, according to the branch of industry to which it appertains, and may recommend to the Minister of Finance the granting of the patent or otherwise as they think best. When a patent is refused, the reasons are published in the official and the Warsaw Gazettes, and the official news-

papers of both capitals. Should the application be rejected on the ground of insufficient description, or lack of clearness in the drawings, the applicant may make the necessary corrections, and again apply for the patent. Should more than one person apply for a patent upon the same invention, the patent will not be granted at all, unless one of the applicants can prove by legal process that the other obtained the invention from him. Where the grant of a patent is refused, the money will be refunded.

Patents are granted for three, five, or ten years; the term of a patent for an invention already known, but not patented abroad, is limited to six years. No extension of a patent is obtainable.

The term of a patent dates from the day of signature, but legal proceedings for infringement of the patent may date from the day of filing. Publication of the issue of the certificate of filing is made in the Warsaw Gazette, and in the newspapers of both capitals.

As soon as a patent is delivered, a full and detailed account of the invention is published in the publications of the Ministry of that portion of the Empire to which it relates, in the Senate Gazette, in the Warsaw Gazette, and in the newspapers of both capitals. A register of patents is kept, and is open for public inspection.

A patent must be worked during the first quarter of the term for which it is granted, and within six months after the expiration of such term, the patentee must present to the department from which the patent was issued, a certificate from the local authorities concerned, showing that the invention has been put into practical use. Patents can be

assigned through the operation of the proper Courts according to law, and upon the making of such a transfer, or the entry into partnership, the original patentee must communicate with the department, who will advertise it in the newspapers. A patentee cannot form a Joint Stock Company for the working of his invention, excepting with the consent of the Government.

A person, other than the patentee, making an improvement, cannot patent it without the consent of the original patentee, excepting after the patent has lapsed. A patent for an improvement will only be granted for a shorter term than that of the original patent, and cannot be used to extend the term of the original patent, and if taken by another person, it will not be granted for more than half the term of the original patent.

The patent will cease at the expiration of the term for which it was granted, or if it be proved in a Court of law that the invention was not new, at the date when the patent was applied for. Or, that the applicant appropriated the invention from somebody else, or, that the specification is insufficient or parts had purposely been kept back, or, if the patentee failed to work the invention to the satisfaction of the authorities within the stipulated time.

Upon the lapsing of the patent, notice will be published in the Warsaw Gazette that the patent has lapsed.

The payments upon Russian patents are made with the applications, and are, for new patents taken out by the inventors themselves, for a three-year patent, Rs. 90; five-year patent, Rs. 150; for a ten-year patent, Rs. 450. Upon patents introducing inventions already known abroad for

one year, Rs. 60; two years, Rs. 120; three years, Rs. 180; four years, Rs. 300; six years, Rs. 360.

The Ministry is understood at the present time to be working out a new Russian patent law; full details are not yet accessible, but it is believed that the duration of the patent will be twelve years instead of ten, as at present, and that the taxes will be paid annually instead of all at once, as under the present system.

ST. HELENA.

Duration of Patent: remainder of term of British grant.
Working: none.
Taxes: none.
International Convention: does not apply.

Patents are granted in St. Helena under the Ordinance No. 8 of 1872.

Patents granted under the great seal of the United Kingdom of Great Britain and Ireland, are extended to the Island of St. Helena, any extension of the patent in the mother country involving the extension of the rights in the Colony.

The British patentee must file in the registry of the Supreme Court, a copy of the Letters Patent, and of the specification, or, in case of renewal, a copy of the renewal thereof, certified as a true copy by the custodian of the original; unless this be done, the rights do not extend to St. Helena.

Specifications are open to public inspection at the office of the Registrar of the Supreme Court, and the certified copies are *primâ facie* evidence of the existence of the right. The

Registrar will permit copies to be made, and certify true copies.

All cases of doubt or difficulty relating to patents, not provided for under this ordinance, or in the local laws of the Island, will be settled, so far as practicable, by the law for the time being in force in England.

SOUTH AFRICAN REPUBLIC (TRANSVAAL).

Duration of Patent: fourteen years.

Working: none.

Taxes: before the end of third and seventh years.

International Convention: does not apply.

Patents are granted in the South African Republic under the law of the 1st June, 1887.

Every person making a new industrial invention, capable of being used as an object of trade or industry, has the right to obtain a patent therefor, whether he be a citizen of the South African Republic or not, and the same right belongs to corporations and companies, if the inventor be one of the members, and be so distinguished in the application. Two or more persons may jointly obtain a patent.

With his application, the applicant may file either a Provisional or a Complete specification; the former will merely outline the invention, the latter must clearly describe it, with drawings, if necessary; both specifications must contain the title of the invention, and the use of the official language is compulsory.

A Provisional specification is deposited with the application at the Office of the Attorney-General, and an entry of the

date is made, and thereupon the inventor is protected for a period of six months, during which time he may publish his invention, without invalidating the patent to be subsequently obtained. The Provisional specification is kept secret. Should the Attorney-General regard the specification as too voluminous, or not explicit enough, he may allow or require the title or specification to be altered or amended, during the said period of six months, and before a patent is issued; and the specification so amended will be considered as a Complete specification, but the protection will, nevertheless, cease, at the expiration of six months, should the patent not be completed. Where a Complete specification is filed with the specification, a note of the date is made, and Provisional protection for six months is obtained, but the applicant is, during that period, in the same position as if he had the full patent, excepting that he cannot institute proceedings for infringement, until he obtains his patent.

An applicant desiring to obtain his patent, must give notice to the Attorney-General of his intention to proceed, whereupon the Attorney-General will provide a form of notice, to be forthwith published, once in the Government Gazette and in one other newspaper printed in Pretoria, and twice in some newspaper published at or near the place where the applicant lives, or should no newspaper be published there, the publication must be made in some newspaper circulating there. Any person interested may give notice to the Attorney-General of his intention to oppose the grant of the patent, supplying, within the time fixed in the previously named notice, and not less than one month, a written statement of his objections.

At the time and place set forth in the notice, the applicant must produce the newspapers in which the notice appeared, and the Attorney-General will then hear the applicant, and the objectors, and their representative witnesses, separately, and not in each other's presence, and determine as to the granting, or otherwise, of the application. He may call in expert assistance, and fix the amount to be paid by either party, as well as the costs of the hearing. An order as to costs by the Attorney-General is recoverable at law. If no objections are entered, or, if, after hearing the objection, the Attorney-General decides in favour of the applicant, he will issue his certificate for the grant of the patent, with any conditions to be embodied, and upon request, and as soon as possible, prepare a patent in the terms of the certificate. This draft is sent to the office of the State Secretary, to be signed by the State President, and countersigned by the State Secretary, and to have the State seal affixed.

The patent may be refused, if contrary to law, morals, or order, or if the application be sent in more than three months after the date of the Attorney-General's certificate, or if the six months' term of protection has expired. If the application for signing and sealing is made in due time, and the completion is delayed through no fault of the applicant, the grant may be completed within one month, after the expiration of the six months.

Should the applicant die during the six months, the patent may be granted to his legal representative, at any time during three months after his decease, whether that takes it beyond the six months' limit or not.

The patent bears the date of the application, and runs for

a period of fourteen years, subject to the payment of taxes before the expiration of the third and seventh years, the payment of these to be noted on the Letters Patent. In case of failure, through accident, error, or negligence, to pay these fees within the stipulated time, application to the Government may be made for an extension of the time, and this may be granted, upon payment of a fine, for a period not exceeding three months; but in case action for infringement be commenced after the payment was due, and before the extension was obtained, the Court may refuse to award damages to the patentee.

The patent having once been granted, no enquiry can be made as to whether all the formalities have been properly complied with.

A duplicate Letters Patent may be obtained in place of a lost or destroyed one, if the Government is satisfied that the original cannot be produced.

Where a prior foreign patent exists, the Colonial patent will expire with that, or with the first to lapse, if there be more than one. Should the foreign patent have lapsed before the Colonial one was granted, the latter will never have been of any validity.

The specifications and drawings deposited at the office of the Attorney-General, are removed for safe custody to an office appointed by the President in Council, immediately after the granting of the patent, or, if the patent be not granted, immediately after the termination of the six months. The proprietor of a patent may, at any time, apply to the Attorney-General for leave to amend his specification, whether by effacing, improving, or adding to

it, giving his reason for desiring to make the alteration; he will then receive a notice, which must be published, as in the case of applications for patents, and the Attorney-General will ultimately decide whether the amendment be allowed or not, the order being registered in the office named by the Attorney-General.

No amendment will be allowed which would make the specification more comprehensive than, or different from, the original.

Permission to make the amendment concedes the right to make it, except in case of fraud, and the amendment will for all purposes be accepted as part of the specification.

In an action for infringement, or for the nullification of a patent, the Court can, at any time, make an order allowing the patentee to remove some portion of the specification, and may postpone the case to allow of this being done.

Where an amendment has been made, no damages will be given for infringement committed prior to the amendment, unless the patentee can satisfy the Court that the original specification was made in good faith, and with proper care.

Compulsory licenses may be granted by the Government, upon the advice and consent of the Executive Council, if it be satisfied—

(*a*) That the refusal of the patentee to grant licenses on reasonable terms, prevents the invention being made use of in the Colony.

(*b*) That the ordinary demand for the patented article cannot be met, or,

(*c*) That some person is prevented from using, and obtaining the benefit of, an invention of which he is possessed.

The proprietor of a patent may apply to the State President for an extension of the term of his patent, but the application must be lodged six months before the expiration of the patent. Such an application may be referred to the High Court, and, at least two months before the hearing, the applicant must publish, in the manner described for patent applications, a notice, stating the nature of his application, and any person interested may lodge particulars of objections, with the Attorney-General, at least one week before the hearing. The parties interested may at the hearing appear in person or by counsel, the applicant opening, by proving that the notice has been duly published. The Court will consider the nature of the invention, and its value to the public, the profit made by the patentee, and other circumstances connected with the case, and will report if the extension should be granted, and, if so, the term and conditions. The State President in Executive Council can issue a new patent for the extended term, not exceeding fourteen years, and with such conditions and restrictions as he may deem desirable; the new patent will date from the day of the termination of the old one.

The State President in Executive Council can order an inventory to be made of all applications, specifications, and other writings, which will be open to public inspection, under regulations that may be made. A register of patent right deeds will be kept, and in this will be entered, in chronological order, the particulars of applications for patents, specifications, drawings, and amendments, extensions and expirations of patents, and other matters concerning them; this register also will be open for public inspection.

A register of patent right holders will also be kept, in which all transfers of patents or alterations therein, licenses, and the like, will be entered. Certified copies of extracts from this register can be obtained, which will in themselves be *prima facie* evidence. This register also will be open for public inspection. Falsifying an entry, or copy of an entry, in the register, or publishing the same, renders the offender liable to five years' imprisonment, with or without hard labour. The High Court can correct, or alter, the register, upon the application of an interested party, and may make any order as to costs, and may make an order upon any question arising as to the correction of the register.

The patent may be challenged upon any of the following grounds:—

(1) That the patent has been obtained by the violation of another's rights.

(2) That the person named as the first and real inventor was not so.

(3) That the invention was not new, *i.e.*, that it had been published and made use of in this State, before the granting of the patent.

(4) That the invention cannot be patented in terms of Article 1.

(5) That the description refers to theoretical principles, systems, methods, inventions, and conceptions, the practical application of which is not given.

(6) That the description in detail is not sufficient, *i.e.*, that it has been omitted to make known the whole invention, or the invention has been insufficiently explained.

(7) That the invention, or the application of the same, is contrary to law, order, and good morals.

(8) That the title of the invention fraudulently points to another matter, instead of the true one.

(9) That the payments have not been made at the prescribed time.

(10) That the patent has lapsed by reason of the Letters Patent having been lost or destroyed.

Only the following can challenge a patent upon the above grounds:—

(1) The Attorney-General.

(2) Every person expressly authorised thereto by the Attorney-General.

(3) Every person who avers that the patent right has been obtained in opposition to his rights, or the rights of another person, from whom he derives his rights.

(4) Every one who avers that he or another person, from whom he derives his right, is the inventor of the invention in question.

(5) Every one who avers that he, or his partner, or another person, from whom he derives his rights, has publicly made, used, or sold before the time of the granting of the patent, that which the patent right holder claims as his invention.

In an action for the cancellation of a patent, the plaintiff must, in his application, state the facts upon which he relies, and no other proof will be allowed, except by sanction of the Court, which, however, can allow the application to be amended. The defendant may begin with proofs in support of his patent, and if the complainant produces proof against

the validity of the patent, the defendant may bring further proof.

Should a patent be cancelled on the ground of fraud, the true inventor may have a new patent issued to him, dating from the cancellation of the original one; this new patent will expire at the expiration of the term for which the original patent was granted.

The selling, as patented, of articles for which no patent has been granted, is punishable by a fine not exceeding £25, but should the article be the subject of another person's patent, the fine will be increased to £50, half to go to the State, and the other half, with the costs of the action, to the proprietor of the patent, who may recover the amount by process of ordinary debt recovery. If the article bears the words "patent," "patented," or the like, it will be deemed to be sold as patented.

An action for infringement may be brought in the High Court, against anyone who, during the term of the patent, makes use of, sells, or imitates the invention, and all grounds allowed in an application to cancel a patent may be used as a defence. The plaintiff must give particulars of infringement, and the defendant particulars of his objections, and must state his grounds, if he denies the validity of the patent, and if he alleges that the invention was not new, he must state the time and place of the alleged prior publication. Except with the consent of the Court, no proof, not stated in the pleadings, will be admitted at the hearing, but the plaint and answer may be altered later, by consent of the Court. In taxing the costs, the nature of the plaint and answer will be considered, and no party will be

allowed costs, in respect of any statement not proved, or not material to the case, irrespective of the general costs of the case. The Court can, of its own motion, or at the request of either of the parties, call in an expert, and fix his remuneration. The Court can, upon application, make an order for the suspension of work, production of accounts, inspection, or such other measures as may be necessary. It can certify that the validity of the patent came in question, and, where the Court so certifies, the patentee, in any subsequent action for infringement of his patent, can, upon obtaining judgment in his favour, claim the full costs as between attorney and client, unless the Court orders otherwise.

Only one invention can be included in the patent, but objection cannot be taken to the patent on the ground that it embraces more than one invention.

If the inventor dies before applying, his lawful representative may do so, and obtain the patent, but the application must be made within six months of the death, and the applicant must make a declaration that the deceased was the true inventor.

A patent to the rightful inventor will not be invalidated by an application for Provisional protection, or publication after the deposit of the application, in fraud of him.

A patent can be assigned for the whole, or any portion, of the State.

Publication of an invention at an international or industrial exhibition, or in connection therewith, will not prejudice the inventor, if, previous to exhibiting, he informed the Attorney-General, in writing, of his intention to apply for a

patent, and made the application within six months from the opening of the exhibition.

The Government can require a model, on payment of the cost, and in case of disagreement, the price can be fixed by arbitration.

Where a person is by youth, insanity, or otherwise, incapacitated from carrying out anything under this law, his guardian or curator, or a person appointed by the High Court, may do the needful, and the act will have the same force as if actually done by the incapacitated person.

