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TO

CARPMAEL'S PATENT LAWS OF THE WORLD.

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OF

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LAW
M.I.P. Institute

PREFACE.

THE following "Supplement to Carpmael's Patent Laws of the World" has, by the wish of the Institute of Patent Agents, been prepared by a Committee of Fellows of the Institute with the object of bringing down to the latest date precise information as to the various legal enactments in foreign countries and the colonies. It has not been thought necessary to include the British amending Acts. Although a very considerable amount of care has been exercised in translating the foreign laws, it is of course possible that omissions or inaccuracies may be detected, and should this be so, the Editing Committee would be pleased to receive particulars thereof.

Mr. Edward Carpmael, as one of the Committee, has devoted much time and labour to the preparation of the work, and to his energy and ability the issue of the present volume is largely due.

INSTITUTE OF PATENT AGENTS.

19 Southampton Buildings,
Chancery Lane,
London, January, 1889.

OCT 29 1909

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THE PATENT LAWS OF THE WORLD.

BOLIVIA.

Law of May 8th, 1858.

Art. 1.

THE law shall secure to every inventor the full and entire enjoyment of his invention so far as it is not contrary to law or morality.

Art. 2.

Methods or means which may be discovered for the improvement of any manufacture or industry shall likewise be deemed to be an invention.

Art. 3.

That which is destined solely to produce modifications of shape and objects of pure ornament shall not be considered as inventions.

Art. 4.

The State may buy the secret of any invention useful to industry for the general benefit.

Art. 5.

To secure to the author of an invention or improvement the exclusive enjoyment of his ownership, there may be granted to him a privilege for not less than ten nor more than fifteen years.

Art. 6.

Exclusive privileges shall not be granted to inventors of secret remedies; their publication for fair compensation is the duty of the inventor.

Art. 7.

Importers of machinery or new methods of manufacture or industry which were not previously known in the Republic are also entitled to exclusive privileges. This concession will be governed by the following scale:—

Art. 8.

If the establishment of the machine or industry imported requires an outlay or advance of twenty-five thousand dollars, the privilege shall be for three years; if it reaches fifty thousand, for six years; and if a hundred thousand or more, for ten years.

Art. 9.

The privilege granted to importers of machinery or new methods of manufacture or industry already used and known abroad, shall be restricted to the locality in which the machine is worked or to the territory necessary to secure its benefits.

On the mode of obtaining privileges of invention, improvement and importation.

Art. 10.

The person who applies for either of the two first classes of privilege shall explain in what the invention or improvement consists, reserving to himself the secret of the method, simples or ingredients which he uses, or the instrument of which he avails himself. He shall also send with his petition a specimen of the manufacture, worked metal or product of the improved or perfected invention.

Art. 11.

When the privilege is for an importation, the applicant shall produce with his petition drawings or models of the machine

which he proposes to establish, or a detailed description of the principles, methods and processes of the industry which he proposes to introduce into the Territory of the Republic, as well as of the product which he proposes to elaborate.

Art. 12.

The Government shall thereupon appoint a Commission of three persons competent to judge of the matter or to examine the process or secret of which the invention, improvement or importation consists.

Art. 13.

This Commission for the examination and investigation mentioned in the preceding article shall always be presided over by the Political Chief of the locality in question in conjunction with two members of the Municipal Council.

Art. 14.

The two Municipal Councillors and the three members of the Commission appointed by the Government shall make oath before the said Political Chief not to reveal the secret and to fulfil their commission faithfully.

Art. 15.

The Commission and the two Municipal Councillors shall then without the presence of the interested party discuss the report which they are to make, noting any difference of opinion which may arise amongst the members of the Commission.

Art. 16.

The report mentioned in the preceding article shall be remitted 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 method, machinery or details of which the improvement, invention or importation consists.

Art. 17.

Within three months at the most after the receipt of the report of the Commission appointed to examine the invention, improvement or importation of the new industry, the Government shall deliver the patent in question on stamped paper of

the first class, ordering that the packet which contains the secret or the description mentioned in Art. 11 shall be kept locked up in the Office of the Secretary of the Interior.

Art. 18.

In order to avoid any abuse which patentees might make of their title deeds, the Government shall set forth in the patent that it does not guarantee the reality, the merit or the utility of the invention, improvement or importation, and that these are at the charge and risk of the interested party.

Art. 19.

A patentee who desires to make variations in his invention or in his petition before having obtained his title deed or during the term of his privilege, must make his declaration in writing accompanying it with a description of his new methods in the form and manner prescribed in Art. 10, in order to obtain the variation of his privilege, the duration of which shall not be thereby extended.

On the rights of Patentees.

Art. 20.

The patentee shall enjoy exclusively the exercise and fruits of the invention, improvement, or importation for which he holds his privilege.

Art. 21.

The patentee shall have the right of forming establishments in any part of the Republic, if his privilege extends to the whole of it, or in any locality to which it is restricted, and to authorize other persons to apply and make use of his methods; as also the power of disposing of his rights as objects of personal property.

Art. 22.

The patentee shall not assign his privilege either wholly or partially except by public instrument on pain of losing his privilege.

Art. 23.

Priority in the petition for a privilege in the event of dispute or doubt between two applicants shall be decided by the

certificate of the branch Secretary who shall note the day and hour on which petitions of this kind are received.

On the duration of privileges.

Art. 24.

The duration of privileges of invention, improvement or importation shall commence from the date of the decree which grants them.

Art. 25.

The title deeds of privileges granted by the Government shall be registered in a special register at the office of the Secretary of the Interior. There shall be also deposited there until the expiration of the term of the privilege the original petition, the descriptions and other papers referred to in Art. 10.

Art. 26.

The granting of privileges shall be communicated officially by the Secretary of the Interior in a despatch to the Political Chiefs of the districts and published in the official journal. It shall also be registered in the collection of Laws and Decrees.

On the rights of the nation at the expiration of the term of the privileges.

Art. 27.

At the expiration of the term of the duration of the privilege, the invention, improvement or importation of the new industrial method shall become public property.

Art. 28.

On the expiration of the duration of the privilege, the petition, description, and other papers referred to in Art. 10 shall be published and deposited in the public library of the capital of the State.

Art. 29.

If the privilege lapses through any of the causes laid down by this law, there shall be a like publication and deposit for the purposes expressed in Art. 27.

Art. 30.

The Government shall order the descriptions to be printed and the necessary drawings to be made for a due understanding of the methods which become subject to public use and shall forward sufficient copies to the Political Chiefs of the districts.

On the guarantees of the privilege against fraud.

Art. 31.

The patentee upon giving security and sufficient bond may make application for the seizure of the machines, instruments, and products which may be established, used, or elaborated in fraud of his rights.

Art. 32.

If the author of the fraud is convicted he shall be condemned to the confiscation of the property seized in the favour of the patentee, and to pay the latter damages proportionate to the extent of the fraud.

Art. 33.

If the fraud is not proved the prosecuting patentee shall be condemned in the damages caused by the seizure in favour of the defendant and to pay a fine equal to that the latter would have had to have paid if he had been convicted of the fraud.

Art. 34.

If the patentee is disturbed in the exercise of his exclusive right he may proceed against the disturbers in the ordinary Courts of Law for the infliction of the penalties prescribed by the preceding articles. But if a dispute arises as to the validity or lapse of the privilege it must be tried in the Tribunal for contentious administrative cases.

Art. 35.

In case of question or dispute between two patentees for the same invention, if the similarity is absolute the privilege shall be valid which comes first in point of time.

Art. 36.

The later patentee shall in that case be considered as improver of the invention.

On the guarantees of the nation against abuses on the part of Patentees.

Art. 37.

A privilege granted for an invention, improvement, or importation which the Courts condemn as contrary to the laws of the State, to public safety or to the police regulations, shall be null and void. The patentee shall also in that case lose his right to indemnification.

Art. 38.

Privileges shall lapse, not only in the cases already specified, but also in the following:—

1. If the inventor is convicted of having concealed in his description the true methods of working his invention.

2. If the inventor is convicted of using secret methods which are not detailed in his description or in the declaration which Art. 19 allows to be made for the modification of the same.

3. If the inventor or the person calling himself such is convicted of having obtained the privilege for an invention already described and published in the press, within or without the Republic.

4. If the patentee allows a year and a day to elapse after the date on which the privilege was granted to him without having put his invention into complete practice unless he excuses his omission by justifiable causes according to the laws.

5. If the inventor or the assignee of his rights by whatever title contravenes the obligations attached to the use of the privilege.

Art. 39.

In all cases of nullity of the privilege or of its lapsing from any cause whatsoever, the provisions of Art. 27 shall apply.

BORNEO (British North).

Proclamation No. 1 *of* 1887.

WHEREAS it is expedient to make provision by law for the encouragement of inventors of new manufactures by giving certain exclusive privileges to such inventors:—

It is hereby enacted by the Governor of British North Borneo as follows:—

Straits Settlements Inventions Ordnance, 1871, *adopted.*

1. The Ordnance of the Legislative Council of the Straits Settlements numbered XII. of 1871, and entitled, "An ordnance for granting exclusive privileges to inventors," and enacted on the 15th day of November, 1871, is hereby adopted as the law of this Territory, and any references to persons, places, or subjects in the said Ordnance shall be taken as referring to corresponding or analogous persons, places, or subjects in this Territory.

Short Title. Date of Operation.

2. This proclamation may be cited as the "Patents Proclamation, 1887," and shall come into operation on the 1st April, 1887.

CANADA.

CHAPTER 61.—A.D. 1886.

An Act respecting Patents of Invention.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

1. This Act may be cited as "*The Patent Act.*"

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

"*Minister.*"

(*a.*) The expression "the Minister," means the Minister of Agriculture;

"*Commissioner.*" "*Deputy Commissioner.*"

(*b.*) The expression "Commissioner" means the Commissioner of Patents, and the expression "Deputy Commissioner" means the Deputy Commissioner of Patents;

"*Invention.*"

(*c.*) The expression "invention" means 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;

"Legal Representatives."

(*d.*) The expression "legal representatives" includes heirs, executors, administrators and assigns or other legal representatives.

Patent Office and Appointment of Officers.

Patent Office constituted.

3. There shall be attached to the Department of Agriculture, as a branch thereof, an office which shall be called the Patent Office; and the Minister of Agriculture for the time being shall be the Commissioner of Patents.

Duties of the Commissioner.

4. The Commissioner shall receive all applications, fees, papers, documents and models for patents, and shall perform and do all acts and things requisite for the granting and issuing of patents of invention; and he shall have the charge and custody of the books, records, papers, models, machines and other things belonging to the Patent Office.

Deputy and Officers.

5. The deputy of the Ministers of Agriculture shall be the Deputy Commissioner of Patents, and the Governor in Council may, from time to time, appoint such officers and clerks under the Deputy Commissioner as are necessary for the purposes of this Act, and such officers and clerks shall hold office during pleasure.

Seal.

6. The Commissioner shall cause a seal to be made for the purposes of this Act, and may cause to be sealed therewith every patent and other instrument and copy thereof issuing from the Patent Office.

Applications for Patents.

Who may obtain patents.

7. Any person who has invented 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, which was not known or used by any other person before his invention thereof, and which has not been in public use or on sale with the consent or allowance of the inventor thereof, for more than one year previously to his application for patent therefor in Canada, may, on a petition to that effect, presented to the Commissioner, and on compliance with the other requirements of this Act, obtain a patent granting to such person an exclusive property in such invention:

What may not be patented.

(2.) No patent shall issue for an invention which has an illicit object in view, or for any mere scientific principle or abstract theorem.

As to inventions for which foreign patents have been taken out. Expiry of patent in such cases.

8. No inventor shall be entitled to a patent for his invention if a patent therefor, in any other country, has been in existence in such country for more than twelve months prior to the application for such patent in Canada; and if, during such twelve months, any person has commenced to manufacture in Canada the invention for which such patent is afterwards obtained, such person shall continue to have the right to manufacture and sell such article, notwithstanding such patent; and under any circumstances, if a foreign patent exists, the Canadian patent shall expire at the earliest date at which any foreign patent for the same invention expires.

Improvements may be patented.

9. Any person who has invented any improvement on any patented invention, may obtain a patent for such improvement; but he shall not thereby obtain the right of vending or using the original invention, nor shall the patent for the original invention confer the right of vending or using the patented improvement.

Oath to be made by inventor.

10. Every inventor shall, before a patent can be obtained, make oath, or, when entitled by law to make an affirmation instead of an oath, shall make an affirmation, that he verily

believes that he is the inventor of the invention for which the patent is asked, and that the several allegations in the petition contained are respectively true and correct:

Or by the applicant if the inventor is dead.

(2.) In the event of the inventor being dead, such oath or affirmation shall be made by the applicant, and shall state that he verily believes that the person whose assignee or legal representative he is, was the inventor of the invention for which the patent is solicited, and that the several allegations in the petition contained are respectively true and correct:

Before whom oath may be made.

(3.) Such oath or affirmation may be made before any justice of the peace in Canada; but if the inventor or the applicant is not at the time in Canada, the oath or affirmation may be made before any Minister plenipotentiary, *chargé d'affaires*, consul, vice-consul or consular agent, holding commission under the Government of the United Kingdom, or before any judge of a court of record or a public notary, or the mayor or other chief magistrate of any city, borough or town corporate in the country in which the applicant is at the time he makes such oath or affirmation.

Domicile.

11. The applicant for a patent shall, for the purposes of this Act, elect his domicile at some known and specified place in Canada, and shall mention the same in his petition for a patent.

Particulars required in application.

12. The applicant shall, in his petition for a patent, insert the title or name of the invention, and shall, with the petition, send in a specification in duplicate of the invention.

What the specification shall show.

13. The specification shall correctly and fully describe the mode or modes of operating the invention, as contemplated by the inventor; and shall state clearly and distinctly the contrivances and things which he claims as new and for the use of which he claims an exclusive property and privilege:

Place and date.

(2.) Such specification shall bear the name of the place where, and the date when it is made, and shall be signed by the inventor, if he is alive, and if not, by the applicant and by two witnesses to such signature of the inventor or applicant:

In the case of a machine.

(3.) In the case of a machine the specification shall fully explain the principle and the several modes in which it is intended to apply and work out the same:

Drawings to be furnished in certain cases.

(4.) In the case of a machine, or in any other case in which the invention admits of illustration by means of drawings, the applicant shall also, with his application, send in drawings in duplicate, showing clearly all parts of the invention; and each drawing shall bear the signature of the inventor, if he is alive, and if not of the applicant, or of the attorney of such inventor or applicant, and shall have written references corresponding with the specification; but the Commissioner may require further drawings or dispense with any of them, as he sees fit:

Drawings how disposed of.

(5.) One duplicate of the specification and of the drawings, if there are drawings, shall be annexed to the patent, of which it shall form an essential part, and the other duplicate shall remain deposited in the Patent Office:

Certain matters may be dispensed with.

(6.) The Commissioner may, in his discretion, dispense with the duplicate specification and drawing, and in lieu thereof cause copies of the specification and drawing, in print or otherwise, to be attached to the patent, of which they shall form an essential part.

Working model to be delivered. Or specimens of ingredients.

14. The applicant shall deliver to the Commissioner, unless the same is specially dispensed with for some good reason, a neat working model of his invention, on a convenient scale,

exhibiting its several parts in due proportion, whenever the invention admits of such model; and shall deliver to the Commissioner specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, whenever the invention is a composition of matter,—if such ingredients and composition are not of an explosive character or otherwise dangerous, in which case they shall be furnished only when specially required by the Commissioner, and then with such precautions as are prescribed in the requisition therefor.

Case of withdrawal.

15. In the case of withdrawal of any application for a patent, a fresh application, as if no proceeding had taken place in the matter, shall be necessary to revive the claim.

REFUSAL TO GRANT PATENTS.

Commissioner may object to grant a patent in certain cases.

16. The Commissioner may object to grant a patent in any of the following cases:—

(*a.*) When he is of opinion that the alleged invention is not patentable in law;

(*b.*) When it appears to him that the invention is already in the possession of the public, with the consent or allowance of the inventor;

(*c.*) When it appears to him that there is no novelty in the invention;

(*d.*) When it appears to him that the invention has been described in a book or other printed publication before the date of the application, or is otherwise in the possession of the public;

(*e.*) When it appears to him that the invention has already been patented in Canada or elsewhere, if the case is one within the eighth section of this Act, unless the Commissioner has doubts as to whether the patentee or the applicant is the first inventor.

Applicant to be notified.

17. Whenever the Commissioner objects to grant a patent as aforesaid, he shall notify the applicant to that effect and shall state the ground or reason therefor, with sufficient detail

to enable the applicant to answer, if he can, the objection of Commissioner.

Appeal to Governor in Council.

18. Every applicant who has failed to obtain a patent by reason of the objection of the Commissioner as aforesaid, may, at any time within six months after notice thereof has been addressed to him or his agent, appeal from his decision of the Commissioner to the Governor in Council.

CONFLICTING APPLICATIONS.

Arbitration in case of conflicting applications.

19. In case of conflicting applications for any patent, the same shall be submitted to the arbitration of three skilled persons, two of whom shall be chosen by the applicants, one by each, and the third of whom shall be chosen by the Commissioner or by the Deputy Commissioner or by the person appointed to perform the duty of that officer; and the decision or award of such arbitrators, or of any two of them, delivered to the Commissioner in writing, and subscribed by them or any two of them, shall be final, as far as concerns the granting of the patent:

Failure to appoint arbitrator.

(2.) If either of the applicants refuses or fails to choose an arbitrator, when required so to do by the Commissioner, and if there are only two such applicants, the patent shall issue to the opposing applicant:

In certain cases Commissioner may appoint.

(3.) If there are more than two conflicting applications, and if the persons applying do not all unite in appointing three arbitrators, the Commissioner or the Deputy Commissioner or person appointed to perform the duty of that officer, may appoint the three arbitrators for the purposes aforesaid:

Arbitrators to be sworn.

(4.) The arbitrators so named shall subscribe and take, before a judge of any court of record in Canada, an oath in the form following, that is to say:—

Form of oath.

"I, the undersigned (*A.B*), being duly appointed an arbitrator "under the authority of '*The Patent Act*,' do hereby solemnly "swear (*or affirm as the case may be*), that I will well and truly "perform the duty of such arbitrator on the conflicting appli- "cations of (*C.D. and E.F.*) submitted to me:"

Powers of the arbitrators. Proviso.

(5.) The arbitrators, or any one of them, when so sworn, may summon before them any applicant or other person, and may require him to give evidence on oath, orally or in writing (*or on solemn affirmation if such applicant or person is entitled to affirm in civil cases*), and to produce such documents and things as such arbitrators deem requisite to the full investigation of the matters into which they are appointed to examine, and they shall have the same power to enforce the attendance of such applicants and other persons, and to compel them to give evidence, as is vested in any court of justice in civil cases, in the Province in which the arbitration is held: but no such applicant or person shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution:

Their remuneration.

(6.) The fees for the services of such arbitrators shall be a matter of agreement between the arbitrators and the applicants, and shall be paid by the applicants who name them respectively, except those of the arbitrator or arbitrators named by the Commissioner, which shall be paid by the applicants jointly.

GRANT AND DURATION OF PATENTS.

What the patent shall contain and confer.

20. Every patent granted under this Act shall contain the title or name of the invention, with a reference to the specification, and shall grant to the patentee and his legal representatives, for the term therein mentioned, from the granting of the same, the exclusive right, privilege and liberty of making, constructing and using, and vending to others to be used, the said invention, subject to adjudication in respect thereof before any court of competent jurisdiction:

Joint applications.

(2.) In cases of joint applications, the patents shall be granted in the names of all the applicants.

Form of issue.

21. Every patent shall be issued under the seal of the Patent Office and the signature of the Commissioner or of some other member of the Queen's Privy Council for Canada, acting for him, and when duly registered, shall be good, and shall avail the grantee and his legal representatives for the term mentioned in the patent:

Patent may be referred to the Minister of Justice.

(2.) The Commissioner may require that any patent, before it is signed by the Commissioner or by any other member of the Queen's Privy Council for Canada, acting for him, and before the seal hereinbefore mentioned is affixed to it, shall be examined by the Minister of Justice; and if such examination is so required, the Minister of Justice shall, accordingly, examine it, and if he finds it conformable to law, he shall certify accordingly, and such patent may then be signed, and the seal affixed thereto.

Duration of patent.

22. The term limited for the duration of every patent of invention issued by the Patent Office shall be fifteen years; but at the time of the application therefore it shall be at the option of the applicant to pay the full fee required for the term of fifteen years, or the partial fee required for the term of five years, or the partial fee required for the term of ten years:

If partial fee only is paid.

(2.) If a partial fee only is paid, the proportion of the fee paid shall be stated in the patent, and the patent shall, notwithstanding anything therein or on this Act contained, cease at the end of the term for which the partial fee has been paid, unless at or before the expiration of the said term the holder of the patent pays the fee required for the further term of five or ten years, and obtains from the Patent Office a certificate of such payment in the form which is, from time to time adopted,

which certificate shall be attached to and refer to the patent, and shall be under the signature of the Commissioner, or the signature of any other member of the Queen's Privy Council for Canada acting for him:

Effect of second and of further payment.

(3.) If such second payment, together with the first payment, makes up only the fee required for ten years, then the patent shall, notwithstanding anything therein or in this Act contained, cease at the end of the term of ten years, unless at or before the expiration of such term the holder thereof pays the further fee required for the remaining five years, making up the full term of fifteen years, and obtains a like certificate in respect thereof.

RE-ISSUE OF PATENTS.

In certain cases new patent or amended specification may be issued.

23. Whenever any patent is deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee claiming more than he had a right to claim as new, but at the same time it appears that the error arose from inadvertence, accident or mistake, without any fraudulent or deceptive intention, the Commissioner may, upon the surrender of such patent and the payment of the further fee hereinafter provided, cause a new patent, in accordance with an amended description and specification made by such patentee, to be issued to him for the same invention for any part or for the whole of the then unexpired residue of the term for which the original patent was, or might have been granted:

Death or assignment.

(2.) In the event of the death of the original patentee or of his having assigned the patent, a like right shall vest in his assignee or his legal representatives:

Effect of new patent.

(3.) Such new patent, and the amended description and specification, shall have the same effect in law, on the trial of any action thereafter commenced for any cause subsequently accruing, as if the same had been originally filed in such corrected form before the issue of the original patent:

Separate patents for separate parts of invention.

(4.) The Commissioner may entertain separate applications, and cause patents to be issued for distinct and separate parts of the invention patented, upon payment of the fee for a re-issue for each of such re-issued patents.

DISCLAIMERS.

Patentee may disclaim anything included in patent by mistake.

24. Whenever, by any mistake, accident or inadvertence, and without any wilful intent to defraud or mislead the public, a patentee has made his specification too broad, claiming more than that of which he or the person through whom he claims was the first inventor,—or has, in the specification, claimed that he or the person through whom he claims was the first inventor of any material or substantial part of the invention patented, of which he was not the first inventor, and to which he had no lawful right—the patentee may, on payment of the fee hereinafter provided, make disclaimer of such parts as he does not claim to hold by virtue of the patent or the assignment thereof:

Form and attestation of disclaimer.

(2.) Such disclaimer shall be in writing, and in duplicate, and shall be attested in the manner hereinbefore prescribed in respect of an application for a patent; one copy thereof shall be filed and recorded in the office of the Commissioner, and the other copy thereof shall be attached to the patent and made a part thereof by reference, and such disclaimer shall thereafter be taken and considered as part of the original specification:

Not to affect pending suits.

(3.) Such disclaimer shall not affect any action pending at the time of its being made, except in so far as relates to the question of unreasonable neglect or delay in making it:

In case of death of patentee.

(4.) In case of the death of the original patentee, or of his having assigned the patent, a like right shall vest in his legal representatives, any of whom may make disclaimer:

Effect of disclaimer.

(5.) The patent shall thereafter be deemed good and valid for so much of the invention as is truly the invention of the disclaimant, and is not disclaimed, if it is a material and substantial part of the invention, and is definitely distinguished from other parts claimed without right; and the disclaimant shall be entitled to maintain an action or suit in respect of such part accordingly.

ASSIGNMENTS.

When representatives may obtain the patent.

25. The patent may be granted to any person to whom the inventor, entitled under this Act to obtain a patent, has assigned or bequeathed the right of obtaining the same, or in default of such assignment or bequest, to the legal representatives of the deceased inventor.

Patents to be assignable. Registration. Assignment null if not registered.

26. Every patent issued for an invention shall be assignable in law, either as to the whole interest or as to any part thereof, by any instrument in writing; but such assignment, and every grant and conveyance of any exclusive right to make and use and to grant to others the right to make and use the invention patented, within and throughout Canada or any part thereof, shall be registered in the Patent Office in the manner, from time to time, prescribed by the Commissioner for such registration; and every assignment affecting a patent for invention shall be null and void against any subsequent assignee, unless such instrument is registered as hereinbefore prescribed, before the registration of the instrument under which such subsequent assignee claims.

Assignment in case of joint application, &c.

27. In cases of joint applications or grants, every assignment from one or more of the applicants or patentees to the other or others, or to any other person, shall be registered in like manner as other assignments.

IMPEACHMENT AND OTHER LEGAL PROCEEDINGS IN RESPECT OF PATENTS.

Patent to be void in certain cases, or valid only for part. Copies of judgment to be sent to Patent Office.

28. A patent shall be void, if any material allegation in the petition or declaration of the applicant herein before mentioned in respect of such patent is untrue, or if the specifications and drawings contain more or less than is necessary for obtaining the end for which they purport to be made, when such omission or addition is wilfully made for the purpose of misleading; but if it appears to the court that such omission or addition was an involuntary error, and if it is proved that the patentee is entitled to the remainder of his patent *pro tanto*, the court shall render a judgment in accordance with the facts, and shall determine as to costs, and the patent shall be held valid for such part of the invention described, as the patentee is so found entitled to; and two office copies of such judgment shall be furnished to the Patent Office by the patentee, one of which shall be registered and remain of record in the office, and the other of which shall be attached to the patent, and made part of it by a reference thereto.

Remedy for infringement of patent.

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

Action for infringement of patent.

30. Any action for the infringement of a patent may be brought in any court of record having jurisdiction, to the amount of the damages claimed, in the Province in which the infringement is alleged to have taken place, and which is also that one of the said courts which holds its sittings nearest to

the place of residence or of business of the defendant; and such court shall decide the case and determine as to costs.

Injunction may issue. Appeal.

31. In any action for the infringement of a patent, the court if sitting, or any judge thereof if the court is not sitting, may, on the application of the plaintiff or defendant respectively, make such order for an injunction, restraining the opposite party from further use, manufacture or sale of the subject matter of the patent, and for his punishment in the event of disobedience of such order, or for inspection or account, and respecting the same and the proceedings in the action, as the court or judge sees fit; but, from such order, an appeal shall lie under the same circumstances, and to the same court, as from other judgments or orders of the court in which the order is made.

Court may discriminate in certain cases.

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

Defence in actions for infringement.

33. The defendant, in any such action, may plead specially as matter of defence, any fact or default which, by this Act, or by law, renders the patent void; and the court shall take cognizance of that special pleading and of the facts connected therewith, and shall decide the case accordingly.

Proceedings for impeachment of patent.

34. Any person who desires to impeach any patent issued under this Act, may obtain a sealed and certified copy of the patent. and of the petition, affidavit, specification and drawings thereunto relating, and may have the same filed in the office of the prothonotary or clerk of the Superior Court for Lower Canada in Quebec, or of any of the divisions of the High Court of Justice for Ontario, or of the Supreme Court in Nova Scotia, or of the Supreme Court in New Brunswick, or of the Supreme

Court of Judicature in Prince Edward Island, or of the Supreme Court in British Columbia, or of the Court of Queen's Bench in Manitoba or of the Supreme Court in the North-West Territories, according to the domicile elected by the patentee, as aforesaid,—which courts, respectively, shall adjudicate on the matter and decide as to costs; and if the domicile elected by the patentee is in the District of Keewatin, the Court of Queen's Bench of Manitoba shall have jurisdiction until there is a superior court in such District, after which such superior court shall have jurisdiction:

Scire facias may issue.

(2.) The patent and documents aforesaid shall then be held as of record in such courts respectively, so that a writ of *scire facias* under the seal of the court, grounded upon such record, may issue for the repeal of the patent, for cause as aforesaid, if, upon proceedings had upon the writ in accordance with the meaning of this Act, the patent is adjudged to be void.

Judgment voiding patent to be filed in Patent Office.

35. A certificate of the judgment avoiding any patent shall, at the request of any person filing it to make it of record in the Patent Office, be entered on the margin of the enrolment of the patent in the Patent Office, and the patent shall thereupon be and be held to have been void and of no effect, unless the judgment is reversed on appeal as hereinafter provided.

Appeal.

36. The judgment declaring or refusing to declare any patent void shall be subject to appeal to any court having appellate jurisdiction in other cases decided by the court by which the judgment declaring or refusing to declare such patent void, was rendered.

FORFEITURE OF PATENTS.

Patent conditional as to manufacture in Canada. Importation prohibited after twelve months. Decision of disputes.

37. Every patent granted, under this Act, shall be subject and be expressed to be subject to the condition that such patent and all the rights and privileges thereby granted shall cease and determine, and that the patent shall be null and void at the end

of two years from the date thereof, unless the patentee or his legal representatives, within that period, commence, and, after such commencement, continuously carry on in Canada the construction or manufacture of the invention patented, in such manner that any person desiring to use it may obtain it, or cause it to be made for him, at a reasonable price at some manufactory or establishment for making or constructing it in Canada,—and that such patent shall be void if, after the expiration of twelve months from the granting thereof, the patentee or his legal representatives or his assignee for the whole or part of his interest in the patent imports or causes to be imported into Canada, the invention for which the patent is granted; and if any dispute arises as to whether a patent has or has not become null and void under the provisions of this section, such dispute shall be decided by the Minister or the deputy of the Minister of Agriculture, whose decision in the matter shall be final:-

Term for manufacture in Canada may be extended.

(2.) Whenever a patentee has been unable to carry on the construction or manufacture of his invention within the two years hereinbefore mentioned, the Commissioner may, at any time not more than three months before the expiration of that term, grant to the patentee an extension of the term of two years on his proving to the satisfaction of the Commissioner that he was, for reasons beyond his control, prevented from complying with the above condition:

Term for importation may be extended. Proviso.

(3.) The Commissioner may grant to the patentee, or to his legal representatives or assignees for the whole or any part of the patent, an extension for a further term not exceeding one year, beyond the twelve months limited by this section, during which he may import or cause to be imported into Canada the invention for which the patent is granted, if the patentee or his legal representatives, or assignee for the whole or any part of the patent, show cause, satisfactory to the Commissioner, to warrant the granting of such extension; but no extension shall be granted unless application is made to the Commissioner at some time within three months before the expiry of the twelve months aforesaid, or of any extension thereof.

Caveats.

Intending applicant for patent may file a caveat.

38. Any intending applicant for a patent who has not yet perfected his invention and is in fear of being despoiled of his idea, may file, in the Patent Office, a description of his invention so far, with or without plans, at his own will; and the Commissioner, on payment of the fee in this Act prescribed, shall cause the said document, which shall be called a caveat, to be preserved in secrecy, with the exception of delivering copies of the same whenever required by the said applicant or by any judicial tribunal,—but the secrecy of the document shall cease when the applicant obtains a patent for his invention:

Notice of application by another to be sent to person filing caveat.

(2.) If application is made by any other person for a patent for any invention with which such caveat may, in any respect, interfere, the Commissioner shall forthwith give notice, by mail, of such application, to the person who has filed such caveat, and such person shall, within three months after the date of mailing the notice, if he wishes to avail himself of the caveat, file his petition and take the other steps necessary on an application for a patent, and if, in the opinion of the Commissioner, the applications are conflicting, like proceedings may be had in all respects as are by this Act provided in the case of conflicting applications:

Duration of caveat.

(3.) Unless the person filing a caveat makes application within one year from the filing thereof for a patent, the Commissioner shall be relieved from the obligation of giving notice, and the caveat shall then remain as a simple matter of proof as to novelty or priority of invention, if required.

Patent Fees.

Tariff of fees.

39. The following fees shall be payable before an application for any of the purposes herein mentioned shall be received by the Commissioner, that is to say:—

Full fee for 15 years	$ 60 00
Partial fee for 10 years	40 00
Partial fee for 5 years	20 00
Fee for further term of 10 years	40 00

Fee for further term of 5 years	$ 20 00
On lodging a caveat	5 00
On asking to register a judgment *pro tanto* . .	4 00
On asking to register an assignment . . .	2 00
On asking to attach a disclaimer to a patent . .	2 00
On asking for a copy of patent with specification .	4 00
On petition to re-issue a patent after surrender, and on petition to extend a former patent to the whole of Canada for every unexpired year of the duration of the provincial or sub-patent, the fee shall be at the rate of	4 00

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

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

For copies of drawings.

