A

HANDY-BOOK

OF

PATENT AND COPYRIGHT LAW

English and Foreign

FOR THE USE OF

INVENTORS, PATENTEES, AUTHORS, AND PUBLISHERS

comprising

THE LAW AND PRACTICE OF PATENTS
THE LAW OF COPYRIGHT OF DESIGNS
THE LAW OF LITERARY COPYRIGHT

BY JAMES FRASER, ESQ.

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Patrick Keenan

Examiner at Lloyd's

by the Principal Secretary

of Lloyd's

TO

HENRY, LORD BROUGHAM,

CHANCELLOR OF THE UNIVERSITY OF EDINBURGH,

MEMBER OF THE INSTITUTE OF FRANCE,

This little Volume is respectfully Inscribed

IN TOKEN OF

THE AUTHOR'S GREAT VENERATION

PREFACE.

THIS book was originally designed to meet the requirements of inventors and authors, by furnishing them, in a condensed and convenient form, with all the information they might require as to the expenses, the rights, the privileges and obligations of patents and copyrights, and of the means to be employed to obtain them. But it is hoped also that the work will be found useful to patent agents and publishers, and likewise to solicitors and others having to deal with matters with which patent and copyright questions are involved.

The author in offering his volume to the public ventures to affirm that no pains have been spared to render it correct and complete, and that it embraces, within moderate limits and at a reasonable price, a larger amount of information on the subjects in question than any other work extant. He is much indebted to the late Mr. Godson's able and well known work on patents.

But it has, to a considerable extent, become obsolete through lapse of time, and this defect is not satisfactorily supplied by Messrs. Burke, in their modern edition of the work, since they have reprinted the original *in extenso*, giving the numerous alterations and additions to the law and practice, as they existed in Mr. Godson's time, in the form of supplements, which renders it inconvenient as a book of reference. The size and price also of the work place it beyond the reach of many persons to whom this epitome will be found available.

With regard to the colonial and foreign patent laws, he has freely availed himself of the Commissioners of Patents' Journal, in which most of these laws have been published at length. The American law is an analysis of the instructions issued by Mr. Charles Mason, the able Commissioner of the United States' Patent Office, and for the new Sardinian law he is indebted to the Paris *Journal des Mines*.

He cannot allow this little work to go to the press without offering his acknowledgments to the officers of the Patent Office, for the courteous and unremitting attention received whenever he had occasion to make use of the valuable library of that Institution. Being personally unknown there, he was the more pleased with the kindness with which he was treated, since he is thus enabled to conclude that the public generally are also partakers of the same hospitable welcome.

As changes are frequently taking place in the laws of patents and copyrights here and abroad, the author looks forward to the necessity for frequent editions of the book in order to keep on a level with the times; he will consequently feel most thankful for any advice or information calculated to render the work more perfect.

J. F.

November 1st, 1860.

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ERRATA.

Page 33, line 9, for 36 read 37.
105, line 4 from bottom, for "secured" read "received."

PATENT LAW.

CHAPTER I.

PRELIMINARY.

A PATENT is a privilege granted by the crown, securing to an inventor, or his assignee, the exclusive right to all advantages derivable from any new invention or discovery for a definite period.

This privilege is conveyed by a deed called Letters Patent.*

The questions of the propriety of granting such monopolies as a reward for the merit of originating or introducing improvements into arts and manufactures, and of the periods for which they should be granted, have been the occasion of much discussion. If there were no law for rewarding useful inventions, by giving the inventor a property in his contrivance, a great stimulus to ingenuity would be withdrawn, and discoverers would endeavour, as much as possible, to conceal their inventions from the public. Notwithstanding the difficulties in the way of concealment, they are not always insuperable, and it is probable that

* Thus called because they are *Literæ Patentes*, addressed to *all* her Majesty's subjects, to distinguish them from *Literæ Clausæ*, addressed to *particular persons*.

very many important discoveries have been lost to the world by the secret dying with the inventors. On the other hand, if the privilege of monopoly were made perpetual, or even of immoderate duration, a great obstacle would be raised in the way of improvement. The result has been a compromise. Great Britain, and most other civilised nations, have secured to inventors the sole advantage of their discoveries for a limited term of years, on condition that the invention shall be clearly and distinctly described. Letters Patent are thus, in fact, a bargain between the inventor and the public. The latter, through the crown, secures to the former the monopoly of the invention for a given time, and the inventor on his part undertaking to tell the public what his invention really is, and to show how it may be practised effectually when the period of monopoly shall have expired. In the meantime, the public, by knowing what they are prohibited by the patent from using, are enabled to avoid incurring liability unawares.

The duration of a patent varies, in different countries, from five to twenty years. The English term of fourteen years seems as expedient as any. For some inventions it may be too short, for others too long, but the average is fair, and in peculiar cases the period may be prolonged by appeal to the Privy Council.

The power to grant patents, and the privileges and liabilities to which this power gives rise, are regulated by the common law, by statute law, and by the decisions of the Courts. The origin of such grants goes back to the dark ages. At first they had but little reference to the encouragement of the inventive powers. They were trading privileges granted to many towns confederated together, the first of which was the cele-

brated Hanseatic League, to which England was, to a certain degree, indebted for her commercial importance, London being the only English town admitted into that great confederacy.

Subsequently single towns obtained trading monopolies, then trade corporations, and lastly, private individuals.

King John was the first to grant privileges and franchises to the metropolis and many other English towns, and several of the London companies can trace their existence nearly as far back as that period. From John's death to the reign of Elizabeth little change in our commercial system occurred. Commerce slowly, but continuously, gained ground, in spite of the monopolies with which the ignorance and bad faith of successive governments oppressed it. Monopoly was the great grievance of Elizabeth's reign. When an individual, by talent and industry, has made a useful discovery, there is every reason for granting him an exclusive right of using it for a limited time as a reward for his ingenuity. This principle was early understood, but Elizabeth perverted it into the granting of patents for ordinary manufactures, or for the importation of foreign articles, either as gifts to her courtiers or as a means for raising money without the necessity of appealing to Parliament. Against this injustice the people cried out so loudly, that even the proverbial subserviency of Tudor parliaments could not resist the popular voice, and the queen had the grace, or the good policy, to admit she had been misled, solemnly protesting that she had never granted one patent which she did not believe to be conducive to the public good. Some of the patents were then remitted to the courts of law, and by them condemned as illegal. It should, however, be allowed

that all the commercial monopolies granted in this reign were not detrimental to the interests of the nation. It was under Elizabeth's auspices that the Huguenots were settled in Norwich and other towns, and by her was the first charter granted to the East India Company, a monopoly which has contributed very largely to the influence and greatness of England in the scale of nations.

In the succeeding reign was passed the celebrated Statute of Monopolies, which, however, is merely declaratory of the Common Law. That act, "forcibly and vehemently penned," as Sir Edward Coke expresses himself, for the suppression of monopolies, cut off all claim on the part of the crown to the granting of exclusive privileges detrimental to the interests of trade. It declared that all monopolies, grants, and letters patent for the sole buying, selling, making, working, or using of anything within the realm, were contrary to the laws and void; but it made an exception in favour of new inventions, and of these only, still allowing the common right to take effect if the grants even for new inventions were not properly made. Upon that statute is founded all the law on patents for inventions. Charles I. vainly strove to renew the grievance of monopolies. The statute afforded an insurmountable barrier against all attempts to introduce them, and he did not possess sufficient power to obtain a repeal of it.

But the legislation of James I., though effectual for the suppression of monopolies, and sufficient for the requirements of society in an age in which both commerce and manufacture were in their infancy, was soon found, if construed literally and strictly, to act as an impediment to the complete and useful enjoyment

of patent privileges. The signification of the statute Jac. I. has, therefore, been very considerably modified by the decisions of the courts of law and equity. At first the judges were inclined to give to patents as narrow a limit as possible, on the ground that such privileges ought to be regarded with a certain amount of jealousy, as being monopolies which might become injurious to the public. But soon the current set in the contrary direction, and the general bias of the bench has been, not to hold the patentee to the literal terms of the statute, but to afford full protection to him who has made a fair disclosure of his invention for the public benefit.

The next material alteration in the patent law took place in the reign of Anne, by the introduction of a condition, that if the inventor did not by an instrument under his hand and seal particularly describe and ascertain the nature of his invention, and cause the same to be duly enrolled within a limited time, the letters patent should become void. This instrument is called the Specification.

Thenceforward no parliamentary attempt to improve the patent law was successful until our own times.

By the 5 & 6 William IV. c. 83, carried through Parliament with great skill and ability by Lord Brougham, a great improvement in the law was effected. Previously to this period, if in one patent two inventions should be included, one of which was not new or not useful, the validity of the entire patent was destroyed, and this effect also took place, even if, though confined to one single invention, either of these grounds of nullity should partially exist. To remedy this it was enacted by the statute in question, that a patentee might, under certain conditions, enter

a disclaimer either of the title of the invention or of the specification, stating the reason for such disclaimer. He might likewise enter a memorandum of any alteration in the title or specification. The disclaimer or memorandum of addition being duly filed and enrolled became part of the original patent, provided that the effect should not be to extend the exclusive right thereby conferred. By the 7 & 8 Vict. c. 69, the right to disclaim or amend was extended to assignees of patents.

The statute of 5 & 6 William IV. c. 83, also allowed patents to be prolonged beyond the original term of fourteen years with consent of the Privy Council.