All fees, paid in connection with patents, go to the general revenue of the State. The State President in Executive Council can make regulations, and take measures for carrying out the law.

SOUTH AUSTRALIA.

Duration of Patent: fourteen years; by option of Governor, may be extended for another seven years.

Working: none.

Taxes: before the end of third and seventh years. Letters Patent are required for endorsement of tax.

International Convention: does not apply.

Patents are granted in South Australia under the Act of the 21st December, 1877, as amended by subsequent Acts, the last of which is the 9th December, 1887.

Patents are granted for fourteen years from the date of the application, to the true and first inventor of any new and useful art, machine, manufacture, or composition of matter, or improvement thereon, not publicly used or offered

for sale within the Province of South Australia, prior to the date of the application for patent. Where a prior foreign patent has been obtained and has lapsed, no patent can be obtained in South Australia; but should the said prior foreign patent be still in force when the South Australian patent is applied for, the latter will terminate with the foreign patent, or the earliest of such foreign patents, if more than one exists.

A patent may be granted to any person to whom the inventor has assigned or bequeathed the right of obtaining it, or to the executor or administrator of a deceased inventor. The application is accompanied by a petition containing the title of the invention and an address in the city of Adelaide, and by a specification, the inventor being protected for the term of six months after the filing, but during the said term of six months, the specification may be amended, or another and more sufficient specification filed upon the requirement of the Commissioner. The specification must be full and clear, and must be signed by the inventor, if he be alive, or, if dead, by the applicant, the signature being attested by two witnesses, who will state when and where the specification was signed, and drawings or models must be supplied where the invention admits of it, the drawings to be in duplicate; the Commissioner may dispense with the drawings, however.

Every application is published in the Government Gazette, and within a period of one month, or a longer period not exceeding three months, if allowed by the Commissioner, oppositions to the grant of the patent may be entered at the Patent Office. Within one week from the date of filing,

advertisements, giving notice of the application, must be inserted three times in at least two of the daily newspapers published in Adelaide, and stating that the specification may be inspected at the Patent Office. Should an opposition be entered, the Commissioner will give notice to the parties, appointing a hearing of the case, after which he will determine whether to grant or refuse the patent. The Commissioner, at the request of the applicant or the opponent, will issue summonses for the attendance of any witnesses, who, upon being paid their expenses upon the same scale as allowed to witnesses in trials in Courts, are bound to attend until the matter be disposed of, under a penalty of £20 and costs. The Commissioner may award costs in the opposition.

The Commissioner has power to refer any application to one or more experts, a proceeding for which the applicant for the patent must pay £8 8s.

The decision of the Commissioner is final as to the granting or refusal of a patent; but by giving not less than four weeks' notice in the Government Gazette, the applicant may make one or more fresh applications for a patent in respect of the same invention.

The patent must be sealed within the term of six months' protection, and the sealing fee must be paid within ten days after the issue of the notice to grant the patent. In case of opposition, the time for the sealing of the patent may be delayed as long as the Commissioner shall direct. In case of the patent not having been sealed within the prescribed time, but through no neglect or wilful default of the applicant, a month's extension of time may be granted, and,

in case of the death of the applicant, it may be granted at any time within three months after the death of the applicant.

The term of the patent may be extended for another seven years upon the direction of the Governor.

The prerogative of the Crown is preserved as against the proprietors of patents.

The patent would be invalid if the grant was contrary to law, or prejudicial or inconvenient to the general public, or if the invention were not new and useful, or if the patentee were not the true and first inventor, assignee, legatee, executor, or administrator of the inventor, or if the specification did not correctly and fully describe the invention.

A payment is required before the expiration respectively of the third and seventh years of the patent.

The subject of the patented invention may be used on foreign vessels, but not for the manufacture of goods or commodities to be sold within, or exported from, the Province of South Australia, should the country to which the said vessel belongs grant reciprocal privileges. The Government may appropriate any patented invention, paying compensation to the inventor.

Specifications may be amended by disclaimers, alterations, and confirmations, or by the granting of new patents for the unexpired term of the original patent. The Governor has the power of confirming an invalid patent, but before doing so, will appoint a Commission of three or more persons, one of whom will be a judge of the Supreme Court, to consider the patent, and caveats may be entered against the

confirmation. The Commissioners will hear all the parties, and report to the Governor. If it should appear to the Commissioners that the patentee believed himself to be the first and original inventor, and that the invention had not been publicly and generally used, or offered for sale, within the Province prior to the date of the patent, they may report to the Governor that the prayer of the petition may be complied with, whereupon the Governor may confirm the patent.

Where a portion only of the patent has been assigned, the petition can only be brought if joined in by all the parties having any legal interest in the patent.

A caveat lasting for twelve months, and accompanied by a description of the invention, and giving an address within the city of Adelaide, may be lodged and may be amended by the caveator during the said twelve months, during which period the caveat will be preserved in secrecy at the Patent Office, though copies may be obtained by the caveator on payment of charges. During the term of the caveat, should any other person file an application for a patent, which, in the opinion of the Commissioner, would interfere or affect the right of the caveator to obtain a patent for his invention described in his caveat, the Commissioner will send notice thereof to the caveator.

A patent must be worked within three years from the date of the grant, and should this not be done, the patent may be revoked upon the application of any person, but the Governor has discretion as to refusing such application.

A patent may be revoked by the Supreme Court of the Province upon a writ of *scire facias*.

Any person who desires to impeach a patent may obtain a copy of the patent from the Patent Office, together with the petition, declaration, specification, and drawings, certified under the seal of the Patent Office, and may file this in the office of the Supreme Court, to be held there as of record.

A certificate of any judgment voiding a patent shall be filed in the Patent Office by the prosecutor, on a suit of *scire facias*.

A patent may be assigned in whole or in part, the deed being executed by the assignor, or his agent, duly authorised in writing; every assignment will be in duplicate, and must be registered at the Patent Office, and until this is effected, the assignment will not be valid as against any subsequent assignment for valuable consideration.

All specifications, drawings, models, disclaimers, and other papers, excepting caveats, filed in the Patent Office, are open to public inspection.

A clerical error does not invalidate a patent, and it may be corrected by the authority of the Commissioner. Should a patent be lost or destroyed, any person properly entitled may obtain a certified copy.

Declarations must be made before the Commissioner or any Justice of the Peace, or Notary Public, in South Australia, or before any person authorised to administer oaths, if out of that Province.

Patent Agents are licensed by the Commissioner, and this license can be revoked if good cause be shown; before a Patent Agent is licensed, the Commissioner requires a bond from the person himself in the sum of £500, and two

sureties each in the sum of £250, and the Agent, before being appointed, has to solemnly swear to faithfully execute and perform his business.

No patent disclaimer, memorandum of alteration, caveat, assignment, or other instrument under the Act, will be received by the Commissioner without it has endorsed upon it a certificate that it is correct for the purposes of the Act, and a penalty, not exceeding £50, is incurred by the person falsely or negligently certifying to the correctness of the document.

A register of patents is kept at the Patent Office, in which are entered, in chronological order, all patents granted, and particulars as to the filing of specifications, disclaimers, amendments, assignments, expiration of patents, &c.; this register is open at all convenient times for the inspection of the public. There is also kept at the Patent Office a register of proprietors, in which assignments and licenses, and the *names* of the proprietors, are entered, and a copy of any entry therein, certified under the seal of the Patent Office, will be given to any person upon demand, and will be *prima facie* evidence of the facts to which it relates. Entries in this register may be expunged by order of the Court. A false entry in the register renders the perpetrator liable to imprisonment for any term not exceeding five years, and the same penalty attached to any person making a false oath or declaration.

A penalty of £100 is incurred for every offence by any person improperly leading the public to believe that an article is patented when such is not the case, or with the object of counterfeiting another person's patent; this

penalty, however, is not incurred where a patent has actually existed for the article in question, although the patent may have expired.

Appeal to the local Court of Adelaide of full Jurisdiction may be made from convictions of Justices of the Peace, or from orders dismissing any information laid under this Act.

By the amending Act No. 201 of 1881, the mere exhibiting or testing of an invention, whether publicly or privately, will not of itself be deemed a ground for refusing a patent, or justify infringement of the patent, if the application for the patent was filed within six months from the date of such exhibition.

By the amending Act No. 421 of 1887, Provisional protection for twelve months may be obtained, on depositing with the Commissioner a petition and specification, and a certificate of Provisional protection will be issued; and unless the patent be completed within the said period of twelve months, the protection will lapse. During the period of Provisional protection, the invention may be used and published without prejudice to the validity of the patent.

SPAIN.

Duration of Patent: for unpublished inventions, granted to inventors only, twenty years. For inventions not patented abroad for more than two years, ten years. Patents of Importation, five years.

Working: must be proved within two years of grant, and annually after.

Taxes: annually, one day previous to date of grant.

International Convention: applies.

Patents are granted in Spain under the law of the 30th July, 1878. This law repeals all previous laws relating to patents of invention, but patents obtained under the old laws, and still in force at the date of the new law, will continue for the term for which they were originally granted.

Uncompleted applications made before the publication of the new law, will be completed in accordance with the old law, unless the applicants elect otherwise.

Patents may be acquired by Spaniards or foreigners, singly or collectively.

Patents will be granted for machines, apparatus, instruments, processes, or mechanical or chemical operations, wholly or partly the invention of the applicant for the patent, and not known prior to his application, or which have not been established or worked in the Spanish dominions. Also new industrial products or results, whether the means by which they are obtained are new or old, provided that their working tends to the establishment of a branch of industry in the Spanish dominions, but a patent for an industrial product or result will not prevent other patentees from working patents which produce the same result.

By "new" is meant that which is not known, or not established, or worked, in the Spanish dominions or abroad.

Patents can be transferred wholly or partly, according to the laws relating to private property, and such assignments must be made by public deed, certified by the Secretary, and signed by the Director of the Conservatory of Arts, and entered in the register of proprietors.

No deed of assignment or modification will prejudice a third party, until it has been registered. A notification of all assignments will be sent by the Director of the Conservatory of Arts to the Madrid Gazette.

Spanish patents include, as well as the Spanish Peninsula and the adjacent islands, provinces beyond the sea.

The results or products of patented processes or apparatus are not patentable, excepting as above set forth, and the use of natural products, or mere speculative scientific principles or discoveries, pharmaceutical or medicinal preparations, schemes or combinations of credit or finance, are not considered to be patentable subject-matter. Only one industrial object can form the subject of one patent.

No examination as to novelty or utility is made before the delivery of the patent, which is, therefore, delivered without any guarantee.

A Spanish patent lasts for twenty years, if the subject be a new and original invention, but if otherwise, the patent will last for five years only; but in the case of foreign inventions, the original inventor, even if he has patented the invention abroad, may, if he applies for the patent in Spain before the expiration of two years from the obtaining of the first foreign patent, obtain a Spanish patent for ten years.

Yearly taxes are payable upon Spanish patents at the rate of 10 pesetas for the first year, 20 for the second, 30 for the third, and in like proportion for the rest of the term of the patent.

In applying for a patent, a petition must be presented to the Minister of Commerce, stating the condition (new or

original or not) of the invention, the domicile of the applicant or his attorney, also a power of attorney, specification, drawings, and sample or models, all in duplicate. The specification must be in the Spanish language, without abbreviations, corrections, or erasures of any kind, on consecutively numbered sheets; it must be perfectly clear and precise in its terms, and must terminate with a statement of claim, clearly setting forth the particular features claimed. The patent will depend entirely upon the claims. Drawings must be made on cloth paper in ink, and to a metrical decimal scale. A signed list of all the documents and objects must accompany the application. The date, hour, and minute of the application will be entered in a special register, which will thus establish the right of priority of the applicant. Any amendments which may be required, must be made within a period of two months from the date of the application being made in the Spanish Peninsula or adjacent islands, but four months if in the Canaries or Antilles, and eight months if in the Philippine Islands. If these terms be allowed to pass without the required amendment being made, the application will be considered abandoned.

Patents bear a notification that they are issued without guarantee of the Government as to novelty, fitness, or utility. A copy of the specification, drawings, samples, and models is delivered to the applicant with the patent.

The register of patents at the office of the Secretary of the Conservatory of Arts is open to the public during fixed hours, and the dates in this register are taken as evidence in the Courts. The specification, drawings,

samples, and models are open for public inspection at the office of the Secretary of the Conservatory of Arts during office hours; copies may be made at his own expense, by a person who has previously obtained the consent of the Director of the Conservatory, who will fix the place, days, and hours at which they may be made.

In the second half of the months of January, April, July, and October, publication is made of all patents granted during the preceding quarter, clearly setting forth their objects. When a patent expires, the specification, &c., will remain at the Conservatory of Arts, and if considered worthy, will be exhibited in the museum thereof.

During the life of a patent, the owner, or those entitled through him, may make alterations, modifications, or additions to the subject of the patent, in preference to any other persons who may apply with the same object. Patents of addition are granted for these, a tax of 25 pesetas in Government paper being payable upon each patent of addition. A Spanish patent must be worked within a period of two years from the date of the patent, or patent of addition, and this term can only be prolonged by a law on equitable ground for a period not exceeding six months. A special officer is appointed to see that the working is efficient.

A patent will be invalid, if it be proved that the subject of the invention was not new at the date of the application, or that the invention is not being worked in the form set out in the specification, or that any other fact set out as fundamental in the application is not borne out. Or should the object of the patent be contrary to public order,

safety, or morals, or the specification not sufficiently explicit, the patent will be invalid. Only interested parties can bring an action for the annulment of a patent, but the Public Prosecutor can demand the annulment of a patent should it be faulty in any of the points above set forth. A patent will also lapse when the period for which it was granted has expired, or when the annual tax is not duly paid, or when the invention has not been properly worked in the Spanish dominions within the statutory time, or such working has ceased for a year and a day, unless the cause of such failure to work the invention was beyond the control of the patentee. The first declaration of the lapsing of a patent is made by the Minister of Commerce, upon the advice of the Director of the Conservatory of Arts, but an appeal may be lodged to the judicial committee of the Council of State within a period of thirty days. Should, however, the lapsing of the patent be due to the failure to work, the ordinary Courts of Justice can, at the instance of an interested party, make the declaration. A notice of lapsed patents is sent to the Madrid Gazette by the Minister of Commerce.

The infringement of a patent is punishable by a fine of from 200 to 2,000 pesetas, and for a second offence from 2,001 to 4,000 pesetas. It will be considered a second offence if the second conviction takes place within the following five years. Complicity in infringement renders the offender liable to a fine of from 50 to 200 pesetas, and a second offence from 201 to 2,000 pesetas. The patentee may claim all products made in infringement of his patent, and damages for loss or injury, and insolvent infringers

may suffer imprisonment under Article 50 of the Criminal Code. Falsifiers of patents incur the penalties set out in the first section of Chapter IV., Book 2, of the Criminal Code. Actions for infringement can only be entered by the Public Prosecutor at the instance of the aggrieved party. Patent cases are tried before industrial juries, and when an action is brought at the same time against the patentee, and one or more of his licensees, the action will take place at the domicile of the patentee.

STRAITS SETTLEMENTS.

Duration of Patent: fourteen years.
Working: none.
Taxes: none.
International Convention: does not apply.