40. For every copy of drawings, the person applying shall pay such sum as the Commissioner considers a fair remuneration for the time and labour expended thereon by any officer of the Patent Office or of the department or person employed to perform such service.

Fees to be in full for all services.

41. The said fees shall be in full of all services performed under this Act, in any such case, by the Commissioner or any person employed in the Patent Office.

Application of fees. Exception.

42. All fees received under this Act shall be paid over to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada, except such sums as are paid for copies of drawings when made by persons not receiving salaries in the Patent Office.

Return of fees in certain cases only.

43. No person shall be exempt from the payment of any fee or charge payable in respect of any services performed for such person under this Act; and no fee, when paid, shall be returned to the person who paid it, except,—

(*a.*) When the invention is not susceptible of being patented; or—

(*b.*) When the petition for a patent is withdrawn:

And in every such case the Commissioner may return the fee paid less the sum of ten dollars.

General Provisions.

Government may use patented invention.

44. The Government of Canada may, at any time, use any patented invention, paying to the patentee such sum as the Commissioner reports to be a reasonable compensation for the use thereof.

As to use of patented invention in foreign vessels.

45. No patent shall extend to prevent the use of any invention in any foreign ship or vessel, if such invention is not so used for the manufacture of any goods to be vended within or exported from Canada.

Patent not to affect a previous purchaser. Proviso: as to other persons.

46. Every person who, before the issuing of a patent, has purchased, constructed or acquired any invention for which a patent is afterwards obtained under this Act, shall have the right of using and vending to others the specific article, machine, manufacture or composition of matter patented and so purchased, constructed or acquired before the issue of the patent therefor, without being liable to the patentee or his legal representatives for so doing; but the patent shall not, as regards other persons, be held invalid by reason of such purchase, construction or acquisition or use of the invention, by the person first aforesaid or by those to whom he has sold the same unless the same was purchased, constructed, acquired or used, with the consent or allowance of the inventor thereof, for a longer period than one year before the application for a patent therefor—making the invention one which had become public and in public use.

Inspection by the public.

47. All specifications, drawings, models, disclaimers, judgments and other papers, except caveats, shall be open to the inspection of the public at the Patent Office, under such regulations as are adopted in that behalf.

As to clerical errors.

48. Clerical errors which occur in the framing or copying of any instrument in the Patent Office shall not be construed as invalidating the same, but when discovered they may be corrected under the authority of the Commissioner.

Destroyed patent may be replaced.

49. If any patent is destroyed or lost, another patent of the like tenor, date and effect may be issued in lieu thereof, upon the person who applies therefor paying the fees hereinbefore prescribed for office copies of documents.

Seal of Patent Office to be evidence.

50. Every court, judge and person whomsoever shall take notice of the seal of the Patent Office and shall receive the impressions thereof in evidence, in like manner as the impressions of the Great Seal are received in evidence, and shall also take notice of and receive in evidence, without further proof and without production of the originals, all copies or extracts certified under the seal of the Patent Office to be copies of or extracts from documents deposited in such office.

Officers of Patent Office not to deal in patents.

51. No officer or employé of the Patent Office shall buy, sell or acquire or traffic in any invention or patent, or in any right to a patent; and every such purchase and sale, and every assignment or transfer thereof by or to any officer or employé, as aforesaid, shall be null and void, but this provision shall not apply to any original inventor, or to any acquisition by bequest.

Regulations may be made and forms prescribed.

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

Annual report for Parliament.

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

OFFENCES AND PENALTIES.

Patented articles to be stamped or marked. Penalty for default.

54. Every patentee under this Act shall stamp or engrave on each patented article sold or offered for sale by him the year of the date of the patent applying to such article, thus: "Patented 1886," or as the case may be; or when, from the nature of the article, this cannot be done, then by affixing to it, or to every package wherein one or more of such articles is or are enclosed a label marked with a like notice; and any such patentee selling or offering for sale any such patented article not so marked, or not enclosed in a package so marked, shall be liable to a penalty not exceeding one hundred dollars, and in default of the payment of such penalty, to imprisonment for a term not exceeding two months.

Falsely marking an article as patented a misdemeanor. Punishment.

55. Every person who writes, paints, prints, moulds, casts, carves, engraves, stamps or otherwise marks upon anything made or sold by him, and for the sole making or selling of which he is not the patentee, the name or any imitation of the name of any patentee for the sole making or selling of such thing, without the consent of such patentee,—or who, without the consent of the patentee, writes, paints, prints, moulds, casts, carves, engraves, stamps or otherwise marks upon anything not purchased from the patentee, the words, "patent," "letters patent," "Queen's patent," "patented," or any word or words of like import, with the intent of counterfeiting or imitating the stamp, mark, or device of the patentee, or of deceiving the public and inducing them to believe that the thing in question was made or sold by or with the consent of the patentee or his legal representatives; or who offers for sale as patented any

article not patented in Canada, for the purpose of deceiving the public, is guilty of a misdemeanor, and liable to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding three months, or to both.

Making certain false entries on copies a misdemeanor.

56. Every person who wilfully makes or causes to be made any false entry in any register or book, or any false or altered copy of any document relating to the purposes of this Act, or who produces or tenders any such false or altered document in evidence, knowing the same to be such, is guilty of a misdemeanor, and shall be liable to be punished by fine and imprisonment accordingly.

PATENTS ISSUED UNDER FORMER ACTS.

Certain existing patents to remain in force.

57. Every patent issued under any Act of Parliament of Canada, or of the legislature of the late Province of Canada, or of the legislature of any Province now forming part of Canada, shall remain in force for the same term and for the same extent of territory as if the Acts under which they were issued had not been repealed, but subject to the provisions of this Act in so far as the same are applicable to them:

Extension of such patent.

(2.) The Commissioner may, upon the application of the patentee named in any such patent, who is the inventor of the subject matter of the patent, if the subject matter of the patent has not been known or used, and has not, with the consent of the patentee, been on sale in any of the other Provinces of Canada, issue, on payment of the proper fees in that behalf, a patent under this Act, extending such Provincial patent over the whole of Canada, for the remainder of the term mentioned in the Provincial patent.

Duration of certain patents.

58. Every patent heretofore issued by the Patent Office in respect of which the fee required for the whole or for any unexpired portion of the term of fifteen years, has been duly paid according to the provisions of the law under which such patent was issued in that behalf, has been and shall be deemed to have been issued for the term of fifteen years, subject, in case

a partial fee only has been paid, to its ceasing on the same conditions on which patents hereafter issued are to cease under the operation of this Act.

Extension to Prince Edward Island.

59. Every patent issued prior to the eighth day of April one thousand eight hundred and seventy-five, under the Acts respecting patents then in force in Canada, shall extend over the Province of Prince Edward Island for the remainder of the term mentioned therein.

CONGO.

Law of October 29th, 1886.

LÉOPOLD II., King of the Belgians, Sovereign of the Independent State of the Congo; To all present and to come; Greeting:—

Considering that it is necessary to encourage new and useful inventions by granting to their authors for a limited time the exclusive enjoyment of these inventions:—

Upon the proposition of our Council of General Administrators:—

We have decreed and decree:—

Art. 1.

Every discovery and every improvement capable of being worked as an object of industry or commerce is patentable.

Art. 2.

Patents will be granted without previous examination at the risk and peril of the applicants, without guarantee either of the reality or of the novelty or of the merit of the invention or of the correctness of the description, and without prejudice to the rights of third parties.

Art. 3.

Patents are of three kinds: Patents of invention; Patents of importation; and Patents of improvement.

Art. 4.

The date of the lodging of the application is that of the patent.

Art. 5.

The term of a patent of invention is twenty years.

The term of a patent of importation is limited by that of the foreign patent.

Patents of improvement expire at the same time as the principal patent.

Art. 6.

Every patent requires the payment of the sum of one hundred francs. Patents of improvement are not liable to any tax.

The payments shall be made in advance.

Art. 7.

The issue of every patent shall be advertised in the *Bulletin Officiel*.

Art. 8.

Patents confer on their owners the right of prosecuting, before the tribunals, those who may attack their rights, of recovering damages from the infringers, and, according to the case, of having decreed the confiscation of articles made in contravention of the patent.

Art. 9.

Our Administrator-General of the Department of Foreign Affairs shall issue the patents in our name: he shall take all necessary measures relative to the present decree, which comes into force this day.

Given at Brussels, the 29th of October, 1886.

Decree of October 30th, 1886.

The Administrator-General of the Department of Foreign Affairs, under the decree on patents dated the 29th of October, 1886, prescribes:—

Art. 1.

Any person who wishes to take a patent of invention, of importation or of improvement must lodge an application to that effect at the Department of Foreign Affairs either directly or through the agency of the Administrator-General of the Congo.

To this application must be annexed duplicate copies, of which one shall be sent to the Director of Justice at the Congo, of:—

1. A certified description agreeing with the object invented.

2. The drawings, models or specimens which may be necessary for understanding the description.

Art. 2.

The application shall be drawn up on unstamped paper; it shall state the Christian and surname, profession and residence of the inventor.

When it relates to a patent of importation, the petition shall set out the date and term of the original patent and the country where it was granted.

Art. 3.

All the papers must be dated and signed by the applicant or by his attorney, whose power, duly legalized, shall remain annexed to the application.

Art. 4.

There shall be given to the applicant or his attorney a receipt for the papers lodged, which shall fix the day and hour of the application. This receipt shall only be given on payment of the fees, and mention shall be made in it of this payment.

Art. 5.

The patent shall mention expressly that the grant is made without preliminary examination, at the risk and peril of the applicants, without guarantee either of the reality or of the novelty or of the merit of the invention, or of the exactitude of the description, and without prejudice to the rights of third parties.

Art. 6.

The first copy of patents shall be made without charge. All other copies shall be certified as agreeing with the original and shall be subject to a tax of five francs.

Art. 7.

All assignments or changes in ownership, total or partial, shall be notified to the Department of Foreign Affairs. The notification of the assignment or any deed involving change in ownership must be accompanied by an authentic extract of the deed of assignment or change.

Art. 8.

The deeds of assignment or change shall be published in the *Bulletin Officiel* in the same way as grants of patents, in accordance with Article 7 of the decree of the 29th October, 1886.

ECUADOR.

Law of October 18*th*, 1880.

Art. 1.

The law shall secure to every inventor the full and entire enjoyment of his invention so far as it is not contrary to law or morality.

Art. 2.

Methods or means which may be discovered for the improvement of any manufacture or industry shall likewise be deemed to be an invention.

Art. 3.

That which is destined solely to produce modifications of shape and objects of pure ornament shall not be considered as inventions.

Art. 4.

The State may buy the secret of any invention useful to industry for the general benefit.

Art. 5.

To secure to the author of an invention or improvement the exclusive enjoyment of his ownership, there may be granted to him a privilege for not less than ten nor more than fifteen years.

Art. 6.

Exclusive privileges shall not be granted to inventors of secret remedies; their publication for fair compensation is the duty of the inventor.

Art. 7.

Importers of machinery or of new methods of manufacture or industry which were not previously known in the Republic are also entitled to exclusive privileges. This concession will be governed by the following scale :—

Art. 8.

If the establishment of the machine or industry imported requires an outlay or advance of twenty-five thousand dollars, the privilege shall be for three years; if it reaches fifty thousand, for six years; and if a hundred thousand or more, for ten years.

Art. 9.

The privilege granted to importers of machinery or new methods of manufacture or industry already used and known abroad, shall be restricted to the locality in which the machine is worked or to the territory necessary to secure its benefits.

On the mode of obtaining privileges of invention, improvement, and importation.

Art. 10.

The person who applies for any of the classes of privilege shall make representation to the Executive Power explaining in what the invention or improvement consists, reserving to himself the secret of the method, simples or ingredients which he uses, or the instrument of which he avails himself. He shall also send with his petition a specimen of the manufacture, worked metal or product of the improved or perfected invention.

Art. 11.

When the privilege is for an importation, the applicant shall produce, with his petition, drawings or models of the machine which he proposes to establish, or a detailed description of the principles, methods, and processes of the industry which he proposes to introduce into the Territory of the Republic, as well as of the product which he proposes to elaborate.

Art. 12.

The Government shall thereupon appoint a Commission of three persons competent to judge of the matter or to examine

the process or secret of which the invention, improvement, or importation consists.

Art. 13.

This Commission shall always be presided over by the Political Chief of the Canton in which the privilege is to be worked, and if it is to be for the whole Republic, by the Political Chief of the Canton in which the application was made, with two members of the Municipal Council who shall, jointly, make the examination and investigation referred to in the preceding article.

Art. 14.

The two Municipal Councillors and the three members of the Commission appointed by the Government, shall make oath before the said Political Chief not to reveal the secret and to fulfil their commission faithfully.

Art. 15.

The Commission and the two Municipal Councillors shall then, without the presence of the interested party, discuss the report which they are to make, noting any difference of opinion which may arise amongst the members of the Commission.

Art. 16.

The report mentioned in the preceding article shall be remitted to the Minister of the Interior with an endorsement that the contents are to be kept secret, and enclosing in the same packet the description of the method, machinery, or details of which the improvement, invention, or importation consists.

Art. 17.

Within three months at most after the receipt of the report of the Commission appointed to examine the invention, improvement, or importation of the new industry, the Executive Power shall deliver the papers to Congress together with the aforesaid report.

Congress, after examining the same, will grant or refuse the privilege; in the former case it will return the documents to the Executive Power for the issue of the corresponding patent, on stamped paper of the tenth class, ordering the packet

containing the petition with the description referred to in Art. 11 to be kept locked up at the Ministry of the Interior.

Art. 18.

In order to avoid any abuse which patentees might make of their title-deeds, the Government shall set forth in the patent that it does not guarantee the reality, the merit, or the utility of the invention, improvement, or importation, and that these are at the charge and risk of the interested party.

Art. 19.

A patentee who desires to make variations in his invention or in his petition before having obtained his title-deed, or during the term of his privilege, must make his declaration in writing, accompanying it with a description of his new methods in the form and manner prescribed in Art. 10, in order to obtain the variation of his privilege, the duration of which shall not be thereby extended.

On the rights of Patentees.

Art. 20.

The patentee shall enjoy exclusively the exercise and fruits of the invention, improvement, or importation for which he holds his privilege.

Art. 21.

The patentee shall have the right of forming establishments in any part of the Republic, if his privilege extends to the whole of it, or in any locality to which it is restricted, and to authorize other persons to apply and make use of his methods; as also the power of disposing of his rights as objects of personal property.

Art. 22.

The patentee shall not assign his privilege either wholly or partially, except by public instrument, on pain of losing his privilege.

Art. 23.

Priority in the petition for a privilege in the event of dispute or doubt between two applicants shall be decided by the

certificate of the Under Secretary of the Interior, who shall note the day and hour on which petitions of this kind are received.

On the duration of the privileges.

Art. 24.

The duration of privileges of invention, improvement, and importation shall commence from the date of the decree which grants them.

Art. 25.

The title-deeds of patentees granted by the Government shall be registered in a Special Register at the Ministry of the Interior. There shall also be deposited there until the expiration of the term of the privilege, the original petition, the descriptions and other papers referred to in Art. 10.

Art. 26.

The granting of privileges shall be communicated officially by the Ministry of the Interior to the Provincial Governors, and published in the Official Journal. It shall also be registered in the collection of Laws and Decrees.

On the rights of the nation at the expiration of the term of the privileges.

Art. 27.

At the expiration of the term of the duration of the privilege, the invention, improvement, or importation of the new industrial method shall become public property.

Art. 28.

On the expiration of the duration of the privilege, the petition, description, and other papers referred to in Art. 10 shall be published and deposited in the public library of the capital of the Republic.

Art. 29.

If the privilege lapses through any of the causes laid down in this law, there shall be a like publication and deposit for the purposes expressed in Art. 27.

Art. 30.

The Government shall order the descriptions to be printed, and the necessary drawings to be made for a due understanding of the methods which become subject to public use and shall forward sufficient copies to the Provincial Governors.

On the guarantees of the privilege against fraud.

Art. 31.

The patentee upon giving security and sufficient bond may make application for the seizure of the machines, instruments and products which may be established, used, or elaborated in fraud of his rights, proceeding for that purpose in conformity with the laws in force.

Art. 32.

If the author of the fraud is convicted he shall be condemned to the confiscation of the property seized in favour of the patentee, and to pay the latter damages proportionate to the extent of the fraud.

Art. 33.

If the fraud is not proved the prosecuting patentee shall be condemned in the damages caused by the seizure in favour of the defendant, and to pay a fine equal to that which the latter would have had to pay if he had been convicted of the fraud.

Art. 34.

If the patentee is disturbed in the exercise of his exclusive right he may proceed against the disturbers, in the ordinary Courts of Law, for the infliction of the penalties prescribed by the preceding articles. But if a dispute arises as to the validity or the lapse of the privilege, the Minister of the Interior shall take cognizance thereof as administrative tribunal.

Art. 35.

In case of question or dispute between two patentees for the same invention, if the similarity is absolute the privilege shall be valid which comes first in point of time.

Art. 36.

The later patentee shall in that case be considered as improver of the invention.

On the guarantees of the nation against abuses on the part of patentees.

Art. 37.

A privilege granted for an invention, improvement, or importation which the Courts condemn as contrary to the laws of the State, to public safety, or to the police regulations shall be null and void. The patentee shall also in that case lose his right to indemnification.

Art. 38.

Privileges shall lapse, not only in the cases already specified, but also in the following :—

1. If the inventor is convicted of having concealed in his description the true methods of carrying his invention into practice.
2. If the inventor is convicted of using secret methods which are not detailed in the description or in the declaration which Art. 19 allows to be made for the modification of the same.
3. If the inventor or the person calling himself such is convicted of having obtained the privilege for an invention already described and published in the press, within or without the Republic.
4. If the patentee allows a year and a day to elapse after the date on which the privilege was granted to him without having put his invention into complete practice, unless he excuses his omission by justifiable causes according to the laws. And
5. If the inventor or the assignee of his rights by whatever title contravenes the obligations attached to the use of the privilege.

Art. 39.

In all cases of nullity of the privilege or of its lapsing from any cause whatsoever, the provisions of Art. 27 shall apply.

Art. 40.

Every patentee must offer to submit to the laws of the country in all matter that may arise in respect of the grant, expressly renouncing all diplomatic claims or intervention.

Art. 41.

All patentees existing in the Republic remain subject as regards the lapsing of priviloges to the provisions of the present law.

GUATEMALA.

Law of May 21*st*, 1886.

THE Legislative Assembly of the Republic of Guatemala, considering that it is necessary to amplify, in a manner suitable to the interests of the country and in harmony with liberal principles, Art. 20 of the Constitution, which in one of its parts guarantees to the author or inventor the property in his work or invention and to regulate at the same time the functions the same article gives to the Executive Power; Decrees that :—

Art. 1.

Every discovery or invention in whatsoever kind of industry, gives to its author the exclusive right to utilize his invention or improvement for the time and under the conditions established by this law.

Art. 2.

Every native of Guatemala or foreigner domiciled in Guatemala who invents or perfects any machine, instrument or mechanical apparatus, manufacture of whatsoever kind, or process capable of useful application in the sciences or arts, can obtain from the Executive a "Patent of invention" or "Patent of improvement" assuring to him, for a term of from five to fifteen years, the property in his invention or improvement.

Art. 3.

To obtain this patent the person interested shall apply to the Minister of the Interior, either personally or by attorney, declaring his invention or improvement, explaining it with clearness and soliciting the privilege.

Art. 4.

If the patent be granted, the grantee shall present within forty days an exact drawing of the machine or mechanical apparatus in question, or a detailed description of the new process, annexing a specimen of the manufacture or product, if possible and if it can be preserved, in order that it may be deposited in the office of the Chamber under the care of the officer in charge, and may serve as proof in case of litigation under the patent.

Art. 5.

Persons may obtain patents if they have obtained patents in other countries, provided their discovery has not been published in the Dominion, and if there exists a convention between the Government of the country in question and that of Guatemala.

These patents shall expire with the foreign patents, but if the term of the latter be more than fifteen years, the grant shall not exceed that time.

Art. 6.

The privilege granted shall be entered in a special book which shall be kept in the Secretary's office.

Art. 7.

In the patent that is issued shall be inserted the terms of the grant; in it shall be cited the present law, the invention or improvement which it covers, the term for which it is granted, and the declaration of possession of the privilege, and it shall be sealed with the seal of the Minister of the Interior.

Art. 8.

The Executive, in granting a patent, shall not declare that the discovery or invention is the property of the person appearing as the inventor or author, nor as to its truth or utility. Persons interested are at liberty to prove the contrary at law.

Art. 9.

Every application for a patent shall be published four times during a month in the Official Journal, and the patents granted shall be published not less than twice in the same journal.

Art. 10.

Patents shall be void (in addition to the cases provided for in Art. 4) in the following cases:—

1. When in the opinion of a competent tribunal they have been issued prejudicially to the rights of a third party.
2. When a year has elapsed without the industry or improvement for which the patent was granted having been put into practice.
3. When, after setting up the industry or improvement, it is abandoned for more than a year.
4. When the products issued are inferior, by reason of adulteration or otherwise, to the specimens lodged.

Art. 11.

A patent shall not be granted in the following cases:—

1. When the invention or improvement is contrary to existing laws, to health or public security, or to morality and good manners.
2. When the formalities prescribed by this law have not been fulfilled.

Art. 12.

The patent granted shall cover only the process or means of performance and production, not the products, which, when manufactured by any other system may be freely made and sold.

Art. 13.

Every person has the right of improving the invention of another but not of using the original invention without coming to an agreement with the inventor; neither shall the inventor use the modifications and improvements made by another without coming to an agreement with him.

Art. 14.

The grant of a patent requires the payment to the national treasury of a tax of from five to fifty dollars for each year of the grant, which the grantee shall pay by annuities in advance.

Art. 15.

When the term fixed in the patent has expired, the specification of the author or inventor shall be published, copies of the drawings or models shall be given to and at the cost of any one asking for them and the manufacture by that process or system is from thenceforth open.

Art. 16.

The crimes of falsification, imitation, and others against patented articles shall be punished under the provisions of the penal code.

Art. 17.

The Executive may make grants in favour of enterprises of public utility which may be established in the country, or plans which have for their object the establishment of new industries or improvements in those already existing.

Art. 18.

These grants may be:—The exemption from or diminution of the payment of the fiscal dues for the introduction of machinery or material; the gratuitous lending of national buildings or land during the term of the grant; the exemption from military service of the operatives employed in the industry to which the grant refers; subsidies and rewards in money when the state of the exchequer permits.

In case of relief from or diminution of the duties, the chiefs or administrators of the privileged undertaking to obtain the delivery of the goods must present at the Custom House in question a request which must state the following points:—

1. That the undertaking is restricted to those who own the grant.
2. That the articles of which the delivery is asked are not in excess of the necessities or conditions of the said undertaking.
3. State the name of the ship conveying the goods; marks and numbers of the packages.

4. Note minutely the goods previously introduced into their warehouse and depositories.

The officers entrusted with the delivery of these goods shall take the necessary precautions to verify their conformity with that which is expressed in the request, and shall stop the delivery in case of noting any default. If the undertaking favoured by the relief from payment of duty shall cease by the lapse of the grant or from any other cause, a copy of the formal inventory of all the existing articles belonging to the undertaking shall be presented at the proper Custom House, and if the said articles are intended for consumption or future use the corresponding duties shall be paid.

Art. 19.

Any person who desires to obtain a grant for the establishment of an undertaking of public utility or the introduction or improvement of any speciality, shall make application at the office of the Minister of the Interior, explaining clearly the conditions of the undertaking or industry or improvement he wishes to establish. The Minister shall forward the petition to the Council of State with the report of two or more experts. On hearing the decision of the latter, he shall, if it be favourable, grant the concession subject to the approval of the Assembly, who shall take it into consideration at the next ordinary session. The grantee may commence to use the concession as soon as it has been granted, but in case of its not being approved by the Assembly he shall have no right to any indemnification. Every petition for a concession shall be published four times for the term of a month in the Official Journal prior to being forwarded for the consideration of the Council of State, in order that any one whose rights are prejudiced thereby may appear at the said office of the Minister.

Art. 20.

Special concessions shall not be made for the introduction of machines for domestic use and other articles of ordinary trade.

Art. 21.

The exemption made in favour of any undertaking shall lapse if it be discovered that there is a trade in the materials or articles it is to introduce.

Art. 22.

In the case mentioned in the preceding article, the grantee, besides the loss of the concession, shall pay the proper duties on all the previous importations proved, and forty per cent. over the total amount.

Art. 23.

Grants shall also lapse in the following cases :—

1. When the time in which the grantee is compelled to establish the industry or to commence the works for putting it into practice shall have expired.
2. When after establishment the same shall be abandoned for more than a year.

Art. 24.

Articles 436 & 437 of Chapter. II. Title X. of the Civil Code Book I. are repealed.

HAWAIIAN KINGDOM.

Civil Code.

Sec. 255.

THE Minister of the Interior, with the approval of his Majesty the King, may issue a patent to the inventor or improver of any machine, manufacture or other work of art calculated to promote the interests of science, agriculture or manufactures, and may therein grant to such inventor or improver the exclusive use and benefit of his invention or improvement for any term of years, not exceeding ten, that may be specified in such patent.

Sec. 256.

Every such inventor or importer shall, before receiving a patent, deliver to the Minister of the Interior a full and clear description in writing of his invention or improvement, together with the mode of using or applying the same to the purpose for which it is intended, and the manner and process of making, constructing or compounding the same, and in case of any machine he shall also furnish, in addition to the written description, accurate drawings and a complete model thereof.

Act of August 29, 1884, *to regulate the issuing of patents.*

Be it enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:

Sec. 1.

All patents shall be issued in the name of his Majesty the King, under the seal of the Interior Department, and shall be signed by the Minister of the Interior and countersigned by the

Commissioner of Patents, and they shall be recorded, together with the specifications, in the office of the Interior Department in books kept for that purpose.

Sec. 2.

Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns for the term of ten years, of the exclusive right to make, use, and vend the invention or discovery throughout the Hawaiian Islands, referring to the specification for particulars thereof. A copy of the specifications and drawings shall be annexed to the patent and be a part thereof.

Sec. 3.

Any person who has invented or discovered any new and useful art, machine, manufacture, process, or composition of matter, or any new and useful improvement thereof not known or used by others in this country, and not patented (or described in any printed publication) in this or any foreign country before his invention or discovery thereof, may, upon payment of the fees required by law and other due proceedings had, obtain a patent therefor: *Provided, however*, That any person who has invented or discovered, any new and useful art, machine, manufacture, process, or composition of matter, or any new and useful improvement thereof, and has received a patent or patents therefor from any foreign government, may also obtain a patent therefor in this country as provided above, unless the thing patented has been introduced into public use in the Hawaiian Islands for more than one year prior to the application for a patent. But every patent granted for an invention which has been previously patented in a foreign country shall be so limited that it shall not continue longer than the time of the expiration of such foreign patent, or if there are several foreign patents it shall not continue longer than the time of the expiration of the one with the shortest unexpired term, and in no case shall it be in force more than ten years.

Sec. 4.

Before any inventor or discoverer shall receive a patent for his invention or discovery he shall apply therefor in writing to the Minister of the Interior, and shall file in the office of the Interior Department a written description of the same and of

the manner and process of making, compounding, and using it, in clear, concise, and exact terms, and in case of a machine he shall explain the principle thereof and of the manner in which he has applied that principle, so as to distinguish it from other inventions, and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery. When the nature of the case admits of drawings, the applicant shall furnish them, as set forth in section 2. When the invention or discovery is of a composition of matter, the applicant shall furnish a specimen of ingredients and of the composition, sufficient in quantity for the purpose of experiment. In all cases which admit of representation by model the applicant shall, if required, furnish a model of convenient size to exhibit advantageously the several parts of his invention.

Sec. 5.

The applicant shall make oath that he believes himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent, and that he does not know or believe that the same was ever before known or used, and shall state of what country he is a citizen.

Sec. 6.

On filing of any such application and the payment of the fees required by law, the Commissioner of Patents shall examine the alleged new invention or discovery, and if upon such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, he shall report accordingly to the Minister of the Interior, who shall cause a patent to be issued therefor.

Sec. 7.

Any person who makes any new invention or discovery, and desires further time to mature the same, may on payment of the fees required by law file in the Interior Department a caveat setting forth the design thereof and its distinguishing characteristics, and praying protection of his right until he shall have matured the invention. Such caveat shall be preserved in secrecy and shall be operative for the term of one year from the filing thereof.

Sec. 8.

The Commissioner of Patents shall be appointed by the Minister of the Interior, and shall examine and report on all applications for patents, and shall receive for such services a fee of twenty dollars for each application examined and reported by him, which fee shall be paid by the applicant in advance. In addition to this fee the following fees shall be charged all applicants for patents: Upon filing each original application for a patent, five dollars; and upon issuing a patent, five dollars; and five dollars shall be charged for the filing of a caveat.

Sec. 9.

This Act shall take effect and become a law from and after its publication, and "An Act to amend sections 255 and 256 of the Civil Code, and add a new section to the Civil Code to be numbered Section 256 A," approved the 22nd day of June, A.D. 1868, is hereby repealed.

YALE LAW LIBRARY.

INDIA.

Act No. 5 *of* 1888.

THE INVENTIONS AND DESIGNS ACT, 1888.

So far as it relates to Patents for Inventions.

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An Act to consolidate and amend the law relating to the Protection of Inventions and Designs.

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Inventions and Designs Act, 1888.

(2) It shall extend to the whole of British India; and

(3) It shall come into force on the first day of July, 1888.

Repeal.

2. (1) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.

(2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Division of Act into Parts.

3. The remainder of this Act is divided into Parts as follows:—

PART I.—INVENTIONS.
PART II.—DESIGNS.

PART I.

INVENTIONS.

Definitions.

4. In this Part, unless there is something repugnant in the subject or context,—

(1) "invention" includes an improvement:

(2) "inventor" does not include the importer into British India of a new invention unless he is the actual inventor:

(3) "applicant" means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not:

(4) "assign" includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorizing others so to do, during the term for which the privilege is to continue or may be extended, or for any shorter term:

(5) "inventor," "actual inventor" and "applicant" include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be:

(6) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture:

(7) "write" includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance:

(8) "Secretary" means a Secretary to the Government of India appointed by the Governor General in Council to discharge the functions of the Secretary under this Act, and includes any under-secretary, assistant-secretary or other officer subordinate to the Government of India to the extent to which such officer may be authorized by general or special order of the Governor General in Council to discharge any of those functions:

(9) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure: and

(10) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure, 1882, in reference to proceedings against European British subjects.

Application for leave to file specification.

5. (1) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor General in Council for leave to file a specification thereof.

(2) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom.

(3) It must state the name, occupation and address of the applicant, and, where a patent has been obtained in the United

Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and of the particular novelty whereof it consists, and be supplemented by such further particulars relating to the invention, and by such drawings or photographs illustrative thereof, as the Governor General in Council may see fit to require from the applicant.

(4) If in any case it appears to the Governor General in Council that an application ought to be further supplemented by a model of anything alleged to constitute an invention, he may require the applicant to furnish such a model neatly and substantially made of durable material and of dimensions not exceeding those, if any, specified in the requisition therefor.

Order to file specification.

6. (1) Upon an application under the last foregoing section the Governor General in Council may, after such inquiry as he thinks fit, make an order authorizing the applicant to file a specification of the invention.

(2) Before making an order under sub-section (1), the Governor General in Council may direct that the application be referred for inquiry and report to any person whom he thinks fit.

(3) When such inquiry and report are made by a person who is not in the service of the Government, there shall be payable to that person by the applicant such fee as the Governor General in Council, after considering the report, may determine.

(4) When an application is to be referred to such a person, the applicant shall deposit, in such place and within such time as the Governor General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Secretary, be sufficient to defray any fee which is likely to be determined under sub-section (3).

(5) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.

(6) If the fee as determined by the Governor General in Council exceeds the sum so deposited, an order shall not be made under sub-section (1) until the applicant has paid the balance of the fee.

(7) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.

Applications in respect of contemporaneous inventions.

7. (1) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor General in Council to be identical or so similar as to be practically identical, the Governor General in Council may, in his discretion, authorize both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.

(2) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorizing the filing of his specification.

Acquisition and continuance of exclusive privilege.

8. (1) If within six months from the date of an order under section 6, sub-section (1), or within such further time, not exceeding three months, as the Governor General in Council in his discretion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorizing others so to do, for a term of fourteen years from the date of the filing of the specification.