The act of her present Majesty of the 1st July, 1852 (15 & 16 Vict. c. 83), was, however, the statute which effected the most important and beneficial changes in the patent laws.

Prior to this act coming into operation, a person desirous of protecting an invention by letters patent for the United Kingdom was obliged to obtain three separate grants from the crown, one for England and Wales, a second for Scotland, and a third for Ireland, at an average expense for each of considerably more than 100*l*. Besides this, the applicant had to comply with so many absurd and unnecessary regulations, that he ran the risk of losing his invention before he could obtain protection, which was often not granted till six months after application. By the system of caveats also the patentee was liable to be robbed, not only of the fruits of his invention, but also of the considerable sums disbursed in fees for his patent. Great iniquities and injustice were perpetrated under the system of caveats.

The act of 1852 provided a remedy for the glaring

defects of the old law. It allowed the inventor to take but one single patent for the whole United Kingdom, and not only simplified proceedings, but introduced a more moderate scale of fees and a more convenient and equitable distribution of the periods for the payment of them.

This act, somewhat amended by the 16 & 17 Vict. c. 115, is that which now regulates patents in this country.

CHAP. II.

GENERAL RULES WHICH AFFECT PATENTS.

BEFORE giving an analysis of the acts and regulations which now govern the practice of patents, it will be useful to furnish the reader with a brief summary of the principles which have resulted from the common law, the statute of monopolies, the several acts prior to the 16 & 17 Victoria, and the decisions of the Courts founded thereon.

1. *What inventions are patentable.* — Though novelty is an essential condition of a patent, all new inventions are not necessarily patentable. For instance, a new game of skill or chance, a newly discovered natural substance suitable for food, such as a new kind of grain or pulse, or a new natural manure, such as guano, or mineral nitrate of soda, are not susceptible of the protection of a patent.

2. *What is patentable as a new manufacture.* — A patent for a new manufacture may be for a substance or thing made, a machine or instrument for making, an improvement on substances or instruments already known, a combination or arrangement of known inventions, a principle, method or process carried into practice by tangible means, a chemical discovery, or a foreign invention.

3. *Invention must not have been described in published work, &c.* — In order that an invention be accounted new, it must not have been described in a scientific

work known in this country; and, though it may be learned abroad, it must not have been suggested by a friend at home.

4. *Of two discoverers, the first who obtains patent is preferred.* — If two persons discover the same thing, he who first obtains patent (before the other has made the matter public) is considered the true and first inventor.

5. *Two inventions with same result effected by different means both patentable.* — When the results of two inventions are the same, but carried into effect by different means, patents for both are valid. But the difference must be substantial and not colourable.

6. *Not necessary to state that an invention has been communicated from abroad.* — It has been the common practice when an invention has been communicated by a foreigner residing abroad, to state that fact in the title of the patent. But this is not necessary.

7. *Must not have been publicly used.* — An invention must not have been publicly used, either by the inventor or other persons prior to patent.

8. *Secret known to few, but in public use by one, not patentable.* — If the secret of an invention be known only to a few persons, and one of them has put it in practice and made actual public use of it, then a patent afterwards obtained by any one of them is void.

9. *Prior inventors not precluded from using their invention by subsequent patent granted to another.* — But if parties have practised in their factory a process afterwards patented by another, they cannot be prevented by the subsequent patent from continuing to use the process.*

* C. J. Tindall in Cornish *v.* Keene. This principle is expressly affirmed in the patent laws of several foreign states.

10. *Public use.* — It is a difficult point to determine in certain cases what constitutes public use. Baron Alderson says, public use means a use in public so as to come to the knowledge of others than the inventor, as contradistinguished from the use of it by himself in his chamber. And Judge Bayley argues, that if a man shall have made a discovery by his own experiments, judgment, and skill, it is no objection that another has made a similar discovery unless it has become public. Lord Abinger likewise remarks, that what is meant by public use and exercise is this; a man is entitled to a patent for his invention, and shall not be prejudiced by any other man having invented it before and not having made use of it. A great many patents have been taken out, for example, upon suggestions made in the celebrated work of the Marquis of Worcester. Yet, as he never acted on his speculations nor brought out any machines whatsoever, these patents are good. On the other hand, Lord Abinger instances the case of a man, who having invented a lock, put it on his own gate, and thus used it for a dozen years. This he says is a public use, that is, used in a public manner, though not used by the public, and no one is entitled to patent it.

11. *Previous experiments by others do not vitiate a patent.* — Previous experiments made by others but not prosecuted to completion, although approaching the patented invention, have been held not to vitiate it.

12. *Patent may include subject matter of another unexpired patent.* — A patent may be taken out which may include the subject matter of another patent not yet expired, but of course the second patentee must obtain the licence of the first before working his patent.

13. *New combination of old inventions patentable.*— A patent for a machine is good, each part of which was in use before, provided that the combination be new, and productive of a novel result.

14. *A known thing applied to an analogous use not patentable.*—A patent is invalid for applying a well-known thing capable of being applied to a great variety of uses to some exactly analogous use. Thus a patent for a wheel already in use on ordinary roads, which the patentee applied to a railway, was declared null, since so far from the public benefit being consulted by the protection of such applications of known inventions, the result would be precisely the other way.

15. *Possessor of an invention which he has sold publicly, cannot patent it.*—An inventor, possessed of a secret invention, who shall for a period of years retain the monopoly, and sell the produce of his invention publicly, cannot be allowed afterwards to take out a patent for it, since he would thus derive from his invention more benefit than could be obtained during the lawful period of fourteen years, a system which, if encouraged, would materially retard the progress of science and art.

16. *Caution respecting experiments.*—The extent to which experiments may be carried, with a view to testing the efficacy of an invention, or the full results of a discovery without risking the validity of a grant, has not yet been legally defined. Great caution is necessary in this respect.

17. *To be patentable a thing must be vendible.*—A patent must be vendible matter, or it cannot claim the protection of a law made for the encouragement of trade.

18. *Patent for improvement must be confined to that improvement.*—A patent for an improvement must be

confined to such improvement; thus, a patent was held void which was taken out for the whole watch, whereas the invention consisted in a single movement. But where a patent for an improvement recites the previous patent on which the new patent is alleged to be an improvement, such recital has been held to validate the patent, though the title may imply an invention as extensive as the original patent.

19. *Invention must be a useful and substantial improvement.*—A patent must be a useful, real, and substantial improvement. If the manufacture in its new state merely answers as well as before, it is not worthy of patent.

20. *A principle, as such, not patentable.*—A principle or method, as such, is not patentable. It must be applied to some substantial, tangible, and vendible use, to some purpose of human industry or enjoyment.

21. *Chemical discovery must be new, vendible and beneficial. Medicines.*—A chemical discovery comes within the description of a manufacture only when it gives to the public a compound article new, vendible, and beneficial. Of this description are medicines. It is no sound objection to a patent for a medicine that the properties of the drugs of which it is composed were already known if the grant be for the specified compound and not for the ingredients.

22. *Ingredients, &c., of chemical discovery must be fully stated.*—When a patent is for a chemical discovery, inasmuch as the thing produced, and not the principle or method, is the subject of the patent, the ingredients, their proportions, the times of mixing, &c., should be fully stated, and also the beneficial use to which the substance can be applied.

23. *Foreign inventions.* — Foreign inventions im-

ported, early obtained validity as new in this realm, though invented abroad, and it would appear that if an Englishman first publish his invention abroad, he is still entitled to take out a British patent for it. Not only are many useful foreign inventions hereby obtained, but the door is thus closed to the pretence, which would often be alleged in an action for infringement, that the thing is not new because known in some distant country.

24. *When for new substance patent should be for the composition.*—When the object to be patented is some new substance, the patent should be for the composition without regard to the process, since that, though probably new, is only useful in producing the new substance.

25. *When for new machine patent should be for the mechanism.*—When the object is a new machine or means for producing substances, the patent must be for the mechanism.

26. *When for improved machinery patent may be for whole, excepting the old parts, or simply for the improvement.*—When the object is for improved machinery the patent may be for the whole, protesting against any claim for the old parts, or simply for the improvement.

27. *Slight combination producing new results patentable.*—A very slight combination of means will support patent provided the iustrument is new and useful.

28. *When principle new, patent may be for all combinations of it.*—When a principle is new, a patent may be had not only for some particular mode of carrying it out, but for every mode by which it might be carried out.

29. *No rule can be given for amount of ingenuity necessary to support a patent.*—No general rule can be

laid down as to the amount of ingenuity in an invention necessary to support a patent. In new cases all that can be done is to study carefully analogous decisions, and be guided by those which nearest approach to the doubtful case.

30. *Deceit vitiates a patent.*—Any evidence of deceit apparent on the face of a patent is liable to vitiate it; for instance, when any ingredient is mentioned as essential when it is not so, nor even useful.

31. *In invention resulting from two minds, both must be included in patent.*—When an invention results from the combined operation of two minds, the patent must be in the joint names of the inventors.

32. *Material part of an invention being made by another vitiates the patent.*—A patentee owing a material part of his invention to another forfeits his patent; but this does not extend to the point of forbidding him to employ workmen or others to assist in perfecting an invention, the principle of which he already has contrived. The case is very different where the patentee is merely the employer of him making the invention, for then the patentee was not the first and true inventor.