Patents are granted in the Straits Settlements under Ordinance No. 12 of 1871.

In this ordinance the word "invention" includes "improvement," and the word "manufacture" includes any art, process, or manner of producing, preparing, or making an article, and also the article itself. The word "inventor," except when followed by the word "actual," includes the importer of an invention new to the Colony, and both expressions, "inventor" and "actual inventor," include heirs, executors, administrators, or assigns. An invention will be deemed new, if not publicly used in the United Kingdom, in the Straits Settlements, or any British possession, before the date of the application, and publication in fraud of the inventor will not be recognised, if the real inventor applies

within six months after the commencement of such publication, for leave to file a specification, and has not acquiesced in the public use. The use of the invention in public by the inventor, his servants, agents, or licensees, will not be deemed a public use.

An exclusive privilege is not applicable, if the invention is of no utility, or not new, or if the petitioner is not the inventor, or if the specification is not sufficient, or if the petition, or any subsequent petition relating to it, contain a wilful or fraudulent misstatement.

The prerogative of the Crown, as to the granting or withholding the grant of Letters Patent, will not be interfered with by this ordinance.

The inventor, whether native or foreign, of any new manufacture, may present a petition to the Governor in Council, for leave to file a specification. The petition must be in writing, and signed by the petitioner, or his authorised agent. The Governor in Council may allow the specification to be filed, and may call in expert assistance, who is entitled to remuneration by the petitioner, the amount, in case of dispute, to be settled by a Judge of the Supreme Court, summarily. The Governor in Council may refuse to allow a specification to be filed. The petition and specification must be left with the Colonial Secretary, accompanied by a declaration, which will be recorded in the office of the Colonial Secretary. Conditions may be made in the order for leave to file the specification. The specification must fully describe the invention, and be accompanied by drawings; further particulars must be supplied, if required by the Governor in Council. The specification must be filed

within six months from the date of the order, and the privilege lasts for fourteen years from the time of filing the specification; it may be extended for another term of fourteen years by leave of the Governor in Council, but the petition must be presented at a time, not more than one year, nor less than six months, from the expiration of the original term.

A specification or petition may be disclaimed or amended by leave of the Governor in Council, a petition being presented pointing out the part that requires correcting, and stating how the mistake arose, and that there was no fraudulent intent. The petition must be accompanied by a written declaration by the petitioner, or his agent, to the effect that the contents of the petition are true, to the best of his knowledge and belief. The petition will be published in the Government Gazette, and a time for the hearing appointed, and any interested party may give notice to the Colonial Secretary of his opposition to the petition, and will be heard by the Governor in Council. The amendment, if allowed, will be added to, and form part of, the original specification, and considered a portion thereof, excepting as regards proceedings pending at the time of the amendment. No amendment will be allowed which would extend or enlarge the scope of the privilege. An inventor who has obtained Letters Patent in the United Kingdom or another British possession, exclusive of this Colony, may petition for leave to file a specification thereof, and when this is filed, the petitioner will be in possession of the full rights in the Colony, during the remainder of the term of the said patent; the petition must give the

particulars of the prior patent. Any person who has obtained an exclusive privilege under the Indian Act No. 15 of 1859, before the 1st of April, 1867, will be entitled to his full rights under that grant, upon registering a certified copy at the office of the Colonial Secretary.

A copy of any amendment made to the patent in Great Britain, or other British possession, or under the provisions of the Electric Telegraph Exclusive Privileges Ordinance, 1870, may be ordered by the Governor in Council to be filed at the office of the Colonial Secretary, and thereafter read as part of the specification, but such amendment must not extend the scope of the grant.

Every petition for leave to file a specification, or for the extension of the term of the privilege, must be written on stamped paper.

All specifications are entered in a register kept at the office of the Colonial Secretary, which, or a copy thereof, is open to public inspection upon payment of a fee. Certified copies of any entry can be obtained on payment of the expense of copying, and will be *primâ facie* evidence.

An address book will be kept at the office of the Colonial Secretary open to inspection free of charge, in which the addresses of all proprietors or part-proprietors of exclusive privileges will be entered, and any notices, relating to the exclusive privilege, will be sent to the address therein given. It is incumbent upon the proprietor of the privilege, to see that his name and address are entered, and should this not be done, then service of any rule or proceeding or process, may be effected by placing a copy in a conspicuous part of

the Supreme Court House, or in some other manner directed by the Court.

The privilege may be lost, if the Governor in Council notifies in the Government Gazette that the privilege, or the mode of exercising it, is mischievous to the State, or prejudicial to the public; or if any of the conditions under which the privilege was granted, or extended, should have been broken, the Governor in Council may, upon the order of the Supreme Court, declare the privilege forfeited.

Actions for infringement may be taken by the inventor in the Supreme Court. The plaintiff must deliver particulars of the breaches complained of, and the defendant his particulars of objections, and only evidence in support of the particulars delivered will be allowed at the hearing; but the Court has power to allow the particulars to be amended. In an action for infringement, the defendant may not plead any defect or insufficiency in the specification, or mis-description in the petition, nor that the invention is not useful, nor that the plaintiff was not the inventor, unless the defendant proves that he was the actual inventor, or obtained, either wholly or in part, the right from the actual inventor.

The privilege may, however, be challenged on the ground that the invention was not new, if the defendant, or some person through whom he claims, before the date of the petition to file the specification, had publicly or actually employed the invention in the Colony, or some part of the United Kingdom, or British possession. Where a privilege was granted to a person other than the inventor, in fraud of the actual inventor, and the actual inventor, within two years from the date of the petition to file the specification,

satisfies the Supreme Court of these facts, the person to whom the privilege was granted, may be compelled to assign the privilege to the real inventor, and account for, and pay, the profits of the invention.

Either the Attorney- or Solicitor-General may apply to the Supreme Court, and cause the proprietor of the privilege to show cause, why the question of the breach of any special condition, or the like, should not be tried as an issue directed by the Court, and the Court may direct such issue to be tried, and certify the result to the Governor in Council, the costs being at the discretion of the Court.

Any person may apply, by motion to the Supreme Court, for a rule to show cause against the Court, declaring that an exclusive privilege has not been acquired, upon any of the following grounds :—

That the invention was not new at the date of the application. That the petitioner was not the inventor, and, in addition, that the applicant was the inventor, or that the inventor had given over the invention to the public, or acquiesced in the public use of it. That the specification is insufficient. That the petitioner fraudulently included something not new, and of which he was not the inventor. That a wilfully false statement is included in the petition or specification, or that a portion of the specification is insufficient, and that such insufficiency is fraudulent or injurious to the public.

Notice of any rule obtained, or proceeding taken, will be served upon the persons appearing in the address book.

The Supreme Court may direct the trial of any question of fact, in the usual manner for trying such issues in the

Court. The Court may adjudge that the privilege has not been acquired, and may make any order that it may think just as to costs, and so long as the judgment continues in force, the proprietor of the privilege will cease to have the benefit of it.

Where some old matter, or of which the petitioner was not the inventor, has been included in the specification, or where the specification is defective or insufficient, but the cause was not fraudulently intended, the Court may decide that a valid privilege has been obtained, and may order the specification to be amended, should it appear that this can be done without injury to the public, and upon such terms as the Court considers reasonable, whereupon an amended specification may be filed. No amendment may be made which will enlarge the scope of the privilege.

Excepting in case of fraud, the privilege will not be defeated upon the ground of misdescription of the invention in the petition.

Where the Court finds that the privilege has not been acquired, the Colonial Secretary, upon production of a certified copy of the judgment, will make in the register an entry thereof.

Nothing in this ordinance will prevent the right of appeal to Her Majesty in Her Privy Council.

SWEDEN.

Duration of Patent: fifteen years.
Working: must be proved within three years of grant, and continually.
Taxes: yearly, from date of application.
International Convention: applies.

The granting of patents in Swoden is rogulated by tho law of tho 16th May, 1884, amondod by an Aot of tho 14th April, 1898, whioh oamo into operation on tho 1st January, 1894. This law oancolled tho provious statuto rolating to patonts of the 19th August, 1856.

Patonts aro granted for industrial productions, or spooial methods of manufacturing such productions. Only inventors, whether Swodish or foreign, or their legal roprosontatives, aro ontitled to obtain patonts.

No patent will bo granted for anything contrary to law or morals, and in tho oase of provisions or medioines, tho patent will not be granted for tho commodity itself, but only for tho method of manufacture. An invention will not bo considered new if, before tho filing of the application, it has been described in a printed publication accessible to the public, or so fully worked that a person, skilled in the art to which it appertains, could work it from the knowledge thus obtained. Publication of foreign patent specifications, or the exhibition of the invention in international exhibitions, will not prevent the obtaining of a valid patent, if the application be filed within six months from the date of such publication or exhibition.

An application must be accompanied by a specification and drawings, in duplicate, and models or samples, if necessary. The specification must be full and complete, and indicate the novel features of the invention. Where the inventor resides abroad, he must appoint an attorney. A patent will only be granted for one invention. A fee of 50 crowns is payable with the application. If the application is not in order, notice to that effect will be sent, and should

the necessary amendment not be made within the time fixed, the application will be considered to be abandoned. Applications not complying with the requirements as to novelty, the identity of the inventor, or his legal representative, or the payment of the necessary fees, will be rejected. Upon acceptance of an application, it will be advertised in the newspapers with the main features thereof, and the specification will then be accessible to the public, and during the ensuing two months, any person may enter an opposition, in the form of a written protest, against the application. At the end of this period, the Patent authorities will decide as to the granting or otherwise of the patent.

The particulars of the patent and the grant will be entered in a register kept for the purpose, and will be advertised in the newspapers.

An applicant, dissatisfied with the decision of the Patent Office, may appeal to the King within sixty days after the decision.

Where several persons apply to patent the same invention, the patent will be granted to the one who first applied.

Patents are granted for a period of fifteen years from the date of the application. Patents of addition may be obtained upon the principal patent. Should an application for patent be rejected, one-half the sum paid with the application will be returned.

An annual tax of 25 crowns each for the second, third, fourth, and fifth years, and of 50 crowns for each of the next five following years, and of 75 crowns for each of the remaining five years, is payable. The tax must be paid in advance for each year, or if not paid within ninety

days after it becomes due, the patent will be forfeited, and if paid during the said ninety days, an increase of one-fifth will be demanded.

Notice of any assignments, together with the necessary documents, must be presented to the Patent authorities for entry on the records, and failing such notice, the patentee previously entered upon the records will be considered to be the owner of the patent.

A patentee about to reside abroad, or where the patent has been assigned to a person not resident in Sweden, must obtain a legal representative, and deposit a power of attorney with the authorities.

Patents must be worked to an adequate extent within three years from the date of grant, but this period may be prolonged upon request up to four years. The authorities may, in exceptional cases, determine what shall be considered sufficient working. The patent will be forfeited, if the patentee has failed to work his invention during the prescribed time, or discontinues the working for a period of one year. Any person who had worked the invention, or made extensive preparations to do so, prior to the application for the patent, will not be bound by the patent. A patent may be laid open to the free use of the public, or appropriated to the use of the State, upon compensation to the patentee, which may be fixed by a special jury appointed by the Court.

Making, selling, or importing the subject of the patent would be an infringement, for which the person knowingly infringing will be liable to a fine varying from 20 to 2,000 crowns, as well as damages, but only the patentee can take

action for recovering those penalties. Such infringing goods must be delivered up to the patentee against compensation for their value or deduction from the damages. Implements exclusively used for manufacturing infringing articles will be destroyed. Persons accused of infringement who continue the offence pending proceedings, will, where legally convicted, have to account for each separate time that a warrant has been taken out against them. Money fines go to the Crown; where these cannot be fully paid, they may be varied according to the common penal code.

A lapsed patent will be cancelled in the register, and a notification of the cancellation will be published in the newspapers.

A patent may bear the earlier date of a corresponding prior application, if filed within seven months of the date of such application, provided the foreign country concerned grants similar courtesy to Sweden.

A patent granted under the previous law may be exchanged for one under the present law.

SWITZERLAND.

Duration of Patent: fifteen years.

Working: before definitive patent granted, proof of existence of model required within three years.

Taxes: yearly, from date of application.

International Convention: applies.

Patents are granted in Switzerland under the law dated

the 20th June, 1888, which came into force on the 15th November, 1888.

Patents are granted to authors of new inventions, or to their assigns. The inventions must be applicable to the industrial arts, and must be capable of representation by models; they must be new, by which is meant that they must not be so well known in Switzerland, at the date of the application for patent, that they could be already carried out by a person skilled in the trade concerned. A patented article may not be made, or traded in, without the authorisation of the proprietor of the patent. If the patent covers a tool, machine, or other means of production, similar authority would have to be obtained for the use of it; but should the machine be placed upon the market without restrictive conditions, the authorisation would be deemed to be granted. Any person who has, previous to the application for the patent, worked the invention, or taken the necessary steps for doing so, would not be amenable to the patent.

Patents may be transmitted by succession, and may also be totally or partially assigned or mortgaged, and licenses may be granted under them, but such transmissions are not operative against third parties until they are registered.

The patent lasts for fifteen years, dating from the day of application, and is subject to a yearly progressive tax.

Taxes are payable in advance, upon the anniversary of the day of application; all or some of the taxes may be paid up before they are due, and should the patentee renounce his patent, the taxes overpaid would be refunded.

Patents of addition are granted upon payment of a single tax, the patent of addition expiring with the principal patent. A person proving that he is without resources, may have the payment of the first three annuities postponed until the commencement of the fourth year, and if he allows the patent then to lapse, these taxes will be remitted.

Patents will lapse—

If renounced by the proprietor by a declaration in writing addressed to the Federal Office of Industrial Property.

If the annual taxes are not paid at the latest within three months after the time when they become due.

If the invention has not been worked before the expiration of the third year from the date of application.

If the patented article is imported into Switzerland from abroad, and the proprietor has refused to grant, upon equitable terms, licenses to Swiss manufacturers.

Forfeiture of the patent under the last two provisions will be pronounced by the Courts upon the application of any interested person.

A patent will be invalid from the first—

If the invention was not new, or not applicable to the industrial arts, or if the patentee was not really the author of the invention, or his assignee, but pending proof of this the patent will be held to be valid.

If an incorrect title be applied to the invention for purposes of misleading the public as to the true object of the invention.

If the specification be not sufficient to enable a person, skilled in the art to which it appertains, to carry the invention into effect.

If the specification does not correspond with the model.

Any interested person can bring an action for annulment.

A foreigner must nominate an attorney domiciled in Switzerland, who will represent him before the Patent Office.

Where the patentee is unable to work his invention, without infringing a previous patent, he may demand from the previous patentee the grant of a license after the lapse of three years from the date of the earlier patent, but only if the new invention is of real industrial importance. In such a case, the proprietor of the first patent may demand a license from the second patentee.

A patent may be appropriated, at the expense of the Federation, or of a Canton, for the benefit of the public; the amount to be paid as indemnity will be fixed by the Federal Tribunal.

Applications for patent must be lodged at the Federal Office of Industrial Property. Only a single principal object, and the details necessarily relating thereto, may be included in one patent.