(2) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (1), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule, any fee prescribed in that schedule in respect of the continuance of the privilege.

(3) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay any such fee within the time so limited, he may apply to the Governor General in Council for an enlargement of the time for making the payment.

(4) Thereupon the Governor General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule and subject to the following conditions, namely :—

(*a*) the time for making a payment shall not in any case be enlarged for more than three months; and

(*b*) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit, refuse to award or give any damages in respect of the infringement.

Form and contents of specification.

9. (1) A specification filed under this Part must be in writing signed by the applicant, and must set forth the precise invention in respect of which the applicant claims to become entitled to an exclusive privilege.

(2) If the specification is of an invention which is an improvement only, it must by explicit language distinguish between what is old and what is claimed to be new.

(3) Every specification must explain the principle of the invention set forth therein and the best mode in which the applicant has contemplated applying that principle, and must describe the manner of making and using the invention in such full, clear, concise and exact terms as to enable any person skilled in the art or science to which the invention appertains, or with which it is most closely connected, to make or use the same.

Mode of filing application and specification.

10. Every application for leave to file a specification, and every specification filed under this Part, must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.

Delivery and distribution of copies of specification.

11. (1) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be delivered or sent therewith to the Secretary as many copies thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(2) One of these copies shall be retained by the Secretary, and one shall be sent to the Governor of Fort St. George in Council, one to the Governor of Bombay in Council, one to the

Chief Commissioner of Burma, and the others, if any, to such authorities as the Governor General in Council may appoint in this behalf.

(3) The copies of the specification which are sent under sub-section (2) to the authorities mentioned or referred to in that sub-section shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.

Register of inventions.

12. (1) A book, to be called the register of inventions, shall be kept in the office of the Secretary, wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application, every specification filed in pursuance thereof, and every subsequent proceeding relating to the invention described therein.

(2) Applications for leave to file a specification shall be numbered consecutively in the order in which they are delivered or received, and be dated as of the day of their delivery or receipt, and shall be entered in the register of inventions in the order of their respective numbers.

(3) A reference shall be made in that register, in the margin, of the entry of each application, to every order on or in respect of the application, to the specification, if any, filed in pursuance thereof, and to every subsequent proceeding relating to the invention which forms the subject of the application.

Address-book.

13. (1) Another book, to be called the address-book, shall be kept in the office of the Secretary wherein any person filing a specification under this Part, or any person in whom an exclusive privilege acquired under this Part, or any share or interest therein, may become vested, may from time to time cause to be stated some place in British India where notice of any rule or proceeding relating to the exclusive privilege may be served on him.

(2) A reference to each entry in the address-book shall be made in the register of inventions in the margin of the entry in that register of the application for leave to file the specification.

Provisions with respect to the register and book.

14. (1) Every entry in the register of inventions or address-book, and every document entered and recorded in the register, shall, for the purposes of the law of evidence for the time being

in force, be deemed to be a public document and shall be open to the inspection of any person at all reasonable times at the office of the Secretary.

(2) The books kept under section 11 and section 35 of Act No. XV of 1859 (*an Act for granting exclusive Privileges to Inventors*) shall be deemed to be parts of the register of inventions and address-book respectively.

Extension of exclusive privilege.

15. (1) The inventor of a new manufacture may, at any time not more than one year and not less than six months before the time limited for the expiration of an exclusive privilege acquired under section 8, apply to the Governor General in Council for an extension of the privilege for a further term.

(2) When an application is made under sub-section (1), the Governor General in Council may, if he thinks fit, refer it to a High Court for report.

(3) The Court to which the application is referred shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made by the inventor as such, and to all the circumstances of the case.

(4) The procedure on the reference shall be such as the Court thinks fit, and may include the issue of citations calling upon persons claiming to have any interest in the reference to appear before the Court on the day on which the reference is to be considered, or on any day to which the consideration thereof may be adjourned, and make with respect thereto any representation which they may see fit in relation to any of the matters to which the Court is required by the last foregoing sub-section to have regard in making its report.

(5) If the Governor General in Council is of opinion, or, where a reference has been made under sub-section (2), if the Court reports, that the inventor has been inadequately remunerated by his exclusive privilege, the Governor General in Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the privilege for a further term not exceeding seven or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.

(6) But an exclusive privilege of which the term has been extended under the last foregoing sub-section shall, notwithstanding anything in that sub-section, cease if the inventor

fails to pay before the expiration of each year of such extended term the fee prescribed in the schedule aforesaid in respect of the continuance of the privilege.

Imposition of conditions with respect to exclusive privilege.

16. An order under section 6, sub-section (1), authorizing the filing of a specification, or under section 15, sub-section (5), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor General in Council thinks expedient.

Exclusive privilege to bind the Government.

17. (1) Subject to any conditions imposed under the last foregoing section :—

(*a*) with respect to the filing, by a person employed in the service of Her Majesty in India, of the specification of a manufacture invented by him in the course of his employment ; or

(*b*) with respect to the extension, in favour of any person, of the term of an exclusive privilege ;

an exclusive privilege acquired under this Part shall have to all intents the like effect as against Her Majesty as it has against a subject.

(2) But the officers or authorities administering any department of the service of Her Majesty may, by themselves, their agents, contractors, or others, at any time after the delivery or receipt of the application for leave to file the specification of an invention, use the invention for the services of the Government on terms to be before or after the use thereof agreed on, with the approval of the Governor General in Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor General in Council.

Application for leave to file memorandum or amended specification.

18. (1) If, after the filing of the specification, the applicant has reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his application or specification or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the

Governor General in Council for leave to file a memorandum pointing out the mis-statement or disclaiming any part of the alleged invention, or for leave to file an amended specification, as the case may be.

(2) The application must be in writing signed by the applicant, and must state how the error, defect, or insufficiency occurred, and that it was not fraudulently intended.

(3) Upon the application the Governor General in Council may make an order allowing the memorandum or amended specification to be filed.

(4) The provisions of section 6 with respect to applications, and of sections 9 and 11 with respect to specifications and copies thereof, shall apply, so far as they can be made applicable, to applications and to amended specifications, respectively, made and filed under this section.

Effect of amended specification.

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed:

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

Bar to exclusive privilege in certain cases.

20. A person shall not be entitled to an exclusive privilege under this Part:—

(*a*) if the invention is of no utility; or

(*b*) if the invention, at the date of the delivery or receipt of the application for leave to file the specification thereof, was not a new invention within the meaning of this Part; or

(*c*) if the applicant is not the inventor thereof; or

(*d*) if the original or any amended specification does not fulfil the requirements of this Part; or

(*e*) if the original or any subsequent application relating to the invention or the original of any amended specification contains a wilful or fraudulent mis-statement; or

(*f*) if the application for leave to file the specification of the

invention was made under this Part after the expiration of one year from the date of the acquisition of an exclusive privilege in respect of the invention in any place beyond the limits of British India and the United Kingdom.

Novelty of invention dependent on public use or knowledge thereof before application to file specification.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not before the date of the delivery or receipt of the application for leave to file the specification thereof been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any part of British India or of the United Kingdom by means of a written publication.

Effect of public use or knowledge of invention in fraud of inventor.

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification thereof shall not be deemed a public use or knowledge within the meaning of this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor, or has been communicated to the public in fraud of the inventor or in breach of confidence:

Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

Effect of temporary use of invention in public by inventor or by his leave.

23. Use of an invention in public by the inventor thereof, or by his servant or agent, or by any other person by his licence in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification thereof, or knowledge of the invention resulting from such use thereof in public, shall not be deemed a public use or knowledge within the meaning of this Part.

Effect of public use or knowledge of patented invention between application for patent and application to file specification.

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part to be delivered or received by the Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification.

Effect of like public use or knowledge of unpatented invention.

25. If an inventor applies for leave to file a specification under this Part while his application for a patent is pending in the United Kingdom, and the interval between the date of his application for the patent and the date of the delivery or receipt of his application under this Part does not exceed twelve months, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having been used, or a description thereof having been published, in any part of British India or of the United Kingdom during the interval.

Effect of public use or knowledge of invention after admission to an exhibition.

26. If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for leave to file a specification of the invention to be delivered to or received by the Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having at any time after admission into the exhibition been publicly used or made publicly known.

Cessation of exclusive privilege by order of the Government.

27. (1) An exclusive privilege acquired under this Part shall cease if the Governor General in Council declares the privilege, or the mode in which it is exercised, to be mischievous to the State, or generally prejudicial to the public.

(2) It shall also cease if a breach of any condition on which the applicant was authorised to file a specification, or on which the term of the exclusive privilege was extended, is on an application under this Part to a High Court proved to the satisfaction of that Court, and if the Governor General in Council thereupon declares the privilege to have ceased.

Cessation of exclusive privilege on revocation or expiration of patent.

28. (1) An exclusive privilege acquired under this Part in respect of an invention for which a patent has been obtained in the United Kingdom shall cease on the revocation or expiration of the patent.

(2) Such a privilege in respect of an invention for which a patent has not been obtained in the United Kingdom shall cease on the revocation or expiration of any patent or exclusive privilege which has been obtained or acquired for or in respect of the invention in any other country.

Suit for infringement of exclusive privilege.

29. (1) An inventor may institute a suit in the District Court against any person who, during the continuance of an exclusive privilege acquired by him under this Part in respect of an invention, makes, sells, or uses the invention without his licence, or counterfeits or imitates it.

(2) The suit shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or upon the ground that the invention is of no utility:

(3) Nor shall it be defended upon the ground that the plaintiff was not the inventor, unless the defendant shows that he himself is the actual inventor or has obtained from the actual inventor a right to make, sell, or use the invention, or to counterfeit or imitate it, as the case may be:

(4) Nor shall it be defended upon the ground that the

invention was not new, unless the defendant, or some person through whom he claims, has, before the date of the delivery or receipt of the application for leave to file the specification, publicly or actually used in some part of British India or of the United Kingdom the invention or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

Application to declare exclusive privilege in respect of an invention not to have been acquired.

30. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention to be specified in the rule has not been acquired under this Part by reason of all or any of the objections following (to be specified in the rule), that is to say :—

(*a*) that the invention is of no utility; or

(*b*) that the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part; or

(*c*) that the applicant was not the inventor thereof; or

(*d*) that the original or any amended specification does not fulfil the requirements of this Part; or

(*e*) that the applicant has knowingly or fraudulently included in the application for leave to file the specification, or in the original or any amended specification, as part of his invention, something which was not new or whereof he was not the inventor; or

(*f*) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement; or

(*g*) that some part of the invention, or the manner in which that part is to be made and used, as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent and is injurious to the public.

Like application as to part of an invention.

31. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive

privilege in respect of any part of an invention, to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule) that is to say :—

(*a*) that that part of the invention is wholly distinct from the other parts thereof and is of no utility; or

(*b*) that that part of the invention was not, at the date of the delivery of receipt of the application for leave to file the specification, a new invention within the meaning of this Part; or

(*c*) that the applicant was not the inventor of that part of the invention; or

(*d*) that that part of the invention, or the manner in which it is to be made and used, is not sufficiently described in the original or any amended specification, and that this insufficiency is injurious to the public.

Security for costs of application under either of the two last foregoing sections.

32. The High Court may, irrespective of any provisions of the Code of Civil Procedure in this behalf, require a person applying for a rule under either of the two last foregoing sections to give security for the payment of all costs incurred or likely to be incurred by any person appearing to show cause against the rule.

Application on breach of condition.

33. (1) Any person authorized by the Governor General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor General in Council, depend, should not be tried in the form of an issue directed by the Court.

(2) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor General in Council.

Notice of proceedings to persons interested.

34. (1) Notice of any rule obtained or proceeding taken under section 30, section 31, or section 33 shall be served on all

persons appearing from the address-book to be proprietors of the exclusive privilege, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering the copy to any person resident at or in charge of the place or, if there is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

Framing issue for trial before other Court.

35. (1) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court, or any District Court, of any question of fact arising upon an application under section 30, section 31, or section 33, and the issue shall be tried accordingly.

(2) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon act upon the finding of the District Court, or dispose of the application upon the evidence recorded, or direct a new trial, as the justice of the case may require.

Order on Application.

36. (1) If it appears to the High Court at the hearing of an application under section 30 or section 31 that, by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

(2) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the

description of his invention in the application for leave to file a specification thereof or in the original or any amended specification, erroneously included something which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the Court may adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect, or insufficiency: or,

(3) If it appears to the High Court that the error, defect, or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may, upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective, or insufficient; and thereupon the applicant shall, within a time to be limited by the Court for the purpose, file in the office of the Secretary a specification amended according to the order.

(4) The provisions of section 18 with respect to the distribution and disposal of copies of amended specifications, and of section 19 with respect to the effect of such specifications, shall apply, so far as they can be made applicable, to an amended specification filed under this section.

(5) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

Delivery of particulars.

37. (1) In a suit for the infringement of an exclusive privilege acquired under this Part the plaintiff shall deliver with his plaint particulars of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention.

(2) In like manner, upon an application to a High Court under section 30, section 31, or section 33, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in proof of any breach of the exclusive privilege, or of any ground impeaching the validity of that privilege, or of any objection or ground affecting such a privilege, unless such breach or other matter as aforesaid has been stated in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification thereof, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

Title of actual inventor to exclusive privilege in case of fraud.

38. If, in a suit instituted in the District Court at any time within fourteen years from the date of the filing of a specification of an invention under this Part, the actual inventor proves to the satisfaction of the Court that the applicant was not the actual inventor, and that at the time of the application for leave to file the specification the applicant knew or had reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to the other provisions of this Part, in the actual inventor for a term of fourteen years from the date on which the specification was filed, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention or so much of those profits as the Court, having regard to the degree of diligence exerted by the actual inventor in proceeding under this section, and to all the other circumstances of the case, may see fit to require the applicant to pay.

Transmission of copies of decrees and orders to Secretary.

39. A Court making a decree in a suit under section 29 or section 38, or an order on an application under section 30, section 31, or section 33, shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

Registration of cessation of exclusive privilege.

40. In the following cases, namely :—

(*a*) when an exclusive privilege acquired under this Part has ceased under section 8 or section 15 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period, if any, within which an order might have been made for enlarging the time for the making of the payment has expired ;

(*b*) when an exclusive privilege acquired under this Part has been declared by the Governor General in Council under section 27 to have ceased ;

(*c*) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation or expiration of a patent or exclusive privilege ;

(*d*) when the whole or any part of an exclusive privilege acquired under this Part has ceased under section 36 in consequence of an order under that section ;

(*e*) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 38 ;

(*f*) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired :

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions, and a reference to that entry to be made in the margin of the entry in that register of the application for leave to file the specification of the invention.

Rectification of register of inventions or address-book.

41. (1) If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry

therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for an order for the rectification of the register or book, and the Court may make such order on the application as it thinks fit.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

Power to High Court to stay proceedings on or dismiss certain applications.

42. A High Court to which an application has been made under section 30, section 31, section 33 or section 41 may stay proceedings on, or dismiss, the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

Power for Governor General in Council to require grant of licences.

43. If on the petition of any person interested it is proved to the Governor General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part failing to grant licences on reasonable terms,—

(*a*) the exclusive privilege is not being worked in British India; 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-General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licences on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor General in Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

Assignment for particular places.

44. Any person for the time being entitled to an exclusive privilege under this Part, or to any share or interest in such a privilege, in any local area may, subject to the conditions of his

title thereto, assign the privilege or such share or interest, as the case may be, for any place in or part of that local area.

Subscription of specifications and applications.

45. If an applicant is absent from British India, an application for leave to file a specification, or a specification, or an application for leave to file a memorandum or amended specification, may, instead of being signed by the applicant under section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorized by him in writing in that behalf.

Verification of applications.

46. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

(2) If that person is absent from British India, the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief, and that as to those matters he believes them to be true.

Agents.

47. Subject to the provisions of the two last foregoing sections and of any other enactment for the time being in force, any act which is required or authorized by this Part to be done by any person may be done on his behalf by an agent in British India having authority in writing from that person so to do the act.

Fees.

48. (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council directs.

(4) A proceeding in respect of which a fee is payable under

the fourth schedule shall be of no effect unless the fee has been paid.

Rules and forms.

49. (1) The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend either of the forms in the second and third schedules.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

See Section 2.

Number and year.	Subject or title.	Extent of repeal.
XV of 1859. .	For granting exclusive Privileges to Inventors.	So much as has not been repealed.
XVI of 1883 .	Protection of Inventions Act, 1883.	The whole.
I of 1879 . .	Indian Stamp Act, 1879.	Article 48, Schedule 1.

THE SECOND SCHEDULE.

APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

See sections 5 *and* 49.

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part 1 of the Inventions and Designs Act, 1888.

1. The applicant is in possession of an invention for (*state the title of the invention*); he is the inventor thereof (*or, as the case may be, the*

executor, administrator or assign of the inventor); and, to the best of his information and belief, the invention is new within the meaning of Part I. of the Inventions and Designs Act, 1888, and no circumstance exists which if the applicant is authorized to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

2. The following is a description of the invention (*here describe it and the particular novelty whereof is consists*).

3. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I. of the Inventions and Designs Act, 1888.

(*Signature and verification.*)

THE THIRD SCHEDULE.

APPLICATION WHERE PATENT HAS BEEN OBTAINED.

See sections 5 and 49.

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I. of the Inventions and Designs Act, 1888.

1. The applicant (*or, as the case may be, A. B. of whom the applicant is the executor, administrator or assign*) has obtained a patent in the United Kingdom dated and sealed as of the day of , and actually sealed on the day of , for (*state the title of the invention*).

2. To the best of the information and belief of the applicant, the invention is new within the meaning of Part I. of the Inventions and Designs Act, 1888, and no circumstance exists, which, if the applicant is authorized to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

3. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I. of the Inventions and Designs Act, 1888.

(*Signature and verification.*)

THE FOURTH SCHEDULE.

FEES (*Inventions*).

See sections 8, 15, *and* 48.

	Rs.	a.	p
(1) In respect of an application for leave to file a specification (section 5)	10	0	0
(2) In respect of the filing of a specification (section 8) .	30	0	0
(3) In respect of an extension of the time for filing a specification (section 8)	20	0	0
(4) In respect of the continuance of an exclusive privilege (section 8)—			
(*a*) After the filing of the specification and before the expiration of the fourth year from the date of the filing thereof . . .	50	0	0
(*b*) After the expiration of the fourth year and before the expiration of the fifth year from that date	50	0	0
(*c*) After the expiration of the fifth year and before the expiration of the sixth year from that date	50	0	0
(*d*) After the expiration of the sixth year and before the expiration of the seventh year from that date	50	0	0
(*e*) After the expiration of the seventh year and before the expiration of the eighth year from that date	50	0	0
(*f*) After the expiration of the eighth year and before the expiration of the ninth year from that date	100	0	0
(*g*) After the expiration of the ninth year and before the expiration of the tenth year from that date	100	0	0
(*h*) After the expiration of the tenth year and before the expiration of the eleventh year from that date	100	0	0
(*i*) After the expiration of the eleventh year and before the expiration of the twelfth year from that date	100	0	0
(*j*) After the expiration of the twelfth year and before the expiration of the thirteenth year from that date	100	0	0

Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.

	Rs.	*a.*	*p.*
(5) In respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 8)—			
(*i*) If the enlargement does not exceed one month.	10	0	0
(*ii*) If the enlargement exceeds one month, but does not exceed two months . . .	25	0	0
(*iii*) If the enlargement exceeds two months .	50	0	0
(6) In respect of an application for an extension of an exclusive privilege for a further term (section 15)	50	0	0
(7) In respect of an order extending the term of an exclusive privilege (section 15)	100	0	0
(8) In respect of the continuance of an exclusive privilege of which the term has been extended (section 15)	100	0	0

to be paid before the expiration of each year of the extended term :

Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.

(9) In respect of an application for leave to file a memorandum or amended specification (section 18) .	20	0	0
(10) In respect of a petition to the Governor General in Council for a compulsory licence (section 43) .	50	0	0
(11) For the inspection of any book or other document which is open to inspection under Part I . .	1	0	0
(12) For copies—			
(*a*) When the number of words copied does not exceed four hundred . . .	1	0	0
(*b*) For every hundred words in excess of four hundred	0	4	0
(*c*) Of drawings or photographs . . .	cost according to agreement.		
(13) For certifying copies—			
For every hundred words.	0	2	0

JAPAN.

From the United States Official Gazette.

IMPERIAL PROCLAMATION No. 7.

April 18, 1885.

IT is hereby notified that the following regulations as to patents have been published and will be enforced on and after the 1st July, 1885.

N.B.—The rules respecting patents published on the 7th April, 1871, and Imperial Proclamation No. 105, published in March, 1872, have been repealed.

By order of H. I. M. the MIKADO.

Art. 1.

Inventors of useful articles desirous of having the exclusive sale of the same shall apply to the Minister of Agriculture and Commerce, and obtain his special permission. The Minister of Agriculture and Commerce shall, if advisable, deliver certificates of special permission for their exclusive sale.

Art. 2.

In applying for a patent a detailed statement of the invention and the necessary diagrams will be affixed to the written application. The invented article, or a specimen, shall, if necessary, be ordered to be submitted.

Art. 3.

The terms of a patent right may not exceed fifteen years, reckoned from the date of its certificate.

Art. 4.

Patents cannot be applied for in the case of articles of the nature specified below:

(1.) Articles that have previously been invented by others.

N.B.—This provision does not extend to patents that have been transferred by their owners.

(2.) Articles that have been publicly used or known before the patents have been applied for.

(3.) Articles that tend to disturb social tranquillity or demoralize customs and fashions, or are injurious to health.

(4.) Medicines.

Art. 5.

For inventions deemed necessary for war purposes, or those the general use of which is deemed important, the Minister of Agriculture and Commerce will not grant patents, and in the case of those for which patents have previously been granted he may cancel the same. In the case of inventions described above the Minister of Agriculture and Commerce will grant appropriate sums of money to the inventors by way of compensation.

Art. 6.

Privileges by securing patents, as well as the patents may be hereditary. When a successor has inherited a patent he shall report the fact to the Minister of Agriculture and Commerce within three months.

Art. 7.

Persons desirous of transferring to, or acquiring from, another person patents, they must apply for the permission of the Minister of Agriculture and Commerce.

Art. 8.

When a patentee effects improvement upon his invention he may apply for a fresh patent.

N.B.—The effect of additional patents may not exceed that of the original patents.

Art. 9.

Persons desirous of obtaining patents for articles that are improvements upon other patented inventions must secure the consent of the original patentees. If the original patentee

should refuse his consent and the Minister of Agriculture and Commerce deem the refusal obstructive to the improvement of the invention, he may grant the improver special permission to use the original invention together with the improved part. In such cases as have been mentioned above the Minister of Agriculture and Commerce shall cause the improvers to give appropriate sums of money to the original inventors by way of compensation.

Art. 10.

Patentees must indicate on their inventions the date and term of the patents. In the case of articles, the nature of which precludes such indication, the date and term must be marked on the cover or otherwise.

Art. 11.

The register of patentees, with other details, shall be submitted for public inspection by the Minister of Agriculture and Commerce.

Art. 12.

When patentees change the places of their registration or their residences or names, they must report the fact to the Department of Agriculture and Commerce within three months.

Art. 13.

When certificates of patents have been lost or damaged the patentees must apply to the Minister of Agriculture and Commerce for the delivery of fresh certificates.

Art. 14.

In cases mentioned below patents shall be declared void and the return of the certificates of the patents shall be ordered:

(1.) When any contravention of the provisions of article 4 has been discovered.

(2.) When any misrepresentation of facts has been discovered in the written applications and details of the inventions.

Art. 15.

Patents will become void in the following cases:

(1.) When the inventions have not been practically publicly applied within two years after the date of the certificates of the patents, or when their execution has been suspended for

two years without any representation of the circumstances of the case to the authorities.

(2.) When patented inventions have been imported from abroad and sold.

Art. 16.

When certificates of patents are granted or cancelled, or when any loss of patent right has occurred, the Department of Agriculture and Commerce will publicly notify the fact.

Art. 17.

Persons applying for patents shall pay the undermentioned fees.

N.B.—Should the written applications be dismissed the fees shall be returned.

(1.) For persons applying for patents lasting for five years, 10 yen.*

(2.) For persons applying for patents lasting for ten years, 15 yen.

(3.) For persons applying for patents lasting for fifteen years, 20 yen.

(4.) For persons applying for the transfer of patents, 5 yen.

(5.) For persons applying for additional patents, 5 yen.

(6.) For persons applying for fresh certificates of patents, 1 yen.

Art. 18.

Officials concerned in the granting of patents may not apply for patents.

Art. 19.

If the marks described in article 10 are not made, no appeal for any claim of damage may be made.

Art. 20.

Persons who have counterfeited patented inventions, or imported them from abroad, or clandestinely used any patent, shall be liable to imprisonment with labour for a period not less than one month and not exceeding one year and a fine of not less than 4 yen and not exceeding 40 yen.

Art. 21.

Persons who have applied to articles of the same kind as others manufactured under patent marks that bear a close re-

* 1 yen = about 1 dollar.

semblance to those used by the owners of such patents, shall be liable to imprisonment with labour for a period of not less than fifteen days and not exceeding six months, and a fine not less than 2 yen and not exceeding 20 yen.

Art. 22.

Persons who have sold articles in contravention of articles 20 and 21, with previous knowledge of the fact, shall be liable to a fine not less than 4 yen and not exceeding 40 yen.

Art. 23.

In the cases mentioned in articles 20, 21, and 22 the infringing articles and the apparatus used for the perpetration of the offences shall be confiscated and handed over to the patentees, and in the case of articles previously sold their price shall be exacted from the offender and also given to the patentees.

Art. 24.

Persons who have obtained rights by fraudulent means or sham patents shall be liable to imprisonment for a period not less than fifteen days and not exceeding six months, and a penalty of not less than 2 yen and not exceeding 20 yen.

Art. 25.

Persons who have failed to make the reports mentioned in the second clause of article 6 and article 12 within the prescribed periods shall be liable to a penalty of not less than 1 yen and not exceeding 1.95 yen.

Art. 26.

To contraventions of these regulations the provisions in the criminal code for the simultaneous commission of several crimes shall not be applied.

Art. 27.

The offences mentioned in articles 20, 21, and 22 shall be dealt with at the instance of the patentees.

Art. 28.

When patentees have made appeals, judges may temporarily suspend the sale of the articles to which such appeals relate.

Appendix.

Persons desirous of obtaining the exclusive sale of articles invented after the publication of the patent rules on the 7th April, 1871, and before the publication of these regulations, and which were reported to the authorities according to the additional provisions of notification No. 105, published in March, 1872, may apply to the Minister of Agriculture and Commerce for their patents within six months after the date of the enforcement of these regulations, even though they be such as are generally used or known.

Persons who have made use of the inventions described above before the publication of these regulations may apply to the Minister of Agriculture and Commerce for special permission for their use within one year after the date of the enforcement of these regulations. In such cases they shall pay fees to the same amount as those for the granting of patents mentioned in article 17.

Notification No. 5 Council of State.

April 18th, 1885.

It is hereby notified that the Patent Regulations having been published, the following regulations are issued as to the mode of procedure to obtain patents.

Art. 1.

Applications and reports in connection with patents shall be sent to the Agricultural and Commercial Department through the prefectural authorities.

Art. 2.

When application is made for a patent, there must be two letters of application and three statements of details and diagrams sent in, together with the patent fee. When more than one person is connected with the invention, they shall all sign the documents sent to the department.

Art. 3.

Written statements, details, and diagrams are to be sent to the prefectural authorities in a sealed form, and in that form

they will be forwarded to the Minister of the Agricultural and Commercial Department.

Art. 4.

The following must be stated in all applications for patents:—
(1.) The name of the invention.
(2.) The duration of the patent applied for.
(3.) A declaration that it is not contravening the regulations.
(4.) A declaration that there are no misrepresentations of facts made in the written application and statement.

Art. 5.

In the details the following must appear:—
(1.) The object of the invention and explanation of its nature.
(2.) An explanation of the diagrams, when such are submitted.
(3.) A detailed description of the manufacture, structure, composition, and the way of employing the invention.
(4.) The uses to which the invention may be applied.
(5.) The social rank, name and address of the inventor.

Art. 6.

The diagrams must be numbered and their respective parts shall be marked with letters or numerical figures to correspond with the explanations.

Art. 7.

Any one applying for the transfer of the whole or part of the patent, in accordance with the 7th article of the regulations, must send in two letters of application, a copy of the agreement between the parties, and the certificate of patent, together with the fee.

Art. 8.

Any person applying for additional patent rights should do as provided in articles 2 and 3.

Art. 9.

Any person desirous of obtaining the special permission stated in the second part of article 9 of the regulations, shall send in two applications, stating the circumstances of the case.

Art. 10.

When it is reported, as stated in articles 6 and 12 of the regulations, that the name of the patentee is altered, the Minister of the Agricultural and Commercial Department shall indorse the fact on the certificate of patent.

Art. 11.

When any one applies for a fresh certificate, a detailed account of the circumstances of the case must be sent in.

Art. 12.

In a case where a patentee has discovered omissions or misstatements in the letters of application and diagrams, he shall send in two applications with a detailed account of the circumstances of the case. But when by addition or altering some important part the invention is completely changed, no application will be received.

Art. 13.

When patentees allow others by mutual consent to use the invention, the fact should be reported and the document signed by both parties.

Art. 14.

When after a patent has been declared void through a contravention of the provisions of the first part of article 4 of the regulations, and the original inventor applies again for the patent, its term shall not exceed that granted to the original patent.

Art. 15.

Any person who desires to obtain permission to use articles, as provided for in the second clause of the regulations, shall send in two applications containing a detailed account of their previous employment.

LIBERIA.

Act of 23rd December, 1864.

AN ACT to promote the progress of the arts, manufactures, agriculture, and commerce.

It is enacted by the Senate and House of Representatives of the Republic of Liberia in legislature assembled :—

Sec. 1.

That there shall be established an office to be termed the Patent Office, which shall be under the control of the Secretary of State, whose duty it shall he to superintend, execute, and perform all such acts and things touching and respecting the granting and issuing of letters patent for new and useful discoveries, inventions, and improvements, as are hereby provided for, or shall hereafter be by law directed to be done and performed, and shall have charge and authority of all books, records, papers, and all other things belonging to the said office.

Sec. 2.

It is further enacted that all patents issued from the said office shall be issued in the name and under the seal of the Republic of Liberia, and be signed by the President of the Republic, and countersigned by the Secretary of State, and shall be recorded together with descriptions, specifications, and drawings in the said office in books to be kept for that purpose. Every such patent shall contain a short title of the invention or discovery, correctly indicating its nature and design, and its terms, and grant to the applicant or applicants, his or their heirs, administrators, executors or assigns, for a term not exceeding twenty years, the full and exclusive right, and liberty of

making, using and vending to others to be used, the said invention or discovery, referring to the specifications for the particulars thereof, a copy of which specifications with the illustrative drawings shall be annexed to the patent specifying what the patentee claims as his invention or discovery.

Sec. 3.

It is further enacted that any citizen or citizens having discovered or invented any new and useful art, machine, manufacture, process, composition of matter, or any new and useful improvement in any art, machine, manufacture, process or composition of matter, or having invented or discovered a new and useful application of any known substance, or matter, or composition of matter, or any new and useful application of any known article of manufacture, device or apparatus, to any art, manufacture, machine-process or composition of matter, such invention or discovery or such application not being known or used by others within the limits of this Republic, and not being described in any book or other publication in this country before his or their discovery thereof, may make application in writing to the Secretary of State, expressing such desire, and the Secretary of State may on due proceedings had, grant a patent therefor, but before any inventor shall receive a patent for any such invention, discovery, or new application, he shall deliver a written description thereof, and of the manner and process of making, constructing, using, applying and compounding the same. in such full clear and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most clearly connected, to make, construct, apply, compound and use the same, and shall particularly specify and point out the part improvement or combination which he claims as his own invention or discovery. He shall furthermore accompany the whole with a drawing or drawings and written references, where the nature of the case admits of drawings. The applicant shall furthermore make oath or affirmation that he does verily believe that he is the original, and first inventor or discoverer of the art, machine, composition, application or improvement for which he solicits a patent, and that the same was not known or used within the limits of the Republic of Liberia prior to his said invention, and that he is a citizen of this Republic, the said oath or affirmation to be taken before any person authorized by law to administer oaths.

Sec. 4.