33. *Provisional specification. Government gives no guarantee.*—The provisional specification to a patent should be couched in general terms, but must be strictly confined to the invention, and be so framed as to include every application which is intended to be made of it. Although all patents are referred to the law officers for examination, this implies no guarantee on the part of the Government; therefore every means should be taken to make both title and specification correct. But it is by no means desirable that these preliminary documents should enter too much into

detail, lest rivals about to specify should obtain a clue to the invention to the prejudice of the inventor. Besides, the more general the provisional specification is made the more latitude is allowed for the introduction of applications in the complete specification which may suggest themselves during the six months of provisional protection.

34. *Patent and specification linked by title.*—Patent and specification are linked together by the title. The title and specification must be read together, and the latter must support the former.

35. *Inappropriate or insufficient titles.*—Many patents have been vitiated by inappropriate or insufficient titles, which did not give an intelligible idea of the invention. One instance has been frequently given of a brush described in the title as a tapering brush, whereas the invention consisted in the unequal length of the bristles. Another was a patent entitled, an improved method of drying and preparing malt, whilst the invention was a colouring matter for beer, obtained by submitting malt to a high temperature. Another title was held as being too general because the invention being for an improvement in the old street lamp, the title designated it as an improved method of lighting cities, towns, and villages. A patent was declared void whose title described it as a machine for giving an edge to knives, razors, *scissors*, &c., because it was not applicable to scissors.

36. *Complete specification.*—But whilst the provisional specification may safely be left as general as possible, consistent with correctness, the utmost attention must be directed to the complete specification, and it is here especially that the skill and experience of the professional patent agent will be useful to his client.

37. *Secret must be fully disclosed.*—It is a fundamental rule that the secret of the invention must be so disclosed that men of common understanding, with a moderate knowledge of the art to which the invention relates, may be able thereby to carry the object of the invention fully into effect.

38. *Extraneous matter must be excluded.*—The description must be confined to the invention. No extraneous matter, however learned, must be introduced to darken it. Avoiding complexity, it must not be so concise as to become obscure. It must be minute without perplexity, and luminous without being overwrought.

39. *Ambiguous specification bad.*—A specification is bad where the terms are ambiguous, where necessary descriptions are omitted, where some parts claimed are not original (unless afterwards disclaimed), where things are put in to mislead, where the drawings are incorrect, where one of different ways for effecting the object of the invention fails, where one of several effects specified is not produced, and where the things described are not the best known to the patentee. A patent for improvements in sail-cloth was declared bad on the ground of ambiguity, because, taking the title, patent, and specification together, it was difficult to say whether the word *whatever* referred to the total exclusion of starch, or whether, when combined with the words "without any starch," it was merely a description of the thread of the sail-cloth which had been improved. Another was declared unintelligible, and consequently invalid, because it directed that fossil salt should be used, *fossil* salt being a genus having many species, only one of which, *sal gem*, being suited to the purpose. Again, a specification directed that

"the purest and finest chemical white lead" should be used. Now no article was known in the trade under that designation, and the article intended to be used was imported from Germany, and only to be had in one or two colour shops in London. The specification was held insufficient.

40. *Such words as "for other useful purposes," &c., to be avoided.*—It is a great error to suppose that the introduction of the words "for other useful purposes," "other materials may be used," or "any other substance from which the thing can be obtained," gives greater breadth or security to a patent. Such expressions, besides being perfectly useless, are likely to throw doubts on the reality of the invention, and to hazard the validity of the patent on the ground of obscurity and incorrectness. In the case of a patent for paper-making the plaintiff was nonsuited, because he said in his specification "the cloth may be made of *any suitable material*, but I *prefer* it to be made of linen warp and woollen weft," whereas he was not aware of *any other substance* to answer the purpose. Of course this doctrine of ambiguity might be pushed too far. Novelty, clear good faith, and reasonable distinctness are are required from an inventor.

41. *Patentee may abandon parts of invention.*—A patentee, after reasonable trial, may, without vitiating his patent, lay aside any part of a method described in his patent should he find that such part is unnecessary.

42. *Drawings.*—Drawings, models, &c., are not absolutely necessary, and, indeed, where the subject can be clearly described without, they are better omitted. They are, however, easy means of illustration, and therefore generally adopted. Great latitude has been allowed with respect to drawings. If a common mechanic can make

a subject from a drawing without a scale, the scale has been declared not essential, and the introduction of French words, such as *vis de pression*, *vis de repulsion*, &c., for certain screws, and even French measures instead of English, have been held not to invalidate a patent when they were found to be immaterial to a complete understanding of the invention.

43. *Effects that do not result must not be described.*— Not only must no unnecessary means be mentioned, but effects that do not actually result must not be described. If the article described have not the qualities or results set forth, the grant is invalid.

44. *Plural instead of singular fatal to a patent.* — Where a patent for an improvement in the hautboy spoke of new *notes*, whilst only *one new note* was produced by the invention, an action for infringement failed.

45. *Omission of essential part of operation fatal to a patent.* — In a patent for steel trusses, the patentee having omitted to mention that he tempered the steel with tallow, and such an operation having been proved useful, the patent was held to be void. Where aqua-fortis was used in the preparation of verdigris, and not mentioned in the patent, the patentee using it with great secrecy, the presumption was arrived at that he knew of the value of such application on taking out the patent, and it was consequently declared to be void.

46. *Unnecessarily expensive materials described fatal to a patent.* — If cheaper materials be used by the patentee than those described in the patent, it is bad. And even where a patentee omitted to describe an essential part of his invention through inadvertence, his neglect was held fatal to the grant.

47. *Better method, fruit of subsequent discovery, not*

fatal.—But if a better method of manufacture can be proved to have been a subsequent discovery, the patent will not be affected thereby.

48. *Full description of machinery and the relative parts, &c., necessary.*—In a piece of machinery a full description of the several parts, as wheels, screws, springs, &c., must be set forth with their due proportions, the method of their union, and the relative velocities of the movable parts.

49. *If composed of two machines, union, &c., must be shown.* — Where the invention consists of the component parts of two machines, or more, the union of the parts must be clearly *shown.* If parts are to be put on and off during the operations the respective parts, their proportions for different purposes, and *where* they are to be applied, must be stated.

50. *Latitude allowed in descriptions.* — The inventor is not bound to any particular mode of describing his improvement, provided he exactly states in what the invention consists. Thus, a patentee was declared to have complied with the law when he referred to a common watch, and then gave directions how the new part was to be added to it, the invention consisting of a single movement.

51. *Patentee may recite former specification.* — A patent for an improvement on a previous patent, obtained by the same inventor, was held good, in which the former patent was recited, though in the specification no reference was made to the description of the former subject, and the whole machine, as improved was set forth without the new parts being distinguished from the old. The reason for the decision was, that the second patent, by reciting the first, referred to its specification, which, being a matter of record, was supposed

to be within every one's knowledge. Although in this case the patentee referred to his own patent, it would follow by analogy that a person making a manufacture from the subjects of several expired patents might recite and refer to the specifications of them without taking any notice of their contents.

52. *Caveats.* — A caveat is an instrument by which notice is requested to be given to any person having imagined butnot thoroughly completed an invention, whenever another person shall apply for a patent for such an invention. The contemplated invention must be described in general terms. Copies of the caveat must be left both with the Attorney and Solicitor General, and must be annually renewed. A caveat does not create any right; it is simply a request to be favoured with information which may enable the person lodging it to oppose the grant of a patent to any other person who shall claim protection for the invention which is the subject of the caveat. If the applicant thinks that he is unjustly deprived of his patent after being duly heard, he has no remedy but a *scire facias* to repeal that which has been sealed. It having been generally observed that little or no benefit arises from entering caveats, the practice has become obsolete.

53. *Consideration paid for patent not recoverable though patent bad.*—The patentee of an invention which he believed to have been new transferred it for a valuable consideration to another, and the grant having afterwards proved to have been bad, it was held that the assignee, having used the patent for some time, could not recover the amount paid for his purchase, the vendor having acted without fraud in the transaction. However had the patent been discovered to be invalid before the assignee had made any use of it, it would

appear that the purchase money ought to be returned.

54. *Patent passes to assignee of bankrupt.* — Property in a patent passes to the assignees of a bankrupt or insolvent, and a grant obtained by an uncertificated bankrupt also vests in his assignees for the benefit of his creditors.

55. *Patent passes to legal representative of deceased.* — A patent may be bequeathed according to the pleasure of the patentee. If he die intestate it becomes assets in the hands of his administrator.

56. *Patentee may license.* — A patentee may grant licences for the sole or partial use of a patent, and the licencees may maintain actions for damages.

57. *Penalty for using name, &c., of patentee.* — The 5 and 6 Wm. IV. c. 83, s. 7, gives a penalty of 50*l.* against a party using the name, &c., of a patentee.

58. *Patent void if contrary to law.* — Besides the grounds for nullity already specified, a patent is, by the Statute of Monopolies, void *ab initio* if contrary to law or mischievous to the state.

CHAP. III.

THE PATENT OFFICE, LIBRARY, AND MUSEUM.

THE present Patent Office occupies the ground floor of the Masters' office in Southampton Buildings, Chancery Lane, formerly the chambers of the masters in Chancery, and for which the Commissioners of Patents pay an annual rent of 490*l.* out of the Fee Fund of the Patent Office to the Suitors' Fund of the Court of Chancery.

In 1855 a free library was established within the office, containing scientific works in all languages, the publications of the Commissioners, and the works upon patented and other inventions published in the British colonies and in foreign countries. This library has been formed partly by purchases, but in a great measure by gifts and loans of valuable and useful books.