The title must point out clearly and precisely the nature of the invention. The application must be accompanied by a specification, ending with a claim, drawings to enable the description to be properly understood, and some proof that a model of the invented article, or the invented article itself, exists. All applications must be in one

of the three national languages. Should the patent be refused, the first annuity will be returned. The Federal Council may require models to be produced in certain cases.

Provisional patents are granted in Switzerland, but these merely assure to the applicant the right, during the ensuing two years, of obtaining a full patent, notwithstanding publication in the interval, the Provisional patentee having no right of action for infringement. If, before the expiration of the two years, the application be not fully completed, it will lapse. A complete patent does not afford a right of action for infringement committed during the term of the Provisional patent, and its duration will be calculated from the date of the original application. The Federal Office will reject every informal application, but an appeal is allowed to the Superior Administrative Authority during the ensuing four weeks. Amendments may be made, to comply with the requirements of the Office.

Patents, whether Provisional or Complete, are delivered at the risk of the applicants, and without guarantee of the Government.

A register of proprietors and patents is kept at the Federal Office, in which any matters affecting the patents, or the ownership thereof, such as licenses, lapsing or appropriation of the patent, judicial decisions, &c., are entered.

Every patented article must be clearly marked with the Federal cross ✚ and the number of the patent; should the nature of the articles not allow of their being so marked, then the mark and number must be borne by the packages. No action can be instituted by a patentee, who has failed to

comply with this requirement. The patentee may require any person, who may have worked the invention previous to his application for the patent, or taken the necessary steps for so doing, to similarly mark his goods.

Oral or written information may be obtained from the Federal Office as to the contents of the register, for which information the Office will fix the fee. Immediately upon delivery of a patent, the Federal Office will publish the title and number and names and addresses of the patentees and their attorneys, and, similarly, every annulment or lapsing, or change in the ownership, of a patent, will be published. Specifications are to be published, and to be on sale at a moderate price; they are to be supplied to the public departments and establishments of higher education, and to industrial museums, and to be exchanged for similar publications of other countries.

Publication of the specification may be postponed for six months, at the request of the applicant, so as not to interfere with foreign patents, but the patentee cannot proceed against infringers until the actual publication has taken place.

Imitating the patented articles, or illicitly using them, selling, or putting on sale, or in circulation, the infringing articles, or assisting in these acts, or refusing to disclose the origin of infringed articles, all constitute infringements.

Infringers are liable to be condemned to fines of from 30 to 2,000 francs, or to imprisonment for from three days to a year, or both, and in case of repetition of the offence, the penalty may be doubled, but these penalties will not be applicable if the infringement was committed through error,

imprudence, or negligence. Any interested person may commence an action for infringement. No proceeding for infringement can be commenced more than two years after the date of the last infringement. The Civil or Commercial Tribunals may, upon production of the patent, cause an exact inventory of the infringing articles, and the tools employed in their manufacture, to be drawn up, and the articles seized, but the plaintiff may be required to deposit security; the articles seized may be confiscated up to the amount of the damages and fines. The judgment may be published in one or more papers at the cost of the convicted person. Improperly placing upon commercial papers, an intimation or indication stating or suggesting the existence of a patent, when the patent does not, in fact, exist, is punishable by a fine of from 30 to 500 francs, or imprisonment for from three days to three months, or both, the penalty being doubled in case of repetition of the offence. An appeal from a decision may be presented to the Federal Tribunal. Fines which are not paid, will be commuted by the judge for an equivalent term of imprisonment.

The International Convention is applicable to Switzerland, and Article 32 of the law specially confirms the right of priority of seven months from the date of the application of a foreign patent to the foreign applicant.

Temporary protection for six months is granted to the exhibitors at national or international exhibitions in Switzerland, dating from the date of the first admission of the patented article to the exhibition; and, during this period, other applications for patents or acts of publication

will not prevent the inventor from making an application for and obtaining a valid patent. The same protection will be extended to international exhibitions held outside the Swiss territories, in countries which have entered into the Convention with Switzerland.

Patents running at the date of the present law by virtue of Cantonal laws, will remain protected in the respective Cantons until the expiration of their legal term.

This law was amended by an amending Act, which took effect on the 1st August, 1898, in the following particulars:—

The duration of Provisional patents is extended to three years instead of two, this extension relating to Provisional patents applied for after the 31st July, 1891.

The proof of existence of the model can also be made at any time within three years instead of two, and more easy means of proof are accepted than was the case under the previous Act. The permanent deposit of photographs will be accepted in those cases where models are not to be permanently deposited, and the subject of the invention admits of being photographically represented; in such cases, the proof of existence of the model will be dispensed with by the Patent Office, but in case of an action of law, the Courts would decide whether the photographs were sufficient proof. However, where no permanent model has been required, and the photographs are not acceptable, the question of the proof of existence of the model must be determined by the Patent Office. (These photographs should always be filed, and a sufficient number of views given, to clearly show all those parts of the patented

object which form the subject of the claims of the patent.)

Under the law as it now stands, the permanent deposit of models is absolutely essential for certain classes of inventions, amongst which may be mentioned watches, fire-arms, and other complicated inventions. The permanent deposit of photographs is permitted in all cases where the models are not permanently deposited. Where neither models nor photographs are deposited, the question of the proof of the existence of the model should be submitted to the consideration of the Swiss Patent Office.

TASMANIA.

Duration of Patent: fourteen years.

Working: none.

Taxes: before the end of third and seventh years.

International Convention: applies between Great Britain and Tasmania.

Patents in the Colony of Tasmania are granted by the Act No. 6 of the 29th September, 1893, which repealed all previous Acts, and in many of its chief provisions is similar to the Acts now in force in Great Britain.

Any person, whether a British subject or not, may apply for a patent, and a patent may be granted to two or more persons jointly, at least one of whom must be the true and first inventor; in case of the decease of the inventor, his legal representative may apply at any time within six months of the date of the decease.

An application for a patent must be accompanied by a

declaration, attested by a witness, stating that the applicant is the true and first inventor, and by a Provisional or a Complete specification, which must be signed by the applicant. The Provisional specification must describe the nature of the invention, but the Complete specification must go fully into details; both specifications to be accompanied by drawings, if required. Where an applicant resides out of the Colony, an address within the Colony must be given.

Every application for a patent and specification will be examined by the Registrar, to ascertain if the invention has been fairly described, if the papers are in proper form, and if the title sufficiently indicates the nature of the invention. Amendment may be required, but the applicant may appeal from a decision of the Registrar to a judge. Should a second applicant, before the first patent has been sealed upon a similar invention, desire it, the Registrar may, within two months of the grant of the first patent, either decline to proceed with the second application, or allow the patent thereon, if granted, to be surrendered.

The Complete specification must be left within nine months from the date of the application for the patent, and if it be not accepted within twelve months, the application will lapse. No specifications are published where the application is not completed.

Acceptances of Complete specifications are advertised once in the Gazette, and twice in some newspaper published in Hobart and Launceston, the specification being open for public inspection after the first advertisement. Within two months from the date of the last advertisement, any person may enter an opposition to the grant of the patent,

and must state the grounds of his objection, no special grounds of opposition being fixed by the Act. Within fourteen days after such notice, the opponent can apply to a judge to appoint a day for the hearing, and must notify the applicant of the fixture; the judge may hear the parties either in each other's presence, or absence, as he shall think fit, and may decide on the case, subject to appeal to the Court, which, however, will only hear an opponent who is, in their opinion, entitled to be heard in opposition to the grant. Either the judge or the Court may make orders as to the expenses and costs.

A patent must be sealed within fifteen months from the date of the application, excepting where the sealing is delayed by an appeal to the Court, or where the sealing is delayed through accident, or the death of the applicant; in the former case, the Governor in Council may direct when the patent shall be sealed, but in the latter case it must be sealed within twelve months after the death of the applicant.

The time for leaving and accepting specifications may be extended, in the case of leaving a specification for one month beyond the nine months, and, in the case of acceptance, for three months beyond the twelve months, upon payment of the fees prescribed, and where such extension of time has been obtained, a further time of four months beyond the fifteen months may be allowed for the sealing of the patent.

The patent dates from the day of the acceptance of the application, but no proceedings for infringement, committed before the application of the Complete specification, may be

taken. The patent covers Tasmania and its dependencies, and runs for a term of fourteen years from the date of the acceptance of the application.

A patent is granted for one invention only, though it may contain more than one claim, but it cannot be attacked upon the ground that it comprises more than one invention.

The patent is subject to the payment of taxes at or before the expiration of the third and seventh years, the time for paying which may, in proper cases, be extended for three months, upon application to the Registrar; should an infringement take place during the period of extension, the Court may refuse to award damages in respect of such infringement.

During the term of Provisional protection, the applicant may give notice in writing to the Registrar to abandon his application, whereupon protection will cease.

Upon the acceptance of the Complete specification, the applicant for the patent enjoys the full rights of a patentee, but cannot commence an action for infringement until the patent is sealed.

A patent may be amended by way of disclaimer, correction, or explanation, the application to amend being published once in the Gazette, and twice in some newspaper published in Hobart or Launceston, and opposition to the amendment may be entered at any time within one month from the date of the last advertisement. In case of opposition, the Registrar will hear the applicant and opponent, subject to appeal to a judge. Should the amendment be refused by the Registrar, appeal may be made to a

judge. No amendment will be allowed which will extend the scope of the specification, but leave to amend having been granted, will be conclusive as to the right of the party to make the amendment, except in case of fraud.

During an action for infringement, or revocation of a patent, the Court may, at any time, allow the patentee, subject to terms and costs, to apply for leave to amend, the trial of the action being postponed meantime.

Where a specification has been amended, no damages will be given in respect of infringement committed before the date of the amendment, unless the patentee can satisfy the Court that the original claim was framed in good faith, and with reasonable skill and knowledge.

The Governor has power to grant compulsory licenses if it be shown that—

(1) The patent has not been worked in the Colony; or

(2) The reasonable requirements of the public with respect to the invention cannot be supplied; or

(3) Any person is prevented from working, or using to the best advantage, an invention of which he is possessed.

A petition may be presented at least six months before the expiration of the patent to the Governor in Council, for extending the term of the patent; any person may enter a caveat against the extension. The Governor may refer such petition and caveat to a Court or judge, who may extend the term of the patent for a term of seven, or, in exceptional cases, fourteen years, or may order a new patent to be granted for the new term, containing any restrictions, conditions, or provisions that the Court or judge may order.

A patent may be revoked upon petition to the Court by the Attorney-General or his nominee, or by any person alleging that the patent was obtained in fraud of him, or that he was the true and first inventor, or that he, or those concerned with him, had publicly manufactured or used the invention in Tasmania before the date of the patent.

Where a patent has been revoked on the ground of fraud, the Registrar may grant to the true inventor another patent in lieu of that revoked, bearing the date of revocation of the previous patent, but ceasing with the term of the original patent.

A patent will be effective as against the Crown, but the authorities may use an invention on terms to be agreed, or settled by the Minister having control of the Department. An assessor may be appointed in an action for infringement or revocation, and a Court may, upon the application of either party, make an order for an injunction, inspection, or account, and impose terms. Where the patentee has threatened another person with proceedings for infringement under his patent, the aggrieved party may bring an action against him, and obtain an injunction against the continuance of the threats, and may also recover damages, if any, unless the patentee, with due diligence, brings and prosecutes an action for infringement.

A register of patents is kept at the Patent Office, in which all acts and deeds relating to patents, assignments, and licenses are entered.

A patent may be assigned, or licenses under it granted, for the whole Colony, or any place or part thereof. Duplicate Letters Patent may be sealed where the patent is lost

or destroyed, and its non-production is satisfactorily accounted for. Exhibiting an invention at a Colonial, inter-colonial, or international exhibition, duly declared by a notice in the Gazette to be an industrial exhibition, will not invalidate a patent subsequently obtained, if the exhibitor, before exhibiting, gave the Registrar notice of his intention to apply for a patent, but the application must be made within six months from the date of the opening of the exhibition. Where the exhibition is held at a place outside the Colony, the Governor in Council may exempt the exhibitor from the necessity of giving notice.

The Registrar may demand a model of any patented invention, but must pay for it.

The patent will not prevent the use of the invention for the purposes of navigation of foreign vessels within the jurisdiction of the Supreme Court of Tasmania, nor the use of the invention on a foreign vessel within that jurisdiction, if it be not used in connection with the manufacture of anything intended to be sold in, or exported from, the Colony, always supposing that the country to which the foreign vessel belongs, grants similar privileges to the colonists.

An application for a patent, relating to instruments or munitions of war, may, with the consent of the inventor, be sealed up, and kept secret, pending a reference to Her Majesty's principal Secretary of State for the War Department.

Patents existing at the date of the passing of this Act, will be subject only to the payment of such fees, and at such times as is specified in the previous Act, but in other

respects this Act will extend to patents granted before it came into force, and in the case of applications pending at the date of this Act, the patent will be issued subject to this Act.

International and inter-colonial arrangements, in many respects very similar to those of the International Convention, are provided in this Act, Section 108 of the British Patents, Designs, and Trade Marks Acts being mentioned, and the time limit being given as twelve months in the case of a patent, and six months for a design or trade mark, from the date of the application in England, or the foreign State with which the arrangement is in force. The publication in Tasmania during these periods will not entail the invalidity of the subsequent patent or registration.

A special seal is provided for the Patent Office, and impressions thereof will be admitted as evidence. No notice of any trust, whether expressed, implied, or constructed, will be entered in the registers. No patent will be granted, or trade mark or design registered, which, in the opinion of the Registrar, would be contrary to law or morality. All assignments or transmissions of patents, designs, or trade marks must be entered on the respective registers, and the persons for the time being thereon appearing as entitled, will have power to deal with the respective patents, designs, or trade marks.

The registers are at all convenient times open to public inspection. Copies of documents, and extracts from the registers, sealed with the seal of the Patent Office, are to be received in evidence, as also will be the certificate of the Registrar. An entry in any register may be rectified

by order of the judge. The judges of the Supreme Court may make rules under the Act. The Registrar may, upon request in writing, correct clerical errors in the documents or registers. The falsification of an entry in a register would be a misdemeanour. The Registrar has power to call and examine witnesses or documents, and can adjourn the consideration of cases.

Applications may be sent by post to the Registrar, and should the leaving of documents or paying of fees at the Patent Office fall due on Christmas Day, Good Friday, or on a Saturday, or Sunday, or Bank Holiday, or other day observed as a public holiday, fast or thanksgiving, or upon any day when the Patent Office is closed for the whole day, the said leaving or paying may be effected on the first business day following the holiday.

The Registrar will prepare an annual report, to be laid before both Houses of Parliament.

Representing an article to be patented, when no patent has been granted for it in Tasmania, or describing an article as registered, when no trade mark or design has been registered for it, renders the offender liable, upon summary conviction, to a penalty not exceeding £50. The use of the Royal Arms, without proper authority, renders the offender liable, upon summary conviction, to a penalty not exceeding £20, and a similar penalty is incurred by falsely representing that goods are made by a person holding a royal warrant, or the like.

This Act does not take away, abridge, or prejudicially affect the prerogative of the Crown, so far as it relates to the granting or refusing to grant Letters Patent.

TRINIDAD.