It is further enacted that on filing such application, descriptions and specifications and the payment of the fees hereinafter provided, the Secretary of State shall make or cause to be made an examination of the alleged new invention or discovery, and if it should appear to the Secretary of State that the same had not been invented or discovered or known by any other person in this country, and had not been described in any book or other publication in this country prior to the discovery thereof by the applicant, then it shall be the duty of the Secretary of State to issue patent therefor, but whenever it shall appear to the Secretary of State that the applicant was not the first inventor or discoverer thereof, or that what is claimed as new had been known to others in this country, or had been described in some publication in this country prior to the time of the alleged invention or discovery of the applicant, then it shall be the duty of the Secretary of State to refuse the grant of letters patent to the applicant therefor.

Sec. 5.

It is further enacted that if any alien or aliens shall have invented or discovered any new art, machine, manufacture, process or composition of matter, or any new and useful improvement of any art, machine or manufacture, process or composition of matter, or has invented or discovered a new and useful application of any known substance or machine, or composition of matter, or any new and useful application of any known article of manufacture, device, or apparatus to any art, manufacture, machine, process or composition of matter, such invention or discovery or such application not having been known or used by others within the limits of this Republic, or if any alien or aliens shall be the legal owner or owners of such invention or discovery or application, and shall express a desire to introduce the same and put it into active operation in this country, then it shall be the duty of the Secretary of State on due proceedings held, as provided for in the third section of this Act to issue Letters Patent therefor. But before Letters Patent can be granted to such applicant, he shall deliver with the description of the invention or discovery claimed, a certificate signed and sealed by the Mayor or Governor of the City or State in which he resides, or by a duly authorized notary public, which certifi-

cate shall set forth that the applicant is the original and first discoverer of the thing claimed, or that he has purchased the the right, title, and interest in this country to the said invention or discovery.

Sec. 6.

It is further enacted that when any alien or aliens shall have obtained Letters Patent for any invention or discovery, it shall be his or their duty to put the same in active operation in this Republic within three years from the date of the said patent, and any refusal or neglect on the part of the patentee to do this shall be considered as an abandonment by him of his patent to the public.

Sec. 7.

It is further enacted:—That before any application for a patent shall be considered by the Secretary of State, the applicant shall pay into the Treasury, or into the office of the Secretary of State to the credit of the Treasurer, if he be a citizen of this Republic, the sum of twenty-five dollars, if he be an alien the sum of fifty dollars, and the moneys received under this Act shall constitute a fund for the payment of salaries of such assistants as the Secretary of State may deem necessary for carrying this Act into effect.

Sec. 8.

It is further enacted that every patent shall be assignable in law, either as to the whole interest or any individual part thereof by any instrument of writing, which assignment, and also every grant and conveyance of the exclusive right under any patent to make and use, and to grant to others to make and use the thing patented, within and throughout the whole or any specified portion of the Republic of Liberia, shall be recorded in the office of the Secretary of State within one year from the execution thereof.

Sec. 9.

It is further enacted that all actions for damages for making, using, or selling the thing whereof the exclusive right is secured by any patent, and all suits, controversies, and cases arising under this Act shall be cognizable as well in equity as at law, by the Supreme Court of the Republic of Liberia.

Sec. 10.

It is further enacted that it shall be the duty of the Secretary of State to make or cause to be made, exact copies of all patents issued and also of all drawings appertaining to the said patents, which copies shall be properly classified, and shall be retained as permanent records in the office of the Secretary of State, and the said copies shall be open for inspection at reasonable hours to all who may desire to peruse the same. And it shall furthermore be the duty of the Secretary of State to furnish on reasonable terms certified copies of any patents or documents relating thereto.

NATAL.

Law No. 32 of 1884.

To amend the Patent Law No. 4 of 1870.

Preamble.

WHEREAS it is expedient to make provision for the mutual protection of inventions for which Letters Patent have been granted either in the United Kingdom of Great Britain, or Ireland, or in this Colony, and for that purpose it is necessary to repeal Section 38 of Law 4, 1870, intituled "Law to provide for the granting in this Colony of Patents for Inventions."

And whereas it is enacted by Section 104 of the "Patents, Designs, and Trade Marks Act, 1883," the 46 & 47 Vict. cap. 57, that where it shall be made to appear to Her Majesty that the Legislature of any British possession has made satisfactory provision for the protection of inventions, designs, and trade marks patented or registered in the United Kingdom of Great Britain and Ireland, it shall be lawful for Her Majesty from time to time by Order in Council to apply, with such variations or additions, if any, as to Her Majesty in Council may seem fit, the provisions of Section 103 of the "Patents, Designs, and Trade Marks Act, 1883," aforesaid to any such British possession.

And whereas the said Section 103 of the "Patents, Designs, and Trade Marks Act, 1883," provides mutatis mutandis, that if Her Majesty is pleased to make any arrangement with the Government of any British possession for the mutual protection of inventions, designs and trade marks, or any of them, then any person who has applied for protection for any invention, design, or trade mark in any such British possession shall be entitled to a patent for his invention, or to registration of his

design or trade mark (as the case may be) under the said Act in priority to other applicants, and such patent or registration shall have the same date as the date of the protection obtained in such British possession.

Be it therefore enacted by the Governor of Natal with the advice and consent of the Legislative Council thereof, as follows:

Repeal of Section 38 of Law 4, 1870. Letters Patent granted under 46 & 47 Vict. cap. 57 to be deemed granted under Law 4, 1870, after promulgation of Order in Council. This Law not to apply to designs or trade marks.

1. The thirty-eighth section of Law No. 4, 1870, shall be and the same is hereby repealed, and it is hereby further enacted that from and after the promulgation in this Colony of the Order in Council referred to in Section 104 of the "Patents, Designs, and Trade Marks Act, 1883," all Letters Patent granted in the United Kingdom of Great Britain and Ireland shall be deemed and taken to be granted under the provisions of Law, No. 4, 1870, and may be dealt with accordingly. Provided that this Law shall only apply to patents granted for inventions in the said United Kingdom, and not to designs or trade marks.

Commencement of Law.

2. This law shall come into operation from and after the date of the promulgation in the Natal Government Gazette of the Order in Council referred to in Section 1 hereof, and shall be read and construed together with Law 4, 1870, as one Law.

NEW SOUTH WALES.

Act No. 3 of 8th July, 1887.

An Act to further amend the law relating to Patents for Inventions and Improvements in Arts or Manufactures and to authorize the appointment of an Examiner of Patents.

Preamble.

Whereas it is expedient that the sum now payable by way of deposit with the Colonial Treasurer pursuant to the Act sixteenth Victoria number twenty-four intituled "An Act to authorize the Governor-General with the advice of the Executive Council to grant Letters of Registration for all Inventions and Improvements in the Arts or Manufactures to have the same effect as Letters Patent in England so far as regards this Colony" by persons desiring to obtain Letters Patent under the said Act should be reduced and that henceforth the sums so reduced should be paid into and form part of the Consolidated Revenue Fund and it is also expedient to make provision for the temporary protection of such Inventions and Improvements and for the appointment of an Examiner of Patents to aid in carrying out the provisions of the Acts relating to Letters Patent Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

Deposit to be paid to Colonial Treasurer on applying for Letters Patent and mode of application.

1. Every person claiming to be the author or designer of any invention in or improvement to the arts or manufactures or

his agent or assignee who shall desire to obtain Letters Patent shall pay to the Colonial Treasurer the sum of five pounds sterling and shall after such payment lodge with the Minister of Justice a petition to the Governor setting forth that petitioner is the author or designer or the agent or assignee of such author or designer (as the case may be) of a certain invention in or improvement to the arts or manufactures, and specifying (and where necessary illustrating) the particulars of such invention or improvement and that in connection therewith he has paid to the Colonial Treasurer the sum of five pounds.

Governor may grant Letters Patent on receipt of favourable report from Minister of Justice.

2. If the Minister of Justice shall after examination of the said petition and of the report thereon of the Examiner of Patents report to the Governor that he approves of the prayer of the petitioner it shall thereupon be lawful for the Governor to grant Letters Patent which shall then be forwarded to the Examiner of Patents, who shall before issuing them to the grantee or his duly authorized agent register them as hereinafter provided.

Certificates of provisional protection may be obtained on payment of two pounds.

3. Any person so claiming as aforesaid or his agent or assignee may in like manner obtain a certificate entitling him to provisional protection for any such invention or improvement upon payment to the Colonial Treasurer of the sum of two pounds sterling and upon depositing with the Minister of Justice a petition addressed to the Governor and a provisional specification in the prescribed form.

Duration of Certificates.

4. A certificate of provisional protection shall be in force for twelve months and no longer and shall be null and void if before the date of the expiration thereof the lawful holder of such certificate shall fail to make application for Letters Patent in terms of section one of this Act.

Certificates superseded by Letters Patent.

5. It shall be lawful for the Governor to grant and issue to the lawful holder of such certificate or to his agent or assignee Letters Patent for the invention or improvement provisionally specified provided that the petitioner so entitled shall have deposited a complete specification setting forth how the invention or improvement is to be carried out and performed and provided also that all the other conditions of sections one and two of this Act shall have been complied with. And upon the issue of such Letters Patent the certificate of Provisional Protection shall be deemed to be cancelled.

Fees payable on conversion of certificates into Letters Patent.

6. The payment of two pounds sterling to the Colonial Treasurer on petition for provisional protection and the payment of three pounds sterling on petition for Letters Patent for the same invention shall if both payments are made by the original petitioner or the latter payment by his legal representative be deemed to constitute the payment of five pounds sterling provided for in section one of this Act.

Definition of Provisional Protection.

7. While a certificate of provisional protection remains in force the lawful holder thereof may use and publish his invention or improvement without prejudice to the issue of Letters Patent for the same and such protection from the consequences of use and publication shall constitute the provisional protection provided for in this Act.

Date of Letters Patent and limitation of proceedings for interim infringements.

8. Letters Patent shall (unless the Minister of Justice shall in any case otherwise advise) be dated and sealed as of the day of the deposit of the petition for provisional protection or if there has been no petition for provisional protection then as of the day of the deposit of the petition for the said Letters Patent. Provided that no action shall be maintainable in respect of any infringement of an invention or improvement committed before the deposit of the complete specification thereof nor shall any

person be entitled to institute any proceedings at law or in equity for infringement until after the actual registration of the Letters Patent granted to him for the invention or improvement alleged to be infringed.

Certificates for the same invention.

9. A certificate of provisional protection shall be no bar to the granting of a like certificate for the same invention to other petitioners but it shall be at the discretion of the Minister of Justice to approve or refuse the issue of Letters Patent upon a second or other certificate during the continuance of a certificate of prior date for the same invention.

Assignment of certificates and Letters Patent.

10. Every lawful holder of a certificate of provisional protection and every grantee of Letters Patent (whether granted under this or the Principal Act) shall be at liberty to assign the same together with all the benefits and advantages derivable therefrom to any person or persons by an instrument in writing under his hand and seal.

Issue of licenses by patentee.

11. Every such grantee of Letters Patent shall also be at liberty by an instrument in manner aforesaid to grant to any person or persons a license (either exclusive or otherwise and for any portion or portions of the Colony) to manufacture adopt utilize 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.

Nullity of assignments and licenses if unregistered.

12. Every assignment made under the authority of section ten and every license issued under the authority of section eleven shall be null and void if not registered in the prescribed time and manner.

Registration of grants, licenses, and certificates, and of assignments thereof.

13. All Letters Patent and assignments thereof or licenses thereunder and all certificates of provisional protection and

assignments thereof shall be registered in the office of the Examiner of Patents by that officer and it shall be lawful for the Minister of Justice after the passing of this Act to authorize and effect the removal from the office of the Supreme Court mentioned in the said Act to the office of the Examiner of Patents of all records and registers of grants and assignments of grants made under the Principal Act.

All future payments by applicants for Letters Patent, &c., carried to Revenue.

14. All sums paid by such persons as aforesaid shall be carried by the Colonial Treasurer to the credit of the Consolidated Revenue Fund for the public purposes of the Colony.

Examiner of Patents.

15. The Governor may appoint some fit and proper person to be an Examiner of Patents who under the direction of the Minister of Justice shall examine and report to that Minister upon all petitions for Letters Patent presented after the passing of this Act The person so appointed shall be paid such annual salary as Parliament shall provide and shall perform such duties and give such security for the faithful performance thereof as the Governor may require.

Governor may make regulations.

16. The Governor may make and proclaim regulations for carrying into full effect the provisions of this Act and the Principal Act and for regulating the collection and disposal of fees for registering assignments and licenses and making searches of the records in the Examiner's office And all such regulations shall upon publication in the *Government Gazette* be valid in law. Provided that a copy of every such regulation shall be laid before both Houses of Parliament within fourteen days from the issue thereof if Parliament be then in Session or otherwise within fourteen days after the commencement of the then next ensuing Session.

Interpretation of terms.

17. The following terms in inverted commas shall for the purposes of this Act bear the meanings set against them respectively :—

YALE LAW LIBRARY

"Governor"—The Governor with the advice of the Executive Council.

"Prescribed"—Prescribed by regulations made under the authority of this Act.

"Letters Patent"—The Letters of Registration mentioned in the Act sixteenth Victoria number twenty-four.

"Principal Act"—The Act sixteenth Victoria number twenty-four.

Repeal of secs. 2, 3, *and* 4 *of* 16 *Vic. No.* 24.

18. The second third and fourth sections of the Act sixteenth Victoria number twenty-four are hereby repealed but without prejudice to the past operation thereof or to any Letters Patent lawfully granted or assigned thereunder.

Short title and commencement of Act.

19. This Act may be styled and cited as the "Patents Law Amendment Act of 1887" and shall come into operation on the first day of August one thousand eight hundred and eighty-seven.

Not to prejudice the prerogative of the Crown.

20. Nothing in this Act contained shall be construed to the prejudice of the prerogative of the Crown.

NORWAY.

Law of the 16th of June, 1885.

We, Oscar, by the grace of God, King of Norway and Sweden, and of the Goths and Vandals:—

Hereby make known: That there has been submitted to us a resolution dated the eighth of June in the present year of the Storthing now assembled, as follows:

§ 1.

Patents shall be granted for new inventions which may be beneficial to industry.

The following are excepted:

(*a*) Inventions the use of which would be contrary to law, morality, or public order;

(*b*) Inventions the object of which are articles of food, nourishment, or medicine; but a patent may be granted for a process or apparatus specially designed for manufacturing such articles.

§ 2.

An invention shall not be considered now if before the date of the application for a patent it is already so far known that it can be carried out by experts. But publication in print or by public exhibition shall not for a period of six months prevent the grant of a patent.

§ 3.

The right of obtaining a patent, with the exceptions mentioned in § 4, alone belongs to the first inventor or to a person who has obtained the right from him.

Should it be impossible to ascertain with certainty which of

several independent applicants is the first inventor, then the patent shall be granted to the first to make the application.

§ 4.

The proprietor of a patent in this kingdom shall, during a period of two years from the day of his application for the said patent, have the sole right of obtaining a patent for improvements or additions to the invention already patented.

Consequently, every application for a patent for such improvements coming from any other person shall be kept under seal in the Patent Office, and shall not be decided upon until the said period has elapsed without the original patentee availing himself of his right.

§ 5.

Patents shall be granted for a term of fifteen years from the day of application.

Any one who, having obtained a patent for an invention, desires to take out a patent for additions or improvements to the said invention, shall have the option of taking an independent patent or a patent of addition expiring with the original patent.

§ 6.

On the lodging every application for a patent, the amount of thirty crowns shall be paid to the Patent Office as a fee for the consideration of the case.

For each patent granted, excepting patents of addition, an annual tax shall also be paid amounting to ten crowns for the second year, and increasing five crowns each year. This tax shall be paid before the beginning of the year for which it is due. It may, however, be paid within the next three months, but in such a case with the addition of one-fifth.

§ 7.

The effect of the patent is that no one may, without the consent of the proprietor of the patent, excepting for his own personal use, manufacture the patented article or import it from abroad, or offer for sale, or sell the same.

If the object of the patent is a process, an apparatus, a machine, a tool, or other working instrument, the patent further has the effect that no one may employ the patented

article in his business without the consent of the proprietor of the patent; provided that the patent shall be without effect as regards gear in use on foreign vessels during their stay in Norwegian ports or waters.

§ 8.

The patent shall have no effect against persons who have used the invention in the kingdom before the date of application, or have previously made the necessary preparations for the use of the same.

Should the proprietor of a patent have published the invention in the manner mentioned in the latter part of § 2 before the date of application, the effect of the patent shall date back to the day of such publication, provided that he, at the time, and in conjunction therewith, announced (in the case of a public exhibition by a notice affixed to the article exhibited), that an application for a patent would hereafter be made, and shall have given preliminary notice thereof to the Patent Office.

§ 9.

If the King so decide, a patented invention may be used for the Government service without the consent of the proprietor of the patent. A patented invention which is of essential value to any particular trade or industry may, by a similar decision, be appropriated to private use. The proprietor shall be entitled in both cases to compensation, the amount of which shall, in default of an amicable arrangement, be determined by arbitration. In the first case the payments shall be made by the Government, and in the second case by the person or persons using the invention. If the compensation be fixed at a lump sum once for all, it shall be paid before the invention is taken into use. If it be fixed at a royalty, the arbitrators shall, if so required by the proprietor of the patent, also fix the times at which the payments shall be made, and also decide the amount of security to be given to ensure due compliance. The payment awarded by the arbitrators can be enforced by distraint.

§ 10.

The examination of and decision upon applications for patents shall rest with a Patent Commission sitting at Christiania, and which shall consist of a president, who must

be qualified for the bench, and at least five members, who must be experts in technical pursuits, all of whom shall be appointed by the King for a term not exceeding five years. Deputies for the technical members shall also be appointed.

No decision upon an application for a patent shall be given unless there are present not less than four, or when there is a difference of opinion not less than five of the members of the Commission, including the president and the members who have previously dealt with the matter. When there is an equal vote, the president shall have a casting vote.

Every such decision must be accompanied by reasons, and official notice thereof shall be sent to the applicant or his attorney.

§ 11.

None of the members of the Patent Commission shall be permitted to take out for himself a patent for any invention, either personally or through others, or act as attorney for an applicant for a patent. Any member who is in such relation to an applicant for a patent, that he would be incapacitated from acting as judge shall withdraw.

§ 12.

Any person who desires to obtain a patent for an invention shall lodge with the Patent Commission—

1. A petition for the grant of a patent addressed to the Commission.
2. A description of the invention in duplicate.
3. The drawings (also in duplicate) necessary for explaining the description, and (according to circumstances) models, samples, &c.
4. A list of all documents, papers, &c., lodged.

§ 13.

If the applicant does not reside in Norway, he must appoint in his petition an attorney resident in the country to represent him in all matters relating to the patent, and who may be summoned in his place. An attested copy of the power of attorney appointing the representative and accepted by him shall be annexed to the petition.

An application which is not signed by the applicant himself must be accompanied by a proper power of attorney in favour of the person who has signed it.

§ 14.

The application, which must relate only to one principal invention with the details connected therewith, must contain the applicant's name and state his profession and residence, and give a short title for the invention in the form the applicant desires it to be designated in the patent. If the invention has not been made by the applicant himself the necessary proofs must be given that it has been lawfully transferred to him by the inventor.

The specification must be so explicit and complete that other persons skilled in the art may thereby be enabled to carry out and apply the invention. It must conclude with a definite statement of what the applicant considers to be his invention and wishes to protect by patent.

The petition and the specification must both be written in the Norwegian language.

The drawings must be distinct and be made upon a durable material, and must show all the details mentioned in the specification, these details being both in the specification and on the drawings designated with corresponding letters or numbers of reference.

§ 15.

Should the Patent Commission find that in an application lodged the conditions contained in §§ 12, 13 and 14 are not fulfilled, they shall indicate the deficiencies to the applicant or his attorney as soon as possible in writing, and fix a suitable period within which such deficiencies must be amended. If the required amendment is not effected within that term, or within a term extended according to circumstances, the application will be rejected.

§ 16.

If the invention forming the subject of the application is evidently not new, or if, according to law, a patent cannot be granted for the same, the application may be rejected at once.

§ 17.

If, on the other hand, the application, with its accompanying papers, is satisfactory and in due form, and none of the reasons mentioned in § 16 for rejecting the same are found, the Patent Commission shall, as soon as possible and at the latest within

four weeks, order a public announcement of the application stating the subject matter of the same and the name of the applicant. At the same time the application, with everything pertaining thereto, shall be laid open to public inspection in the Patent Office.

§ 18.

The announcement and exposure to public inspection ordered in the preceding section, may, if the applicant did so request in the application and did at the same time pay an additional fee of twenty crowns, be postponed for a period not exceeding four months from the day that the applicant or his attorney received official notice that the Patent Commission had not at the preliminary examination found any reason for rejecting the application.

In this case the Commission has a term of eight weeks allowed for the preliminary examination, and has also the right during this period to ask the opinion of experts, as provided for by § 20.

§ 19.

During the period of eight weeks from the date of the publication any person may lodge with the Patent Commission an opposition to the grant of the patent applied for. The opposition must be in writing, and must be accompanied by reasons which must also be given in writing.

§ 20.

Within sixteen weeks from the date of publication, the Commission shall decide upon the application. But before deciding they may ask further explanations of the parties concerned in the case; they also have the right to ask the opinion of experts or to take other measures that may be necessary to inform themselves as to the case.

§ 21.

Should the applicant be dissatisfied with the decision of the Patent Commission under §§ 16 and 20, and should he believe that he is able to give such further information or explanation as would lead to a different result, he may during six weeks lodge a remonstrance against the decision with the Commission, which shall thereupon further consider the case.

Should this not lead to a decision satisfactory to the applicant he shall be entitled on giving notice within four weeks to the Patent Commission, to demand the revision of the decision by a Superior Patent Commission consisting of seven members appointed for the occasion by the King, having regard to the nature of the case. On making such a demand the applicant shall pay a fee of one hundred and fifty crowns, which, however, shall be repaid to him if the previous decision is not confirmed.

The Superior Patent Commission shall decide the case upon the documents submitted to the Patent Commission.

§ 22.

When it has been finally decided to grant the patent, the Commission shall issue Letters Patent setting out the subject of the patent and the day from which it commences to run (see § 5).

The Commission shall as soon as possible after the Letters Patent have been issued cause the fact to be published; such publication shall contain an abstract of the specification and papers annexed to the same and also the name and address of the attorney of the patentee if there be one.

When it has been finally decided to refuse a patent, such decision shall also be published..

§ 23.

If the patentee leaves the country, or if the patent is assigned to a person not residing in Norway, the appointment of an attorney must be notified to, and such a power of attorney for the same must be lodged with, the Patent Office as is prescribed by § 13.

§ 24.

A register of all patents granted shall be kept at the Patent Office which shall show the subject and date of the patent, together with the name and address of the patentee and of his attorney if there be one. When any patent expires, becomes void, is repealed by judgment, or is adjudged to be wholly or partially invalid, this shall be noted in the register and shall be also publicly announced. The same course shall be followed with regard to an assignment of a patent, and to the appointment of an attorney or a new attorney (§§ 13 and 23) when the notification of the appointment with due legislation has been lodged with the Office; so long as this has not taken place

the assignment or appointment of representative is of no effect as regards the Government or any third party.

The Register and the specifications, drawings, models, &c., which have reference to patents granted shall be accessible to any person who may desire to make himself acquainted with the same.

§ 25.

A patent becomes void:

1. If the annuities prescribed by § 6 are not paid at the Patent Office within the time fixed in the said section.

2. If the appointed attorney no longer can or will discharge his duties, and the patentee does not register with the Patent Commission a new attorney within three months after being warned by advertisement in the Gazette designed for such publications.

§ 26.

A patent may be declared wholly or partially void by judgment of Court, if it is shown that according to the provisions of §§ 1, 2, 3, or 4, it should not have been granted at all, or for a narrower scope.

§ 27.

A patent may be repealed by judgment of Court, if the patentee has not within three years from the date of the patent either himself or through others worked the invention in the Kingdom, or put on sale the patented article; also if the working or keeping on sale has been discontinued for one year. If however this has been caused by an accidental occurrence, the last-mentioned term may, on making a petition to that effect, be extended by the Patent Commission.

In special cases the Patent Commission may on application, and as an exception, make special regulations as to what will be considered sufficient working or offering for sale in the Kingdom.

§ 28.

Any person who desires to have a patent declared void (§ 26) or repealed (§ 27) may bring an action before the Court against the patentee. Such action shall be tried before the Byret at Christiania. The summons shall give four weeks notice without regard to the defendant's residence. The usual preliminary proceedings before the Court of Reconciliation shall be dispensed

with. The Patent Commission shall be informed thereof through the president.

§ 29.

Whoever infringes the rights granted to the patentee by the patent, shall be compelled to compensate the injured party for the injury caused thereby. If the guilty party has knowingly committed such infringement he shall, provided that his proceedings do not involve a more severe punishment, pay to the Treasury a fine of from fifty to one thousand crowns, or if the offence is repeated, to two thousand crowns. Any goods illegally manufactured or offered for sale may, if the goods themselves are patented, be by judgment confiscated.

§ 30.

The Government shall not prosecute (of its own accord) the offender for the offences mentioned in § 29. The right to demand the prosecution belongs, however, not only to the patentee himself but also to every person to whom he has wholly or partially assigned his rights or who is in any other manner injured by the offence.

§ 31.

Should the defendant in an action for infringment of a patent base his defence on the plea that the patent is void (§ 26) or forfeited (§ 27), the Court if it be other than the Christiania Byret shall on request being made allow the defendant such delay as will enable him to obtain a judgment in accordance with § 28. If the case is being tried before the Christiania Byret, the defendant may in the same suit by a counter-action without application to the Reconciliation Court, take proceedings for having the patent declared invalid or for repealing the same.

§ 32.

Neither the penalties nor damages prescribed by this Law can be enforced if the action has not been commenced within two years from the time at which the infringement was committed, or if the injured party has neglected to commence proceedings within one year from the time at which he can be proved to have been aware of the infringement or if he during the same period neglects to prosecute an action already commenced.

§ 33.

Should any person who has applied for a patent for an invention in a foreign country, within a period not exceeding seven months thereafter make an application for a patent for the same invention in this country, this application shall be treated in relation to other applications as if it had been made at the same time as the application in the foreign State, provided that the State in question makes reciprocal concessions.

§ 34.

This Law shall not affect patents granted before the date on which this Law comes into force. The proprietor of any such existing patent may however within one year thereafter apply to exchange such patent into a patent under the provisions of this Law, which provisions shall be fully applied to such an application. The question of novelty (§ 2) shall be decided in such a case according to the state of affairs at the time when the former patent was applied for. The term (§ 5) of such new patent if granted shall be reckoned from the date of grant of the former patent, and the annuity (§ 6) shall be determined according to the age of such former patent.

§ 35.

Further provisions for the regulation of the affairs of the Patent Commission, the form and contents of patents and whatever else may be required for carrying out this Law shall be issued by the King.

§ 36.

This Law shall come into force on the first of January, 1886, from which day § 82 of the Law on Trades of July 15th, 1839, is repealed.

Wherefore we have ratified and confirmed and do by these presents ratify and confirm this resolution as Law under Our hand and the Seal of the Kingdom.

Given at Our Palace at Stockholm, the 16th of June, 1885.

OSCAR.

(L. S.)

ORANGE FREE STATE.

Ordinance No. 12, 1884.

Preamble.

THE Legislative Council of the Orange Free State, deeming it expedient to establish general rules respecting the granting exclusive rights to inventions and improvements in the arts and national industries, has enacted and hereby enacts:—

Art. 1.

The President of the State, with the consent and advice of the Executive Council, shall and may give and grant exclusive rights for a certain time in respect of actual inventions or real improvements in any department of the arts and national industries, and such grant shall be made by open letters under the name of Letters Patent, provided that application be made to the President in writing.

Art. 2.

These Letters Patent shall be issued without prejudice to the rights of any one, becoming void if it should appear that the invention or improvement, the subject of the Patent, shall have been exercised, used, or worked by any one within the State before the granting of the Letters Patent.

Art. 3.

Letters Patent shall be granted for a period of five, ten or fifteen years, and in return royalties of a greater or less amount

shall be paid into the Treasury according to the time for which the Patent is granted and to the value of the invention or improvement to the patentee, which royalties, however, shall never exceed £750 nor be less than £150. These royalties shall be fixed by the Executive Authority upon each application being made.

Art. 4.

Letters Patent granted for five or ten years may be extended upon the expiration of such period when there shall be very weighty reasons for such extension, under such conditions as the Executive Authority shall deem advisable, but no Letters Patent can be extended beyond fifteen years.

Art. 5.

Letters Patent on the first importation or setting up of foreign inventions or improvements which shall have been patented in such foreign country shall be granted for no longer period than that for which any exclusive privilege shall have been allowed in such foreign country, and upon the express condition that the patented objects shall be constructed or manufactured within this State.

Art. 6.

Letters Patent will entitle the owners or their assigns:—

(*a.*) To be the sole and exclusive makers and vendors throughout the whole State during the defined period, provided that the same be manufactured within the State.

(*b.*) To have the right of civil action against those who infringe their patents, and to proceed against them for the confiscation of the manufactured and unsold patented goods and for the price of those already sold, as also for such further compensation for damage, loss of profit or interest as they shall appear to have suffered.

Art. 7.

To the written application for any Letters Patent the applicant shall annex a minute and detailed description, signed and sealed by himself, of the matter or secret which is to be the subject of the patent, with the requisite plans, drawings, estimates, &c., which specification shall at the expiration of the period of the original or extended patent, or earlier in case any patent

shall lapse sooner for any reason hereafter mentioned, be given to the world, unless the Government shall determine for weighty reasons to postpone such publication.

Art. 8.

Letters Patent shall be deemed to have lapsed:—

(*a*) When the patentee shall appear to have malâ fide omitted or erroneously described any part of the invention in his specification.

(*b.*) Upon proof of publication through a published book prior to the granting of the Letters Patent.

(*c.*) Upon non-user of the patent for two years after the granting thereof, except for weighty reasons to be approved by the Executive Authority.

(*d.*) When the holder of Letters Patent shall have obtained any exclusive privilege in respect of the same article in a foreign country after the granting of the Letters Patent here.

(*e.*) Upon proof that the subject of a patent is in its nature or application fraught with danger to the safety and security of the State or its inhabitants.

Art. 9.

The President of the State, with the advice and consent of the Executive Council, shall formally declare the Letters Patent to have lapsed, but only after the patentee shall have been heard against such sentence.

Art. 10.

The granting or lapse of Letters Patent shall be notified by the Secretary to the Government in the Government Gazette, and in the various newspapers in the State at the expense of the patentee, and such notification in the Gazette shall be conclusive proof in any suit or action of the matters therein stated.

Art. 11.

A proper register of patents issued shall be kept by the Secretary to the Government at the Government Offices, and all Letters Patent therein mentioned shall be signed by the President and the Secretary to the Government.

Art. 12.

No application for Letters Patent shall be entertained unless at least six weeks previous notice thereof shall have been given for the information of the public in the Government Gazette.

Art. 13.

This Act shall be in force from the promulgation thereof.

PERU.

Article 27 of the Constitution.

USEFUL discoveries are the exclusive property of their authors, unless they voluntarily agree to sell the secret or the case of forcible expropriation arises. Those who are merely introducers of such kinds of discoveries shall enjoy the same advantages as the authors, for the limited period granted to them according to law.

Law of the 28th January, 1869.

Art. 1.

Every discovery or invention in whatsoever branch of industry gives to its author the exclusive right of working it for his own benefit, under the conditions and for the period fixed by this law. This right must be established by a certificate or patent granted by the Government.

Art. 2.

The following shall be considered as inventions or discoveries:—

1. New industrial products.
2. New methods or the new application of those already known for obtaining an industrial result or product.

Art. 3.

The following shall not be patentable:—

1. Pharmaceutical preparations or remedies of any kind whatsoever.
2. Schemes or combinations of credits or funds; and

3. Processes, the object of which is to establish the known means for improving an industry the practice of which is free in or out of the Republic.

Art. 4.

In the third case of the preceding article, there shall only be admitted proposals relative thereto or contracts permitted by law, and they shall be put up to auction.

Art. 5.

The duration of privileges shall not exceed ten years; those who obtain them shall pay one hundred dollars every year, to go to the fund of Public Works of the province in which they are to be exercised or established.

Art. 6.

Those who apply for patents of invention or importation shall present themselves at the prefecture of the Department in which they wish to establish the same or at the Prefecture of the domicile of the petitioner, if such establishment is to be effected in two or more Departments.

Art. 7.

The application shall comprise:—

1. The description of the invention or thing it is proposed to introduce.
2. The plans or models which may be necessary for understanding the same.
3. A list, description or memorandum of the things produced as models.
4. A clear statement or definition of the principal object, with the details composing it and an explanation of the application thereof.
5. The term of the privilege;—and
6. The explanation of what security is offered for the realization of the project..