It is open gratuitously to the public between 10 and 4 daily, and is admirably managed, the only defect being the want of sufficient space for the books and the public.

The deficiency, in respect to space, both for the library and the other offices, is lamented by the commissioners, who are endeavouring to find a suitable site, in the immediate neighbourhood of the present Patent Office, for the erection of a building amply sufficient for the requirements of the office.

In a portion of the museum at South Kensington, which was assigned to the Commissioners of Patents by the Board of Trade, are daily exhibited gratuitously to

the public, a collection of very valuable and interesting models of patented machines and implements, as also portraits of inventors, many of them gifts, and others lent by the owners for exhibition. This may be considered the foundation of a great national museum. In order to provide for the present purposes and rapidly increasing requirements of the museum, the Commissioners have memoralised the Lords of the Treasury, who are willing to allot a sufficient portion of ground at South Kensington for the erection of the building required, including a library, to contain an account of patents already granted, or which may be hereafter granted by foreign governments.

Offices for England.

25 Southampton Buildings, Chancery Lane, London. Open daily, Christmas Day and Good Friday excepted, from 10 to 4 o'clock.

Offices for Scotland.

Office of the Directory of Chancery, Edinburgh. Open every day from 10 to 3 o'clock.

Offices for Ireland.

The Enrolment Office of the Court of Chancery, Dublin. Open every day, Christmas Day and Good Friday excepted, from 10 to 3 o'clock.

NOTE.—All business whatsoever relating to patents, is now transacted at the office in London; the Scottish and Irish offices being only places of deposit of copies of patents, specifications, disclaimers, and other documents for public inspection.

CHAP. IV.

ANALYSIS OF THE PATENT LAWS.

THE following is an analysis of the Patent Law Amendment Act, 1852 (15 & 16 Vict. ch. 83), with which are embodied the rules which have been made from time to time by the Lord Chancellor and the Commissioners, also such parts of the 5 & 6 Wm. IV. ch. 83, and 7 & 8 Vict ch. 89, and 12 & 13 Vict. ch. 109, as are retained as forming part of the present law by the Act of 1852, and the Act of the 16 & 17 Vict. ch. 115, to amend the Act of 1852.

1. *Commissioners* : —

The Lord Chancellor.
The Master of the Rolls.
The Attorney-General and Solicitor-General for England.
The Lord Advocate and Solicitor-General for Scotland.
The Attorney-General and Solicitor-General for Ireland.

The crown has power to appoint other persons as commissioners.

The powers of the Act may be exercised by any three commissioners, the Lord Chancellor, or Master of the Rolls, being one. (Cl. 1.)

2. *Seal.* — They are authorised to have a seal made for sealing patents, and to vary such seal from time to time. (Cl. 2.) They may makes rules (not inconsistent

with the Act) for conducting the business of the office, and for the purposes of the Act may provide officers and employ clerks. (Cl. 3, 4, 5.)

3. *Petition and declarations.*— The petition for the grant of letters patent, and the declarations required to accompany such petition shall be left at the office of the Commissioners, and also a statement in writing called the provisional specification, signed by, or on behalf of the applicant, and describing the notion of his invention. The day of the delivery of these documents at the office is to be endorsed upon them, and a certificate to that effect given to the depositor. (Cl. 6.)

4. *Only one invention to be included in a patent.*— Every application for letters patent, and every title of invention and provisional specification must be limited to one invention only, and no provisional protection will be allowed or warrant granted where the title or the provisional specification embraces more than one invention. (3rd Set of Rules, Dec. 12, 1853.) The title of the invention must point out distinctly and specifically the nature and object of the invention. (*Ib.*) The expression "invention" shall mean any manner of new manufacture in the meaning of the Act 21 James I., ch. 3. (Cl. 6, 7.)

5. *Copy of specification, &c., to accompany application.*—A true copy, under the hand of the patentee, or applicant, or his agent, of every specification and complete specification, with the drawings accompanying the same, if any, shall be left at the office on filing such specification or complete specification. (16 & 17 Vict. ch. 115.)

6. *Petitions, &c., to be left at office. Size.*— All petitions for letters patent, and all declarations, and provisional specifications are to be left at the office.

They are to be written on sheets of paper 12 inches in length and 8½ inches in breadth, leaving a margin of 1½ inches on each side of each page. (1st Set of Rules, Oct. 1, 1852.)

7. *Size of drawings.*—Drawings to accompany provisional specifications to be on sheets of paper, parchment, or cloth 12 inches long, 8½ inches broad, or 12 inches broad and 17 inches long, leaving a margin of 1 inch on every side of each sheet. (1st Set of Rules, Oct. 1, 1853.)

8. *Applications referred to a law officer, whose certificate for filing gives provisional protection for six months.*—The application for letters patent shall be referred by the Commissioners to one of the law officers (who are the Attorneys and Solicitors-General for England and Ireland, and Lord Advocate and Solicitor-General for Scotland). (Cl. 55.) The law officer may call to his aid a scientific or other person and fix his remuneration, which is to be paid by the applicant. If satisfied with the provisional specification, the law officer shall give a certificate to that effect to be filed at the Patent Office, and thereupon the invention may be used, and published during a term of six months, the protection thus afforded being termed provisional protection.

9. *Law officer may amend title.*—The law officer has the power to cause the title of the invention to be amended if too large or insufficient. (Cl. 7, 8.)

10. *Applicant may not amend provisional specification.*—No amendment or alteration at the instance of the applicant will be allowed in a provisional specification after the same has been recorded, except for the correction of clerical errors, or of omissions made *per incuriam.*

11. *Provisional specification must state distinctly*

nature of invention.—The provisional specification must state distinctly and intelligibly the whole nature of the invention, so that the law officer may be apprised of the improvement and of the means by which it is to be carried into effect. (2nd Set of Rules, Oct. 15, 1852.)

12. *Fee on leaving petition 5l.*—The fee to be paid on leaving petition for grant of letters patent is *5l.* (Schedule of Act.)

13. *Provisional protections to be advertised in Gazette.*—Provisional protections are to be advertised in the "London Gazette," with the name and address of the petitioner, the title of his invention, and the date of the application. (1st Set of Rules, Oct. 1, 1852.)

14. *Complete specification may be at once deposited.*—The applicant may, instead of the provisional specification, deposit with the petition and declaration an instrument under his hand and seal, called a complete specification, particularly describing the nature of his invention, the same to be mentioned in such declaration, and the day of delivery of these documents at the office shall be registered there and endorsed on the petition, declaration, and specification, and a certificate thereof shall be given to the applicant or his agent. This proceeding shall afford protection to the applicant in the use of his patent for six months. (Cl. 9.)

15. *Previous patents not invalidated by subsequent protection obtained by fraud.*—Letters patent granted to the first inventor shall not be invalidated by reason of provisional or other protection obtained in fraud by any other person. (Cl. 10.)

16. *Complete specification to be advertised in Gazette.*—Every invention protected by the deposit of a complete specification shall be forthwith advertised in the

"London Gazette," the advertisement setting forth the name and address of the petitioner, the title of the invention, the date of the application, and that a complete specification has been deposited. (1st Set of Rules, Oct. 1, 1852.)

17. *Complete specification stamp 5l.*—The stamp duty on a complete specification is *5l.* (Schedule of Act.)

18. *After protection obtained applicant may give notice to proceed. How application may be opposed.*—The applicant, after obtaining a provisional protection or depositing a complete specification, may give notice to the Commissioners of his intention to proceed with his application for letters patent, which notice the Commissioners shall advertise. Any person having an interest in opposing the grant of such letters patent, may do so in writing at such time and place, and according to such regulations as the Commissioners may appoint.

19. *Notice to proceed to be advertised in Gazette.*—When, after provisional protection or the deposit of a complete specification, the petitioner shall give notice in writing at the office of his intention to proceed with his application for letters patent, the same is to be forthwith advertised in the "London Gazette," with the name and address of the petitioner, and the title of his invention.

20. *Opposition must be in writing within twenty-one days.*—Any person may, within twenty-one days thereafter, leave particulars in writing at the office of objections to the application.

21. *Applications for or against sealing to be by notice in writing left at office.*—Every application to the Lord Chancellor against or in relation to the sealing of

letters patent shall be by notice, and such notice shall be left at the Commissioners' office, and shall contain particulars in writing of the objections to the sealing of such letters patent. (Chancellor's Order, Oct. 15, 1852.)

22. *Notice to proceed fee 5l.* — The fee on giving notice to proceed is *5l.* (Schedule of Act.)

23. *Objections to be referred to law officer.* — The time for making objection having expired, the provisional or complete specification, with the particulars of the objections (if any), shall be referred to the law officer to whom the original application had been referred.

24. *Law officer to decree cost and by whom paid.* — The law officer, in case of objection, is to order the costs incurred thereby to be paid by such person as he shall fix, and has power to enforce payment. (Cl. 13, 14.)

25. *Law officer may then issue warrant for sealing patent.* — After such hearing, the law officer may issue a warrant sealed with the Commissioners' seal for sealing the letters patent, setting forth their tenor and effect, and directing the insertion of such restrictions and conditions as he may deem proper, pursuant to the Act. (Cl. 15.)

26. *Provision inserted that complete specification shall be filed within six months.*—A provision is to be inserted in all letters patent, in respect whereof a provisional and not a complete specification shall be left on the application for the same requiring the specification to be filed within six months from the date of application. (2nd Set of Rules, Oct. 15, 1852.)