Duration of Patent: fourteen years.
Working: none.
Taxes: none.
International Convention: does not apply.

Patents are granted in Trinidad under the Ordinance No. 25 of the 2nd September, 1867.

Patents are granted for a period of fourteen years, to any person claiming to be the inventor, within the Colony, of the invention, and supplying to the Registrar-General a declaration to that effect, together with a specification signed by himself, or his agent, and fully describing the invention, and its mode of application. The Registrar-General will deliver a certificate, a copy of which will be inserted in the Royal Gazette. Specifications can be delivered to the Registrar-General either open or closed, and if the latter, they will be opened at the expiration of six calendar months from the date of the certificate, or earlier at the request of the applicant, or his representative.

A "Book of Inventions" is kept by the Registrar-General, in which inventions are entered, in chronological order, together with the date of the certificate, and the names of the inventor, this book, and the specifications, being open to the public.

A disclaimer, or memorandum of alteration, may be left with the Registrar-General, and, so long as it does not extend the scope of the patent, will be filed by him, and will then be taken to be part of the specification, but no action can be taken for any infringement committed prior

to the making of the amendment. Where part of the patent has been assigned, the original patentee, and the assignee, may together make the amendment or disclaimer, and, where the patent has been entirely assigned, the assignee may make the amendment or disclaimer, and it cannot afterwards be contended that the party so making the disclaimer, was not fully entitled to do so.

Disclaimers and alterations are entered by the Registrar-General, in a special book kept for the purpose, and are numbered to correspond with the patents to which they refer, the date of the amendment being entered. The proprietor of a patent has the same right of action against an infringer, as the grantee of Letters Patent would, in a similar case, have under the law of England.

The patent will lapse, if it should be proved that the invention was not new as to public use and exercise thereof in the Colony, at the date of the application, or that the invention is prejudicial, or inconvenient to the public generally.

The fees upon patents are paid to the Registrar-General, and by him paid over to the Receiver-General, for the use of the Colony.

TUNIS.

Duration of Patent: five, ten, or fifteen years.

Working: within two years, and every two years after.

Taxes: yearly.

International Convention: applies.

Patents are granted in Tunis under the law of the 26th December, 1888.

Patents are granted for every new discovery or invention in all departments of industry, new industrial products, and new methods, or the new application of old methods, for obtaining industrial results, being considered patentable. Schemes and combinations of credit or finance, or objects contrary to the law or morality, are not patentable, and should the invention relate to food or medicine, the patent will be granted only for special processes of manufacture, and not for the article itself.

Patents are granted for five, ten, or fifteen years, subject to the payment of yearly taxes.

An application for a patent must be addressed to the Prime Minister, and comprises a petition, a specification of the invention, accompanied by drawings or specimens necessary to its comprehension, and a memorandum of the documents deposited; the date and hour of the application are noted in an arrival register, where applications are entered in the order of their receipt, and numbered. A receipt will be given if required.

Only a single principal object, and its details, may be comprised in one patent, and the application must indicate the number of years for which the patent is desired, and must not contain any restrictions, conditions, or reservations. The title of the invention, and a short and precise description, must be given, and the specification must be in the French language, without alterations or interlineations; erased words must be counted and verified, and the objects and references initialled. Measures and weights must be on the metrical system; drawings must be in ink, and to a metrical scale. Specifications and drawings must be in

duplicate, and all documents must be signed by the applicant, or his attorney; should an attorney be employed, he must be provided with a power of attorney, which will remain annexed to the petition. The first payment must be lodged with the application, and this will be retained, even if the patent be refused.

If the application is in order, the Prime Minister will publish a notice of the application in the Official Journal, giving a summary of its contents, and within two months after the publication, any person may enter an opposition in writing to the grant of the patent. Should no opposition be entered, and everything being found in order, the applicant will receive a decree of the Prime Minister, or his delegate, which will constitute the Letters Patent; it will be inscribed in a register of patents, and notice thereof will be published in the Official Journal. Should the patent be refused, notice will be given to the applicant, or his attorney. Should the application be opposed, the patent will not be delivered until, the applicant has satisfied the appropriate tribunal.

Patents are issued at the risk and peril of the applicants, and without any guarantee as to the reality, novelty, or merit, or the correctness of the specification. The patentee, or other proprietor, during the life of the patent, is entitled to make alterations, improvements, or additions, applying in a manner similar to that for the Provisional application, and to obtain patents of addition for them, expiring with the original patent. A patent of addition, taken by one of the parties, will be for the benefit of all the parties interested in the patent.

A new and independent patent may be obtained for an alteration, improvement, or addition, instead of a patent of addition.

Only the patentee, or person claiming through him, can obtain a patent of addition during the first year; any other person, in the same circumstances, must deposit his application under seal, in the hands of the Prime Minister. The seal will be broken at the end of the year, and the patent delivered in the usual manner. In any case, the patentee will have the preference, should he have applied for a patent of addition during the year.

The patentee of an invention connected with the subject already patented, cannot work the subject of the previous patent, and, similarly, the proprietor of the previous patent cannot work the subject of the new patent.

The whole or a part of the patent can be assigned, but this, whether for a consideration or not, can only be done by a notarial deed, and after the payment of the taxes for the whole term of the patent. An assignment is not binding upon third parties, until it has been entered in the register of patents; until this is done, the last proprietor appearing in that register will be recognised as the owner.

Licensees are entitled to the full benefit of patents of addition, procured by the patentee, or others claiming through him, and, similarly, the patentee will benefit in the patents of addition procured by the licensees. Copies of patents of addition can be obtained at the Ministry of Agriculture and Commerce. At the expiration of a patent, the specification, drawings, specimens, or models may be inspected, without payment, by every applicant for a patent.

Copies of expired specifications, and drawings, may be obtained by anybody, at his own expense.

The titles of all the patents granted during the preceding year, will be published at the beginning of each year, in the Tunis Official Gazette. Every Tunisian, or foreigner, or assignee, having an invention to patent, or design to register, may, upon the admission of the exhibit into a public exhibition, authorised by the Administration, obtain a descriptive certificate of the article deposited, from the Prime Minister, conferring upon him the same rights as he would have had *under a patent* or *design registration, and dating from the* day of admission, until three months after the closing of the exhibition. This certificate will not prejudice the subsequent patent or registration, but the application for the certificate must be made during the first month of the exhibition; it must be addressed to the Prime Minister, and be accompanied by a specification of the article, accompanied by drawings, if necessary. These applications, and the decisions of the Prime Minister, are entered in a special register, open to the public. No charge is made for these certificates.

Patents issued under the following circumstances are invalid, *ab initio*:—

If the invention is not new, or not patentable according to the terms of the law.

If it relates to theoretical, or purely scientific principles, methods, systems, discoveries, or conceptions, without indicating the industrial application.

If contrary to public order or safety, or the laws of the country—in these cases without prejudice to any penalties,

which may have been incurred for infraction of the laws of the country.

If the title is fraudulently misleading.

If the specification is insufficient or misleading, or has been illegally obtained.

These objections would apply equally to patents of addition.

An invention will not be considered new, if, whether in the Regency or abroad, it has, prior to the date of the application for patent, been sufficiently known to enable it to be worked.

The rights of a patentee will be forfeited—

If he fails to pay the tax at the beginning of each year during the life of the patent, or if he fails to work the invention in Tunis within two years from the date of the grant of the patent, or ceases to work it during two consecutive years, unless he is able to justify such inaction.

If he has introduced into Tunis articles similar to those protected by the patent, but manufactured abroad. However, models of machines, and foreign made articles for public exhibitions, or for experiments sanctioned by the Government, may be introduced.

A fine of from 50 to 1,000 piastres is incurred by anyone who in any way designates himself as a patentee without possessing a patent, or having had a patent, after it has lapsed, or having a patent, omits to state that it is without the guarantee of the Tunisian Government. Repetition of the offence entails the doubling of the fine.

Any interested party may bring an action for the annulment or forfeiture of a patent before the French Tribunal

of First Instance, and if this be pronounced by a judgment or final decree, notice is given to the Prime Minister, and an announcement thereof will be made in the Official Journal. Should the action be brought against the proprietor of the patent, and a licensee, the hearing will be at the tribunal in the domicile of the owner. The case will be adjudicated upon in the summary manner prescribed by Articles 405 and following of the Code of Civil Procedure, and will be communicated to the Procureur de la Republique. The Public Prosecutor may intervene, and have the absolute nullity, or forfeiture, of the patent declared, in a case tending in that direction, or he may initiate an action for the annulment of a patent, and all parties interested in the patent, whose titles have been registered with the Tunisian Government, must be parties to the action.

Infringement is punishable with a fine from 100 to 2,000 piastres, and any interference with the rights of a patentee, whether by manufacturing the patented articles, or using the subject of the patent, would be considered an infringement.

Receiving, selling, or exposing for sale, or introducing the infringing articles into the territory of the Regency, renders the offender liable to the same penalties. Penalties are not cumulative, and the highest penalty is only inflicted for acts committed previous to the commencement of the proceedings. Imprisonment, from one to six months, may be added, upon a repetition of the offence, and it will be considered a repetition, if the accused person has undergone a first punishment for infringement during the previous five years.

Imprisonment, of from one to six months, may be inflicted upon an infringer who is employed in the establishment of the patentee, or if the infringer has associated with an employé, and has so become acquainted with the subject of the patent; in the latter case, the employé will also be prosecuted as an accomplice. Article 408 of the French Penal Code may be applied to these offences. Actions for the applications of these penalties can only be brought by the Public Prosecutor, upon the complaint of the injured party.

The Court for the trial of misdemeanours trying an action for infringement, will decide the points as to nullity or forfeiture of the patent, and questions relating to the ownership of the patent.

Having obtained an order from the President of the Tribunal of First Instance, the proprietor of a patent may, by officers of the Court, have pointed out, and fully described, articles said to be infringements, and may seize these or not. Such an order is issued upon a simple request, the Letters Patent being produced. In the order, an expert will, if necessary, be nominated to assist the officer. Where a seizure is to be made, the applicant may be required by the order, first to give security, and a copy of the order and of the certificate, that the security has been deposited, if this has been required, must be left with the holder of the objects to be described or seized, and should this not be done, the proceedings may be annulled, and damages given against the officer.

A seizure or description of goods will be legally void (without prejudice to damages) if the injured party does

not commence his action within eight days, plus one day more for every three myriamètres distance between the residence of the infringer, and the place where the objects were found.

Articles held to be infringements, or instruments or utensils specially designed for their manufacture, will, as against the maker, concealer, importer, or seller, be confiscated, even in the case of an acquittal, and delivered to the proprietor of the patent, without prejudice to greater damages which he may claim, and the placarding of the judgment.

TURKEY.

Duration of Patent: five, ten, or fifteen years.

Working: must be proved within two years of filing, and every two years.

Taxes: yearly, from date of application.

International Convention: does not apply.

Patents are granted in Turkey under the law of the 18th February, 1880.

Patents are granted for new inventions in all branches of industry, new industrial products or works, and new means for their production or application. Pharmaceutical compounds and medicines, financial and banking schemes and combinations, are not patentable.

Patents are granted for five, ten, or fifteen years. Taxes are payable yearly, at the rate of two Turkish pounds at the commencement of each year, and failure to pay these taxes will result in the lapsing of the patent. An application for

a patent must be accompanied by a specification, drawings, and samples. Only the principal object, and details appertaining to it, can be included in one patent. A short title of the invention must be given, and no erasures, alterations, or interlineations are allowed. Drawings must be in ink, to a metrical scale; the specification must be in duplicate. A memorandum of the application is entered in the register at Constantinople, under the care of the Ministry of Commerce and Agriculture; the patent runs from the date of the deposit.

No examination is made, and no guarantee is given as to reality, novelty, utility, or merit, or the correctness of the specification. Applications concerning instruments and munitions of war must first be submitted to the Master of Artillery, or the Minister of the Navy. A useless application of this nature would be rejected, but if a favourable report was made upon the invention, the patent may be granted, together with a medal. A copy of the specification and drawings accompanies the Letters Patent; further copies must be paid for.

The inventors of inventions useful to the country, whether natives or foreigners, will be decorated, according to the extent of the utility, with gold, silver, or copper medals, but they must impress a representation of these upon the object.

Where the application is not in proper form, or for a patentable subject-matter, the application will be rejected, and half the fee returned; within three months, the application may be renewed, and the sum confiscated will then be credited as part of the application fee.

When an application is made to patent an invention not capable of being patented, upon the rejection of the application, the whole of the tax paid will be returned. A list of patents issued will be published officially every six months. The duration of a patent can only be extended by a special law.

Patents of addition may be added to the principal patent, and will expire with it. A patentee who has assigned his patent forfeits the right to obtain a patent of addition. No one, excepting the patentee, or those entitled through him, can obtain a patent of addition during the first year, but such an application would remain deposited under seal at the Ministry of Commerce and Agriculture, and at the expiration of the year the seal would be broken, and the patent issued. The original patentee has the preference over other applicants for patents of addition during the first year. A patent of addition issued to another party, does not carry with it the right to work the original invention, and, similarly, the proprietor of the original patent cannot work the subject of a patent of addition obtained by another party, except with consent.

Assignments of the whole or part of a patent can only be made by notarial act, or by an act of a Tribunal of First Instance, and by the payment of the taxes for the whole term of the patent; all assignments must be registered, to be valid against third parties.

Should the subject-matter of a patent be of a dangerous nature, it can only be worked upon the production of proper security, and under Government supervision.

A register of assignments is kept at the Ministry of Agri-

culture and Commerce, and published every six months. All licensees participate in the benefits of patents of addition taken by the patentee, and, similarly, the patentee benefits by patents of addition taken by other parties.

Specifications may be inspected at the Ministry of Commerce and Agriculture, and copies may be obtained upon paying for them. After the payment of the second year's tax, specifications and drawings are published in whole, or in part, and a yearly catalogue of the patents delivered is issued.

In the case of an invention already patented abroad, the Turkish patent would expire with the prior foreign patent.

Patents will be invalid, if the subject-matter of the invention be not new or not patentable, or if the invention be a purely theoretical or scientific method, principle, or discovery, without the indication of the industrial application. Or, if the invention be contrary to public order, safety, or morals, or have a misleading title, or if the specification be insufficient or incorrect, or the applicant was, in fact, not entitled to the patent.

An invention will not be considered new, if, before the date of the application, it has received sufficient publicity, whether in Turkey or abroad, to enable it to be worked. The patent will be forfeited if the annual taxes be not duly paid, or if the invention be not worked in Turkey within two years from the date of the patent, or if the working cease for two consecutive years, or if the patentee has introduced into Turkey articles similar to those protected by his patent, but manufactured abroad. However, models of machines, or other articles made abroad, and intended to be placed in a

public exhibition, or for experiments made under the special permission of the Government, and authorised by the Ministry of Commerce and Agriculture, are excepted. A fine of from 2 to 45 Turkish pounds, and in case of repetition of the offence, double that amount, is incurred by any person who is not a patentee announcing himself as such, or, being a patentee, mentioning his title without adding the words "Without guarantee of the Government."