Art. 8.

The application shall be carefully drawn up in Spanish, using the numbers, weights and measures known in the Republic.

If, amongst the persons signing the application, there should be a foreigner, he must explicitly renounce all diplomatic intervention in the event of any question arising relative to the privilege solicited, and must submit himself absolutely and exclusively to the laws and tribunals of the Republic. Without this requirement the application shall not be entertained.

Art. 9.

The Prefects shall ascertain the opinion of the Municipality, of the Fiscal or Fiscal Agent and of the other officials as the nature of the case requires; they shall also take the opinion of experts, if necessary. With the preliminaries and the corresponding report, they shall deliver the description, drawings, models, &c., to the proper Ministry at the cost of the interested party.

Art. 10.

The Ministry to whose branch the privilege appertains shall take the opinion of the Fiscal of the Supreme Court and of such Offices as are deemed necessary, and upon the results of these preliminaries it shall grant or refuse the privilege.

Art. 11.

Prolongations of privileges and also modifications or alterations thereof can only be granted by a legislative resolution, if solicited by the interested parties, in virtue of well founded reasons, proved facts, or sufficing documents.

Art. 12.

Only the privileged person can use the privilege during the term of its duration. Any others must have permission for that purpose given to them by agreement or by any other of the means which the laws indicate.

Art. 13.

Patents of privilege are null and have no effect:—

1. If the discovery, invention, or application is not new.
2. If it is not comprised within the terms of Art. 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 conceded pecuniary subventions not foreseen in the estimates of the Republic, or exemptions contrary to law. Authorizations which refer to changes, improvements or additions which are not comprised in the principal patent are equally null and of no effect.

Art. 14.

A discovery, invention or application shall not be deemed to be new, if in Peru or abroad, previous to the date of the application, it had had sufficient publicity to be put into practice.

Art. 15.

The patentee shall lose his rights:—

1. If he does not pay the annuity or quota prescribed by Art. 5.
2. If he does not work his discovery or invention within the period of two years or the period stipulated in the privilege unless he legally justifies the cause of the delay.
3. If he imports articles manufactured in a foreign country, similar to those protected by the patent; with the exception only of models of machinery, provided that their importation be authorized by the Government after investigation.

Art. 16.

Any person who in advertisements, prospectuses, placards, marks or stamps, arrogates to himself the title of possessor of a privilege, without legally possessing it or after its termination,

shall be punished with a fine of from fifty to a thousand soles (£8 to £160) according to circumstances. In case of repetition the fine shall be doubled without prejudice to the penalties attaching to the offence of fraud.

Art. 17.

Any persons who with justice consider themselves interested, are entitled to demand the nullity or cessation of a privilege. The Fiscal Ministry shall intervene in the matter and in the event of the privilege being declared null or terminated, whatever may be the cause, he shall give due notice through the proper person to the Ministry it concerns.

Art. 18.

Any infringement upon the rights of a privileged person, whether consisting in the manufacture of products or in the employment of means specified in the patent shall constitute the offence of falsification, which shall be punished according to the gravity of the circumstances with a fine in favour of the interested party and the confiscation of the falsified industry.

Art. 19.

Privileges or patents which are actually in force and which were issued in conformity with the regulations prior to this law, shall retain their effect for the whole period for which they were granted.

QUEENSLAND.

Act No. 13 *of* 13*th October*, 1884, *so far as it relates to patents for inventions.*

AN Act to amend and consolidate the law relating to Patents for Inventions, and the Registration of Designs and Trade Marks.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as "The Patents, Designs, and Trade Marks Act, 1884."

Division of Act into parts.

2. This Act is divided into parts, as follows :—

Part I.—PRELIMINARY;
Part II.—PATENTS;
Part III.—DESIGNS;
Part IV.—TRADE MARKS;
Part V.—INTERNATIONAL AND INTERCOLONIAL ARRANGEMENTS;
Part VI.—GENERAL.

General Definitions.

3. (1.) In and for the purposes of this Act, unless the context otherwise requires,—

"Examiner" includes examiners if more than one;

"The Court" means the Supreme Court of Queensland;

"Law Officer" means Her Majesty's Attorney-General for Queensland;

"The Minister" means the Colonial Secretary or other Minister charged with the execution of this Act;

"Registrar" means the Registrar of Patents, Designs, and Trade Marks;

"Prescribed" means prescribed by any of the Schedules to this Act, or by general rules under or within the meaning of this Act;

"Patent" means Letters Patent for an invention;

"Patentee" means the person for the time being entitled to the benefit of a patent;

"Invention" means any manner of new manufacture the subject of Letters Patent and grant of privilege within section six of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chapter three, intituled "*An Act concerning Monopolies and Dispensations with Penal Laws and the forfeiture thereof*"), and includes an alleged invention;

"British possession" means any territory or place situate within Her Majesty's dominions, and not being or forming part of the United Kingdom, or of the Channel Islands, or of the Isle of Man, and all territories and places under one legislature, as hereinafter defined, are deemed to be one British possession for the purposes of this Act;

"Legislature" includes any person or persons who exercise legislative authority in the British possession; and where there are local legislatures as well as a central legislature, means the central legislature only;

"Summary conviction" means a conviction under the Summary Jurisdiction Acts, that is to say the Acts regulating the duties of justices of the peace and any Acts amending or in substitution for them.

Transitional Provisions. Repeal and saving for past operation of repealed enactments, &c.

4. The Acts mentioned in the First Schedule to this Act are hereby repealed to the extent in the said Schedule indicated. But this repeal shall not—

(*a.*) Affect the past operation of any of those enactments, or any patent or copyright or right to use a trade mark granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act; or

(*b.*) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or

(*c.*) Take away or abridge any protection or benefit in relation to any such action or proceeding.

Patent Office.

5. (1.) There shall be an office called the Patent Office at a convenient place, with such officers and clerks as the Governor in Council shall appoint, at which the business of this Act required to be transacted at the Patent Office shall be transacted.

(2.) The Patent Office shall be under the immediate control of an officer called the Registrar of Patents, Designs, and Trade Marks, acting under the superintendence and direction of the Minister.

(3.) Any act or thing directed to be done by or to the registrar may, in his absence, be done, by or to any officer for the time being in that behalf authorized by the Minister.

(4.) Until other provision is made in that behalf, the Registrar-General shall be and act as Registrar of Patents, Designs, and Trade Marks.

Commencement of Act.

6. This Act, except where it is otherwise expressed, shall commence from and immediately after the thirty-first day of December, one thousand eight hundred and eighty-four.

PART II.

PATENTS.

APPLICATION FOR AND GRANT OF PATENT.

Persons entitled to apply for Patents.

7. (1.) Any person, whether a British subject or not, may make an application for a patent.

(2.) Two or more persons may make a joint application for a patent, and a patent may be granted to them jointly.

Application and specification.

8. (1.) An application for a patent must be made in the form set forth in the Second Schedule to this Act, or in such other form as may be from time to time prescribed; and must be left at, or sent by post to, the Patent Office in the prescribed manner.

(2.) An application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application, one or more of the applicants, claims or claim to be the true and first inventor or inventors, and for which he or they desires or desire to obtain a patent; and must be accompanied by either a provisional or complete specification. (Note.—*See* § 2 *of Act No.* 5, *of* 1886.)

(3.) In the case of a joint application the declaration may be made by one of the applicants.

(4.) A provisional specification must describe the nature of the invention, and be accompanied by drawings, if required.

(5.) A complete specification, whether left on application or subsequently, must particularly describe and set forth the nature of the invention, and in what manner it is to be performed, and must be accompanied by drawings, if required.

(6.) A specification, whether provisional or complete, must commence with the title, and in the case of a complete specification must end with a distinct statement of the invention claimed.

Reference of application to examiner.

9. The registrar shall refer every application to an examiner or examiners, who shall ascertain and report to the registrar whether the nature of the invention has been fairly described, and the application, specification, and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject matter of the invention. (Note.—*See* § 7 *of Act No.* 5, *of* 1886.)

Power for Registrar to refuse application or require amendment.

10. (1.) If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not or have not been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject matter of the invention, the registrar may require that the application, specification, or drawings be amended before he proceeds with the application.

(2.) Where the registrar requires an amendment, the applicant may appeal from his decision to the law officer.

(3.) The law officer shall, if required, hear the applicant and the registrar, and may make an order determining whether and subject to what conditions, if any, the application shall be accepted.

(4.) The registrar shall, when an application has been accepted, give notice thereof to the applicant.

(5.) If after an application has been made, but before a patent has been sealed, an application is made, accompanied by a specification bearing the same or a similar title, it shall be the duty of the examiner to report to the registrar whether the specification appears to him to comprise the same invention; and, if he reports in the affirmative, the registrar shall give notice to the applicant that he has so reported.

(6.) Where the examiner reports in the affirmative, the registrar may determine, subject to an appeal to the law officer, whether the invention comprised in both applications is the same, and if so he may refuse to recommend that a patent be granted on the application of the second applicant.

Time for leaving complete specification.

11. (1.) If the applicant does not leave a complete specifica-

tion with his application, he may leave it at any subsequent time within nine months from the date of application.

(2.) Unless a complete specification is left within that time the application shall be deemed to be abandoned. (Note.—*See* § 3 *of Act No.* 5, *of* 1886.)

Comparison of provisional and complete specification.

12. (1.) Where a complete specification is left after a provisional specification, the registrar shall refer both specifications to an examiner for the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner, and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification. (Note.—*See Act No.* 5, *of* 1886, § 7.)

(2.) If the examiner reports that the conditions hereinbefore contained have not been complied with, the registrar may refuse to accept the complete specification unless and until the same shall have been amended to his satisfaction; but any such refusal shall be subject to appeal to the law officer.

(3.) The law officer shall, if required, hear the applicant and the registrar, and may make an order determining whether and subject to what conditions, if any, the complete specification shall be accepted.

(4.) Unless a complete specification is accepted within twelve months from the date of application, then (save in the case of an appeal having been lodged against the refusal to accept) the application shall, at the expiration of those twelve months, become void. (Note.—*See* § 3 *of Act No.* 5 *of* 1886.)

(5.) Reports of examiners shall not in any case be published or be open to public inspection, and shall not be liable to production or inspection in any legal proceeding, other than an appeal to the law officer under this Act unless the court or officer having power to order discovery in such legal proceeding shall certify that such production or inspection is desirable in the interests of justice and ought to be allowed.

Advertisement on acceptance of complete specification.

13. On the acceptance of the complete specification the registrar shall advertise the acceptance in the *Gazette*; and the application and specification or specifications with the drawings (if any) shall be open to public inspection.

Opposition to grant of patent.

14. (1.) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification give notice at the patent office of opposition to the grant of the patent on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative, or on the ground that the invention has been patented in this colony on an application of prior date, or on the ground of an examiner having reported to the registrar that the specification appears to him to comprise the same invention as is comprised in a specification bearing the same or a similar title and accompanying a previous application, but on no other ground.

(2.) Where such notice is given the registrar shall give notice of the opposition to the applicant, and shall, on the expiration of those two months, after hearing the applicant and the person so giving notice, if desirous of being heard, decide on the case, but subject to appeal to the law officer.

(3.) The law officer shall, if required, hear the applicant and any person so giving notice and being, in the opinion of the law officer, entitled to be heard in opposition to the grant, and shall determine whether the grant ought or ought not to be made.

(4.) The law officer may, if he thinks fit, obtain the assistance of an expert, who shall be paid such remuneration as the law officer shall appoint.

Sealing of patent.

15. (1.) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, the registrar shall report the facts to the Minister.

(2.) The Minister shall thereupon submit the application for the consideration of the Governor in Council, who may direct a patent to be sealed with the Great Seal of the Colony.

(3.) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, (Note.—*See* § 3 *of Act No.* 5 *of* 1886) except in the cases hereinafter mentioned, that is to say:—

(*a.*) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the

patent may be sealed at such time as the law officer may direct;

(*b.*) If the person making the application dies before the expiration of the fifteen months aforesaid, the patent may be granted to his legal representative and sealed at any time within twelve months after the death of the applicant.

Date of patent.

16. Every patent shall take effect and be expressed to take effect as of the day of the application: Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification: Provided also, that in case of more than one application for a patent for the same invention, the sealing of a patent on one of those applications shall not prevent the sealing of a patent on an earlier application.

Provisional protection.

17. Where an application for a patent in respect of an invention has been accepted, the invention may during the period between the date of the application and the date of sealing such patent be used and published without prejudice to the patent to be granted for the same; and such protection from the consequences of use and publication is in this Act referred to as provisional protection.

Protection by complete specification. Effect of acceptance of complete specification.

18. After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification: Provided that an applicant shall not be entitled to institute any proceeding for infringement unless and until a patent for the invention has been granted to him.

Extent of patent.

19. Every patent when sealed shall have effect throughout the Colony and its dependencies.

Term of patent.

20. (1.) The term limited in every patent for the duration thereof shall be fourteen years from the date from which it takes effect.

(2.) But every patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to make the prescribed payments within the prescribed times.

(3.) If, nevertheless, in any case, by accident, mistake, or inadvertence, a patentee fails to make any prescribed payment within the prescribed time, he may apply to the registrar for an enlargement of the time for making that payment.

(4.) Thereupon the registrar shall, if satisfied that the failure has arisen from any of the above-mentioned causes, on receipt of the prescribed fee for enlargement, not exceeding ten pounds, enlarge the time accordingly, subject to the following conditions:

(*a.*) The time for making any payment shall not, in any case, be enlarged for more than three months;

(*b.*) If any proceeding shall be taken in respect of an infringement of the patent committed after a failure to make any payment within the prescribed time, and before the enlargement thereof, the Court before which the proceeding is proposed to be taken may, if it shall think fit, refuse to award or give any damages in respect of such infringement.

Amendment of specification.

21. (1.) An applicant or a patentee may, from time to time, by request in writing left at the Patent Office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of such amendment and his reasons for the same.

(2.) The request and the nature of such proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(3.) Where such notice is given the registrar shall give notice of the opposition to the person making the request, and shall hear and decide the case subject to an appeal to the law officer.

(4.) The law officer shall, if required, hear the person making the request and the person so giving notice, and being in the opinion of the law officer entitled to be heard in opposition to the request, and shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(5.) Where no notice of opposition is given or the person so giving notice does not appear, the registrar shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6.) When leave to amend is refused by the registrar, the person making the request may appeal from his decision to the law officer.

(7.) The law officer shall, if required, hear the person making the request and the registrar, and may make an order determining whether, and subject to what conditions, if any, the amendment ought to be allowed.

(8.) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially *larger than* or *substantially different from the invention* claimed by the specification as it stood before amendment.

(9.) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall in all courts and for all purposes be deemed to form part of the specification.

(10.) The foregoing provisions of this section do not apply when and so long as any action for infringement or other legal proceeding in relation to a patent is pending.

Power to disclaim part of invention during action, &c.

22. (1.) In an action for infringement of a patent, and in a proceeding for revocation of a patent, the Court or a judge may at any time order that the patentee shall, subject to such terms as to costs and otherwise as the Court or a judge may impose, be at liberty to apply at the Patent Office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

Restriction on recovery of damages.

23. Where an amendment by way of disclaimer, correction, or explanation has been allowed under this Act, no damages

shall be given in any action in respect of the use of the invention before the disclaimer, correction, or explanation, unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.

Advertisement of amendment.

24. Every amendment of a specification shall be advertised in the prescribed manner.

Compulsory licenses. Power for Governor in Council to order grant of licenses.

25. If on the petition of any person interested it is proved to the Governor in Council that by reason of the default of a patentee to grant licenses on reasonable terms—

(*a.*) The patent is not being worked in the Colony; or

(*b.*) The reasonable requirements of the public with respect to the invention cannot be supplied; or

(*c.*) Any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Governor in Council may order the patentee to grant licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor in Council, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.

Register of Patents.

26. (1.) There shall be kept at the Patent Office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licenses under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed.

(2.) The register of patents shall be *primâ facie* evidence of any matters by this Act directed or authorized to be inserted therein.

(3.) Copies of deeds, licenses, and any other documents affecting the proprietorship in any Letters Patent or in any

license thereunder, must be supplied to the registrar in the prescribed manner for filing in the Patent Office.

Fees in schedule.

27. (1.) There shall be paid in respect of the several instruments described in the Third Schedule to this Act, the fees in that Schedule mentioned, and there shall likewise be paid, in respect of other matters under this part of the Act, such fees as may be from time to time prescribed by the Governor in Council; and such fees shall be paid into the Consolidated Revenue.

(2.) The Governor in Council may from time to time reduce any of those fees.

Extension of term of patent on petition to Governor in Council.

28. (1.) A patentee may, after advertising in manner directed by any rules made under this section his intention to do so, present a petition to the Governor in Council, praying that his patent may be extended for a further term; but such petition must be presented at least six months before the time limited for the expiration of the patent.

(2.) Any person may enter a caveat, addressed to the Clerk of the Executive Council at the Council Office, against the extension.

(3.) If the Governor in Council shall be pleased to refer any such petition to the Court, the Court shall proceed to consider the same, and the petitioner and any person who has entered a caveat shall be entitled to be heard by himself or by counsel on the petition.

(4.) The Court shall, in considering their decision, have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(5.) If the Court report that the patentee has been inadequately remunerated by his patent, it shall be lawful for the Governor in Council to extend the term of the patent for a further term not exceeding seven, or in exceptional cases, fourteen years; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the Court may think fit.

(6.) It shall be lawful for the Judges of the Supreme Court, or any two of them, of whom the Chief Justice shall be one, to make, from time to time, rules of procedure and practice for regulating proceedings on such petitions, and subject thereto such proceedings shall be regulated according to the existing procedure and practice in cases of petitions to the Court.

(7.) The costs of all parties of and incident to such proceedings shall be in the discretion of the Court; and the orders of the Court respecting costs shall be enforceable in the same manner as other orders of the Court.

Revocation of Patent.

29. (1.) The proceeding by *scire facias* to repeal a patent is hereby abolished.

(2.) Revocation of a patent may be obtained on petition to the Court.

(3.) Every ground on which a patent may, at the commencement of this Act, be repealed by *scire facias* shall be available by way of defence to an action of infringement and shall also be a ground of revocation.

(4.) A petition for revocation of a patent may be presented by—

(*a.*) The Attorney-General.

(*b.*) Any person authorized by the Attorney-General;

(*c.*) Any person alleging that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims;

(*d.*) Any person alleging that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee;

(*e.*) Any person alleging that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within the Colony, before the date of the patent, anything claimed by the patentee as his invention.

(5.) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and no evidence shall, except by leave of the Court or a judge, be admitted in proof of any objection of which particulars are not so delivered.

(6.) Particulars delivered may be from time to time amended by leave of the Court or a judge.

(7.) The defendant shall be entitled to begin, and give evidence in support of the patent, and if the plaintiff gives evidence impeaching the validity of the patent the defendant shall be entitled to reply.

(8.) Where a patent has been revoked on the ground of fraud, the registrar may, on the application of the true inventor made in accordance with the provisions of this Act, grant to him a patent in lieu of and taking effect from the same date as the date of revocation of the patent so revoked, but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

Patent to bind Crown.

30. (1.) A patent shall have to all intents the like effect as against Her Majesty the Queen, her heirs and successors, as it has against a subject.

(2.) But the officers or authorities administering any department of the service of the Crown may, by themselves, their agents, contractors, and others, at any time after the application, use the invention for the services of the Crown on terms to be before or after the use thereof agreed on, with the approval of the Minister, between those officers or authorities and the patentee, or, in default of such agreement, on such terms as may be settled by the Minister after hearing all parties interested.

LEGAL PROCEEDINGS.

Hearing with assessors.

31. (1.) In an action or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, and shall, on the request of either of the parties to the proceedings, call in the aid of an assessor specially qualified, and try and hear the case wholly or partially with his assistance; the action shall be tried without a jury unless the Court shall otherwise direct.

(2.) The remuneration, if any, to be paid to an assessor under this section shall be determined by the Court, and be paid in the same manner as the other expenses of the execution of this Act.

Delivery of particulars.

32. (1.) In an action for infringement of a patent the plaintiff must deliver with his statement of claim, or by order of the Court or the judge, at any subsequent time, particulars of the breaches complained of.

(2.) The defendant must deliver with his statement of defence, or by order of the Court or a judge, at any subsequent time, particulars of any objections on which he relies in support thereof.

(3.) If the defendant disputes the validity of the patent, the particulars delivered by him must state on what grounds he disputes it, and if one of those grounds is want of novelty, must state the time and place of the previous publication or use alleged by him.

(4.) At the hearing no evidence shall, except by leave of the Court or a judge, be admitted in proof of any alleged infringement or objection of which particulars are not so delivered.

(5.) Particulars delivered may be from time to time amended, by leave of the Court or a judge.

(6.) On taxation of costs regard shall be had to the particulars delivered by the plaintiff and by the defendant; and they respectively shall not be allowed any costs in respect of any particular delivered by them unless the same is certified by the Court or a judge to have been proven or to have been reasonable and proper, without regard to the general costs of the case.

Order for inspection, &c., in action.

33. In an action for infringement of a patent, the Court or a judge may on the application of either party make such order for an injunction, inspection, or account, and impose such terms and give such directions respecting the same and the proceedings thereon as the Court or a judge may see fit.

Certificate if validity questioned and costs thereon.

34. In an action for infringement of a patent, the Court or a judge may certify that the validity of the patent came in question; and if the Court or judge so certifies, then in any subsequent action for infringement, the plaintiff in that action, on obtaining a final order or judgment in his favour, shall have his full costs, charges, and expenses as between solicitor and

client, unless the Court or judge trying the action certifies that he ought not to have the same.

Remedy in case of groundless threats of legal proceedings.

35. Where any person claiming to be the patentee of an invention, by circulars, advertisements, or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged manufacture, use, sale, or purchase of the invention, any person or persons aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as may have been sustained thereby, if the alleged manufacture, use, sale, or purchase to which the threats related was not in fact an infringement of any legal rights of the person making such threats: Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.

MISCELLANEOUS.

Patent for one invention only.

36. Every patent may be in the form in the Second Schedule to this Act, and shall be granted for one invention only, but may contain more than one claim; but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it comprises more than one invention.

Patent on application of representative of deceased inventor.

37. (1.) If a person possessed of an invention dies without making application for a patent for the invention, application may be made by, and a patent for the invention granted to his legal representative.

(2.) Every such application must be made within six months of the decease of such person, and must contain a declaration by the legal representative that he believes such person to have been the true and first inventor of the invention.

Patent to first inventor not invalidated by application in fraud of him.

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

visional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection.

Assignment for particular places.

39. A patentee may assign his patent for the whole Colony or any place in or part of the Colony.

Loss or destruction of patent.

40. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the registrar, the Governor in Council may at any time cause a duplicate thereof to be sealed.

Proceedings and costs before law officers.

41. The law officer may examine witnesses on oath and administer oaths for that purpose under this part of this Act, and may from time to time make, alter, and rescind rules regulating references and appeals to the law officer and the practice and procedure before him under this part of this Act; and in any proceeding before the law officer under this part of this Act, the law officer may order costs to be paid by either party, and any such order may be made a rule of the Court.

Exhibition at industrial or international exhibition not to prejudice patent rights.

42. The exhibition of an invention at an industrial or international exhibition, certified as such by the Minister, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or the consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely,—

(*a.*) The exhibitor must, before exhibiting the invention, give the registrar the prescribed notice of his intention to do so; and

(*b.*) The application for a patent must be made before or within six months from the date of the opening of the exhibition.

Publication of indexes, &c.

43. The Registrar shall from time to time prepare and publish such indexes, abridgments of specifications, catalogues, and other works relating to inventions, as the Minister may direct.

Power to require models on payment.

44. The Minister may at any time require a patentee to furnish him with a model of his invention on payment to the patentee of the cost of the manufacture of the model: the amount to be settled, in case of dispute, by the Auditor-General.

Foreign vessels in Queensland waters.

45. (1.) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of the Supreme Court of Queensland, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connexion with the manufacture or preparation of anything intended to be sold in or exported from Queensland:

(2.) But this section shall not extend to vessels of any foreign state of which the laws authorize subjects of such foreign state, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture or preparation of anything intended to be sold in or exported from the territories of such foreign state.

EXISTING PATENTS.

46. (1.) The provisions of this Act relating to applications for patents and proceedings thereon shall have effect in respect only of applications made after the commencement of this Act.

(2.) Every patent granted before the commencement of this Act, or on an application then pending, shall remain unaffected

by the provisions of this Act relating to patents binding the Crown, and to compulsory licenses.

(3.) In all other respects (except with regard to fees payable in respect of granting a patent) this Act shall extend to all patents granted before the commencement of this Act, or on applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.

(4.) All instruments relating to patents granted before the commencement of this Act required to be left or filed in the Supreme Court shall be deemed to be so left or filed if left or filed before or after the commencement of this Act in the Patent Office.

PART V.

International and Intercolonial Arrangements.

And whereas by the one hundred and third section of the Act of the Imperial Parliament called "The Patents, Designs, and Trade Marks Act, 1883," it is enacted as follows, that is to say :—

(1.) If Her Majesty is pleased to make any arrangement with the Government or Governments of any Foreign State or States for mutual protection of inventions, then any person who has applied for protection for any invention in any such State, shall be entitled to a patent for his invention under this Act, in priority to other applicants; and such patent shall have the same date as the date of the protection obtained in such Foreign State:

Provided that his application is made within seven months from his applying for protection in the Foreign State with which the arrangement is in force:

Provided that nothing in this section contained shall entitle the patentee to recover damages for infringements happening prior to the date of the actual acceptation of his complete specification in this country:

(2.) The publication in the United Kingdom, or the Isle of Man, during the respective periods aforesaid, of any

description of the invention, or the use therein during such periods of the invention, shall not invalidate the patent which may be granted for the invention:

(3.) The application for the grant of a patent, under this section must be made in the same manner as an ordinary application under this Act:

(4.) The provisions of this section shall apply only in the case of those Foreign States with respect to which Her Majesty shall from time to time by Order in Council declare them to be applicable, and so long only in the case of each State as the Order in Council shall continue in force with respect to that State:

And by the one hundred and fourth section of the said Act it is further enacted as follows, that is to say:—

(1.) Where it is made to appear to Her Majesty that the Legislature of any British Possession has made satisfactory provision for the protection of inventions, patented in this country, it shall be lawful for Her Majesty from time to time, by Order in Council, to apply the provisions of the last preceding section, with such variations or additions (if any) as to Her Majesty in Council may seem fit, to such British Possession:

(2.) An Order in Council under this Act shall, from a date to be mentioned for the purpose in the Order, take effect as if its provisions had been contained in this Act; but it shall be lawful for Her Majesty in Council to revoke any Order in Council made under this Act:

Be it enacted as follows:—

International arrangements for protection of inventions.

80. (1.) If Her Majesty is pleased by Order in Council to apply the provisions of the said one hundred and third section of the Imperial Act, called "The Patents, Designs, and Trade Marks Act, 1883," to the Colony of Queensland, then any person who has applied for protection for any invention in England or in any Foreign State, with the Government of which Her Majesty has made an arrangement under the said section for mutual protection of inventions, shall be entitled to a patent for his invention under this Act, in priority to other applicants; and such patent shall take effect from the

same date as the date of the *application* [Note.—*This word was substituted for* "protection obtained" *by s.* 8 *of Act No.* 5 *of* 1886] in England or such Foreign State, as the case may be:

Provided that his application is made within twelve months, from his applying for protection in England or the Foreign State with which the arrangement is in force.

Provided that nothing in this section contained shall entitle the patentee to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification in this colony.

(2.) The publication in Queensland, during the periods aforesaid of any description of the invention, or the use therein during such periods of the invention, shall not invalidate the patent which may be granted for the invention.

(3.) The application for the grant of a patent, under this section, must be made in the same manner as an ordinary application under this Act.

(4.) The provisions of this section shall in the case of Foreign States apply only in the case of those Foreign States with respect to which Her Majesty shall from time to time by Order in Council declare the provisions of the aforesaid section of the said Imperial Act to be applicable, and so long only in the case of each State as the Order in Council shall continue in force with respect to that State.

Provision for Colonies and India.

81. (1.) Where it is made to appear to the Governor in Council that the Legislature of any British Possession has made satisfactory provision for the protection of inventions patented in Queensland, the Governor in Council may from time to time, by Order in Council, apply all or any of the provisions of the last preceding section relating to the protection of inventions patented in England, with such variations or additions, if any, as to the Governor in Council may seem fit, to inventions patented in such British Possession.

(2.) An Order in Council under this section shall, from a date to be mentioned for the purpose in the Order, take effect as if its provisions had been contained in this Act; but it shall be lawful for the Governor in Council to revoke any such Order in Council.

PART VI.

General.

Proceedings at Patent Office.

Seal of Patent Office.

82. There shall be a seal for the Patent Office, and impressions thereof shall be judicially noticed and admitted in evidence.

Trust not to be entered in registers.

83. There shall not be entered in any register kept under this Act, or be receivable by the registrar, any notice of any trust expressed, implied, or constructive.

Refusal to grant patent in certain cases.

84. The registrar may refuse to recommend that a patent be granted for an invention of which the use would, in his opinion, be contrary to law or morality.

Entry of assignments and transmissions in register.

85. Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, the registrar shall on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, in the register of patents. The person for the time being entered in the register of patents, as proprietor of a patent, shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the same, and to give effectual receipts for any consideration for such assignment, license, or dealing. Provided that any equities in respect of such patent may be enforced in like manner as in respect of any other personal property.

Inspection of and extracts from registers.

86. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

Sealed copies to be received in evidence.

87. Printed or written copies or extracts, purporting to be certified by the registrar and sealed with the seal of the Patent Office, of or from patents, specifications, disclaimers, and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all courts of justice, and in all proceedings, without further proof or production of the originals.

Rectification of registers by Court.

88. (1.) The Court may on the application of any person aggrieved by the omission without sufficient cause of the name of any person from any register kept under this Act, or by any entry made without sufficient cause in any such register, make such order for making, expunging, or varying the entry, as the Court thinks fit; or the Court may refuse the application; and in either case may make such order with respect to the costs of the proceedings as the Court thinks fit.

(2.) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3.) Any order of the Court rectifying a register shall direct that due notice of the rectification be given to the registrar.

Power for registrar to correct clerical errors.

89. The registrar may, on request in writing accompanied by the prescribed fee,—

(*a.*) Correct any clerical error in or in connection with an application for a patent; or,

(*b.*) Correct any clerical error in the name, style, or address of the registered proprietor of a patent.

Falsification of entries in registers.

91. If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing knowing the entry or writing to be false, he shall be guilty of a misdemeanor.

Exercise of discretionary power by registrar.

92. Where any discretionary power is by this Act given to the registrar, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

Power of registrar to take directions of Minister.

93. The registrar may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the Minister for directions in the matter.

Certificate of registrar to be evidence.

94. A certificate purporting to be under the hand of the registrar as to an entry, matter, or thing which he is authorized by this Act, or any general rules made thereunder, to make or do, shall be *primâ facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Applications and notices by post.

95. (1.) Any application, notice, or other document authorized or required to be left, made, or given at the Patent Office or to the registrar, or to any other person under this Act, may be sent by a prepaid letter through the post; and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

(2.) In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

Provision as to days for leaving documents at office.

96. Whenever the last day fixed by this Act, or by any rule for the time being in force, for leaving any document or paying any fee at the Patent Office shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or Bank holiday, or any day observed as a day of public fast or thanksgiving, herein referred to as excluded days, it shall be lawful to leave such document or to pay such fee on the day next following such excluded day, or days, if two or more of them occur consecutively.

Declaration by infant, lunatic, &c.

97. If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purpose of this Act be as effectual as if done by the person for whom he is substituted.

Power for Governor in Council to make general rules for regulating business of Patent Office.

98. (1.) The Governor in Council may from time to time make such general rules and do such things as they think expedient, subject to the provisions of this Act—

(*c.*) For making or requiring duplicates of specifications, amendment, drawings, and other documents;

(*d.*) For securing and regulating the publishing and selling

of copies, at such prices and in such manner as the Governor in Council think fit, of specifications, drawings, amendments, and other documents;

(*e.*) For securing and regulating the making, printing, publishing and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office; and providing for the inspection of indexes and abridgments and other documents;

(*f.*) For regulating the presentation of copies of Patent Office publications to patentees and to public authorities, bodies, and institutions at home and abroad;

(*g.*) Generally for regulating the business of the Patent Office, and all things by this Act placed under the direction or control of the registrar or of the Minister.