27. *Patent fee 5l. and stamp 5l.*—The fee for the law officer's warrant is *5l.*, and the stamp on letters patent is also *5l.* (Schedule of Act).

28. *Letters patent void, if before expiry of three years* 50*l. be not paid, and if before expiry of seven years* 100*l. be not paid.*—Letters patent thus granted shall be subject to the condition of becoming void, unless before the expiration of three years a further fee of 40*l.* and a stamp duty of 10*l.* (in all 50*l.*) be paid, and unless before the expiration of seven years a further fee of 80*l.* and a stamp duty of 20*l.* (in all 100*l.*) be paid. Memoranda of such payments shall be endorsed on the warrant for the letters patent and a certificate of the same given, and also endorsed on the letters patent.

29. *Issue of letters patent. Their extent and limit.* —The Commissioners, when required by the applicant, shall then cause letters patent to be prepared according to the warrant, which shall be sealed with the Great Seal of the United Kingdom. Such letters patent shall extend to the whole of England, Scotland, and Ireland, to the Channel Islands, and to the Isle of Man. Should the warrant so direct, the letters patent may also apply to any colonies or plantations abroad which may be specified. But they will have no authority in any colonies where the law in force in such colonies would render then invalid. A transcript of the letters patent is to be transmitted to the Director of Chancery in Scotland, which transcript is to be received in evidence in all Scottish Courts of Law. (Cl. 18.)

30. *Must be issued within three months from warrant, and during provisional protection, unless delayed by caveat.* —Patents cannot be issued unless applied for within three months from the date of the warrant, and during the six months of provisional protection or complete specification, unless delayed by a caveat, or application

to the Lord Chancellor against sealing the letters patent. In such case they may be sealed at such time as the Lord Chancellor may direct. See Ins. 41. (Cl. 19, 20.)

31. *But Lord Chancellor may allow month's limit if delay be purely accidental.* — But by the 6th clause of the Act of the 16 & 17 Vict. ch. 115, the Lord Chancellor may seal letters patent after the expiration of provisional protection, provided the delay in such sealing has arisen from accident, and not from the neglect or wilful default of the applicant, the sealing to be dated, as of any day before the expiring of provisional protection, and in like manner he may extend the time for filing the specification; such extension, however, is not to exceed one month.

32. *In case of death, patent granted to representatives within three months.* — In case of the death of the applicant during the period of protection, letters patent may be granted to the personal representatives during such period, or within three months of the death of the applicant. (Cl. 21.)

33. *If lost, new patent may issue according to Commissioners' regulations.*— In case letters patent be lost or destroyed, others of like effect may be issued, subject to such regulations as the Commissioners may make. (Cl. 22.)

34. *Date of letters patent.* — Letters patent are to be dated as of the day of the application for the same, and if bearing date prior to the day of actual sealing, are to be equally valid. (Cl. 23, 24.)

35. *Patents for foreign inventions expire with original foreign patent.*—Patents for foreign inventions, previously patented abroad, shall only continue in force in the United Kingdom as long as they shall be valid in the foreign country where the patent is already ob-

tained, and where more than one patent is taken out abroad, the termination of the British patent shall take place when the first of such foreign patents shall expire. (Cl. 25.)

36. *Patents not to prevent foreign ships using the invention.*—Letters patent granted under this Act shall not prevent the use of the invention thereby secured on board of foreign ships resorting to British ports, except when the government to which such ships belong shall forbid the use by British ships of foreign patented inventions. (Cl. 26.)

37. *Specifications to be filed with copy of drawings.*—Specifications are to be filed at the office with an extra copy of any drawings. (Cl. 27, 28.) But by the 16 & 17 Vict. ch. 115, a true copy of every specification and complete specification, with the drawings accompanying them, are to be left at the office on filing such specification or complete specification.

38. *Size of specifications.*— All specifications, in pursuance of the conditions of letters patent, and all complete specifications accompanying petitions for the grant of letters patent, shall be respectively written bookwise upon a sheet or sheets of parchment, each of the size of $21\frac{1}{2}$ inches long, by $14\frac{3}{4}$ inches broad. The same may be written on both sides of the sheet, but a margin must be left of $1\frac{1}{2}$ inch on every side of each sheet.

39. *Size of drawings and scale.*—The drawings accompanying such specifications shall be on a sheet or sheets of parchment, each $21\frac{1}{2}$ inches long, by $14\frac{3}{4}$ inches broad, or 21 inches broad by $29\frac{1}{2}$ inches long, with a margin of $1\frac{1}{2}$ inch on every side of each sheet.

NOTE.—It is recommended to applicants and patentees to make their elevation drawings according to the

scale of one inch to a foot. (Lord Chancellor's Order, Oct. 1, 1852.)

40. *Extra copy of specification to be left with original. Size, &c.*—An extra copy of the provisional specification or complete specification is to be left at the office with the original. It is to be written on sheets of brief or foolscap paper, briefwise, and on one side only. The extra copy of drawings must be according to the directions given above. (See Instruction 36.) (3rd Set of Rules, Dec. 12, 1853.)

41. *Documents to be legibly signed.*—All specifications, copies of specifications, provisional specifications, petitions, notices, and other documents left at the office of the commissioners, and the signatures of petitioners or agents must be written in a large and legible hand. (*Ib.*)

42. *Notice to proceed must be given eight weeks, and application for warrant twelve clear days before end of provisional protection.*—The notice of the applicant to proceed for letters patent, must be left at the office eight weeks at least before the expiration of the provisional protection, and the application for the warrant of the law officer and for the letters patent, must be made at the office twelve clear days, at least, before the expiration of the provisional protection. But the Lord Chancellor reserves to himself the power to grant a further extension of time under the special circumstances provided for by the 6th cl. of the 16 & 17 Vict. ch. 115. (See Instruction 29.) (*Ib.*)

43. *Provisional specifications after six months and all other documents open for public inspection.*—True copies of provisional specifications, after the expiration of six months, and of all other specifications, disclaimers, and memoranda of alterations, are to be open to public

inspection at the offices in London, Edinburgh, and Dublin.

44. *Documents to be printed and sold and indexes open for public inspection.*—Specifications, disclaimers, and memoranda of alterations are to be printed and sold at such prices as the Commissioners shall direct. (This price is fixed by the Commissioners' rules at two-pence for every ninety words.) Indexes of all patents and documents relating thereto are also to be prepared, and to be open for public inspection and for sale, and printed copies of patents and other documents are to be received as evidence in courts of law. (Cl. 30, 32, 33.)

45. *Printed or MS. copies, &c., with Commissioners' seal and documents recorded and filed, evidence in courts of law.*—But by the 4th cl. of the 16 & 17 Vict. ch. 115, it is declared that printed or manuscript copies, or extracts certified and sealed with the seal of the Commissioners, specifications, disclaimers, and all other documents recorded and filed at the office, are to be received as evidence in all courts of the United Kingdom, and other places to which the patent shall extend, without the production of the originals.

46. *Chronological register of documents to be kept, including licences. Copy of licence may be had, such copy to be evidence*—A chronological register of patents and other documents shall be kept and be open to public inspection, and also a register of proprietors, to include the assignment of any patent or share thereof, any licence under letters patent, with the district to which such licence relates, and any other matter affecting the proprietorship of letters patent, and a copy of such entry properly certified shall be given to any applicant on payment of a fee, the copy to be evidence. Until such entry shall have been made, the grantee of the

patent is to be considered the sole proprietor. Copies of the registers are to be kept at Edinburgh and Dublin. (Cl. 34, 35.)

47. *Any number of persons may be interested in a patent.*—A larger number than twelve may have a legal interest in a patent. (Cl. 36.)

48. *Falsification of register a misdemeanour.*—Falsification of the register of proprietors is a misdemeanour. (Cl. 37.)

49. *Entries in register may be expunged by judge's order.* — Entries in the registry of proprietors may be expunged by application to Master of the Rolls, or any common law court. The costs of such application to be paid as the judge shall decree. (Cl. 38.)

50. *Disclaimers.* — The provisions of the 5 & 6 Wm. IV. ch. 83, and 7 & 8 Vict. ch. 69, relating to disclaimers and memoranda of alterations in letters patent and specifications, to apply to this act, except as hereafter provided. By the common law, letters patent became wholly void for any partial defect; for instance, the want of novelty in a very small part. The Act of 5 & 6 Wm. IV. ch. 83, allows a patentee to put in a disclaimer of any part of either the title or specification, stating the reason for such disclaimer, or enter a memorandum of alteration; but any other person may enter a caveat against such disclaimer or memorandum of alteration, the caveat giving the objector a right to be heard in opposition to the disclaimer or alteration. In case of no opposition or of the disallowance of any caveat, the disclaimer or memorandum of alteration may be filed and enrolled, and be deemed part of the letters patent and specification. (Cl. 39.) But the disclaimer or alteration is not to affect any action pending at the time, and the law officer to whom the

case shall be referred, may require the party applying to advertise such disclaimer or alteration. (*Ib.*) The 7 & 8 Vict. allows a patentee the same faculty of disclaimer or alteration in concert with any party to whom he may have wholly or in part transferred a property in his patent. (*Ib.*)

51. *Confirmation and prolongation of a patent.*—The provisions of the 5 & 6 Wm. IV. ch. 83, and the 2 & 3 Vict. ch. 67, and the 7 & 8 Vict. ch. 69, as to confirmation and prolongation of patents, are to apply to patents under this Act. The new letters patent are to be available only for such places as the original patent extended to, and are to bear date on the day after the expiration of the term of the original letters patent. (Cl. 40.) The 4th section of the Act of William enacts, that any patentee may advertise three times in the *London Gazette*, and in three London papers, and three times in some country paper, of or near the town where he may reside or carry on his manufacture (or in some paper published in the county where he carries on his manufacture, or lives, in case there should be no paper in the town), his intention to petition the Privy Council for a prolongation of his patent, and that any other person may enter a caveat at the council's office. Thereupon the case may be heard before the judicial committee of the Privy Council, and should the report of the committee be in favour of the patentee, the patent may be prolonged for seven years. The 2nd section of the 2 & 3 Vict. ch. 67, allows a patentee to obtain an extension of his patent, though the application for such extension may not have been prosecuted with effect before the expiration thereof. But the petition must be presented six calendar months at least before the expiration of the original patent.