Any person interested may bring an action for the annulment of a patent before the Civil Tribunal of First Instance. Judgment will be published by the Ministry of Commerce and Agriculture. Infringements are punishable by fine of from 5 to 100 Turkish pounds, and knowingly receiving, selling, or exposing for sale, would be counted as infringements. No person is allowed, without special authorisation from the Government, to sell instruments or munitions of war; contravening this regulation is punishable by the penalties imposed by Article 166 of the Appendix of the Penal Code. Penalties of the patent law are not cumulative. In case of repetition of the offence within five years from a previous conviction, imprisonment from one to six months may be inflicted.

The President of the tribunal may, upon production of the patent, and at the request of the patentee, order an inventory of infringing articles to be made, and the articles seized. Security will always be required of foreigners, but should not all the formalities be complied with, the seizure will be unlawful, and the injured party may claim damages against the officers. The party making the requisition must present himself before the tribunal

within eight days, plus one day for each day's journey between the place where the objects are seized and the domicile of the infringer. The infringing objects may be confiscated, or the tools used in their manufacture, and these may be delivered to the owner of the patent, without prejudice to his right to damages, or the publication of the judgment, if necessary.

UNITED STATES OF AMERICA.

Duration of Patent : seventeen years.
Working : none.
Taxes : none.
International Convention : applies.
Patents are issued under the revised statutes approved at the forty-third Congress on the 27th June, 1884, and amended by subsequent enactments in 1880 and 1888.

Patents are issued under the seal of the Patent Office, and in the name of the United States of America; they are signed by the Secretary of the Interior, or one of the assistant secretaries, and countersigned by the Commissioner of Patents, and are on record at the Patent Office. Patents are granted to the original and first inventor or discoverer, who, in applying for the patent, has to make an oath to that effect, and that he does not know or believe that the same was ever before known or used. This oath must be attested by any person in the United States entitled by law to administer oaths, or, in the case of foreigners, before any Minister, Chargé d'Affaires, Consul, United States Commercial Agent, or Notary Public.

Each patent is granted for the term of seventeen years (unless restricted by some prior foreign patent), and gives to the patentee, his heirs or assigns, the exclusive right to make, use, and vend the subject of the patent in the United States and its territories. A copy of the specification forms part of the Letters Patent.

The patent must be issued within six months from the date of the allowance, and if the final fee be not paid within that period, the application will lapse.

A patent may be obtained for "any new and useful art, machine, manufacture, or composition of matter, or any new or useful improvement thereon 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 the invention or discovery, "and not in use or on sale for more than two years prior to the application, unless the same is proved to have been abandoned."

Patents may be obtained upon inventions patented abroad, unless the invention has been in public use in the United States for more than two years previous to the application; every patent, however, upon an invention previously patented in a foreign country, will expire at the same time as the foreign patent, or, if there be more than one, with that one having the shortest term; in no case shall the patent run for more than seventeen years.

The specification must be as clear as possible, full and concise, accompanied by drawings if necessary, so that any person, skilled in the art to which the invention appertains, will be able to carry it out fully from the specification and drawings. The patentee must describe in his specification

the best mode known to him of carrying his invention into effect, and must distinctly claim the features of novelty which he desires to protect. The specification must be signed by the inventor, and attested by two witnesses. The drawings, which have to be most carefully prepared with absolutely black and unbroken lines, must also be signed by the inventor or his attorney, and attested by two witnesses. Models and specimens must be supplied, if required.

An examination is instituted into every application, with a view to ascertaining the novelty or otherwise of the invention, and this examination is not restricted to specifications of American patents, but includes those obtainable from all other countries, as well as the general state of public information upon the subject.

An application must be completed for examination within two years of the date of the original application, failing which the application will be regarded as abandoned, and a similar penalty attaches if no action be taken within two years of the date of notification, when amendment is required by the examiner. Patents may be issued to an assignee where the applicant for the patent has made an assignment before issue, and recorded it at the Patent Office.

A patent may be applied for by an executor or administrator of a deceased inventor, who may obtain the patent, but must make an oath setting forth the facts of the case; the patent would be granted in trust for the heirs-at-law of the deceased in case he has left no will, or should a will have been made, the patent may be devised with the rest of the property.

Where a patent has been allowed, and ordered to issue

within six months, upon payment of the final fee, but such fee has not been paid, any person interested, whether as inventor, discoverer, or assignee, may make an application for the patent at any time within two years after the allowance of the original application. Upon the hearing of such an application, the question of the abandonment of the invention will be considered according to the facts brought forward.

A patent may be assigned for the whole or any particular part of the United States, either by the patentee or his assigns, or legal representatives. The assignment must be recorded at the Patent Office within three months from the date thereof, or it will be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice. Any person purchasing from the inventor the subject of the subsequent patent, or with his knowledge constructing, selling, or using one so constructed before the application by the inventor for the patent, will be entitled to use and sell to others, who, in like manner, may use the specific thing so made or purchased without liability.

Every patented article must bear the word "Patented," together with the date, or where, from the nature of the article, this cannot be done, this must appear upon the package. Should the patentee fail in this requirement, no damages could be recovered by him in a suit for infringement, except on proof that the infringer had been duly notified of the infringement, and continued to infringe after such notification.

Falsely marking or labelling articles which are not the subject of a patent with the name, or an imitation of the

name, of a person who has obtained a patent for it, without consent of the patentee, or his assigns, or legal representatives, renders the offender liable for every offence to a penalty of not less than $100 with costs, one-half of the penalty going to the person who sues for it and the other half to the United States Treasury. The suit may be taken in any district Court of the United States within whose jurisdiction the offence was committed. A similar penalty is incurred for falsely using the word "Patent," "Patented," "Letters Patent," or the like, with the object of imitating the mark or device of the patentee without consent, and also for marking an unpatented article as "Patent," or otherwise leading the public to suppose that the article is patented, when such is actually not the case.

Any citizen of the United States is entitled to file a caveat of any invention he may have made with a view to obtaining further time in which to develop his invention, without, at the same time, running the risk of some other person forestalling him. The caveat comprises a specification, with drawings, if necessary, of the invention; it is filed in the confidential archives of the Patent Office, and remains in force for one year, from the date of filing. Should any person during that period apply for a patent which would in any way interfere with the subject of the caveat, the papers appertaining to such application will also be deposited by the Commissioner in the confidential archives, and notice will be given to the person who filed the caveat. Should he then desire to avail himself of his caveat, he must, within three months, plus the time occupied in transmission, from the mailing of the notice,

file his Complete application for patent in the usual manner. The privilege of filing a cavent is given to an alien, who has resided in the United States for one year before the filing of the cavent, and has made oath of his intention to become an American citizen.

Where during the examination a patent is rejected, notice is sent to the applicant, with brief reasons for the rejection, and such information and references as may be necessary, and should he then persist in his application, a re-examination is ordered by the Commissioner.

Where an application for patent would, in the opinion of the Commissioner, interfere with another application or unexpired patent, he will notify the parties interested, and direct the Primary Examiner to ascertain with which application the priority of invention lies, and may then issue a patent to the first inventor. Within a period, to be settled by the Commissioner, but not less than twenty days, an appeal may be lodged from the decision of the Primary Examiner, or of the Board of Examiners in Chief.

The Commissioner has power to make rules for taking evidence in cases before the Office; the affidavits and depositions required can be taken before any officer duly authorised by law. The attendance of any witness can be compelled under subpœna, to be issued by the clerk of any Court in the United States for the district or territory concerned, but the place of attendance must not be more than forty miles from the place where the subpœna was served. Witnesses in patent cases are allowed the same fees as if giving evidence before the ordinary Courts of the United

States. Failing to attend under the subpœna, renders the delinquent liable to punishment as in ordinary law cases, but no penalty will be incurred, unless the witness's fees and travelling expenses, and one day's attendance at the place of examination, are paid or tendered to him when the subpœna is served. He need not disclose any secret invention or discovery of his own.

An application for a patent, or for a reissue, any of the claims of which have been twice rejected, and all parties to an interference, may, having paid the fee, appeal from the decision of the Primary Examiner, or of the Examiner in charge, to the Board of Examiners in Chief, and from the Board of Examiners in Chief he may appeal to the Commissioner in person. Except in the case of a party to an interference, he may appeal from the Commissioner to the Supreme Court of the District of Columbia, giving notice thereof to the Commissioner. Certified copies of all the original papers and evidence in the case will have to be laid before the Court, and the Commissioner will, in writing, supply the Court with the grounds of his decision; any party interested, or the Court itself, can have the Commissioner and the Examiners examined upon oath concerning the principles of the invention upon which the patent is demanded.

Where a patent is refused by the Commissioner, or by the Supreme Court, the applicant may still obtain his patent by filing a bill in equity, and the Court having notified the adverse parties, may adjudicate upon the application, and if it see fit, decide that the applicant is entitled to his patent, and upon filing at the Patent Office a copy of the adjudica-

tion, and generally complying with the legal requirements, the patent may be issued. Whether the decision be in his favour or not, the applicant would have to pay all the expenses.

Where a patent is inoperative or invalid, through defective or insufficient specification, or by too wide a claim, and the error having arisen by inadvertence, accident, or mistake, and without fraudulent or deceptive intention, the patent may be surrendered and reissued, a new patent being granted for the invention upon payment of the required fees; the new patent may be issued to the original patentee, or in the case of assignment or death, to the assignee, or the patentee's executors or administrators. The new patent will be issued only for the unexpired term of the original patent, and will be subject to examination and revision like any other application, and if the Commissioner should think fit, he may order the patent to be divided into two or more patents, upon each of which the fees will have to be paid. No new matter may be introduced into the specification, and models or drawings may not be amended, "except each by the other," but in the absence of models or drawings, amendments may be made with the leave of the Commissioner, when he is satisfied that the new matter formed part of the original invention, but was omitted through inadvertence, accident, or mistake.

A patent which, through inadvertence, accident, or mistake, and without fraudulent or deceptive intention upon the part of the patentee, includes in its claims more than the inventor was entitled to, will still be valid for such part as the inventor was legally entitled to, supposing that to be a

material or substantial part of the patent, and the patentee, his heirs, or assigns, may disclaim the portion to which the inventor was not entitled. The disclaimer must be in writing, and attested by one or more witnesses, and must be recorded at the United States Patent Office, after which it will form a portion of the specification. A disclaimer will not affect an action pending at the time at which it is made, excepting as concerns the question of neglect or delay in making it.

In the case of interfering patents, a suit in equity may be brought by any of the parties interested, for relief against the interfering patentee, and either of the patents may be declared by the Court to be void in whole or in part, or inoperative or invalid, in any particular part of the United States, but such decision will not affect the rights of anybody, except the parties to the suit. Damages for infringement may be given, and when the verdict is for the plaintiff, judgment may be entered for any sum larger than the amount given by the verdict as the actual damages sustained, but such sum must not exceed three times the amount of the verdict, together with the costs.

Any of the following objections may be pleaded in an action for infringement:—

(1) That for the purpose of deceiving the public, the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or

(2) That the patentee had surreptitiously or unjustly obtained the patent for that which was in fact invented by

another, who was using reasonable diligence in adapting and perfecting the same; or,

(3) That it had been patented or described in some printed publication prior to his supposed invention or discovery thereof; or,

(4) That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

(5) That it had been in public use or on sale in the country for more than two years before his application for a patent, or had been abandoned to the public.

Where previous patents are cited in anticipation of a patent, full particulars must be given, as well as the names and residences of any persons alleged to have had knowledge of the thing before the date of the patent. Injunctions may be granted to stop infringements of a patent, and in addition to the profits to be accounted for by the defendant, the complainant is entitled to recover damages sustained; these may be assessed by the Court, or under its direction, and may be increased in its discretion.

If a patentee, at the time of applying for his patent, believed himself to be the original and first inventor, the patent will not be invalid by reason of the invention being known in a foreign country before the date of his invention thereof, unless it had been patented or described in a printed publication.

A weekly paper, known as the Official Gazette, is issued by the Patent Office, and contains reproductions of one or more of the drawings, a copy of the claims, and in some

ones a brief of the specification, of all applications for patents and design patents.

All Acts of Congress prior to the 1st December, 1878, relating to patents, were repealed and substituted by the revised statutes.

URUGUAY.

Duration of Patent: three, six, or nine years.
Working: variable term, fixed by Executive.
Taxes: yearly.
International Convention: applies between Great Britain and Uruguay.

Patents are granted in Uruguay under the law of the 12th November, 1885.

Patents are granted for three, six, and nine years, at the option of the applicant, for inventions or improvements upon inventions, and also in the case of foreign patentees, who apply for leave to establish their industry in the country, during the first year of the patent, the applicant in this case to be the inventor, or his attorney or assignee. Patents are granted for new discoveries or inventions in all industries, new industrial products, new means, or the new application of old means, for obtaining an industrial result. Financial schemes or inventions already published in print in the country or abroad, or purely theoretical inventions without practical application, pharmaceutical preparations, or anything contrary to morality, or the laws of the Republic, are not patentable.

No guarantee is given as to novelty or merit of the invention. An annual tax is payable during the life of the patent, during the first ten days of each year, and if this be not paid, the patent will lapse, and the patent will not be issued until the first of these payments is made. Should the first payment not be made during the said ten days, subsequent applications for the same thing may be entertained, and if considered advisable, may have preference over that of the original applicant. Patents must be worked or established in the country, within a period to be fixed by the Executive, after a report by the Council of Public Health, where the invention relates to an unhealthy or objectionable industry. The patentee must give notice at the Patent Office, of the working of the invention, and a note will be made of this at the Department of Public Works, and the Council of Health, so that these bodies may ascertain if the condition has actually been complied with. An application may be made for an extension of the period during which the working has to be proved, but sufficient ground, in the nature of *force majeur*, or fortuitous circumstances, must be shown, and the petition must be made at least three months before the expiration of the period fixed.

Patents are issued on stamped paper, by the Office of Patents for Inventions, Trade Marks and Commerce, and are signed and sealed by the Minister of the Interior, and countersigned by the Chief of the Patent Office.

No person employed in the Patent Office may have any interest in a patent passing through it, upon pain of instant dismissal. The Patent Office is directly attached to the Ministry of the Interior.

A petition, on stamped paper, for the grant of the patent has to be presented, and the day and hour of presentation will be noted; the petition must be accompanied by a clear specification, in duplicate, together with specimens, drawings, or models, according to the nature of the invention, the petitioner swearing that he is the owner of the invention, and prays for the patent. Specifications must be written upon durable material, and without abbreviations; no restrictions, conditions, or reservations will be allowed in the petition, and the specification must indicate the title by which the invention is to be known, and must be in Spanish, and must confirm any alterations or additions which may be made in the text. Drawings must be in ink, and to a scale, where possible, on the metric system adopted in the Republic. The duplicate copy of the specification and drawings will accompany the Letters Patent, when issued.

A detailed statement of the patents issued, is published by the Government every three months, and the General Direction of statistics is supplied by the Chief of the Patent Office, every year, with a list of the patents granted, their duration, and the sums paid. Every two years the Patent Office publishes the specifications.