(2.) Any of the forms in the First Schedule to this Act may be altered or amended by rules made by the Governor in Council as aforesaid.

(3.) General rules may be made under this section at any time after the passing of this Act, but not so as to take effect before the commencement of this Act, and shall (subject as hereinafter mentioned) be of the same effect as if they were contained in this Act, and shall be judicially noticed.

(4.) Any rules made in pursuance of this section shall be published in the *Gazette*, and shall forthwith be laid before both Houses of Parliament, if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the then next session of Parliament.

(5.) If either House of Parliament, within the next forty days after any rules have been so laid before such house, resolve that such rules or any of them ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule or to the making of any new rules or rule.

Annual reports of registrar.

99. The registrar shall, in every year, make a report respecting the execution by or under him of this Act which shall be laid before both Houses of Parliament, and therein shall be included for the year to which each report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act.

OFFENCES.

Penalty on falsely representing articles to be patented.

100. (1.) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, shall be liable for every offence on summary conviction to a fine not exceeding five pounds.

(2.) A person shall be deemed, for the purposes of this enactment, to represent that an article is patented, if he sells the article with the word "patent," "patented," or any word or words expressing or implying that a patent has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to the article.

Penalty on unauthorized assumption of Royal arms.

101. Any person who, without the authority of Her Majesty, or any of the Royal Family, or of the Governor, or of any Government Department, the proof whereof shall lie on him, assumes or uses in connection with any trade, business, calling or profession, the Royal arms, or arms so nearly resembling the same as to be calculated to deceive, in such a manner as to be calculated to lead other persons to believe that he is carrying on his trade, business, calling, or profession by or under such authority as aforesaid, shall be liable on summary conviction to a fine not exceeding twenty pounds.

Former registers to be deemed continued.

102. (1.) The registers of patents and of proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of patents kept under this Act.

Saving of prerogative.

103. Nothing in this Act shall take away, abridge, or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof.

SCHEDULES.

THE FIRST SCHEDULE.

Year and Number of Act.	Title of Act.	Extent of Repeal.
21 James I. c. 3 [1623.]	The Statute of Monopolies.	Sections ten, eleven, and twelve.
16 Victoria No. 24 .	An Act to authorize the Governor, with the advice of the Executive Council, to grant Letters of Registration for all Inventions and Improvements in the Arts or Manufactures, to have the same effect as Letters Patent in England so far as regards the Colony.	The whole.
31 Victoria No. 26 .	An Act to Amend the Law relating to Letters of Registration for Inventions and Improvements in the Arts or Manufactures by granting Provisional Certificates of Registration for a Limited period.	The whole.

THE SECOND SCHEDULE.

NOTE.—*The forms now required by the rules have been substituted for those in the Act.*

FORMS OF APPLICATION, &C.

FORM A.

Patents, Designs, and Trade Marks Act, 1884.

(PATENTS.)

APPLICATION FOR A PATENT.

(*By an Original Inventor or two or more Inventors when all the Applicants sign the Declaration.*)

I [*or* we] [*insert name, address, and occupation of applicant or applicants*] hereby apply that a patent may be granted to me [*or* us] for an invention for [*insert title of invention in full*].

And I [*or* we] the said [*insert name of applicant or applicants*] do solemnly and sincerely declare that I am [*or* we are] in possession of the said invention, and that I am [*or* we are] the true and first inventor thereof, and that the same is not in use within the colony of Queensland by any other person or persons to the best of my [*or* our] knowledge and belief.

And I [*or* we] make the above solemn declaration, conscientiously believing the same to be true and by virtue of the provisions of "*The Oaths Act of* 1867" [*if made out of Queensland omit these words and recite Statute under which declaration is made*].

[*Signature*].

Declared at in this day of 18 .
Before me [*signature of person taking declaration*].

NOTE.—If declared by more than one person, and at different times and places, insert after the word "Declared" the words "by the above-named," and add a separate jurat for each declarant.

The above declaration can be made, if

(1) In Queensland or elsewhere, before any Commissioner of the Supreme Court for taking affidavits, or any Justice of the Peace for Queensland:
(2) In any place in the British dominions out of Queensland, before any Court, Judge, or Justice of the Peace, or any person authorized to administer oaths there in any Court:
(3) In any place out of the British dominions before a British Minister, or person exercising the functions of a British Minister, or a British Consul, Vice-Consul, or other person exercising the functions of a British Consul, or a Notary Public, or before a Judge or Magistrate.

FORM A.[1]

Patents, Designs, and Trade Marks Act, 1884.

(PATENTS.)

APPLICATION FOR A PATENT.

(When one of the Applicants is not the Original Inventor.)

We [*insert names, residences and occupations of applicants*] hereby apply that a patent may be granted to us for an invention for [*state title of invention*].

(*If all the applicants do not join in the declaration, the one who makes the declaration must sign here for himself and the other applicant or applicants.*)

Witness.

And I [*or* we] the said do solemnly and sincerely declare that we the said and are in possession of the said invention, and that I the said am [*or* the said is] the true and first

inventor thereof, and that the same is not in use within the colony of Queensland by any other person or persons to the best of my [*or* our] knowledge and belief.

(*Here recite Statute under which declaration is made.*)

Declared at in this day of 18 .

Before me [*signature of person taking declaration.*]

FORM A.[2]

Patents, Designs, and Trade Marks Act, 1884.

(PATENTS.)

APPLICATION FOR A PATENT.

(*By the Assignee of the Inventor alone.*)

I [*or* we] [*insert name, address and occupation of applicant*] hereby apply that a patent may be granted to me [*or* us] for an invention for [*insert title of invention in full*], and I [*or* we] do solemnly and sincerely declare that I am [*or* we are] the assignee of the said invention from [*insert name, address and occupation of inventor*], by virtue of a deed of assignment made by the said [*name of inventor*] dated the day of one thousand eight hundred and eighty ; and I [*or* we] further solemnly and sincerely declare that I am [*or* we are] in possession of the said invention, and that the said [*name of inventor*] is [*or* are] the first and true inventor thereof; and that the same is not in use by any other person or persons in the Colony of Queensland to the best of my [*or* our] knowledge and belief.

(*Here recite Statute under which declaration is made.*)

Declared at in this day of 18 .

Before me [*signature of person taking declaration*].

FORM A.[3]

Patents, Designs, and Trade Marks Act, 1884.

(PATENTS.)

APPLICATION FOR A PATENT.

(*By the Assignee of the Inventor jointly with the Inventor.*)

We [*names, addresses and occupations*] hereby apply that a patent may be granted to us for an invention for [*insert title of invention in full*].

[*Signature of assignee for himself and the inventor*].

Witness:

And I [*or* we], the said [*name in full of assignee*], do solemnly and sincerely declare that I am [*or* we are] the assignee of an undivided share in the said invention from the said [*name in full of inventor*], by virtue of a deed of assignment made by the said [*name in full of inventor*], dated the day of one thousand eight hundred and eighty .

And I [*or* we] further solemnly and sincerely declare that we the said

[*names in full of assignee and inventor*], are in possession of the said invention; and that the said [*name in full of inventor*], is [*or* are] the true and first inventor thereof, and that the same is not in use by any other person or persons in the Colony of Queensland to the best of my [*or* our] knowledge and belief.

(*Here recite Statute under which declaration is made.*)

Declared at in this day of 18 .

Before me [*signature of person taking declaration*].

FORM B.

Patents, Designs, and Trade Marks Act, 1884.

(PATENTS.)

PROVISIONAL SPECIFICATION.

(To be furnished in duplicate.)

[*Title of invention.*]

I [*or* we] [*name, address and occupation*] do hereby declare the nature of my [*or* our] invention for [*title of invention*] to be as follows:—

(*Description of invention.*)

Dated this day of 18 .

FORM C.

Patents, Designs, and Trade Marks Act, 1884.

(PATENTS.)

COMPLETE SPECIFICATION.

[*Here insert title as in declaration.*]

I [*here insert name, address, and calling of inventor, as in declaration*] do hereby declare the nature of my invention for [*here insert title of invention*], and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement [*here insert full description of invention*]:—

* * * * * *

Having now particularly described and explained the nature of my said invention, and in what manner the same is to be performed, I declare that what I claim is,—

1.

2.

3., &c.

[*Signature of inventor.*]

Dated this day of , 18 .

FORM D.

Form of Patent.

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith: To all to whom these presents shall come greeting:

Whereas *John Smith, of* 29, *Brisbane Street, Ipswich, in the Colony of Queensland, Engineer*, hath by his solemn declaration represented unto us that he is in possession of an invention for "*Improvements in Sewing Machines*," that he is the true and first inventor thereof, and that the same is not in use by any other person to the best of his knowledge and belief:

And whereas the said inventor hath humbly prayed that we would be graciously pleased to grant unto him (hereinafter together with his executors, administrators and assigns, or any of them, referred to as the said patentee) our Royal Letters Patent for the sole use and advantage of his said invention:

And whereas the said inventor hath by and in his complete specification particularly described the nature of his invention:

And whereas we, being willing to encourage all inventions which may be for the public good, are graciously pleased to condescend to his request:

Know ye, therefore, that We, of our especial grace, certain knowledge, and mere motion, do, by these presents, for us, our heirs and successors, give and grant unto the said patentee our especial license, full power, sole privilege and authority, that the said patentee by himself, his agents, or licensees, and no others, may at all times hereafter during the term of years herein mentioned, make, use, exercise, and vend the said invention within our Colony of Queensland, in such manner as to him or them may seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the [*date of application*]: And to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, We do by these presents, for us, our heirs and successors, strictly command all our subjects whatsoever within our said Colony that they do not at any time during the continuance of the said term of fourteen years either directly or indirectly make use of or put in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, license, or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal command, and of being answerable to the patentee according to law for his damages thereby occasioned: Provided that these our letters patent are on this condition, that, if at any time

during the said term it be made to appear to our Supreme Court of Queensland that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof within our said Colony, or that the said patentee is not the first and true inventor thereof within the said Colony as aforesaid, these our letters patent shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained: Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these letters patent, or in respect of any matter relating thereto at the time or times, and in manner for the time being by law provided; and also if the said patentee shall not supply, or cause to be supplied, for our service all such articles of the said invention as may be required by the officers or commissioners administering any department of our service in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided, then, and in any of the said cases, these our letters patent, and all privileges and advantages whatever hereby granted, shall determine and become void, notwithstanding anything hereinbefore contained: Provided also that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted: And lastly, we do by these presents for us, our heirs and successors, grant unto the said patentee that these our letters patent shall be construed in the most beneficial sense for the advantage of the said patentee. In witness whereof we have caused these our letters to be made patent this , one thousand eight hundred and .

Great Seal of the Colony.

THE THIRD SCHEDULE.

FEES ON INSTRUMENTS FOR OBTAINING PATENTS, AND RENEWAL.

(*a.*) *Up to sealing.*

	£	s.	d.	£	s.	d.
On application for provisional protection .	2	0	0			
On filing complete specification . . .	3	0	0			
				5	0	0
or						
On filing complete specification with first application				5	0	0

(*b.*) *Further before end of four years from date of patent.*

On certificate of renewal				5	0	0

(c.) *Further before end of eight years from date of patent.*	£	s.	d.
On certificate of renewal	10	0	0

Or in lieu of the fees of £5 and £10 the following annual fees:—

Before the expiration of the fourth year from the date of the patent				.	1	0	0
,,	,,	fifth	,,	.	1	0	0
,,	,,	sixth	,,	.	1	0	0
,,	,,	seventh	,,	.	1	0	0
,,	,,	eighth	,,	.	1	10	0
,,	,,	ninth	,,	.	1	10	0
,,	,,	tenth	,,	.	2	0	0
,,	,,	eleventh	,,	.	2	0	0
,,	,,	twelfth	,,	.	2	0	0
,,	,,	thirteenth	,,	.	2	0	0

Act No. 5 of 4th of September, 1886.

An Act to amend the Patents, Designs, and Trade Marks Act, 1884.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows :—

Construction and Short Title.

1. This Act shall be construed as one with "*The Patents, Designs, and Trade Marks Act*, 1884" (in this Act referred to as the Principal Act).

This Act may be cited as "*The Patents, Designs, and Trade Marks (Amendment) Act*, 1886," and this Act and the Principal Act may be cited together, as "*The Patents, Designs, and Trade Marks Acts*, 1884 and 1886."

Amendment of s. 8 of 48 Vic. No. 13.

2. Whereas subsection two of section eight of the Principal Act requires a declaration to be made by an applicant for a patent to the effect in that subsection mentioned, and doubts have arisen as to the nature of that declaration, and it is expedient to remove such doubts: Be it therefore enacted that :—

The declaration mentioned in subsection two of section eight of the Principal Act may be either a statutory declaration under "*The Oaths Act of* 1867," or not, as may be from time to time prescribed.

Amendment of ss. 11, 12, *and* 15 *of* 48 *Vic. No.* 13.

3. Whereas under the Principal Act, a complete specification is required by section eleven to be left within nine months, and by section twelve to be accepted within twelve months from the date of application, and a patent is required by section fifteen to be sealed within fifteen months from the date of application, and it is expedient to empower the Registrar to extend in certain cases the said times: Be it therefore enacted as follows:—

A complete specification may be left and accepted within such extended times, not exceeding three months and six months respectively, after the said nine and twelve months respectively, as the Registrar may on payment of the prescribed fee allow, and where such extension of time has been allowed, a further extension of six months after the said fifteen months shall be allowed for the sealing of the patent, and the Principal Act shall have effect as if any time so allowed were added to the said periods specified in the Principal Act.

Specifications, &c. not to be published unless application accepted.

4. Where an application for a patent has been abandoned, or become void, the specification or specifications and drawings (if any) accompanying or left in connection with such application shall not at any time be open to public inspection or be published by the Registrar.

Power to grant Patents to several Persons jointly.

5. Whereas doubts have arisen whether under the Principal Act, a patent may lawfully be granted to several persons jointly, some or one of whom only are or is the true and first inventors or inventor: Be it therefore enacted and declared that it has been and is lawful under the Principal Act to grant such a patent.

Application for patent by assignee of inventor.

6. When an inventor is out of the Colony, an application for a patent may be made by an assignee of the inventor, either alone or, if the whole right to the invention is not assigned, jointly with the inventor.

In any such case the following rules shall be observed:—

(1.) The application must be accompanied by the instrument by which the invention is assigned by the inventor to the sole applicant, or the applicant who is not the inventor as the case may be.

(2.) The provisional specification or complete specification may be signed either by the first inventor, or by the assignee, or by both.

(3.) The form prescribed in the Second Schedule to the Principal Act for making applications for patents shall be modified, so far as may be necessary, so as to set forth that the applicant, or one of the applicants, is the assignee of the inventor, and also, if the assignee is the sole applicant, that the assignee is in possession of the invention, and that the inventor is the first and true inventor thereof.

Refusal of patent when it appears that the invention is not new.

7. Whereas doubts have arisen whether under the Principal Act an examiner may report that an invention in respect of which application is made for a patent is not novel, or is in use, or has been published, or has beer already patented in Queensland, or whether the Registrar may refuse to accept the application, or to accept the complete specification, or to recommend the grant of a patent on the ground that the invention is not novel, or is in use, or has been published, or has been already patented in Queensland: Be it therefore enacted as follows:—

(1.) It shall be the duty of every examiner to whom an application for a patent is referred under the ninth section of the Principal Act, or to whom a complete specification is referred under the twelfth section of that Act, to report in addition to the matters in those sections mentioned whether, to the best of his knowledge, any of the following conditions exists with respect to the invention, that is to say:—

(*a.*) That it is not novel;

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

(*c.*) That the invention has been described in a book or other printed publication, published in Queensland before the date of the application, or is otherwise in the possession of the public;

(*d.*) That the invention has already been patented in Queensland.

(2.) When an examiner reports that any of such conditions exists with respect to the invention, the Registrar may refuse to accept the application, or to accept the complete specification, or to recommend the grant of a patent in respect of the invention, unless the case is one which falls within the provisions of the forty-second or the eightieth section of the Principal Act, or unless, in the case of a prior patent having been granted, the Registrar has doubts whether the patentee or the applicant is the first inventor.

(3.) When the Registrar refuses to accept an application, or to accept a complete specification, or to recommend the grant of a patent, for any of the reasons aforesaid, he shall give notice of his refusal to the applicant, and the applicant may appeal to the law officer.

(4.) The law officer shall, if required, hear the applicant, and shall determine whether the application or the complete specification ought to be accepted, or whether the patent ought to be granted, as the case may be.

(5.) The law officer may, if he thinks fit, obtain the assistance of an expert, to whom the applicant shall pay such remuneration as the law officer shall appoint.

Amendment of s. 80 *of Principal Act.*

8. And whereas by the sixth section of the Act of the Imperial Parliament, called "*The Patents, Designs, and Trade Marks* (*Amendment*) *Act*, 1885," it is enacted that in subsection one of the one hundred and third section of the Act of the Imperial Parliament called "*The Patents, Designs, and Trade Marks Act*, 1883," recited in Part V. of the Principal Act, the words "date of the application" shall be substituted for the words "date of the protection obtained": Be it therefore enacted as follows:—

In subsection one of section eighty of the Principal Act the words "date of the application" shall be substituted for the words "date of the protection obtained."

SOUTH AFRICAN REPUBLIC.

Law of June 1st, 1887.

(From *The Observer*, Pretoria.)

WHEREAS it is desirable to encourage new and lawful inventions, by granting to inventors for a certain time the exclusive right of deriving the full benefit of their inventions.

It is hereby enacted as follows:—

Art. 1.

Every person, who makes a new industrial invention, capable of being made use of, as an object of trade or industry, shall have the exclusive right of the benefits derived therefrom, for such a term, and under such conditions as herein directed. This right will be granted by Letters Patent, to be issued by the Government in the form and manner as prescribed by this law.

Art. 2.

Every person, be he a citizen of the South African Republic or not, can apply for and obtain a patent right. Corporations and companies have the same right; the inventor, however, must be one of the members and as such be pointed out in the application.

Two or more persons can conjointly apply for and obtain a patent right.

Art. 3.

An application for a patent right shall be, as near as possible, in the form given in Schedule A, and must be accompanied by a description of the invention. The description may be in outlines or detailed. A description in general terms must give

the nature of the invention, and, if necessary, a drawing be attached. A description in detail must give particulars of the nature of the invention and the manner of working the same, and, if necessary, a drawing be attached.

Both descriptions must first give the name of the invention. As much as possible, the description must be in the form of Schedules B and C.

The use of the official language is compulsory.

Art. 4.

In the case of a description in general terms, the applicant has to deposit in the office of the Attorney-General his application and the necessary description.

Of the date on which this is done, an entry shall be made in this office and noted on the application and description. A delivery receipt shall be given to the applicant or his agent, on payment of the sum of money named in Schedule K. The applicant's invention will in this case be protected for the time of six months from the date of his receipt, which means that he may without prejudice to his right of obtaining at a later period a patent, make use of and make known his invention.

No one but the Attorney-General or any one on his behalf, shall become cognizant of such a preliminary description.

In case the name, or the description of the invention is not explicit enough or too prolix, the Attorney-General shall have the right to allow or demand the name or description to be made more explicit, altered, or amended during the said term of six months, and before a patent right is issued. Such a description in detail shall, from the time of the date of receipt of delivery from the Attorney-General, be considered, to be a description in detail, in terms of this law, and be subject to all regulations of this law, concerning descriptions in detail. The protection obtained for which will, however, cease at the expiration of six months from the date of receipt for the delivery of the preliminary description.

Art. 5.

In case of a description in detail, the applicant shall deposit his application at the office of the Attorney-General and along with it the description in detail belonging to it.

Of the date on which this is done an entry shall be made in this office and noted on the application and description. A

delivery receipt shall be given to the applicant or his agent, on payment of the sum of money named in Schedule K.

The applicant in this case enjoys the same right and privileges for the term of six months, as if a patent right for his invention had been granted him on the said date.

He is, however, not entitled to make a claim in respect thereof, unless and until he has obtained a patent right.

Art. 6.

In case the applicant of a patent right desires to go on with his application, he is to give notice thereof to the Attorney-General.

Along with this notice, he must state the name of his invention, and the date of the deposit of his application, and the accompanying description.

The Attorney-General shall then hand the applicant or his agent a notice as near as possible in the form as given in Schedule D.

The applicant shall see that this notice is published, as soon as possible, once in the *Government Gazette*, and in one other newspaper, printed in Pretoria, and twice in a newspaper published in or near the place where the applicant uses his invention, in case he does not use it where he lives; in case no newspaper is published there, then in such newspaper as is in circulation there.

Thereafter, every one who may be interested, shall be at liberty, on payment of the sum of money named in Schedule K, to oppose the granting of the patent right, by sending in to the Attorney-General in writing a statement, setting forth his objections, within such a time as the Attorney-General shall fix in above-named notice, not to be, however, shorter than one month.

Art. 7.

At the time and place in the notice named, the applicant shall produce the newspapers in which the notice has been published. The Attorney-General shall thereafter hear the application, as also all objections lodged with him in writing, in terms of Art. 6.

The applicant, the objectors, and their respective witnesses shall be heard separately, and not in the presence of the others.

The Attorney-General may call in the assistance of qualified

and other persons, and has the right to fix the amount to be paid to them by either the applicant or objector.

The Attorney-General has also the right to fix the costs for the hearing of an application, objection, or any other proceeding in connection with the granting of a patent right, or protection under this law, and by and to whom to be paid. The form in Schedule E shall be adhered to as much as possible. Such an order by the Attorney-General is recoverable at law.

Art. 8.

No objections having been lodged, or, if so, having been decided in favour of the applicant, the Attorney-General shall grant a certificate (as near as possible according to the form in Schedule F) for the granting of a patent right, on payment of the sum of money named in Schedule K. In his certificate he shall state all the conditions and regulations which it will be desirable or necessary to embody in the patent right.

Art. 9.

The Attorney-General having been requested by the party to do so, shall as soon as possible, prepare a patent right deed, in terms of his certificate. *Vide* Art. 8.

This draft deed, with the amount named in Schedule K, shall be sent to the office of the State Secretary, for the purpose of being signed by the State President, and countersigned by the State Secretary, and the affixing of the State seal. The signing and sealing will be done as soon as possible.

Art. 10.

The granting of a patent right for an invention, of which the application is contrary to law, good morals, or order, in the judgment of the Government may be refused.

Art. 11.

The signing and sealing of a draft patent right as referred to in Art. 9 will be refused:

1st. In case the application for it is sent in later than three months after the date of the granting of the certificate by the Attorney-General. *Vide* Art. 8.

2nd. In case the term of six months for protection, obtained by the sending in and depositing of the application

for protection, has already expired. Whenever the application for the signing and sealing has been made, however, before the expiration of the six months, and the signing and the sealing is delayed through no fault of the applicant, the signing and sealing may be done after the expiration of six months, but not later than one month thereafter.

In case the applicant dies within the aforementioned term of six months, the patent right deed will be granted to his representative up to the time of three months after his decease, even should the term of six months have expired already.

Art. 12.

Every patent right deed shall, as near as possible, be drawn up in the form as given in Schedule G, and shall bear the date of the day on which the application with the description having reference thereto, was deposited in the office of the Attorney-General.

Art. 13.

Every patent right deed shall be for fourteen years from the date of the deed; but with this proviso, that all rights and privileges under it will lapse after the terms of three and seven years respectively, unless within the said terms the respective sums of money, named in Schedule K, be paid to the Treasurer-General, a receipt for the payment by this official be given, and the payment by him be noted on the deed.

In case the holder of the patent right, through any accident, error or negligence, does not make the prescribed payment within the prescribed terms, he can apply to the Government for grace of time. Whenever the Government comes to the conclusion that the neglect is occasioned by any of the above causes, the Government can extend the time of payment, provided the holder of the patent right makes the payment named in Schedule K and in all cases under the following conditions:—

(*a.*) The time for a payment shall never be extended longer than three months.

(*b.*) A lawsuit being commenced for infringement of a patent right, after a payment has become due, and before having obtained extension of time for such payment, the Court may refuse to give damages for such an infringement of the patent right.

Art. 14.

A patent right deed once having been granted, it will not be any longer lawful to inquire whether the regulations in Art. 6, about the giving and publishing of the notice named in said article, have been duly observed.

Art. 15.

In case a patent right deed has been lost or destroyed, or it is proved to the satisfaction of the Government that the document cannot be produced, a duplicate may be issued.

Art. 16.

When by virtue of this law a patent right for an invention has been granted, for which also a patent right has been granted in any other country, prior to the one in this State, then all the rights and privileges appertaining thereto shall cease, and the patent right deed shall lapse at the same time the term of the foreign patent right expires, and in case more than one foreign patent right exists, it will lapse at the expiration of the first one of them.

In case the term of a foreign patent right has expired already at the time of the granting of a patent right in this State, it will be of no value and force whatsoever.

Art. 17.

All descriptions with the explanatory drawings (if any) deposited at the office of the Attorney-General, shall immediately after the granting of a patent right deed, or if not granted, after the expiration of six months from the date of having deposited same, be removed for safe custody to any office, as the State President, with the advice and consent of the Executive Council, may direct.

Art. 18.

Every applicant or patent right holder may at any time apply in writing to the Attorney-General, to alter his description and the drawing in connection therewith, by way of effacing, improving, or adding to; stating in such application the nature of, and his reason for such alteration.

The State Attorney will thereafter hand him a notice, as near

as possible in the form as prescribed in Schedule II. This notice must be published in the manner as directed by Art. 6. The same way of proceeding shall be observed as is in Art. 6 directed for the application for a patent right deed.

All regulations thereanent apply in this case.

The Attorney-General shall decide whether, and under which conditions the application for alteration may be granted. This order must be registered in the office to be fixed upon by the Attorney-General.

No alteration shall be granted, of which the consequence would be, that the altered description would make it more comprehensive or differ from the unaltered description.

The permission to alter gives the party the right to make such alteration, except in cases of fraud, and such alteration shall be considered in all courts of law and for all other purposes as part of the description.

Art. 19.

In a law case for infringement of a patent right, or for having a patent right declared of no value, the Court can at any time make an order, that the holder of a patent right may, by way of effacing some parts of it, alter his description. The Court, for the above purpose, may also make an order for the postponement of the case.

Art. 20.

In case an alteration in terms of this law has been made, no damages for the use of the invention before such alteration was made, shall be given in a court of law, unless the patent right holder proves to the satisfaction of the Court, that his original application was made in good faith and with all necessary care.

Art. 21.

In case it is proved to the satisfaction of the Government, that in consequence of the refusal of the patent right holder to grant rights on reasonable terms:

(*a.*) That the patent right is not made use of in this State;

(*b.*) That the ordinary demand of the patented article cannot be supplied;

(*c.*) That any one is prevented from making use of and deriving the full benefit of an invention in his possession;

Then, the Government, by advice and consent of the Executive Council, can order the patent right holder to grant rights under such conditions as the case may require.

Art. 22.

Every patent right holder may apply to the State President to have the term of his patent right extended. Such an application must, however, be sent in six months previous to the expiration of the term.

The Government has the right to refer such applications for consideration to the High Court.

At least two months before the day appointed for the hearing of the application, the applicant shall publish in the same manner as described in Art. 6 a notice of the nature of his application, and as near as possible in the form as in Schedule I prescribed.

Every one having an interest to come in opposition to the application may lodge his objections with the Attorney-General, provided such is done at least one week before the day appointed for the hearing of the application.

The applicant, as also every one who has lodged any objections in the prescribed manner, may appear in person, or by counsel, to state his case. The applicant will open his case by proving that the aforenamed notice has been published in due form.

The Court in its report will note the nature of the invention and the value thereof to the public, the profit derived by the patent right holder, and any other circumstance connected therewith. The report shall further state, whether in the opinion of the Court it is advisable to grant a further term, and if so, for how long, and under what conditions and restrictions.

Art. 23.

The State President, by and with the advice and consent of the Executive Council, shall have the right, after hearing of the application for a renewal of a term, to issue a new patent right deed under such conditions, restrictions, and for such a length of time (never to be longer than fourteen years), as he may think advisable.

The new deed will date from the day of the expiration of the old one.

Art. 24.

The State President is authorised, by and with the advice and consent of the Executive, to have an inventory made of all descriptions, applications, and all other writings received, and deposited in connection with this law. This inventory will lie for inspection by the public, under such regulations as will, by virtue of this law, thereanent be made.

Art. 25.

In such an office as in terms of this law shall be fixed upon, shall be kept "A Register of Patent Right Deeds," in which shall be entered in chronological order, the deposits of applications for patent rights and the drawings belonging thereto, all alterations in patent right deeds and descriptions, all renewals of patent rights, the expiration and cancellation of patent rights, and all such other Acts and deeds concerning patent rights, as the President, by and with the advice and consent of the Executive, may direct.

This register, or a copy thereof, will lie for inspection to the the public under such regulations as, in terms of this law, will be made.

Art. 26.

In the same office shall be kept "A Register of Patent Right Holders," in which shall be entered in the form and manner as the State President, by and with the advice and consent of the Executive Council, shall direct, all transfers of patent rights, or shares and interests therein, all concessions, with the names of the parties and the respective dates and all circumstances, which are of interest to an owner of a patent right. Every one may, on payment of the sum of money named in Schedule K, get a certified copy or extract from this register. Such a copy or extract is *primâ facie* proof of the contents thereof.

This register, or a copy thereof, will lie for inspection to the public under such regulations as, in terms of this law, may be made.

Art. 27.

He who intentionally makes, or causes to be made, a false entry in a register to be kept for the purpose of this law, or he who makes, or causes to be made, a false copy or extract from such a register, or he who uses, or causes to be used, a false entry,

copy, or extract, knowing the same to be false, as a proof, may be punished with five years' imprisonment with or without hard labour.

Art. 28.

The High Court can on application by any one, who complains about a wrong entry or wrongful omission in such a register, make an order to have such wrongful entry erased, or wrongful omission entered, or make any other order which the Court may deem necessary. The Court may also dismiss the application, and make an order as to costs in both cases.

The Court may at the hearing of such case make an order in respect to any question arising, on which a decision may be necessary for the correcting of aforenamed register.

Art. 29.

An application may be made to the High Court for the cancellation of a patent right deed on one or more of the following grounds:—

(*a.*) That the patent right has been obtained by the violation of another's rights.

(*b.*) That the person named as the first and real inventor was not such.

(*c.*) That the invention was not new, *i.e.* published and made use of in this State, before the granting of the patent right.

(*d.*) That the invention cannot be patented in terms of Art. 1.

(*e.*) That the description refers to theoretical principles, systems, methods, inventions and conceptions, the practical application of which is not given.

(*f.*) That the description in detail is not sufficient, *i.e.* that it has been omitted to make known the whole, or insufficiently explained.

(*g.*) That the invention or the application of the same is contrary to law, order, and good morals.

(*h.*) That the title of the invention fraudulently points to another matter instead of the true one.

(*i.*) That the payments have not been made at the prescribed time.

(*k.*) That the patent right has lapsed in terms of Art. 15 of this law.

Art. 30.

The cancellation of a patent right can only be asked by the following persons :—

(*a.*) The Attorney-General.

(*b.*) Every person expressly authorized thereto by the Attorney-General.

(*c.*) 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.

(*d.*) Every one who avers that he, or another person from whom he derives his right, is the inventor of the article in question.

(*e.*) 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.

Art. 31.

In respect to a lawsuit for the cancellation of a patent right the following regulations have to be observed :—

1. The plaintiff has to state in his application the facts on which he bases his action. No proof will be allowed, not so stated, unless by sanction of the Court.
2. This statement of facts can at a later date, with the sanction of the Court, be amended.
3. The defendant has the right to begin with the proofs in support of his patent right, and if the complainant produces proof against the validity of the patent right, the defendant is allowed to bring further proof.

Art. 32.

In case a patent right is cancelled on the grounds of fraud, the Government may, on the application of the true inventor (made in terms of this law), issue to him a new patent right deed (in place of the cancelled one), the date of which shall be the date of the cancellation of the first one. This new patent right will cease to have force at the time of the expiration of the term of the cancelled one.

Art. 33.

He who sells an article as being patented, for which no patent right has been granted, shall be punished with a fine not exceeding £25.

Art. 34.

He who sells any article as having a patent right for it, and for which another person has a patent right, shall for every contravention be fined £50, of which the half will go to the State, and the other half, with costs of the law case, to the patent right holder, who can recover such amount by process of ordinary debts.

Art. 35.

In the meaning of this law any one is reckoned to have sold an article as patented, if the word patent, patented, or other words which express or could lead to the impression that it was patented, are impressed, engraved, printed upon, or affixed to it in any other way.

Art. 36.

An action in the High Court for infringement of a patent right can be brought against any one, who, during the term of the patent right, without the sanction of the patent right holder, makes use of, sells, or imitates his invention.