The 2nd section of the 7 & 8 Vict. c. 69, extends the term for which a patent may be prolonged, to fourteen years.

52. *Infringement.*—In actions for infringement of patents, the plaintiff is to deliver with his declaration the particulars of the breaches complained of, and the defendant shall also deliver with his pleas, particulars of any objection on which he means to rely, and at the trial no evidence shall be allowed not contained in such particulars. Similar particulars are obligatory on any prosecutor seeking to repeal the patent. The prosecutor must also particularise the place or places where, and the manner in which the invention is alleged to have been used prior to the date of the letters patent. But the judge may allow the plaintiff, defendant, or prosecutor, to amend his particulars. The defendant in any suit for repealing his patent, has a right to begin and give evidence of his case and be entitled to reply. (Cl. 41.)

53. *Judge's order in case of infringement.*—The judge of any court where an action may be brought for infringement of patent, to make order for injunction, inspection, or account, and give such directions respecting the action, &c., as the court or judge may see fit. (Cl. 42.)

54. *Taxing costs in case of infringement.*—In taxing costs in actions for infringement, regard is to be had to the particulars delivered in such actions, and costs are only to be allowed on such particulars as the judge may certify to. Other enactments are also made respecting taxed costs. (Cl. 43.)

55. *Schedules of fees and stamp duties.*—Fees and stamp duties are to be paid according to schedule annexed to the Act. The stamp duties are to

be under the management of the Commissioners of Inland Revenue, and the fees to be paid into the Exchequer, and form part of the consolidated fund. (Cl. 44, 45, 46.)

SCHEDULE TO WHICH THE ACT REFERS, CONSOLIDATED.

	£	s.	d.
On leaving the petition for grant of letters patent	5	0	0
On notice of intention to proceed with the application	5	0	0
On warrant of law officer for letters patent .	5	0	0
On sealing of letters patent . . .	5	0	0
On filing specifications	5	0	0
At or before expiration of the third year .	50	0	0
At or before expiration of the seventh year .	100	0	0
On leaving notice of objections . . .	2	0	0
Every search and inspection . . .	0	1	0
Entry of assignment or licence . . .	0	5	9
Certificate of assignment or licence . .	0	0	5
Filing application for disclaimer . . .	5	0	0
Caveat against disclaimer . . .	2	0	0

The fees to be paid to the law officers and to their clerks shall be—

By a person opposing a grant of letters patent.

	£	s.	d.
To the law officer . . .	2	12	6
To his clerk	0	12	6
To his clerk for summons . .	0	5	0
	£3	10	0

By the petitioner on the hearing of the case of opposition.

	£	s.	d.
To the law officer . . .	2	12	6
To his clerk	0	12	6
To his clerk for summons . .	0	5	0
	£3	10	0

By the petitioner for the hearing, previous to the fiat of the law officer allowing a disclaimer or memorandum of alteration in letters patent or specification.

	£	s.	d.
To the law officer . . .	2	12	6
To his clerk	0	12	6
	£3	5	0

By the person opposing the allowance of such disclaimer or memorandum of alteration, on the hearing of the case of opposition.

	£	s.	d.
To the law officer . . .	2	12	6
To his clerk	0	12	6
	£3	5	0

By the petitioner for the fiat of the law officer allowing a disclaimer or memorandum of alteration, or letters patent and specification.

	£	s.	d.
To the law officer . . .	3	3	0
To his clerk	0	12	6
	£3	15	6

56. *Form of petition for letters patent.*—Form of petition to be used in soliciting letters patent.

No. .

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

"The humble petition of , of , in the county of , showeth,—

"That your petitioner is in possession of an invention for [*here insert the title of the invention*], which in-

vention he believes will be of great public utility, that he is the first and true inventor thereof [*if the invention be a communication from abroad, here insert the words,* 'within the realm'], and that the same is not in use [*if from abroad, insert the word* 'therein,'] by any other person or persons to the best of his knowledge and belief. Your petitioner therefore humbly prays that your Majesty will be pleased to grant unto him, his executors, administrators, and assigns, your Royal Letters Patent, for the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, for the term of fourteen years, pursuant to the statutes in that case made and provided.

"And your petitioner will ever pray."

57. *How to be written, and stamp.* — This petition must be written distinctly, or printed, on a 5*l.* stamp specially provided for the purpose by the Stamp Office, and care must be taken to conform exactly to the instructions given in the Act, respecting the dimensions, payments, and other details.

58. *Declaration to accompany Petition:* —

No. .

I , of , in the county of , do solemnly and sincerely declare, that I am in possession of an invention for, &c. [*The title as in the petition*], which invention I believe will be of great public utility; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons, to the best of my knowledge and belief [*where a complete specification is to be filed with the petition and declaration, insert these words:* —"And that the instrument in writing under my hand and seal, hereunto annexed, particularly describes and ascertains

the nature of the said invention, and the manner in which the same is performed "]; and I make this declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act, made and passed in the session of parliament, held in the fifth and sixth years of the reign of his late Majesty King William the Fourth, intituled, "An Act to repeal an Act of the present session of parliament, intituled, 'An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the state, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits,' and to make other provisions for the abolition of unnecessary oaths."

A. B.

Declared at , this day of , A.D. .

Before me,

A Commissioner to administer oaths in Chancery in England, or justice of the peace.

59. *Petition and declaration must be accompanied by specification.*— The petition and declaration must be accompanied by either a provisional specification or a complete specification, at the option of the inventor. A provisional specification need only give the general principle of the invention, but it must be stated with sufficient distinctness to enable the law officer to whom it is referred to judge of the nature of the improvements discovered, and of the manner in which they are to be carried into effect. The inventor will then have an interval of six months for maturing his invention, and may introduce into his complete specification any im-

provements or development not inconsistent with the title, or with the principle enounced in the provisional specification.

60. *Reference to be endorsed on the petition.* — The following is to be endorsed on the petition: —

"Her Majesty is pleased to refer this petition to [*name of law officer,*] to consider what may be properly done therein."

61. *Form of provisional specification:* —

No. .

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

Dated this day of A.D.

[*To be signed by applicant or his agent.*]

It will be for the inventor to judge whether it will be most to his interest to content himself with a provisional specification or proceed at once to a complete specification; by following the former course he will have abundant leisure to perfect his discovery, by adopting the latter he will be able the sooner to bring it into commercial operation, a point worthy of consideration, since the six months of provisional protection form part of the term for which the patent is granted.

62. *Form of complete specification.*—To all to whom these presents shall come:

I of send greeting:

Whereas I am in possession of an invention for (*here insert title*) and have petitioned Her Majesty to grant unto me, my executors, administrators, and assigns,

Her Royal Letters Patent for the same, and have made solemn declaration that I really believe myself to be the first and true inventor thereof: *Now* know ye that I, the said do hereby declare that the following complete specification under my hand and seal, fully describes the nature of my said invention and the manner in which the same is to be performed (that is to say):—

[*Here insert description*]

Dated this day of A.D.

[*To be signed by applicant or his agent.*]

The drawing up of the complete specification is an operation which requires the utmost care, skill, and attention on the part of the person undertaking so delicate a duty, for the validity of the patent will depend on this document being clear, explicit, and circumstantial. Few inventors will venture to assume a task which is calculated to try the capacity and experience of the most able professional man. "In the specification, the invention must be accurately ascertained and particularly described; it must be set forth in the most minute detail. The disclosure of the secret is considered as the price which the patentee pays for this limited monopoly, and therefore it ought to be full and correct (for the benefits thus secured to him are great and certain), in order that the subject of his patent may, at its expiration, be well known, and that the public may reap from it the same advantages as have occurred to him."—*Godson on Patents*, ch. iv.

In the case of mechanical inventions, drawings are almost always necessary, but they are merely intended to illustrate the description so as to make it more

clearly understood; but the law requires that the specification itself should be so explicit that any one acquainted with the subject should be able to carry out the invention without any other aid. Want of sufficient exactness in this respect would therefore be a ground for invalidating a patent.

63. *Reference to law officer* (*either Attorney or Solicitor-General for England.*) — Having complied with the requirements of the Act in all these respects, the application is then referred to one of the law officers (practically either the Attorney or Solicitor-General for England), and if he is satisfied with the accuracy and propriety of the description, he grants a certificate of protection for six months, which is generally published in the *London Gazette* on the Friday after.