Patents of addition may be obtained by the improver of a patented invention, and will expire with the principal patent; the same formalities are required as in the case of the original patent, but the tax is only one-third of that required for the original patent, if the application be made by the proprietor of the patent, or two-thirds if by some other person. Where a patent of addition is obtained by a person not the pro-

prietor of the original patent, he is bound to pay to the proprietor of the original patent, an amount to be fixed by two experts appointed by the parties, with a third person in case of disagreement, who will take into consideration the importance of the improvement, and the part of the original invention retained in the improvement. The original patentee may either accept this payment, or may elect to work the improvement concurrently with the inventor of the improvement; in the latter case, two patents of addition will be granted, one to each, but the improver will, in no case, have the right to work the original invention exclusively, nor will the original patentee be allowed to work the improvement exclusively, where he has relinquished his right to the payment to be settled by the experts. Where two parties apply at the same time for the same patent, neither patent will be granted, unless the parties come to terms.

Any patentee can transfer his rights upon any conditions that he thinks fit, by public deed, but only after notice has been given to the Patent Office, without which the assignment will not be effective as against third parties. All rights appertaining to the patentee, appertain also to the patent, and are assigned therewith, unless it is otherwise expressly stated in the deed of assignment.

Patents granted for the prohibited subjects, or fraudulently obtained, or upon inaccurate or incomplete specifications, or where a foreign invention is represented as originating in the country, will be invalid, and the person making the false statement in the last case, is punishable with a fine of $500, or six months' imprisonment.

Patents validly granted will lapse, if the proprietor fails to work his patent within the stipulated term, or if the working ceases for one year, unless the party interested is able to prove, within a period of one month, that it was beyond his power, or by some fortuitous circumstance, that he failed to comply with the requirement. Otherwise the Chief of the Patent Office will publicly advertise that the patent has lapsed. Patents also lapse at the expiration of the term for which they were granted.

Should the patentee fail to give notice that he has put into operation his invention, within the stipulated time, the proper authority will give him notice, and one month's time, and if he has not complied with all the requirements of the law within that period, the patent will be declared forfeited.

Actions against patents are tried before the judge of the Civil Court, and can be brought by interested parties only.

The subject of a patent can be freely used, should the patent, in fact, be invalid, as it is not necessary for a judicial declaration of the invalidity to have been made. Should the proprietor of an invalid patent interfere with the free use of it, any person may apply to the judge for the declaration of invalidity. A summary judgment may be issued, and lawful means of proof are allowed, but the patentee cannot produce any in contradiction of the Letters Patent; twenty days only is allowed for proof, and judgment will be given ten days after the expiration of that period, with costs against the defeated party. An appeal may be made to the Superior Court of Appeal, which will receive a report from the Patent Office, and give final judgment. Upon the completion of the judgment, the judge will communicate the

fact of the annulment of the patent to the Chief of the Patent Office, who will forthwith publish it.

Infringements are punishable by a penalty of $100 to $500, or imprisonment for from one to six months, as well as the forfeiture of the infringing articles, and compensation to the proprietor of the patent, for damages and prejudice. Any person assisting in the infringement, is liable to the same penalties, which are doubled, upon the repetition of the offence within five years after conviction.

The fact of the infringer having been in the employ of the patentee, or surreptitiously obtaining from him the knowledge of the invention, will be an aggravation of the offence. The action for the enforcement of these penalties takes place in private before the criminal judge, but no action will be taken until the Letters Patent are produced. The only pleas allowed, in reply, are the nullity or forfeiture of the patent, or participation in, or the exclusive ownership of, the patent. The plaintiff may demand security, if the accused person decides to continue using the invention, to prevent interruption of his work; in default, the plaintiff may demand the stoppage of the infringing work, and an attachment of all the effects concerned, but must give suitable security.

Falsely assuming the privileges of a patentee, renders the offender liable to the same penalties as an infringer.

During the life of a patent, copies thereof, and of models, etc., may be applied for in writing, at the Patent Office, only by the proprietors of patents, or their representatives, but after the lapse of the patent, any person may apply for them. They are issued on stamped paper of the second class, and

at the cost of the applicant; where plans, models, designs, or the like, are required, the cost will be settled by the Direction of Public Works. A register of patents, and a register of proprietors of patents, are kept at the Patent Office, in which all the necessary entries are made.

This law repeals the previous law of the 20th June, 1853, and all other enactments contrary to the present law.

VENEZUELA.

Duration of Patent: five, ten, or fifteen years.

Working: six months, one year, or two years, according to term of patent.

Taxes: annually, but those for first half of term must be paid before patent issues.

International Convention: does not apply.

Patents are granted in Venezuela under the law of the 25th May, 1882.

Any person being an inventor or discoverer of a new and useful art, machine, manufacture, or composition of matter, or improvement thereof, may obtain a patent, but the invention must not have been previously known to others in the country, or patented or described in a printed publication either in the Republic or abroad, and must not have been in public use, or on sale, for more than two years before the date of the application, unless it is proved to have been abandoned.

Patents are granted in the name of the United States of Venezuela, by the Federal Executive, and countersigned

by the Minister of the Interior, but neither the novelty, correctness, nor the utility is guaranteed.

The application must be accompanied by a clear specification, with drawings or specimens, if necessary, and a petition, in which the application declares under oath, that he is the real inventor, any dispute upon the declaration being settled by the ordinary Federal Tribunals.

Patents may be obtained for five, ten, or fifteen years, and will lapse in the case of a five-year patent at the end of the first six months, of a ten-year patent at the end of the first year, and a fifteen-year patent at the end of the second year, from the date of the grant, if the invention has not been put into practice.

The patent runs from the date of the issue, and upon it are stated the term for which it is granted, and the period within which it must be worked.

Applications are addressed to the Federal Executive Power through the Minister of the Interior, and cover the dependencies, as well as the United States, of Venezuela.

Both patents for invention and improvement are subject to the payment of an annual tax, but the tax for one-half the number of years demanded, has to be paid before the patent is granted. If the patent be refused, the amount paid is confiscated for the benefit of popular education; if the patent be granted, the amount will go towards the total taxes upon the patent. Taxes may be remitted by the Federal Executive, in the case of specially worthy inventions. A patentee, announcing the fact by advertisements, or trade mark, does not thereby imply any guarantee on the part of the Government.

The proprietor of a foreign patent may also obtain a

patent in Venezuela, provided that no one else has already patented it there, but such patent will only be granted for the remainder of the term of the foreign patent.

A description of the invention will be published in the Official Gazette, upon the expiration of the patent, whereupon the working of the invention becomes free to the public, and the same applies where the patent is annulled by the operation of the law.

Specifications, and drawings, and specimens are deposited at the Ministry of the Interior.

An application for a patent is published in the Official Gazette, and if the patent be granted, it will not be issued for thirty days after such publication.

Patents are not granted, if the subject of the invention is detrimental to health or public order, to morals, or to existing rights. Patents are not granted for pharmaceutical compositions, or remedies of any sort, these being subject to special laws.

Patents are of no effect, when the Federal Tribunals declare them to have been granted in prejudice of the rights of other persons, or if the invention has not been worked during a whole year, unless the proprietor of the patent can prove fortuitous circumstances, or that it was beyond his power to effect the working.

Infringements are tried by the Federal Tribunals, according to the appropriate codes.

This law repeals the previous law of the 20th May, 1878.

Where an exemption from taxation has been granted, it will be revoked, if it be proved that the patent relates to the sale of raw materials or imported articles, and in case of

such revocation, the proprietors of the industry will, besides the loss of the patent, be liable to pay duties upon everything that they have improperly imported, and 40 per cent. in addition, upon the gross total.

A patent becomes void, if the indus' be not established within the appointed time, or if the working of the invention be discontinued for a period of more than one year.

VICTORIA.

Duration of Patent: fourteen years.
Working: none.
Taxes: before the end of third and seventh years.
International Convention: does not apply.
There have been many Acts relative to the granting of patents in Victoria in 1854, 1857, 1865, 1872, 1881, 1884, and 1889, all of which, however, are absolutely or practically repealed by the Act of the 10th July, 1890.

Any person, whether a British subject or not, may apply for a patent, and a patent may be granted to two or more persons jointly. The actual inventor, or his assigns, or the two jointly, or the legal representatives of a deceased inventor, or of his assigns, or any person to whom the invention has been communicated by the actual inventor, his legal representatives or assigns (not resident in Victoria), may apply for a patent.

An application must be accompanied by a solemn declaration in the prescribed form, stating that he is in possession of the invention of which he claims to be the true and first inventor, and by a Provisional or Complete

specification, accompanied by drawings, if necessary, the Complete specification ending with a distinct statement of claim. The application is referred by the Commissioner to an examiner, to ascertain and report whether all formalities have been complied with, and also whether the invention is novel or not, or whether it is already in the possession of the public with the consent or allowance of the inventor, and upon any other matters required by the Commissioner. The Commissioner may refuse to accept an application, or may require amendment, and in the latter case, the Commissioner may, if he please, cause the application to bear the date when the amendment was complied with. Appeal to the Law Officer is permitted from decisions of the Commissioner; he will hear the applicant, and the Commissioner, and make such order as he thinks right. Where an application is made similar to one already in the Office, but upon which a patent has not yet been sealed, the Commissioner may, upon the request of the second applicant, within two months of the grant of the patent upon the first application, decline to proceed with the second application, or allow the surrender of the patent, if it has been granted.

Where a Provisional specification has been filed with the application, the Complete specification must be filed within nine months of the date of application; another month may be obtained with the consent of the Commissioner, and upon payment of a fine, and unless the Complete specification is left within that time, the application will be considered to be abandoned. A Complete specification must be accepted within twelve months from

that date of application, or upon extension, two months more, and should it not be accepted within that time, the application will, except in the case of an appeal from refusal to accept, become void. Reports of examiners are not published, or open to public inspection, except upon the certificate of a Court, or a proper officer. The acceptance of a Complete specification will be advertised, and the specification will then be open to the public inspection. In the case of an abandoned application, the specification is not published.

Any person may enter an opposition to the grant of a patent, within two months from the date of the advertisement of the Complete specification, the grounds being—

(1) That the applicant fraudulently, or without authority, obtained the invention from the opponent, or from a person of whom he is the legal representative or assignee;

(2) That the invention has not been communicated to the applicant by the actual inventor, or his legal representatives, or assigns, should these not be resident in Victoria; or

(3) That the invention has been patented in Victoria on an application of prior date; or

(4) On the ground of want of novelty, or of the invention having been already published, or publicly used; or

(5) That the Complete specification describes or claims an invention other than that described in the Provisional specification, and that such other invention forms the subject of an application made by the opponent, in the interval between the leaving of the Provisional and

Complete specifications. The Commissioner will hear the parties, and decide upon the opposition after the expiration of the two months.

A patent will be sealed as soon as possible, but not after the expiration of sixteen months from the date of the application, except where—

(*a*) The sealing has been delayed by appeal to the Law Office, or to the Supreme Court, or by opposition to the grant of the patent, in which case the sealing may take place at any time ordered by the Law Officer, or the Court;

(*b*) Where extensions of time have been obtained, in which case the sealing must take place within eighteen months from the date of application.

(*c*) In the case of the death of the applicant within the aforesaid period of sixteen months, the patent may be granted to his legal representatives, and sealed at any time within twelve months from the date of his death.

The patent bears the date of application, but no proceedings can be instituted for infringement committed before the publication of the Complete specification. The sealing of a patent for the same invention, upon one application, will not prevent the sealing of a patent upon an earlier application.

Where the Complete specification has been accepted, the applicant is in the position of a full patentee, excepting that he cannot commence an action for infringement until the patent is sealed.

The patent runs for fourteen years from its date, but is subject to the payment of a tax of £2 10s. before the expiration of the third and seventh years. An enlargement

of time, not exceeding six months, for those payments may be obtained upon application to the Commissioner, and payment of a fine, but no action for infringement, committed in the interval between the expiration of the legal date and the date when the tax was actually paid, can be undertaken. The receipt of the third and seventh year taxes must be endorsed upon the Letters Patent themselves.

A copy of the Complete specification is issued with, and attached to, the Letters Patent.

A specification may be amended by disclaimer, correction, or explanation. The application for amendment will be advertised, and opposition may be entered at any time within one month from the date of the first advertisement. In case of opposition, the Commissioner will hear the parties, and decide the case. No amendment will be allowed which increases the scope of the patent, but leave to amend will be conclusive as to the right to make the amendment. The Court may grant leave for an amendment to be made during the progress of an action for infringement or revocation, and may stay the proceedings pending the completion of an amendment.

Where an amendment has been allowed, no damages will be given in respect of the use of the invention before the date of the amendment. Every amendment will be advertised.

Appeal from the decision of the Commissioner is allowed to the Law Officer, if the appellant has, within fourteen days, given notice in writing of his intention to appeal. The Law Officer will hear both the Commissioner and the appellant, and decide the dispute; the Law Officer may call

in the aid of a scientific expert, or other person, if he thinks fit, and either the Law Officer, or the Commissioner may require the attendance of witnesses, and may examine them on oath, and administer oaths, and may make an order as to remuneration and costs, and may fix the amount thereof; such order may be made a rule of the Supreme Court. A penalty of £20 is incurred for neglecting such a summons. Every person having a special interest in the matter is entitled to be present at the hearing.

When a patent is refused by the Law Officer, the applicant may appeal to the Supreme Court, but before doing so he must have paid all costs ordered by the Commissioner or Law Officer.

A register of patents is kept at the Patent Office, in which a complete list of all patents granted, with the names and addresses of the patentees, notifications of assignments, licenses, amendments, and so forth, will be entered; this register, or a copy, will be open at all convenient times for public inspection. The person for the time being, entered on the register as the proprietor of a patent, will be considered to be the proprietor, and to have power to grant licenses, or to deal with the patent. Making, or causing to be made, a false entry in the register, is a misdemeanour, and the perpetrator, on conviction, is liable to imprisonment for a term not exceeding five years. An aggrieved party may apply to the Supreme Court, or by summons to a judge, for an order to expunge or vary any entry in the register.

The term of a patent may be extended, upon petition to the Commissioner, lodged at least six months before the

expiration of the patent, and a patent which is found to be invalid may be confirmed by the Commissioner, or a new patent may be granted in lieu of the original one, the Commissioner being previously satisfied as to the propriety of such confirmation or new issue. An application for extension or confirmation must be advertised in the Government Gazette, and three times in some newspaper published in the city of Melbourne, and three times in some newspaper published or circulating in any locality in which the petitioner may exercise the invention, at least forty clear days before the date named by the Commissioner, for the consideration of the petition, and any person having an interest in opposing the petition may give notice, not less than one week before the time appointed for the hearing, of his intention to oppose the petition. The Commissioner will hear the parties, as well as witnesses, and counsel or agents, and decide upon the case.

A patent may be revoked on petition to the Supreme Court, the grounds of objection being those used in the old action of *scire facias*. The following parties are entitled to present a petition for revocation, viz.: the Law Officer or his nominee, any person alleging that the patent was obtained in fraud of his rights, or of some person through whom he claims, any person alleging that he, or the person through whom he claims, was the true and first inventor of an invention included in the claims. Any person alleging that he, or the person through whom he claims, had publicly manufactured, used, or sold the subject of the invention within the Colony of Victoria before the date of the patent, or, lastly, any person alleging that the

patentee was not the actual inventor, or his assignee or legal representative, and that the claim of the patentee was not communicated to him by the actual inventor or his legal representative. Where a patent has been revoked upon the ground of fraud, the Commissioner may grant a new patent, in lieu of that revoked, bearing the date of the original one, and expiring at the date when the original one would naturally have expired.