All grounds on which the cancellation of a patent right may be asked, are a good defence in a lawsuit for the infringement of a patent right.

Art. 37.

In a suit for infringement of a patent right, the plaintiff will have to make, along with his summons, or within the time fixed by the Court, a statement of the acts of the infringement.

The defendant must in his answer, or by order of the Court within a certain time, state his objections.

In case the defendant denies the validity of the patent right, then his answer must state on what grounds; and in case one of his assertions is that the invention in question is not a new one, he must make known the time and place of the previous publication or application of said invention.

At the hearing of the case for infringement, no proof shall be admitted which has not been stated as above directed, unless by consent of the Court.

The plaint and answer thereto may, by consent of the Court, be altered at a later stage.

In taxing costs the nature of the plaint and answer respectively made by plaintiff and defendant shall be borne in mind. No party shall have costs in respect of any statement the Court does not consider proved and material to the case, irrespective of the general costs of the case.

Art. 38.

In a lawsuit for cancellation or infringement of a patent right, the Court can of its own motion, or at the request of one or other of the parties, call in the services of an expert with whose assistance the whole case, or partly, may be gone into and settled.

The eventual payment of such an expert shall be fixed by the Court.

Art. 39.

In a suit for infringement of a patent right, the Court may, on application of one of the parties, order the suspension of work, the producing of accounts, the making of an inspection, and such other measures as may appear necessary and desirable.

Art. 40.

In a suit for infringement of a patent right, the Court may declare that the validity of the patent right was a point for decision. Whenever this is the decision of the Court, the plaintiff will have in every other suit for infringement of his patent right, whenever judgment is in his favour, a claim for his full costs, and costs between attorney and client, unless the Court expressly decrees otherwise.

Art. 41.

Patent rights will not be granted for more than one invention. It is not lawful to object to a patent right on the grounds that it embraces more than one invention.

Art. 42.

Whenever any one in possession of an invention dies, before having applied for a patent right, his lawful representative may do so, to obtain a patent right for such invention.

Such application must be made within six months of the

death of such person, and must contain a declaration by the lawful representative, that the deceased was the true inventor.

Art. 43.

A patent right granted to the first rightful inventor shall not become null and void by reason of an application infringing on his right, nor through the obtaining of preliminary protection, nor through the making use of and publishing of such invention after the depositing of the application.

Art. 44.

A patent right holder can make over his right for a certain place in or for a certain part of this State, as if the patent right was only granted for such a place in or such part of the State.

Art. 45.

The showing of an invention at an international or industrial exhibition or the working of an invention at such exhibition or the making known of an invention during the time of such exhibition at some other locality by some one not authorised thereto by the inventor, does not prejudice or prevent the inventor or his lawful representative from getting protection, or a patent right for his invention, nor does it invalidate a patent right already obtained, provided always that the following conditions have been observed:—

(*a.*) The exhibitor must, previous to exhibiting his invention, inform the Attorney-General in writing of his intention to do so.

(*b.*) His application for a patent right must be made within six months from the opening of such exhibition.

Art. 46.

The Government has the right to demand from the patent right holder at any time a model of his invention on paying the cost of the making of the same. In case of disagreement about the price, the same to be fixed by arbitrators.

The object of such models will be determined on by the Government.

Art. 47.

In case any one is prevented through being a minor, or mentally incapacitated, or some other cause, to make a declaration,

or perform some other act, required by this law, or regulations made by virtue of it, his guardian or curator, or these failing, a person appointed by the High Court on the application of any one on behalf of such person or of any one interested in the matter, may make a declaration, or do such act, in the name and on behalf of such aforementioned person as may be required. All acts done by such a representative for the purposes of this law shall have the same force as if done by the person himself so represented.

Art. 48.

All sums of money named in Schedule K, and paid for the therein objects, shall be part of, and be included in, the general revenue of the State.

Art. 49.

The State President is hereby empowered, by and with the advice and consent of the Executive Council, to take such measures and publish such regulations as may be required and appear advisable for the carrying out of this law.

Art. 50.

The short title of this law is to be the "Patent Right Law."

Art. 51.

This law comes in force on the 1st of October, 1887.

SCHEDULE A.

Form of application for a patent right.

I, 1
occupation 2
declare hereby that I am in possession of an invention for 3
that I am the first and true inventor thereof; that as far as I know and believe, this invention is not made use of by any other person or persons; and I respectfully make application, for a patent right for said invention
the day of in the year of our Lord.
4

1. Fill in: Name and residence of inventor.
2. „ Occupation of inventor.
3. „ Title or name of invention. (For example: "Improvement of Sewing Machines.")
4. „ Signature of the inventor.

SCHEDULE B.

Form of a preliminary description.

I,
by occupation
declare hereby, that the nature of my invention for
is as follows:

Declared this day of 18

1. Fill in: Name and residence of inventor.
2. „ Occupation of inventor.
3. „ Title or name of invention.
4. „ Preliminary description of invention.

SCHEDULE C.

Form of a full and complete description.

I,
by occupation
declare hereby, that the nature of my invention for
and the way and manner of making use of the same is fully explained by the following description:

1. Fill in: Title or name of invention.
2. „ Name and residence of inventor.
3. „ Occupation of inventor.
4. „ Title or name of invention.
5. „ Full and complete description of invention.

SCHEDULE D.

Application for a patent right for

Be it hereby made known for general information that
by occupation
on the day of the month 18
deposited at my office, an application for a patent right for above-mentioned invention with accompanying description.

Whereas now the said
has given me written notice that he is desirous to proceed with his application, I have determined that this application, and all objections against it, will be considered at my office on the day of the month 18 at o'clock at noon.

I therefore call up all persons, who are interested in opposing the issuing of a patent right, to deposit at my office before the day of inves-

tigation, a document, in which they explain their objections, as they will otherwise be excluded from bringing this forward.

Thus done the day of the month 18

Attorney-General.

1. Fill in: Title of invention.
2. „ Name and residence of the applicant.
3. „ Occupation of the applicant.

SCHEDULE E.

After having heard the objection of 1
against the granting of a patent right for 2
to 3
I hereby order that the said 1
will pay to the said of
for costs of investigation of this case, the sum of
(or; to 4
for attending the investigation of the case.)

Thus done the day of the month 18

Attorney-General.

1. Fill in: Name of the objector.
2. „ Title of the invention.
3. „ Name of the applicant for patent right.
4. „ Name of witness or expert.

SCHEDULE F.

Having heard and considered the application of
for a patent right for and all objections filed against it, and having seen the description and the necessary and usual publications, I am of opinion (it being entirely for account of the applicant whether the said invention is new, and whether it will have the desired effect) that a patent right for the same can be issued in the form as prescribed in Schedule , of the Law on Patents, with addition to the following clauses;

Thus done the day of the month 18

Attorney-General.

SCHEDULE C.

Whereas J. S., residing at
by occupation
possession of an invention for

made a declaration, that he is in
that he is the first

and lawful inventor of the same, and that this invention to the best of his knowledge and belief is not employed by another;

Whereas the said inventor with due respect has applied for himself, his executors, administrators, and successors (hereinafter to be called the patentee), that a patent right for the exclusive development of this invention may be issued.

Whereas the said inventor did by and in his complete description amply describe the nature of his invention.

Therefore the exclusive right is hereby granted to the said patentee, during the period of fourteen years, to develop, use, employ, or sell, the said invention, and to have all the benefit thereof;

This patent right is issued by virtue of Law No. 6, 1887, entitled "Patent Right Law," and will be void if any of the conditions to which a patent right, according to said law, is subject, are not fulfilled, and by which non-fulfilment, according to said law, nullity may follow.

Further be it stipulated that the right granted by the patent right does not exclude the probability to grant permission to others.

In proof whereof the official seal of the State has been hereunto attached.

Pretoria, State President.

State Secretary,

SCHEDULE H.

Patent right for 1

Be it hereby made known for general information that 2 addressed an application to me to be allowed to alter the description of the above-mentioned invention by means of
the particulars of which are mentioned below.

I have determined that this application, with all objections against it, will be heard at my office, on the day of the month 18 at o'clock noon, and I therefore call on all persons, who have an interest to oppose the granting of this application, to deposit at my office before said date of investigation a document in which they explain their objections, as they will otherwise be excluded from advancing it.

Thus done the day of the month 18

Attorney-General.

1. Fill in: Title of invention.
2. ,, Signature of the applicant.

The alteration I wish to make in
is as follows: (The applicant must herein distinctly mention his desire and his reasons, and sign at foot.)

SCHEDULE I.

Patent right for 1

Be it hereby made known for general information that I forwarded an application to His Hon. the State President, requesting an extension of the term of above-mentioned patent right, and that this application is referred to the High Court for hearing.

The hearing of this application is fixed for the day of the month 18 at o'clock noon, or as soon as possible thereafter as the case can be heard.

All persons who have an interest in opposing the application must file a document at the office of the Attorney-General at Pretoria, before the date of the trial, in which they explain the objections, otherwise they will be excluded from advancing the same.

, the day of the month 18

2

1. Fill in: Title of the invention.
2. „ Signature of the applicant.

SCHEDULE K.

Fees.

	£	s.	d.
At the deposit of application and description . . .	1	1	0
At the deposit of an objection	1	1	0
Issuing of certificate in terms of Art. 8	1	1	0
For signing and sealing the patent right	1	10	0
Before or at the expiration of the term of three years . .	5	0	0
Before or at the expiration of the term of seven years . .	10	0	0
For extending the term of payment according to Art. 13. .	5	0	0
For copy or extract per page	0	2	0
At giving notice of intention to proceed with application according to Art. 6	0	5	0
Alteration of description	0	10	6
For the issuing of a notice	1	1	0
Every examination	0	1	0
Entry of cession or permission	0	5	0
Certificate thereof	0	5	0

SOUTH AUSTRALIA.

Act No. , 1887.

An Act to amend the Law relating to Patents.

Preamble.

WHEREAS it is desirable to amend the law relating to patents—Be it therefore enacted by the Governor of the province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :—

Short Title.

1. This Act may be cited as "The Patents Amendment Act, 1887."

Incorporation.

2. This Act and "The Patent Act, 1877," and "The Patent Act Amendment Act, 1881," except so far as the same are altered by this Act, shall be incorporated and read and construed together.

Certificate of provisional protection may be obtained.

3. Any person entitled to obtain a patent may obtain a certificate entitling him to provisional protection for any such invention, or improvement, upon payment of the fee mentioned in the schedule to this Act, and on depositing with the Commissioner a petition and specification in the prescribed form.

Duration of certificates.

4. A certificate of provisional protection shall continue in force for twelve months and no longer, and shall be null and void if before the date of the expiration thereof the lawful holder of such certificate shall fail to make application for letters patent in terms of "The Patent Act of 1877" and "The Patent Act Amendment Act, 1881."

Provisional protection.

5. When a petition for provisional protection has been accepted, the invention may, during the period of twelve months, be used and published without prejudice to the patent to be granted for the same, and such protection from the consequences of use and publication is in this Act referred to as provisional protection.

Schedule of fees.

6. The fees mentioned in the Schedule of this Act shall be paid in respect to the several matters and things therein respectively referred to, in lieu of the fees mentioned in Schedule of "The Patent Act Amendment Act, 1881."

The Commissioner of Patents.

7. The Governor may appoint any officer in the Civil Service to be Commissioner of Patents, and, on any such appointment, any person theretofore Commissioner of Patents shall thereupon cease to be Commissioner of Patents.

THE SCHEDULE.

Fees to be paid in respect of the several matters hereunder specified:—

	£	s.	d.
For every provisional protection	1	0	0
For every patent	2	0	0
Examiner's fee on reference when necessary, not exceeding	3	3	0
On every patent before the expiration of three years from its date	2	10	0
And before the expiration of seven years . . .	2	10	0

	£	s.	d.
On filing every amended or substituted specification .	1	0	0
On notice of opposition to grant of patent . . .	0	10	6
On every summons to witnesses	0	5	0
On hearing of every opposed application . . .	1	0	0
On extension of patent	20	0	0
For every office copy (including the seal) per folio of seventy-two words	0	0	6
On deposit of any assignment, deed, licence, or other document affecting proprietorship of patent . .	1	0	0
On every search, including inspection	0	2	6
Annual fee for licence to patent agent	5	0	0

SWITZERLAND.

I.—General Provisions.

Art. 1.

The Swiss Confederation grants, in the form of patents of invention, to the authors of new inventions applicable to industry and represented by models, or to their assigns, the rights specified in the present law.

Art. 2.

Inventions which at the time of the application for the patent are sufficiently known in Switzerland to enable them to be carried out by a man in the trade shall not be considered as new.

Art. 3.

No one shall, without the authorization of the proprietor of the patent, make the patented article or trade in it.

If the patented article is a tool, a machine or other means of production, the use of this article for an industrial purpose shall likewise require the authorization of the proprietor of the patent. This authorization shall be considered as granted if the patented article is put on sale without any restrictive condition.

Art. 4.

The provisions of the preceding article shall not be applicable to persons who, at the time of the application for the patent, shall have already worked the invention or taken the necessary measures for its working.

Art. 5.

The patent is transmissible by succession. It can also form the subject of a total or partial assignment, of a mortgage or of a licence authorizing a third party to work the invention.

To be operative against third parties. Transmissions of patents and licences must be registered according to the provisions of Article 19.

Art. 6.

The term of patents shall be fifteen years, to commence from the date of the application.

There shall be paid for each patent an application fee of 20 francs and an annual and progressive tax fixed as follows:—

1st year, 20 francs.
2nd „ 30 „
3rd „ 40 „

and so on up to the 15th year, for which the tax shall be 160 francs.

These taxes shall be payable in advance on the first day of each year of the patent. The proprietor may pay in anticipation the tax for several years; if he renounces his patent before the expiration of the term for which the taxes have been paid, the latter shall be repaid to him *pro ratâ* for the annuities not then due.

Art. 7.

The proprietor of a patent who makes an improvement in the patented invention may obtain, upon payment of a single tax of 20 francs, an additional patent expiring with the principal patent.

Art. 8.

If an inventor domiciled in Switzerland shows that he is without resources, there may be granted to him, for the payment of the first three annuities, a delay which shall extend up to the commencement of the fourth year; and if he then allows his invention to become public property, the taxes due shall be remitted.

Art. 9.

The patent shall be forfeited:—

(1.) If the proprietor of the patent renounces it by a decla-

ration in writing addressed to the Federal Office of Industrial Property.

(2.) If he has not paid the annual tax at the latest within three months after it was due (Art. 6).

The Federal Office of Industrial Property will immediately give, without however being obliged to do so, notice to the proprietor that the tax is overdue:—

(3.) If the invention has not been in any way carried out in practice at the expiration of the 3rd year from the date of the application.

(4.) If the patented article is imported from abroad and at the same time the proprietor of the patent has refused applications offered on equitable terms for Swiss licences.

The forfeiture referred to in §§ 3 and 4 shall be pronounced, on the application of any interested person, by the tribunals having jurisdiction in patent cases (Art. 30).

Art. 10.

Patents granted in any of the following cases shall be declared null and of no effect:—

(1.) If the invention is not new or is not applicable to industry.

(2.) If the proprietor of the patent is not the author of the invention or his assign; until the contrary is proved, the person to whom the patent has been granted shall be considered as the author of the invention to which it relates.

(3.) If the title under which the patent was applied for indicates, with the intention of leading others into error, an object other than the true object of the invention.

(4.) If the specification (description and drawings) of the invention lodged with the application is not sufficient for the carrying out of the invention by a man in the trade or does not correspond with the model (Art. 1, § 3).

The action for annulment can be brought before the competent tribunal by any interested person.

Art. 11.

A person not domiciled in Switzerland shall not be able to claim the delivery of a patent and the enjoyment of the

rights resulting therefrom until he has nominated an attorney domiciled in Switzerland.

The latter is authorized to represent him in all steps to be taken according to the tenor of the present law, as well as in proceedings concerning the patent.

The tribunal in whose jurisdiction the representative is domiciled shall be competent to try actions brought against the proprietor of the patent, or in default, that in the jurisdiction of which the Federal Office is situated.

Art. 12.

The proprietor of a patent who finds it impossible to work his invention without using an invention previously patented, may exact of the proprietor of the latter the grant of a licence if three years have elapsed since the lodging of the application for the first patent, and if the new invention has a real industrial importance.

If the licence is granted, the proprietor of the first patent shall reciprocally have the right of requiring also a licence authorizing him to work the new invention, provided that it has in its turn a real connection with the first.

All litigation which may arise out of the application of the above provisions shall be settled by the Federal Tribunal, which shall determine at the same time the amount of the indemnity and the nature of the guarantees to be furnished.

Art. 13.

When the public interest requires it, the Federal Assembly may, at the demand of the Federal Council, or of the Cantonal Government, decree the appropriation of a patent at the expense of the Confederation or of a canton.

The Federal decree shall determine whether the invention shall become the exclusive property of the Confederation or shall become public property.

The Federal Tribunal shall fix the amount of the indemnity which should be paid to the proprietor of the patent.

II.—Application for and delivery of Patents.

Art. 14.

Whoever shall desire to obtain a patent for an invention must make the application, in the prescribed form, to the Federal Office of Industrial Property.

This application must be limited to a single principal invention with matters of detail which relate thereto.

It shall indicate the title of the invention, which must point out in a clear and precise manner the nature of the article invented.

To this application there shall be annexed :—

(1.) A description of the invention, comprising, in a special clause, the concise enumeration of the constituent characteristics of the invention.

(2.) The drawings necessary to the understanding of the description.

(3.) Proof that a model of the invented article exists, or that the article itself exists; a carrying out of the invention or a plastic representation making clearly known the nature and object of this latter shall be considered as a model.

(4.) The sum of 40 francs, being the tax on application, and the first annuity on the patent (Art. 6).

(5.) A list of the papers and articles lodged.

The application and the papers annexed thereto must be drawn up in one of the three national languages.

In case of the refusal of the patent, the annuity of 20 francs, as well as the papers and articles lodged, shall be restored to the depositor.

Art. 15.

The Federal Council may declare the lodging of models to be obligatory in cases which relate to certain categories of inventions.

Rules of the Federal Council will regulate the carrying out of the present and the preceding articles, and in particular will determine the nature of the proof required by Art. 14, § 3.

Art. 16.

A provisional patent shall be delivered to every person who lodges with an application for a patent, the matters specified in §§ 1, 2, 4, and 5 of Art. 14.

The sole effect of a provisional patent is to assure to its proprietor during a period of two years, dating from the day of application, the right of obtaining an absolute patent notwithstanding any publication of the invention which may take place in the interval. The proprietor of a provisional patent

shall have no right of action against persons who imitate or who utilise his invention.

Before the expiration of the above-mentioned period of two years, the proprietor of a provisional patent should, by fulfilling the formality prescribed by Art. 14, § 3, obtain a complete patent, in default of which the patent shall lapse.

A complete patent has no rectro-active force, but its term is calculated from the date of the provisional patent.

Art. 17.

Every application in which the formalities prescribed by Arts. 14, 15 and 16 have not been fulfilled shall be rejected by the Federal Office of Industrial Property subject to an appeal to the superior administrative authority within a peremptory period of four weeks.

If the Office thinks that the invention appears not to be patentable for any of the reasons enumerated in Art. 10, it shall give a preliminary and private notice to the applicant of the fact, so that he may, at his option, support, modify or abandon his application.

Art. 18.

Patents (provisional or complete) for which application has been duly made shall be delivered without delay at the risk and peril of the applicants and without guarantee of the reality, novelty or merit of the invention.

A certificate from the Federal Office verifying the fulfilment of the prescribed formalities, and to which shall be annexed duplicates of the description and drawings mentioned in Art. 14, shall be delivered to the applicant and shall constitute the patent of invention (provisional or complete).

Art. 19.

The Federal Office of Industrial Property shall keep a register containing the following information :—

The subjects of the patents granted, the name and domicile of the proprietors of the patents and of their attorneys, the date of application and that on which the proof of the existence of the model was supplied, as well as all changes relating to the existence, to the ownership and to the enjoyment of the patent.

A note shall be made in the register of the lapsing, the nullity, or of the appropriation of a patent, pronounced by judicial decision, as well as of the licences granted by the Courts on the notification by the winning party of the judgment come into force.

Art. 20.

Every proprietor of a complete patent must mark in a visible place articles manufactured under the said patent with the Federal Cross (✠) followed by the number of the patent.

If the nature of the articles does not allow of this indication being placed upon them, it may be put upon their packages.

No action can be commenced for the imitation of the patented article if the owner of the patent has neglected to mark his products in the manner indicated above.

Art. 21.

The proprietor of a patent may require that the persons mentioned in Art. 4 shall also mark articles made by them with the Federal Cross and the number of the patent.

Art. 22.

Any person may obtain from the Federal Office oral or written information respecting the contents of the register of patents.

The Federal Council shall fix a moderate tariff for this information.

Art. 23.

Immediately after the delivery of patents (provisional or complete) the Federal Office shall publish the titles of the patents, with their serial numbers, as well as the names and domiciles of the proprietors of the patents and of their attorneys.

It shall publish in the same way every annulment or lapsing, as well as every change occurring in the ownership of a patent.

The Federal Office shall publish besides the descriptions and drawings annexed to applications for patents and shall sell them at a moderate price. These publications shall be forwarded gratuitously to the Departments of the Federal Council, to the Federal Tribunal, to the Cantonal Governments, especially for the tribunals appointed to adjudicate in actions for infringe-

ment, as well as to the public establishments of higher education and to the Industrial Museums of Switzerland. It shall also exchange them for similar publications appearing in other countries.

Upon the demand of the inventor, the publication of the description of the invention may be postponed for six months, so as to allow of the taking of patents abroad. In this case the patentee shall have no right of action against infringers until the actual publication which shall take place at the expiration of the above-mentioned delay.

III.—Infringement.

Art. 24.

Shall be prosecuted civilly or criminally according to the provisions hereinafter contained :—

(1.) Those who have imitated the patented articles or have illicitly used them.

(2.) Those who have sold, put on sale or in circulation infringing articles, or who have introduced them on to Swiss territory.

(3.) Those who have knowingly assisted in these acts, or who have countenanced or facilitated their commission.

(4.) Those who have refused to disclose the origin of infringing articles found in their possession.

Art. 25.

Those who have wilfully committed the acts referred to in the preceding article shall be condemned in civil damages and punished by a fine of from 30 to 2000 francs or by imprisonment for from three days to a year, or by these two penalties together.

The penalty may be increased up to double in case of repetition of the offence.

The penalties shall not be applicable when there has been merely error, imprudence or negligence. The civil damages shall nevertheless remain applicable in the case referred to in § 1 of Art. 24.

Art. 26.

A civil action may be commenced by any interested person.

Criminal prosecutions shall only take place upon the complaint of the injured party, and according to the criminal

procedure of the Canton where the action is commenced. This may be done either in that of the domicile of the offender or that of the place where the offence was committed. In neither case shall there be more than one criminal prosecution for the same offence.

Proceedings shall be barred when more than two years have elapsed since the last acts of infringement.

Art. 27.

Upon application, either civil or criminal, the tribunals may order the necessary conservative measures. They may, particularly upon the production of the patent, cause to be drawn up an exact inventory of the articles alleged to infringe and also of the instruments and tools employed exclusively for the infringement, and they may order, in case of need, the seizure of the said articles, instruments and tools.

Before a seizure is effected the tribunal may require the plaintiff to deposit security.

Art. 28.

The tribunal may order the confiscation of the articles seized on account of or up to the amount of the damages and fines.

It shall prescribe, even in cases of acquittal, if it is necessary, the destruction of the instruments and tools exclusively intended for infringement.

It may order the publication of the judgment in one or several journals at the cost of the person convicted.

Act. 29.

Any persons who shall have wrongfully put upon their commercial papers, notices or products any indication tending to cause belief in the existence of a patent shall be punished, upon complaint or otherwise, by a fine of from 30 to 500 francs or imprisonment for from three days to three months, or by these two penalties together.

The penalty may be increased up to double in case of repetition of the offence.

Art. 30.

Civil proceedings for infringement shall be heard without intermediate appeal by the Court upon which each Canton will confer jurisdiction in that behalf.

An appeal shall lie to the Federal Tribunal whatever may be the importance of the suit.

Art. 31.

The amount of the fines shall be paid into the Treasury of the Cantons. Unpaid fines shall be commuted by the Judge for an equivalent term of imprisonment.

IV.—Miscellaneous and Concluding Provisions.

Art. 32.

The citizens of countries which have concluded with Switzerland a convention to that effect may, within the period of seven months from the date of application for a patent in one of the said countries, and reserving the rights of third parties, lodge their application in Switzerland, without circumstances which have taken place in the interval, such as another application for a patent, or the fact of publication, being brought against the validity of their application for a patent.

The same advantage shall be granted to Swiss citizens who have lodged their first application for a patent in one of the countries indicated in the preceding paragraph.

Art. 33.

YALE LAW LIBRARY.

There shall be granted to every inventor of a patentable product exhibited in a National or International Exhibition in Switzerland, upon the fulfilment of the formalities to be prescribed by the Federal Council, temporary protection for six months, commencing on the day of the admission of the product into the exhibition; during which term applications for patents which may be made or acts of publication which may take place shall not prevent the inventor from validly making within the said period the application for the patent necessary for obtaining complete protection.

When an International Exhibition shall take place in a country which has concluded with Switzerland a convention to this effect, the temporary protection granted by the foreign country to patentable products exhibited in the said exhibition, shall extend to Switzerland during a period not exceeding six months from the day of the admission of the product into the exhibition, and shall have the same effect as that mentioned in the preceding paragraph.

Art. 34.

The surplus receipts of the Federal Office of Industrial Property shall be employed primarily for creating at the principal industrial centres of Switzerland libraries specially relating to the local industry, and for distributing the publications of the Federal Office. They shall also be employed for carrying out the investigations contemplated by Art. 17, paragraph 2 of the present law.

Art. 35.

The Federal Council is empowered to prescribe the rules and orders necessary for the carrying out of the present law.

Art. 36.

The present law repeals the enactments for the protection of inventions in force in the Cantons.

Inventions which at the time of the coming into force of the present law may be still enjoying protection by virtue of the cantonal laws, shall still remain protected in the respective Cantons until the expiration of the legal term of protection.

Art. 37.

The Federal Council is empowered, in accordance with the provisions of the law of the 17th June, 1874, concerning the public voting of federal laws and decrees, to publish the present law and to fix the time when it shall come into force.

[NOTE.—*On the 5th of October*, 1888, *the Federal Council fixed the 15th of November*, 1888, *as the date of the commencement of the law.*]

TASMANIA.

Law No. 2, of October 20, 1884.

AN Act to make provision for the mutual protection of patents for inventions and trade marks granted or registered in Tasmania or the United Kingdom.

Whereas, by section 104 of the Act of the Imperial Parliament to amend and consolidate the law relating to patents for inventions, registrations of designs and of trade marks, known as the "Patents, Designs, and Trade Marks Act, 1883," provision is made whereby it is rendered lawful for Her Majesty, where it is made to appear that the legislature of any British possession has made satisfactory provision for the protection of inventions, designs, and trade marks patented or registered in England, by Order in Council, to apply the provisions of section 103 of said Act, with such variations or additions, if any, as to Her Majesty in Council may seem fit, to such British possession.

And whereas it is expedient that the legislature of Tasmania should make such provision as aforesaid—

Be it therefore enacted, &c., &c.

1. In this Act "the said Acts" mean "The Patent Law Act" and "The Merchandise Marks Act, 1864."

2. (1.) Any person who has applied for protection for any invention or trade mark in the United Kingdom shall be entitled to a patent for his invention, or to registration of his trade mark (as the case may be) under the said Acts, in priority to other applicants, and such patent or registration shall have the same date as the date of the protection obtained in the United Kingdom, provided that his application is made, in the case of a patent, within seven months, and in the case of a trade mark,

within four months from his applying for protection in the United Kingdom: provided that nothing in this section contained, shall entitle the patentee or proprietor of a trade mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification or the actual registration of his trade mark in Tasmania, as the case may be.

(2.) The publication in Tasmania during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention, or the use therein during such periods of the trade mark, shall not invalidate the patent which may be granted for the invention or the registration of the trade mark.

(3.) The application for the grant of a patent or the registration of a trade mark under this Act must be made in the same manner as an ordinary application under the said Acts, and shall be subject to the payment of the same fees: Provided that in the case of trade marks, any trade mark the registration of which has been duly applied for in the United Kingdom, may be registered under the Merchandise Marks Act, 1864.

This Act shall not come into operation until Her Majesty shall, by Order in Council, apply the provisions of section 103 of the Patents, Designs, and Trade Marks Act, 1883, to Tasmania, with such variations or additions, if any, as to Her Majesty in Council may seem fit, but this Act shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

URUGUAY.

Law of November 12th, 1885.

CHAPTER I.

General Provisions.

Art. 1.

The Executive is authorized to grant patents of exclusive privilege for inventions or improvements on inventions.

Art. 2.

The same power is given to it with regard to persons who, having a patent abroad, apply for a privilege to establish their industry in the country, provided that it be within the first year of the privileged working and that they be the inventors or their attorneys or assigns.

Art. 3.

New discoveries or inventions in all industries confer on their authors the exclusive right of working the same for the time and under the conditions set forth in this law.

Art. 4.

New industrial products, new means and the new application of known means for obtaining an industrial result or product, will be deemed discoveries or new inventions.

Art. 5.

Patents of privilege shall not be granted for financial schemes; for discoveries or inventions which are well known in the country or out of it in printed works, pamphlets or periodicals; for inventions which are purely theoretical and the useful application of which is not practically demonstrated; for pharmaceutical preparations; or for inventions which are contrary to morality or to the laws of the Republic.

Art. 6.

The Nation does not guarantee either the merit or the novelty of the discoveries or inventions.

Art. 7.

Patents will be granted for three, six and nine years at the option of the applicant.

Art. 8.

For the grant of every patent, there shall be paid a tax of twenty-five dollars annually so long as the privilege lasts.

Art. 9.

The payment of the said annuities shall be effected at the office of Public Credit within the first ten days of each year on pain of the loss or annulment of the privilege, and the patent shall not be issued until the first of these annuities has been paid by the applicant or applicants for the privilege.

Art. 10.

After the expiration of the term of ten days referred to in the preceding article without payment having been made, the Executive shall entertain, and if advisable give preference to, applications for privileges of the same nature which may be presented by other interested parties.

Art. 11.

In all cases in which a privilege is granted, the Executive (after report from the Council of Public Health in cases of privileges relating to unhealthy or inconvenient industries)

shall fix a prudential period within which the industries to which the privilege refers must be established.

Art. 12.

The industry being established within the time fixed by the Executive, the patentee by means of an application presented to the Patent Office shall give notice of his establishment, indicating the place where it is situated; which application shall be placed on the file to be passed on to the Department of Public Works and to the Council of Health, so that these offices may ascertain whether all the stipulations of the privilege for the establishment of the industry have been complied with.

Art. 13.

If circumstances of the nature of "vis major" or fortuitous circumstances should arise, which might justify delay in establishing the industry within the period of time prescribed by the Executive under Art. 11, the patentee may apply to the Legislature for an extension of time for establishing the same. This petition for extension must be made at least three months before the expiration of such period.

Chapter II.

Patent Office.

Art. 14.

The patents referred in the preceding articles shall be issued on the stamped paper prescribed by law, and by the Department of Trade Marks and Commerce, which after publication of this law shall be called "The Office of Patents for Inventions, Trade Marks and Commerce."

The patents shall be signed and sealed by the Minister of the Interior and countersigned by the chief of the above-named office.

Art. 15.

The staff of the office shall consist of a chief and a secretary with the salaries assigned to them by the Budget law.

Art. 16.

No person employed in this office may directly or indirectly have any interest in the privileges passing through it on pain of immediate dismissal, upon proof of the fact.

Art. 17.

The chief of the office is responsible to the Government for all papors or articles deposited in it, which he shall keep with the greatest care and completeness.

Art. 18.

This office will be directly attached to the Ministry of the Interior.

Chapter III.

Formalities for the grant of Patents.

Art. 19.

Every person desirous of obtaining a patent of invention shall present a petition, on paper stamped with one dollar on each sheet, addressed to the Minister of the Interior, and shall deliver the same to the Chief of the "Office of Patents for Inventions, Trade Marks and Commerce," who shall immediately on receipt thereof place it on the file in order that it may be duly transmitted.

On the said petition the aforesaid office shall note the day and hour when the presentation thereof took place.

Art. 20.

The petition shall be accompanied, in duplicate, by a clear and succinct specification of the invention and the specimens, drawings or models which the nature of the case admits of, swearing that the ownership appertains to the petitioner and praying for a patent to certify his title.