64. *Notice to proceed to be on 5l. stamp, and made two months before end of provisional protection.* — The next step is the notice to proceed, which must be on a 5*l.* stamp, and be deposited at the office at least two months before the expiration of the six months' protection. This is usually published in the ensuing Tuesday's *Gazette* accompanied by a notice; "that all parties having an interest in opposing such application are at liberty to leave particulars in writing of their objections to such application, at the office of the Commissioners within twenty-one days after the date of the *Gazette* in which the notice is issued." Should no opposition appear within this period, application may be made for the warrant for letters patent. This must be done at least twelve days before the protection expires. The warrant will be issued in due course.

65. *Form of warrant.* — In humble obedience to Her Majesty's command referring to me the petition of of to consider what

may be properly done therein, I do hereby certify as follows: — That the said petition sets forth that the petitioner [*here follow the allegations of the petition*] and the petitioner prays [*prayer of the petitioner*]:

That in support of the allegations contained in the said petition, the declaration of the petitioner has been laid before me, whereby he solemnly declares that [*here follow the allegations of the declaration*]:

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

That it appears that the said application was duly advertised:

Upon consideration of all the matters aforesaid, and as it is entirely at the hazard of the said petitioner, whether the said invention is new or will have the desired success, and as it may be reasonable for Her Majesty to encourage all arts and inventions which may be for the public good, I am of opinion, that Her Majesty may grant her Royal Letters Patent unto the petitioner, his executors, administrators, and assigns, for his said invention within the United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man [*colonies to be mentioned if any*], for the term of fourteen years, according to the statute in that case made and provided, if Her Majesty shall be graciously pleased so to do, to the tenor and effect following:

[*See next Form.*]

Given under my hand this day of

A. D. .

66. *Form of letters patent:* —

"Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith; to all to whom these presents shall come, greeting:

"Whereas hath by his petition humbly represented unto us that he is in possession of an invention for , which the petitioner conceives will be of great public utility: that he is the true and first inventor thereof; and that the same is not in use by any other person or persons, to the best of his knowledge and belief. The petitioner therefore most humbly prayed that we would be graciously pleased to grant unto him, his executors, administrators, and assigns, our royal letters patent for the sole use, benefit, and advantage of his said invention, within our United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man [colonies to be mentioned, if any], for the term of fourteen years, pursuant to the statutes in that case made and provided:

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

"And we being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioner's request: Know ye, therefore, that we, of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the

said , his executors, administrators, and assigns, our especial licence, full power, sole privilege and authority, that he, the said , his executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as he the said , his executors, administrators, or assigns, shall at any time agree with, and no others, from time to time, and at all times hereafter during the term of years herein expressed, shall and lawfully may, make, use, exercise, and vend his said invention within our United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, in such manner as to him, the said , his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet; and that he the said , his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention, for and during the term of years herein mentioned; to have, hold, exercise, and enjoy the said licences, powers, privileges, and advantages, hereinbefore granted or mentioned to be granted, unto the said , his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years from the day of , A.D. , next and immediately ensuing, according to the statute in such case made and provided; and to the end that he the said , his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit, and the sole use and exercise of the said invention, according to our gracious intention hereinbefore declared, we do by these presents,

for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within our United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man [*colonies to be mentioned, if any*], that neither they nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said as aforesaid, nor in any wise counterfeit, imitate, or resemble the same, nor shall make nor cause to be made, any addition thereunto or subtraction from the same, whereby to pretend himself or themselves, the inventor or inventors, devisor or devisors thereof, without the consent, licence, or agreement of the said , his executors, administrators, or assigns, in writing, under his or their hands and seals, first had and obtained in that behalf, upon such pains and penalties as can and may be justly inflicted on such offenders for their contempt of this our royal command, and further to be answerable to the said , his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned.

And, moreover, we do, by these presents, for us, our heirs and successors, will and command, all and singular the justices of the peace, mayors, sheriffs, bailiffs, constables, headboroughs, and all other officers and ministers, whatsoever of us, our heirs and successors, for the time being, that they or any of them do not, nor shall at any time during the said term hereby granted, in anywise molest, trouble, or hinder the said

, his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention or anything relating thereto: Provided always, and these our letters patent are and shall be upon this condition, that if, at any time during the said term hereby granted it shall be made to appear to us, our heirs or successors, or any six or more of our or their privy council, that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said is not the true and first inventor thereof within this realm as aforesaid, these our letters patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding. Provided also that these our letters patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said , his executors, administrators, or assigns, or any of them to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use, exercise, and benefit thereof. It being our will and pleasure that the said , his executors, administrators, or assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practise their several inventions by them invented and found out, according to the true intent and meaning of the same respective

letters patent and of these presents. Provided likewise, nevertheless, and these our letters patent are upon this express condition [that if the said shall not particularly describe and ascertain the nature of his said invention, and in what manner the same is to be performed, by an instrument in writing under his hand and seal, and cause the same to be filed in within calendar months next, and immediately after the date of these our letters patent;] [and also if the said instrument in writing, filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed;] and also if the said , his executors, administrators, or assigns, shall not pay or cause to be paid at the office of our commissioners of patents for inventions, that is to say, the sum of 50*l.* stamp duty, before the expiration of three years from the date hereof, and also 100*l.* stamp duty before the expiration of seven years from the date of these our letters patent, and produce these our letters patent stamped with a proper stamp to these amounts respectively, pursuant to the provisions of the Act of the sixteenth year of our reign, chapter v.; and also if the said , his executors, administrators, or assigns, shall not supply or cause to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same; that then, and in any of the said cases, these our letters patent, and all liberties and advantages

whatsoever hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof 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 , his executors, administrators, and assigns, that these our letters patent, on the filing thereof, shall be in all and by all things, good, firm, valid, sufficient, and effectual in the law according to the true intent and meaning thereof, and shall be taken, construed and adjudged in the most favourable and beneficial sense for the best advantage of the said , his executors, administrators, and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors, in our United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man [*colonies to be mentioned if any*], and amongst all and every the subjects of us, our heirs and successors, whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducting and belonging. In witness whereof we have caused these our letters to be made patent, this day of , A.D. , and to be sealed and bear date as of the said day of A.D. , in the year of our reign."

67. *The specification.* — Should the applicant have preferred in the first instance to file a provisional specification, his next step will be the complete specification. Great stress has already been laid on the

necessity for the utmost circumspection in drawing up this document. The following is the form of the

SPECIFICATION.

To all to whom these presents shall come:—

I, of send greeting:

Whereas her most excellent Majesty Queen Victoria, by her Royal Letters Patent bearing date the day of A.D. , in the year of her reign, did for herself, her heirs and successors, give and grant unto me the said , her special licence, that I the said , my executors, administrators, and assigns, or such others as I the said , my executors, administrators, and assigns, should at any time agree with, and no others, from time to time, and at all times thereafter during the term therein expressed, should, and lawfully might make, use, exercise, and vend, within the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man [*the colonies to be mentioned if any*], an invention for [*insert title as in letters patent*] upon the condition (amongst others) that I, the said , by an instrument in writing under my hand and seal, should particularly describe and ascertain the nature of the said invention, and in what manner the same was to be performed, and cause the same to be filed in within calendar months next, and immediately after the date of the said Royal Letters Patent: now know ye, that I, the said , do hereby declare the nature of my said invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement (that is to say);

[*describe the invention*].

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

[*Signed by the applicant.*]

This will complete all the proceedings necessary for obtaining a patent in cases where no opposition is made. The laws and regulations relating to opposition, as well as to disclaimers and memoranda of alterations, are contained in instructions Nos. 17, 18, 19, 20, 22, 23, 49.

Patentees are reminded that unless before the expiration of the third year a further sum of 50*l.*, and before the expiration of the seventh year a further sum of 100*l.* be paid at the Patent Office, the letters patent will become void.

68. *List of void and lapsed patents published.*—The commissioners of patents publish lists of all patents which, for whatever cause, may lapse and become void.

CHAP. V.

A CHAPTER OF CAUTION.

We cannot close these instructions to the aspirant for patent privileges without addressing a few words of caution to him.

It has been calculated that not more than 3 per cent. of all patents taken out become lucrative to their owners. Now, without altogether endorsing this assertion, it may safely be affirmed that, in speculations of this description, the blanks are very far more numerous than the prizes. Many inventions possessing great scientific merit cannot by any possibility become of much commercial value, and it is a matter of doubt whether in the case of chemical discoveries and other contrivances which can be carried into effect in absolute secrecy, it be prudent to patent them at all. The most successful patents are generally those which fall into the hands of persons already engaged in trades which have some relation to them, and some inventions would perhaps be equally productive although unprotected by the patent seal. Again, admitting the merit of the invention, it must be borne in mind that this is only one of the three elements essentially necessary for success in a commercial point of view: the other two being sufficient pecuniary means and those habits of business without which all such enterprises must fail. Let not, therefore, the inventor grudge to the capitalist and the man of business a large share of the anticipated profits.

The inventor is warned to be cautious of expending his funds on the cost of provisional protection, unless he sees his way clear to being able to complete his patent without the assistance of strangers. The six months' probation slip rapidly away, and then, if unable to complete the patent himself, he finds himself obliged either to give extravagant advantages in return for the required funds, or to lose his invention altogether.* Many valuable secrets have become public property through the inability of the patentee to pay for complete protection. The present patent law, indeed, though a great improvement on the old, is still very defective, if patents are to be regarded as a means of reward to the inventor as well as of advantage to the public. Generally speaking, the latter gets much the best of the bargain. The inventor is still unnecessarily and immoderately taxed beyond the amount sufficient to defray the expenses of the Patent Office. It would appear that the Belgian tariff is the most equitable, which makes the first payment almost nominal, the annual payment progressively increasing according as the invention becomes commercially advantageous.