The patent will have the same effect against the Crown as against a subject, but a responsible Minister of the Crown, or head of a department, may appropriate for the public service a patented article, on terms to be agreed on, or settled by arbitration.

In legal proceedings, the judge may call in an assessor at the request of either party to the proceedings, and settle his remuneration. The pleadings in the action are substantially similar to those for a similar action in Great Britain.

An order may be made, on the application of either party, for an injunction, inspection, or account, upon such terms as the judge may think fit. The judge may certify that the validity of the patent came into question, so that in any subsequent action, the plaintiff, after obtaining a final order or judgment, may have his full costs as between solicitor and client, unless the Court orders otherwise.

Any person aggrieved by a patentee, who, by circulars, advertisements, or otherwise, threatens him with legal proceedings, or liability for infringement of a patent, may obtain an injunction, and recover damages, if any, unless it be proved that the alleged infringement was actually an infringement; but this will not apply if the person threatening,

with due diligence, commences and prosecutes an action for infringement of his patent.

Where the Governor in Council has made a reciprocal arrangement with the Government of any Australian Colony, or with the Colony of New Zealand, or of Fiji, for the mutual protection of inventions, then a person who has applied for a patent in one of those places, and applies in Victoria, within six months of the date of such application, will have priority over any other person who may, in the interval, have applied for a Victorian patent, the publication of the invention in Victoria not invalidating the subsequent patent.

Where, by an order in Council, section 103, or any portion thereof, of the Patents, Designs and Trade Marks Act 1883 of the Imperial Parliament, has been applied to the Colony of Victoria (subject to amendment by any subsequent Victorian Act), the above provisions may be extended to inventions patented in the United Kingdom.

Where a foreign patent has been granted, a patent in Victoria may be granted at any time during twelve months from the date of the granting of the foreign patent, and the publication or use of the invention in Victoria, within that period, will not invalidate the subsequent patent, unless the use or publication has taken place with the consent of the true and first inventor.

A patent is intended to be granted for one invention only, but may contain more than one claim, and may not be objected to on the ground that it contains more than one invention.

Where the inventor dies without making application,

his legal representatives may do so within twelve months of the date of his decease, and may make the declaration instead of the inventor.

A patent may be assigned for the whole or any part of the Colony of Victoria. A patent granted to the true and first inventor shall not be invalidated by an application made in fraud of him.

Duplicate Letters Patent may be sealed in the place of those lost or destroyed, if the non-production of the original be accounted for satisfactorily to the Commissionor.

The exhibition of the invention at an industrial or international exhibition, or the publication of the description of the invention during the period of the exhibition, or the use of the invention for the purpose of the exhibition in the exhibition grounds, or the use of the invention during the holding of the invention by another person without the inventor's consent, will not prejudice the right of the inventor, or his legal representative, to the grant of a patent, provided that he has given to the Commissioner, before exhibiting the invention, one month's notice of his intention to apply for the patent; the application must, however, be made within twelve months of the date of the opening of the exhibition.

A patent does not prevent the use of the invention in any foreign ship in any part of Victoria, or the waters within the jurisdiction of the Courts of Victoria, unless such invention be used in the manufacture of goods and commodities to be vended in, or exported from, Victoria, and provided that the ship belongs to a country granting similar privileges in the case of British ships.

No patent will be granted for anything contrary to law or morality, or dangerous or injurious to the public interest. Clerical errors may be corrected, whether pertaining to the specification, or the name, style, or address of the registered proprietor.

Communications may be made with the Patent Office through the post.

Where the last day for leaving any document, or paying any fee, at the Patent Office, shall fall on a Sunday or public holiday, the day next following such excluded day or days, if more than one of them occur successively, may be substituted.

In the case of infancy, lunacy, or other inability to make declarations, or comply with the requirements of the Act, the guardian or committee of such incapable person, or other person appointed by the Court, may make the declaration, or otherwise comply with the requirement.

The fraudulent marking of goods, in imitation of the name of another patentee, and the marking of the word "Patent," "Patented," "Letters Patent," "Royal Letters Patent," "Queen's Patent," or the like, with the object of counterfeiting or imitating the mark or device of a patentee, or of deceiving the public, or of selling, as patented, in Victoria an article not so patented, renders the perpetrator guilty of a misdemeanour, and liable to a penalty not exceeding £100, or to imprisonment for a period not exceeding six months.

Nothing in this Act abridges or affects the prerogative of the Crown, as to the granting or withholding of a patent.

All patents granted in the United Kingdom of Great Britain and Ireland after the 31st day of December, 1857, will, so far as they relate to the Colony of Victoria, be deemed to have been void, and of no effect, but all such patents granted on or before that date, which would have been effective in Victoria but for the passing of this or other Victorian Act, will be deemed to have been granted under this Act, and will be dealt with accordingly.

WESTERN AUSTRALIA.

Duration of Patent: fourteen years.
Working: none.
Taxes: before the end of fourth and seventh years.
International Convention: applies.

Patents are granted in Western Australia under the Act of the 26th November, 1888, which came into force on the 1st January, 1889, and the amending Acts of the 18th March, 1892, and the 10th October, 1894.

Any person, whether a British subject or not, is entitled to make an application for a patent, and a patent may be granted to two or more persons jointly. The applicant may be the actual inventor, or his assignee, or the actual inventor jointly with the assignee of a part interest in the invention, or the legal representatives of a deceased actual inventor or his assigns, or any person to whom the invention has been communicated by the actual inventor, his legal representatives or assigns (if the actual inventor, his legal representatives or assigns, is or are not resident in Western Australia). An application for a patent must be accom-

panied by a statutory declaration, stating that the applicant is in possession of the invention, and claims to be the true and first inventor. The application may be accompanied by either a Provisional or a Complete specification; a Complete specification must end with a distinct statement of claim.

The application is referred to an examiner, to ascertain if the application is in proper form. Amendment may be ordered by the Registrar, from whose decision an appeal may be made to the Attorney-General, who will hear the applicant and the Registrar, and make such order as may appear to him desirable.

Where, after an application has been filed, but before the patent has been sealed, another application, bearing the same or a similar title, is filed, the Registrar may refer the matter to an examiner, to report whether both specifications comprise the same invention, and if so the Registrar will give notice to both parties. The Registrar may refuse to seal a patent upon the second application, subject to appeal to the Attorney-General.

Where a Provisional specification is lodged with the application, a Complete specification must be left within nine months of the date of application, but this time may be extended by the Registrar to ten months. Unless the Complete specification is left within this period, the application will be considered abandoned. Amendments may be ordered in Complete specifications which do not agree with the Provisionals, or for any informality, and the Registrar may refuse to accept such specification until the amendment has been made, subject to appeal to the Attorney-General.

A Complete specification must be accepted within twelve months from the date of the application, unless the Registrar extends that time to fifteen months, upon payment of a fine, and unless so accepted the application will become void. Should the applicant have lodged an appeal against a refusal of the Registrar to accept the specification, the above time limit would not apply.

The acceptance of a Complete specification is advertised in the Government Gazette, and the specification is then open to public inspection.

Within two months from the date of such advertisement, any person may enter an opposition upon one of the following grounds :—

(1) That the applicant had obtained the invention from him, or from a person of whom he is the legal represen. tative.

(2) That the invention has been patented in the Colony upon an application of prior date.

(3) That the examiner has reported to the Registrar that the specification appears to comprise the same invention as is comprised in a specification bearing the same or a similar title, and accompanying a previous application.

Where notice of opposition is given, the Registrar may require the opponent to give security to the extent of £25 for the cost of the opposition, and if such security is not given within the said two months, the opposition will lapse.

The Registrar will give notice of the opposition to the applicant, and upon the expiration of the two months, and

after hearing both parties, will decide upon the case, subject to appeal to the Attorney-General, who, upon appeal, will also hear the applicant, and, if in his opinion entitled to be heard in opposition to the grant, the opponent also, and will determine upon the case. The Attorney-General may obtain the assistance of an expert, and may fix his fee. Either the Attorney-General or the Registrar may, after the decision, make an order as to the payment of costs by either party, and this order may be made a rule of the Court, on an *ex parte* application.

Specifications are not published, unless the applications are accepted. A patent is sealed with the seal of the Patent Office as soon as may be, but not after the expiration of fifteen months from the date of application, excepting where the sealing is delayed by an appeal to the Attorney-General, or by opposition to the grant, in which case the patent may be sealed at such time as the Attorney-General may direct. Or should the applicant die before the expiration of the fifteen months, the patent may be granted to his legal representative, and sealed within six months of the time of the applicant's death. Where the time for leaving or accepting the Complete specification, or both, has been extended, the period of such extension will be added to the fifteen months. Patents are sealed as of the date of application, and are issued in duplicate, one copy to be retained at the Patent Office; but no proceedings can be taken for infringement committed before the publication of the Complete specification, though otherwise the applicant for the patent is in the position of a full patentee. In the case of two applications for the same

invention, the sealing of one of the patents will not prevent the subsequent sealing of the patent upon the earlier application

Patents run for fourteen years from their date, but are subject to the payment, before the expiration of the fourth year, of £4, and a similar amount before the expiration of the seventh year. The time for making these payments may, in case of accident, mistake, or inadvertence, be extended by the Registrar, if satisfied as to the validity of the excuse, for a period not exceeding six months, and subject to a fine. In the case of an action for infringement committed during such enlarged time, the Court may refuse to give damages.

Specifications and drawings may be amended by way of disclaimer, correction, or explanation, but the application to amend will be advertised in the Government Gazette, and any person is at liberty to give notice of opposition, at any time within one month from the date of the first advertisement. Opposition to an amendment is conducted in a manner similar to that described with reference to the *opposition to the grant of a patent*, excepting that the requirement of the £25 security for costs is not made in the case of opposition to an amendment.

During an action for infringement, the Court may empower a patentee to apply for a disclaimer of a portion of his specification, and stay the hearing of the action meanwhile. Where a specification has been amended, no damages will be given for infringement committed before the amendment, unless the patentee is able to satisfy the Court that his original claim was framed in good faith, and

with reasonable skill and knowledge. The amendment of a specification will be advertised in the Government Gazette.

The Governor in Council has power to grant compulsory licenses, if he can be satisfied that by the default of the patentee to grant licenses upon 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 fix the terms upon which the licenses shall be granted.

A register of patents will be kept at the Patent Office, in which all matters affecting the patents are entered, and this register will be *primâ facie* evidence of any matters inserted therein in compliance with the Act. Copies of deeds, licenses, and other documents must be supplied to the Registrar for filing in the Patent Office.

The term of a patent may be extended, but the application must be made to the Governor in Council at least six months before the expiration of the patent; the application will be advertised, and any person may enter a caveat against the extension. The Governor may refer the application to the Supreme Court, which will take into consideration in its decision the nature and merits of the invention as regards the public, and the profits made by the patentee, and generally all the circumstances of the case. The limit of the extension is seven, or in exceptional cases, fourteen years; a new patent may be granted for

either of these terms, containing any conditions, restrictions, or provisions that the Court may require.

A patent may be revoked upon petition to the Court, and every ground which might be taken under the former action of *scire facias* will be available to either party. The petition may be presented by the Attorney-General, or his nominee, by any person alleging the patent was obtained in fraud of him, or of any person under whom he claims, or that he, or the person under whom he claims, was the true inventor of any invention included in the claims, or that he, or any person through whom he claims an interest in a trade or business, had publicly manufactured, used, or sold within the Colony, before the date of the patent, anything claimed by the patentee.

Where a patent has been revoked, the Registrar may grant to the true inventor a patent in lieu of the revoked patent, and bearing the date of revocation, the new patent to expire at the date when the original patent would have expired.

The patent has the same effect against the Crown as against a subject, but the heads of departments in the service of the Crown may use the invention for the service of the Crown, on terms to be settled between the parties, or by the Court.

In proceedings for infringement or revocation, the Court may, at the request of either party, call in an assessor, whose remuneration shall be determined by the Court. The pleadings in the action are substantially similar to those for a similar action in Great Britain. The Court may make an order for injunction, inspection, or account,

and impose such terms as may seem fit, and may certify that the validity of the patent came in question, and, as a consequence, the plaintiff, in any subsequent action for infringement, on obtaining a final order or judgment in his favour, will have his full costs, charges, and expenses as between solicitor and client, unless the Court specially certifies that he is not to have them.

Any person aggrieved by a patentee, who, by circulars, advertisements, or otherwise, threatens him with legal proceedings, or liability for infringement of a patent, may obtain an injunction, and recover damages, if any, unless it be proved that the alleged infringement was actually an infringement; but this will not apply if the person threatening, with due diligence, commences and prosecutes an action for infringement of his patent.

Patent agents may be licensed, and the license withdrawn for malfeasance or incapacity of the agent, or non-payment of the annual fee for such license. A patent is intended to be granted for one invention only, but objection cannot be afterwards taken to it on the ground that it comprises more than one.

A patent granted to the true and first inventor, is not invalidated by an application in fraud of him, or by use or publication of the invention subsequent to the fraudulent application

A patent may be assigned for the whole Colony, or for any part thereof; if a patent is lost or destroyed, the Registrar may cause another copy to be sealed in place thereof.

Witnesses may be summoned, and caused to give evidence

on oath in patent actions, being paid their expenses as in trials in local Courts.

Inventions may be exhibited at industrial or international exhibitions, certified as such by the Registrar, and such exhibition, or description, or use of the invention, for the purpose of the exhibition in the exhibition grounds, or the use of the invention during the exhibition by other persons elsewhere, without the knowledge or consent of the inventor, will not prejudice his patent rights, but before exhibiting he must notify the Registrar of his intention so to do, and must apply for the patent within six months of the date of the opening of the exhibition.

The Registrar may require the patentee to furnish him with a model of his invention, on payment of the cost.

A patent for instruments or munitions of war may be assigned to the Colonial Secretary, who may certify to the Registrar that, in the interests of the public service, the invention should be kept secret, in which case the documents relating to the invention, instead of being left in the ordinary manner at the Patent Office, will be delivered to the Registrar in a sealed packet, which will remain sealed during the period of time during which the patent is in force. No proceedings for the revocation of such a patent can be taken. The communication of a warlike invention to the Colonial Secretary, or to any person or persons authorised by him, will not be deemed use or publication to invalidate the patent.

Hitherto, letters of registration were granted to the *bonâ fide* holder or assignee of a patent in any foreign country, but according to the Act of 10th October, 1894, taking effect on 1st

January, 1895, Western Australia joined the International Union for the protection of industrial property.

Nothing in the Act will abridge, take away, or prejudicially affect the prerogative of the Crown in the matter of granting or withholding the grant of Letters Patent.

A patent will not prevent the use of an invention for the purposes of navigation of a foreign vessel within the jurisdiction of the Supreme Court of Western Australia, or the use of an invention upon a foreign vessel within that jurisdiction, if it be not used in connection with the manufacture or preparation of anything intended to be sold or exported from Western Australia. This clause will not extend to countries which will not grant similar privileges to British vessels in their ports.

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