The documents presented with the petition must be on durable material and be without abbreviation.

Art. 21.

The petition must be limited to the prayer for the privilege, stating the term for which it is desired; it must

contain no restrictions, conditions or reservations; it shall indicate the title by which the inventor intends shortly and accurately to call the invention and shall be written in Spanish, confirming any alterations or additions which appear in the text thereof.

The drawings which accompany it shall be made in ink and drawn to scale, in all cases where possible, on the metric system established in the Republic.

Art. 22.

The patent will be issued in the name of the nation and will consist of the decree granting the same, accompanied by the duplicates of the specification and drawings.

Art. 23.

The grant of the patent shall not prevent the application of the exceptions mentioned in Art. 55.

Art. 24.

Every three months the Chief of the Patent Office shall hand the Government for publication a succinct and detailed statement of the patents issued.

Art. 25.

He shall every year hand the General Direction of Statistics a statement of the privileges granted, their time of duration and the sum paid by the patentees.

Art. 26.

Every two years the Patent Office shall publish in a volume all the privileges granted with the specifications, models and drawings thereof.

CHAPTER IV.

Certificates of improvements on Inventions.

Art. 27.

Every person who improves a patented discovery or invention shall have the right of applying for a certificate of addition, which shall never be granted for a longer term than to the expiration of the principal patent.

The certificate of addition shall be issued on the stamped paper prescribed by the law on the subject, signed and sealed by the Ministry of the Interior and countersigned by the chief of the Patent Office.

Art. 28.

To obtain a certificate of addition the same formalities shall be required as for a patent, with the exception of the tax, which shall only be one third part of that required for the patent, if the applicant is the proprietor of the patent, and two thirds if he is a stranger.

Art. 29.

If it is a stranger who obtains the certificate of addition he shall only enjoy the right to work his invention absolutely upon condition of paying to the first inventor a premium the amount of which shall be fixed by two experts appointed by the parties interested, with a third in case of disagreement, taking into account the importance of the improvement and the part of the original invention still retained.

Art. 30.

The patentee inventor may elect either to take the premium mentioned in the preceding article or to work the improvement concurrently with the improver.

If he chooses the latter course then there shall be granted to the inventor a patent of addition with the same rights and obligations as the one granted to the improver.

Art. 31.

In no case will the improver acquire the right to work the original invention exclusively.

Neither can the original inventor work the improvement unless it be in the second case provided for in the preceding article.

Art. 32.

If two or more individuals apply at the same time for a patent to establish the same industry or for a certificate of addition for the same improvement, neither of these documents shall be issued unless the applicants agree between themselves.

Chapter V.

Transfer of Patents.

Art. 33.

Every person who has obtained a patent or certificate of addition may transfer his rights upon such conditions as he thinks fit; the transfer must always be by public deed after notice to the Patent Office, without which requisites such transfer shall have no effect against a third party.

Art. 34.

All rights granted to the patentee are deemed to attach to the patent and are transferred with it unless an express clause be contained in the deed of assignment stipulating to the contrary.

Chapter VI.

Nullity and forfeiture of Patents.

Art. 35.

Patents or certificates obtained in contravention to the terms of Art. 5 shall be null: as shall also be those obtained by false evidence or statements:—or when the drawing or the specification is inaccurate or incomplete, and when the invention though a foreign one is made to appear to have its origin in the country, in which case the person making the false statement shall be punished with a fine of five hundred dollars or six months' imprisonment.

Art. 36.

Patents validly granted will lapse:—If the industry is not established in the country within the time prescribed for that purpose and under the conditions laid down in the grant of privilege:—At the expiration of the term for which they were granted:—If the working of the industry ceases for one year, save in case of "vis major" or fortuitous circumstances, which exception the interested party must prove with clear evidence within the inextensible time of one month, after the expiration

of which if such proof is not produced the Chief of the Patent Office shall through the medium of the press declare the privilege to be forfeited.

Art. 37.

If the requirement stipulated in Art. 12 is not complied with by the patentee the competent office shall summon him by notices giving him one month's time, after the expiration of which, if he has not made the presentation, the patent of privilege granted shall be declared entirely forfeited and shall be dealt with as is laid down in the last part of the preceding article.

Art. 38.

Actions for nullity or forfeiture can only be brought by an interested party before the Judge of the Civil Court.

Art. 39.

A judicial declaration is not indispensable in order that the nullity or forfeiture may have the effect of making public property the patented discovery or invention; it is sufficient for nullity or forfeiture to have supervened for all to be freely entitled to use the patented objects.

Art. 40.

In the event of the proprietor of a forfeited or annulled patent opposing the free use of the discovery or invention to which the patent refers, either by demands or by any other means, any person may apply to the Judge of the Civil Court for the proper declaration proving the forfeiture or nullity.

Art. 41.

The judgment shall be summary, lawful means of proof being admitted, but the patentee cannot adduce proofs, in contradiction to the evidence of the documents issued by the Patent Office, showing his privilege; the time for proof shall never exceed twenty days, and ten days after the expiration of the time for proof, the Judge shall give judgment, with express condemnation in costs against the defeated party.

From this judgment an appeal shall lie to the Superior Court

of Appeal which has jurisdiction, which after report from the Patent Office shall give final judgment without further proceedings.

Art. 42.

When a patent is declared forfeited or annulled and the judgment has acquired the authority of "res judicata" the Judge shall communicate the same to the chief of the Patent Office who shall give it immediate publicity.

Chapter VII.

Falsification, its prosecution and penalties.

Art. 43.

Infringement of the rights of the patentee shall be deemed an offence of falsification and punished with a penalty of one hundred to five hundred dollars or imprisonment for one to six months; the loss of the falsified objects and compensation for damages and prejudice.

Art. 44.

Any person who, knowing of the falsification, co-operates in it by any means shall suffer the same penalties as in the preceding article.

Art. 45.

The penalties above prescribed shall be doubled in case of repetition of the falsification within five years after a conviction.

Art. 46.

Having worked for or been in the employ of the patentee or having obtained from him by underhand means the knowledge of the invention will be aggravating circumstances.

Art. 47.

The action for the application of the said penalties is private and is to be before the competent Criminal Judge, the patent being put in, and the demand shall not be entertained until the said patent is produced.

Art. 48.

The only pleas which can be raised by the accused are nullity, forfeiture, participation in the patent or the exclusive ownership thereof.

Art. 49.

The plaintiff may claim security from the accused if the latter wishes to continue to use the invention so that his work may not be interrupted.

In default of security the plaintiff shall be entitled to apply for the suspension of the working of the industry and also for an attachment of the effects which constitute the same, giving in that case if required suitable security.

Art. 50.

Any person who without being a patentee or possessing the privileges of such, invokes those privileges as if he legally enjoyed them shall be considered guilty of falsification and shall suffer the penalties imposed for the same.

Chapter VIII.

Final Provisions.

Art. 51.

Copies of letters patent, models, &c., may be applied for in writing at the Office of Patents by their owners or those who represent them in person or in rights so long as the privilege lasts; after that period by any person who wants them.

Art. 52.

The Ministry of the Interior shall arrange for them to be issued on stamped paper of the second class at the cost of the applicant, who shall also pay as copying fee two dollars per page of writing; and the cost of the plans, models, designs, &c., upon the assessment which the Direction of Public Works will make at the request of the Ministry of the Interior.

Art. 53.

The amount of the taxes and of the penalties fixed by this law shall go to the general expenses of the nation.

Art. 54.

The Chief of the Patent Office shall keep the indispensable and necessary books all initialed on their pages by the chief clerk of the Ministry of the Interior.

In these books respectively shall be entered :—

(1.) The privileges which are granted, their class, the date and duration of the patent and all those remarks which may be deemed suitable for the better service of that department.

(2.) The date of receipt, name of applicant, and nature of the privilege applied for, in every case of the presentation of a document for that purpose. This entry shall be signed in the book by the applicant for the privilege.

Art. 55.

The law of the 20th June, 1853, and all other enactments contrary to these presents are repealed.

Art. 56.

The Executive shall have the carrying out of the present law.

VENEZUELA.

Law of May 25th, 1882.

Art. 1.

Any person who has invented or discovered any new and useful art, machine, manufacture or composition of matter; or any new and useful improvement thereof, may obtain a patent therefor on paying the tax fixed by this law and complying with the other provisions enacted by it, on condition that the invention, discovery or improvement shall not have been already known or used by others in the country, been patented or described in a printed publication in the Republic or abroad, or been in public use or on sale for more than two years prior to the application unless the same is proved to have been abandoned.

Art. 2.

Patents are granted by the Federal Executive in the name of the United States of Venezuela and are countersigned by the Minister of the Interior.

Art. 3.

The Government neither guarantees the exactitude, nor the utility nor the novelty of the patented invention or discovery.

Art. 4.

Any person who wishes to obtain a patent, shall lodge with his application a description of the invention or discovery, of the machine, manufacture, composition or improvement to which it relates, indicating with clearness its nature and object. He shall also lodge the necessary drawings or specimens.

Art. 5.

The applicant for the patent shall in his petition declare under oath that he is really the person who has invented or discovered the art, machine, manufacture, composition or improvement for which he desires the patent; and any dispute to which the truth of this declaration may give rise shall be tried by the interested parties in the ordinary manner before the federal tribunals.

Art. 6.

Patents are granted for five, ten or fifteen years and shall be declared void six months, one year and two years after their grant, if during that time, the invention or discovery for which they were obtained has not been put into practice. The patent shall set forth the term for which it is granted and the period within which it must be worked; it shall commence to run from the day of its issue.

Art. 7.

Applications for patents shall be addressed to the Federal Executive Power through the Minister of the Interior.

Art. 8.

The necessary conditions, laid down by this law, having been fulfilled, there shall be sent to the applicant a patent authorizing him to work his invention, his discovery or his improvement throughout the whole extent of the United States of Venezuela and its dependencies. This patent shall be issued by the Federal Executive through the Minister of the Interior in accordance with the form set out at the end of this article; it must contain a title or short description of the invention or discovery, indicating exactly its nature and object and also a grant to the patentee, his heirs and assigns of the exclusive right to make, use or sell the object of the invention or discovery.

"The President of the Republic with the affirmative vote of the Federal Council:—

"Whereas has applied to the Federal Executive requesting a patent for the exercise of (*recite the industry*), having fulfilled the conditions established by the law

of the 25th of May 1882 relating to the matter:—Grants to him in accordance with Art. 8 of the said law and in the name of the United States of Venezuela the present patent for the exclusive exercise of the industry described below for the term of years to his benefit or to that of his heirs or assigns without the Federal Executive guaranteeing the utility, the accuracy or the novelty of the patented discovery or invention.

"This patent to lose effect after dating from the present date if during that lapse of time the industry to which it relates has not been put in operation.

"Signed, sealed and countersealed at the Federal Palace of Caracas this ."

Art. 9.

A patent is liable to the payment of a tax of 80 bolivars (francs) a year if it is for an invention or discovery and of 60 bolivars a year if it relates to an improved process.

Art. 10.

The tax to which the preceding article refers shall be paid to the National Treasury of the Public Service and when any one who wishes to obtain a patent makes application to the Federal Executive for the grant in accordance with Art. 7, he must annex to his petition proof that he has paid the tax corresponding to half the number of years for which the patent is asked for.

If, according to the provisions of this law, the patent cannot be granted, the petitioner shall lose the sum paid for the tax which shall be for the benefit of popular education; if the patent is granted to him, the tax shall count towards the sum which in this case the petitioner should pay for the total number of years of the duration of the patent.

§ The Federal Executive may exempt from the tax fixed by Art. 9 of this law, inventors of discoveries or industrial products who in their opinion are worthy of this favour.

Art. 11.

Any person who has obtained a patent may announce the fact in advertisements and in his trade mark without such publication implying on the part of the Government any guarantee

either as to the quality of the product or of the novelty of the invention or discovery or that it has any value to the prejudice of a better right of a third party.

Art. 12.

Any person who has obtained a patent in a foreign country for an invention or discovery can obtain one in this, if, it must be understood, no one else has already obtained one for it.

§. In this case the patent shall only be granted for the number of years there are to run before the expiration of that obtained in the other country.

Art. 13.

The term of a patent having expired, publication shall be made in the Official Gazette of the description of the discovery or invention to which it relates, and from that time the working of the discovery or invention shall be free as well as the manufacture or sale of the industrial products protected by the patent.

Art. 14.

The same publication shall take place in a case where a patent having been granted it is annulled before the working of the invention in accordance with Art. 6 of the law or where it is declared null and non-existent, before the expiration of its term or its lapse except in the first case provided for by Art. 18.

Art. 15.

The descriptions, drawings and specimens accompanying applications for patents shall remain deposited at the Ministry of the Interior.

Art. 16.

When an application for a patent is received by the Federal Executive it shall be notified in the Official Gazette and the patent, if granted, shall not be issued until thirty days after this publication.

Art. 17.

Inventions, improvements, or new industries prejudicial to health or public order, to morals or prior rights shall not be patented.

§. Pharmaceutical compositions or remedies of any sort or kind cannot be patented but remain subject to the special laws and regulations on the subject.

Art. 18.

Besides the cases provided for by Art. 6, patents shall be without effect when by judgment of the Federal Tribunals they are declared to have been granted to the prejudice of the rights of third parties and when the patented industry has not been worked for a whole year except in case of fortuitous circumstances or force majeure.

Art. 19.

Infringements committed against the rights secured by a patent shall be tried by the Federal Tribunals conformably to the respective codes.

Art. 20.

The law of the 20th May, 1878, on this matter is repealed.

Art. 21.

The exemption from duties granted in favour of a given enterprise shall be revoked if it is proved that it relates to the sale of primary matters or imported articles.

Art. 22.

In the case provided for in the preceding article besides the loss of the concession, the enterprise shall be liable for the duties corresponding to all the importations which have been realised besides forty per cent. of the gross total.

Art. 23.

Concessions shall equally become void in the following cases :—

(1.) When the period during which the contract has undertaken to establish the industry or improvement or to commence the works to put it in operation shall have expired without this condition having been fulfilled.

(2.) When the industry after its establishment shall have been abandoned for more than a year.

VICTORIA.

Act No. 808 *of* 12*th December*, 1884.

An Act to amend the Laws concerning Letters Patent for Inventions.

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title and construction.

1. This Act may for all purposes be cited as "*The Patents Act* 1884" and shall be read and construed as one with "*The Patents Statute* 1865" (hereinafter referred to as the "Principal Act") as amended by the Act No. CCCCXXXII., except so far as such construction would be inconsistent with or repugnant to the provisions of this Act.

Definition.

2. In this Act and the Principal Act the word "patentee" shall mean the person for the time being entitled to the benefit of any letters patent in Victoria, and the words "the true and first inventor" shall mean the person who is the actual inventor or his nominee or assignee and shall not include the unauthorized importer of an invention from elsewhere.

Repeal. First Schedule.

3. The Acts specified in the First Schedule hereto shall be and the same are hereby repealed to the extent specified in the

third column of the said Schedule: Nothing herein contained shall affect any proceedings or things lawfully taken done or commenced or any letters patent granted or any protection or right conferred or any register or appointment made or any notice or particulars given or published or any warrant issued or caveat entered under any of the repealed portions of the said Acts before the passing of this Act, and all such proceedings and things shall be as valid and may be continued, and all such letters patent protections rights registers appointments notices particulars warrants and caveats shall have the same force and efficacy as if this Act had not been passed. When letters patent have been granted to any person before the passing of this Act or shall in respect of any application made before the passing of this Act be hereafter granted to any person for any invention, such person shall with respect to all matters and things which might lawfully have been done and with respect to all fees which might lawfully have been paid after the passing of this Act be entitled to avail himself of the provisions of this Act as if this Act had been passed before the grant of such letters patent.

Mode of obtaining Letters Patent.

Period of protection on deposit of specification extended to twelve months.

4. In section six of the Principal Act the words "twelve months" shall be substituted for the words "six months" wherever the same occur in the said section.

Law officers may summon witnesses.

5. For the purposes of the hearing and consideration of any application in accordance with the provisions of section ten of the Principal Act, the law officer may by summons under his hand require the attendance of all such persons as he thinks fit to call before him for examination, and may under his hand order to be paid by the applicant or objector to such persons such remuneration for their attendance as to him may seem reasonable. In opposed cases where applicants and objectors consent the law officer may hear all the parties in the presence of one another.

Penalty for non-attendance or refusing to give evidence.

6. If any person whose attendance has been so required and on whom any such summons has been served by the delivery thereof to him or by the leaving thereof at his usual place of abode neglect or fail to appear or refuse to make answer to such questions as are put to him touching such application as aforesaid, such person shall forfeit and pay a penalty not exceeding twenty pounds, to be recovered by any person authorized so to do by the law officer in a summary way before a justice of the peace.

When letters patent refused, applicant may appeal to Supreme Court.

7. If any applicant for a grant of letters patent be dissatisfied with the refusal of the law officer to issue his warrant for the granting of letters patent, such applicant may appeal to the Supreme Court and the mode of such appeal and all matters relating to pleading practice and procedure therein shall be in accordance with rules of court for the time being in force. For the purpose of regulating such appeals, the Supreme Court may at any time with a concurrence of a majority of the judges thereof present at any meeting for that purpose held make rules of court, and may from time to time annul any such rules and make further or additional rules; and the Supreme Court may direct a warrant for the granting of letters patent, and such warrant shall be to all intents and purposes as valid and effectual as though it were a warrant for the granting of letters patent for an invention under the hand and seal of the law officer.

Patents for foreign inventions may be granted within one year of date of foreign patent, notwithstanding prior use in Victoria.

8. Notwithstanding anything in any Act of Parliament contained, where any patent or like privilege for the monopoly or exclusive use or exercise in any parts out of Victoria and its dependencies has been obtained for or in respect of any invention first invented in parts out of Victoria and its dependencies, letters patent may be granted for or in respect of such invention at any time within one year from the date of the granting of the first of any such patents or privileges for such monopoly exclusive use or exercise as aforesaid notwithstanding that such invention has been used or published in Victoria within such period of one year, and such letters patent when granted shall

have the same force and effect as if such prior publication or use had not taken place.

Provided however that if such use or publication have been made in Victoria with the consent of the inventor, such inventor shall not be entitled to a grant of letters patent under the authority of this section.

Intercolonial arrangements for protection of inventions.

9. (1.) If the Governor in Council is pleased to make any arrangement with the Government or Governments of any Australian colony or with the Government of the colony of New Zealand or of the colony of Fiji for the mutual protection of inventions, then any person who has applied for the protection of any invention in any such colony shall be entitled to a patent for his invention under this Act in priority to other applicants, and such patent shall have the same date as the date of the protection obtained in such colony. Provided that his application is made within six months from his applying for protection in the colony with which the arrangement is in force. Provided that nothing in this section contained shall entitle such person to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification in Victoria.

(2.) The publication in Victoria during the period aforesaid of any description of such invention or the use therein during such period of the invention (whether with or without the consent of such person as aforesaid) shall not invalidate the patent which may be granted for the invention.

(3.) The application for the grant of a patent under this section must be made in the same manner as an ordinary application under this Act.

(4.) The provisions of this section shall apply only to such of the colonies aforesaid with respect to which the Governor shall from time to time by Order in Council declare them to be applicable, and so long only in the case of each colony as the Order in Council shall continue in force with respect to that state.

Provisions for United Kingdom.

10. Where Her Majesty has by Order in Council applied the provisions of section one hundred and three of an Act of the Imperial Parliament called "*The Patents Designs and Trade*

Marks Act 1883" or any portion thereof to Victoria, the provisions of the last preceding section may by order of the Governor in Council be applied for the protection of inventions patented in the United Kingdom or Isle of Man. Provided that such Order in Council may be at any time revoked.

EXTENSION OF TERM AND CONTINUATION OF INVALID PATENTS.

Commissioners under section 26 No. 240 may recommend that petitioner should pay costs.

11. Where any Commissioners have been appointed by the Governor in Council under Part III. of the Principal Act to consider the petition of any person for the confirmation of letters patent or for the grant of new letters patent or for an extension of the term in any letters patent mentioned, such Commissioners may, if in their report to Her Majesty her heirs and successors they recommend that such confirmation grant or extension should not be made, also recommend that all the costs and expenses of or relating to the consideration of such petition by the Commissioners and of and relating to the appearance of the law officers of the Crown and the Crown Solicitor to oppose the prayer of such petition shall be borne by such petitioner; and the Governor in Council may thereupon make an order that such costs and expenses or any part thereof as he thinks fit shall be borne by such petitioner.

MISCELLANEOUS PROVISIONS.

Penalty for unauthorized use of the word "Patent."

12. Any person who writes paints prints moulds casts carves engraves stamps or otherwise marks upon anything made used or sold by him and for the sole making or selling of which he has not obtained letters patent, the name or any imitation of the name of any other person who has as patentee obtained letters patent for the sole making and selling of such thing without leave in writing of such patentee or his assigns, or who upon such thing not having been purchased from the patentee or some person who purchased it from or under such patentee or not having had the licence or consent in writing of such patentee or his assigns writes paints prints moulds casts carves engraves stamps or otherwise marks the word "Patent" or "Patented" or the words "Letters Patent" "Royal Letters Patent" or "Queen's Patent" or any word or words of like

import with the intent of counterfeiting or imitating the stamp mark or device of the patentee or of deceiving the public and inducing them to believe that the thing in question was made or sold by or with the consent of the patentee, or who puts to sale as patented any article not patented in Victoria for the purpose of deceiving the public, shall be guilty of a misdemeanor, and on conviction thereof be liable to a fine not exceeding one hundred pounds or imprisonment for a period not exceeding three months.

Actions for infringement prior to disclaimer.

13. Whenever through inadvertence accident or mistake and without any wilful default or intent to defraud or mislead the public any person who has as patentee obtained letters patent for the sole making and selling of anything has (in his specification) claimed to be the true and first inventor or discoverer of any material or substantial part of the thing patented of which he was not the true and first inventor as aforesaid, every such patentee his executors administrators and assigns whether of the whole or any interest in such letters patent may maintain a suit at law or in equity for the infringement of any part thereof which was *bonâ fide* his own provided it be a material and substantial part of the invention in respect of which the letters patent were rightfully granted and that it be definitely distinguishable from the parts so claimed without right as aforesaid notwithstanding the specifications may embrace more than that of which such patentee was the true or first inventor or discoverer. But in every such case in which judgment is given or a decree is made for the plaintiff no costs shall be recovered unless the proper disclaimer has been entered at the chambers of the law officer before the commencement of the action or suit, nor shall he be entitled to the benefit of this section if he have unreasonably neglected or delayed to enter said disclaimer.

Patent rights good against Crown but may be used for public service on terms agreed on.

14. A patent shall have to all intents the like effect as against Her Majesty the Queen her heirs and successors as it has as against a subject, but the Minister at the head of any department of the public service may use for the public service any

patented article or any patented manufacturing process on such terms as may be agreed on with the patentee of such article or process, or in default of such agreement on such terms as may be settled by arbitration conducted under regulations to be made by the Governor in Council.

REVOCATION.

Revocation of Patent.

15. (1.) The proceeding by *scire facias* to repeal a patent is hereby abolished.

(2.) Revocation of a patent may be obtained on petition to the Supreme Court.

(3.) Every ground on which a patent might at the commencement of this Act be repealed by *scire facias* shall be a ground of revocation.

(4.) A petition for revocation of a patent may be presented by—

(*a.*) The law officer:

(*b.*) Any person authorized by the law officer:

(*c.*) Any person alleging that the patent was obtained in fraud of his rights or 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 *Victoria* (Note.—*This word was substituted for "this realm" by Act No. 304 of* 1886) before the date of the patent anything claimed by the patentee as his invention.

(5.) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and no evidence shall except by leave of a judge of the court be admitted in proof of any objection of which particulars are not so delivered.

(6.) Particulars delivered may be from time to time amended by leave of the court in which such action is pending or a judge thereof.

(7.) The defendant shall be entitled to begin and give evidence in support of the patent; and if the plaintiff gives evidence impeaching the validity of the patent, the defendant shall be entitled to reply.

(8.) Where a patent has been revoked on the ground of fraud, the law officer may on the application of the true and first inventor made in accordance with the provisions of this Act grant to him a patent in lieu of and bearing the same date as the patent so revoked; but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

Legal Proceedings.

Hearing with assessor.

16. (1.) In an action for infringement of a patent, the judge who is trying the action may if he thinks fit and shall on the request of either of the parties to the proceeding call in the aid of an assessor specially qualified and try and hear the case wholly or partially with his assistance; the action shall be tried without a jury unless the court shall otherwise direct.

(2.) A judge of any court having jurisdiction to deal with matters and things relating to letters patent may if he sees fit in any proceeding before him call in the aid of an assessor as aforesaid.

(3.) The remuneration, if any, to be paid to an assessor under this section shall be determined by the judge or judges who have called such assessor to his or their aid and be costs in the cause.

Delivery of particulars.

17. (1.) In an action for infringement of a patent, the plaintiff shall deliver with his statement of claim, or by order of a judge of the court in which such action is brought at any subsequent time, particulars of the breaches complained of.

(2.) The defendant on pleading thereto shall deliver with his statement of defence or by order of the Supreme Court or a judge thereof at any subsequent time particulars of any objections on which he relies in support thereof.

(3.) If the defendant disputes the validity of the patent, the particulars delivered by him must state on what grounds he disputes it, and if one of those grounds is want of novelty must state the time and place of the previous publication or user alleged by him.

(4.) At the hearing no evidence shall except by leave of the

judge be admitted in proof of any alleged infringement or objection of which particulars are not so delivered.

(5.) Particulars delivered may be from time to time amended by leave of the court in which the action is then pending or a judge thereof.

(6.) On taxation of costs regard shall be had to the particulars delivered by the plaintiff and by the defendant; and they respectively shall not be allowed any costs in respect of any particular delivered by them unless the same if certified by the court in which the action was tried or a judge thereof to have been proven or to have been reasonable and proper without regard to the general costs of the case.

Order for inspection, &c. in action.

18. In an action for infringement of a patent, the court in which such action is pending or a judge thereof may on the application of either party make such order for an injunction inspection or account, and impose such terms and give such directions respecting the same and the proceedings thereon as the said court or such judge may see fit.

Certificate of validity questioned and costs thereon.

19. In an action for infringement of a patent, the court in which the action was tried or a judge thereof may certify that the validity of the patent came in question; and if such court or judge so certifies, then in any subsequent action for infringement the plaintiff in that action on obtaining a final order or judgment in his favour shall have his full costs, charges and expenses as between solicitor and client unless such court or judge before whom the action was tried certifies that he ought not to have the same.

Patent for one invention only.

20. Every patent may be in the form in the Second Schedule to this Act and shall be granted for one invention only, but may contain more than one claim; but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it comprises more than one invention.

Patent on application of representative of deceased inventor.

21. If a person possessed of an invention dies without making application for a patent for the invention, application may be made by and a patent for the invention granted to his legal

representative. Every such application must be made within six months of the decease of such person, and must contain a declaration by the legal representative that he believes such person to be the true and first inventor of the invention.

Exhibition at industrial or international exhibition not to prejudice patent rights.

22. The exhibition of an invention at an industrial or international exhibition, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with (namely)—

(*a.*) The exhibitor must before exhibiting the invention give the law officer one month's notice of his intention to do so; and

(*b.*) The application for a patent must be made before or within twelve months from the date of the opening of the exhibition.

Regulations with regard to issue of licences to patent agents.

23. The Governor in Council may subject to the provisions of this Act from time to time make alter and repeal rules and regulations to regulate the issue of licences to persons to practise as agents for the procuring and taking out of letters patent for inventions and fixing the amount or fee to be charged for each such licence per annum.

Second and Third Schedules.

24. The Second and Third Schedules to this Act shall be respectively substituted for the Sixth and Third Schedules to the Principal Act.

Fees on obtaining patents. Fourth Schedule. Certain fees may be paid when overdue on payment of penalty.

25. The fees set out in the Fourth Schedule to this Act shall be payable for and in respect of the matters and things therein

mentioned in lieu of the fees prescribed by the Ninth Schedule to the Principal Act, and the said Fourth Schedule hereto shall be substituted for the said Ninth Schedule to the Principal Act.

Notwithstanding anything in the Principal Act contained, a fee due in respect of letters patent for any invention at the expiration of the third or seventh year from the date therefrom, may be paid at any time within six months of such due date on payment of an additional fee by way of penalty of two pounds and ten shillings, and may be paid at any time within twelve months of such due date on payment of an additional fee by way of penalty of ten pounds; and on payment of such fee and penalty the powers and privileges granted by such letters patent shall be as good and effectual to all intents and purposes as though such fee had been paid on such due date as aforesaid.

SCHEDULES.

First Schedule (Section 3).

No. of Act.	Short Title.	Extent of Repeal.
240	"*The Patents Statute* 1865"	In section 12 the words "the writ of *scire facias* shall lie for the repeal of any letters patent granted under this Act, and may be issued into the circuit district in which the grantee resided when the said letters patent were granted; and in case such grantee does not reside in Victoria it shall be sufficient to file such writ in the proper office of the Supreme Court, and serve notice thereof in writing at the last known place of residence or business of such grantee;" and In section 22 the words "save and except in any proceeding by way of *scire facias*." Sections 17, 35, 36 and 37. Third Schedule. Sixth Schedule. Ninth Schedule.
422	"*Exhibitors' Protection Act* 1872"	Section 3.

SECOND SCHEDULE (SECTIONS 20 & 24).

Victoria by the Grace of God of the United Kingdom of Great Britain and Ireland Queen Defender of the Faith to all to whom these presents shall come greeting Whereas *A.B.* of in the county of engineer hath represented that he is desirous of obtaining our Royal Letters Patent for securing unto him our special licence that he his executors administrators and assigns and such others as he or they should agree with and no others should and lawfully might make use exercise and vend within our colony of Victoria and its dependencies an invention for [*insert the title of the invention*], And We being willing to give encouragement to all arts and inventions which may be for the public good are graciously pleased to confer upon the said *A.B.* his executors administrators and assigns sole privilege and authority that he the said *A.B.* his executors administrators and assigns and no others during the term herein expressed shall and lawfully may make use exercise and vend his said invention within our said colony and its dependencies To HAVE HOLD EXERCISE AND ENJOY the said privileges and advantages unto and by the said *A.B.* his executors administrators and assigns for and during and unto the full end and term of fourteen years now next ensuing Provided always and these our letters patent are and shall be upon this condition that if at any time during the said term hereby granted it shall appear that this our grant is contrary to law or prejudicial or inconvenient to our subjects in general or that the said invention is not a new invention as to the public use and exercise thereof or that the said *A.B.* is not the true and first inventor thereof within this colony or its dependencies these our letters patent shall forthwith cease determine and be utterly void to all intents and purposes anything hereinbefore contained to the contrary thereof in anywise notwithstanding Provided likewise nevertheless and these our letters patents are upon this express condition that if the said instrument in writing does not particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed and also if the said *A.B.* his executors administrators or assigns shall not pay at the patent office of our said colony the sum of two pounds ten shillings within three years next after the date of these presents and the sum of two pounds ten shillings within seven years next after such date that then and in any of the said cases these our letters patent and all liberties and advantages whatsoever hereby granted shall utterly cease determine and become void anything hereinbefore contained to the contrary thereof in anywise notwithstanding Provided that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted And lastly we do by these presents for us our heirs and successors grant unto the said *A.B.* his executors administrators and assigns that these our letters patent shall be in and by all things good firm valid and sufficient and effectual in the law according to the true intent and meaning thereof and shall be taken construed and adjudged in the most favourable and beneficial sense for the best advantage

of the said *A.B.* his executors administrators and assigns. In witness whereof we have caused these our letters to be made patent and to be sealed and bear date as of the day of

Governor of Victoria.

THIRD SCHEDULE (SECTION 24).

Patent for invention entitled

This is to notify that of has applied for letters patent for the said invention and that I have appointed the day of 188 at at the Patent Office, Melbourne, to hear the said application and all objections thereto. All persons objecting to the grant of such application must leave notice thereof in writing ta the said office on or before or they will not be heard.

Dated this day of 18

-General.

FOURTH SCHEDULE (SECTION 25).

	£	s.	d.
On depositing specification	1	0	0
To the law officer for any appointment or on the hearing of objections	2	2	0
On obtaining letters patent	1	0	0
At or before the expiration of the third year	2	10	0
At or before the expiration of the seventh year	2	10	0
On presenting petition for extension or confirmation	1	0	0
Every search and inspection	0	1	0
Entry of assignment or licence	0	10	0
Filing memorandum of alteration or disclaimer	1	0	0
Entering any caveat	2	10	0
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