The inventor must also make up his mind, should his invention prove valuable, to meet with much unhandsome and unscrupulous opposition. Holes will be attempted to be picked in his patent; his rivals will seek to show that the invention is by no means new; some will unblushingly pirate his contrivance, and even venture into court on the hope of availing themselves of the glorious uncertainty of the law and the proverbial fickleness and gullibility of juries. Capitalists already

* See note at end of chapter.

in possession of the field must be contended against and public prejudices overcome. Therefore, when he has secured his patent, the inventor must gird up his loins for war.

Finally, he is warned not to repose confidence in puffing patent agents. In a matter of such serious importance and delicacy the inventor ought at least to show as much caution as he would if his health or his circumstances should require him to apply to the doctor or the lawyer, and, as he would avoid, in these emergencies, the quack and the pettifogger, so, he is earnestly cautioned to beware of yielding his trust to the puffing patent agents. These *cheap-Jacks* are the disgrace of the profession and the scourge of the poor inventor; they are plausible, insidious, and mendacious, they cannot afford to be honest, some are not to be entrusted with the funds for making the necessary payments, many are ignorant and inexperienced, and not one can resist the temptation of leading his client into heavy and useless expense for the sake of the profit which he, at least, is sure to derive from the transaction. Let it be remembered that no special training or education, no examination or other guarantee of competence or responsibility are necessary to enable a man to dub himself a patent agent, and to assume a trust, the performance of which especially requires honesty, skill, and experience.

The inventor will have no difficulty in finding well-established, skilful, and honourable agents, in whom full confidence may be reposed, and whose reputation is a sufficient guarantee that they will not be influenced in giving their advice by considerations which would be sure to tempt the needy adventurer.

The object of this book is not to make every man

his own patent agent, though a careful perusal of it would enable any one to perform the legal acts necessary without assistance. Few inventors, however, possess the indispensable qualities of tact, skill, and experience requisite to enable them to forego the help of a professional agent. But the book will have performed its work if it enlighten the inventor on the propriety of taking out a patent, if it instruct him in the privileges and obligations of a patentee, and if it enable him to check and control the agent in the performance of his arduous and delicate duty.

NOTE.—An important question has arisen as to whether it be possible, under the present law, to obtain a valid patent for an invention in the event of the patent not being completed within the six months of provisional protection accorded by law. On this point a difference of opinion prevails amongst the most eminent patent counsel and agents, and no decision of a court of law has hitherto been given on the question. In the meanwhile, numerous patents have been taken out in this category, inventors relying for their validity on the ground that the *actual publication* does not take place till the expiration of the six months, and that, consequently, a second application for a patent, before the expiration of the period of provisional protection, is lawful. Of course any publication made by the patentee himself would be an effectual bar to the validity of the new patent. A declaratory law to set this question at rest is very desirable.

CHAP. VI.

BRITISH COLONIAL PATENT LAW.

VICTORIA.

(Act 20 Vict. No. 3.)

1. PATENTS for fourteen years may be granted for new inventions, the applicant to deposit at the office of the chief secretary an instrument under his hand and seal, a particular description of his invention, with a copy of the instrument, and of drawings, if any, by doing which, he obtains six months' protection, with the privilege of letters patent for that period. The specification may be amended during the six months.

2. The specification is to be on skins of parchment, written on both sides, 21 inches long by 15 broad, with a margin of an inch and a half on each side. The drawings may be on larger sheets of parchment, with a margin of an inch and a half. The copies of specification and drawings are to be on sheets of paper of the same size as the parchment.

3. After making a deposit of these documents, he is to give notice at the chambers of the Attorney or Solicitor-General, of his intention to proceed for a patent, stating the title of the invention, and date of deposit, and produce at the same time the certificate of the deposit. The law officer is then to give the applicant an appointment in due form, which he is to publish in the Government Gazette, and in some Melbourne newspaper, and twice in some newspaper pub-

lished at or near where the applicant uses the invention or resides.

4. In case of caveats of opposition being entered, the law officer may hear objections and award costs. He may then, if he think proper, issue letters patent, which will confer the usual privileges with remedies at law, subject to cancelment on non-fulfilment of the conditions, &c. The letters patent are to be issued by the chief secretary within three months after the law officer's warrant and during the protection; but if the sealing has been delayed by accident, and not by the wilful neglect of the applicant, it may be done within one month after the expiration of the protection with the sanction of the governor.

5. Letters patent for invention made elsewhere than in Victoria, only to remain in force during the period of the original patent.

6. Disclaimers may be made and an extension of the original term of a patent may be had, provided the applicant can prove to the governor that he has not derived sufficient remuneration from his invention. Application for extension must be made six months before the expiration of a patent, and are to be submitted to commissioners appointed by the governor.

7. A register of patents is to be kept with disclaimers, and memoranda of alterations duly indexed, open to public inspection.

8. English patents, after Dec. 31, 1857, to be subject to this Act, but those previously granted are to be valid.

Form of Application for Patent.

I, of [*state address and profession*] send greeting. Whereas, I am desirous of

obtaining Royal Letters Patent for securing unto me Her Majesty's special licence, that I, my executors, administrators, and assigns, and such others as I or they should at any time agree with, and no others, should, and lawfully might, from time to time, and at all times during the term of fourteen years (to be computed from the day on which this instrument shall be left at the office of the chief secretary), make, use, exercise, and vend within the colony of Victoria and its dependencies, an invention for [*insert the title of the invention*]; and in order to obtain the said letters patent, I must, by an instrument, in writing, under my hand and seal, particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and must also enter into the covenant hereafter contained. Now know ye, that the motive of the said invention and the manner in which the same is to be performed is particularly described and ascertained in and by the following statement, that is to say [*describe the invention*]. And I do hereby, for myself, my heirs, executors, and administrators, covenant with Her Majesty, her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, and that I do not know, or believe, that any other person than myself is the true and first inventor of the said invention, and that I will not deposit these presents at the office of the chief secretary with any such knowledge or belief as last aforesaid.

In witness, &c.

Schedule of Fees.

	£	s.	d.
On depositing specification	2	10	0
To the law officer for any "appointment" .	2	4	6
On obtaining letters patent	2	10	0
At or before the expiration of the third year .	15	0	0
At or before the expiration of the seventh year	20	0	0
To the law officer with particulars of objections	2	4	6
On presenting petition for extension or confirmation	2	10	0
Every search and inspection	0	1	0
Entry of assignment or licence	0	10	0
Certificate of assignment or licence . . .	0	10	0
Filing memorandum of alteration or disclaimer .	2	10	0
Entering any caveat	2	10	0
Copy or extract of any writing per common law folio	0	1	0

NEW SOUTH WALES.

(Act assented to Dec. 6th, 1852.)

1. The governor may grant letters of registration for patents for not less than seven, nor more than fourteen years.

2. The applicant for patents is to deposit 20*l.* sterling with the colonial treasurer, and then present a petition to the governor, setting forth that he is the author or designer of a certain invention, or his agent, or his assignee; stating the particulars of the invention, and that he has deposited the patent fee with the colonial treasurer. The petition is then to be referred to one or more competent persons, and their report being favourable, the letters of registration may be granted, the same to be registered within three days at the supreme court on pain of nullity.

CANADA.

Patent laws for Canada were enacted by the 12 Vict. c. 24, and 14 and 15 Vict. c. 79 of the Canadian Parliament.

1. Any British subject residing in Canada may obtain a patent for the exclusive property of any new and useful invention made by him for fourteen years, such patent not to be void because the whole or any part thereof might have been previously known in some foreign country, unless the same had been patented and described in some printed publication. But an original and true inventor is not to be deprived of his patent right because he may have taken out letters patent for the same in a foreign country, if it shall have been published within six months preceding the filing of his specification and drawing.

2. A patent may be granted to an assignee for an invention, the original inventor of which shall have previously duly assigned and entered his discovery, the application being made and the specification duly and solemnly declared by the inventor.

3. Duplicate drawings are to be sent with the specification, one to be deposited at the office of the colonial secretary, and the other to be annexed to the patent.

4. When a patent becomes inoperative from inadvertency, accident, or mistake, and not through fraudulent or deceptive intention, a new patent may be issued for the residue of the term, the original patent being surrendered.

5. When a patentee has made his claim too broad he may disclaim any part of the invention not really his own. Such disclaimer is to be attested by a witness

and registered, and thenceforward is to be considered part of the original patent.

6. Additions may be made to patented inventions, which will be subjected to revision and restriction in the same manner as original applications.

7. Extension of a patent for seven years beyond the original fourteen years may be had on the report of a board, consisting of the president of the Executive Council, the Attorney-General for the part of the province where the applicant resides, and the Inspector-General, that he has not derived from his invention, during the first term, sufficient remuneration. The petition for extension must be presented six calendar months before the expiration of the original patent.

8. Persons having purchased, discovered, or constructed machines or other inventions prior to the application for a patent therefor, may use the same, but this does not invalidate the patent.

9. Patents for works of art and designs may be had for not more than seven years.

10. Patentees shall stamp on the patented article the date of the patent on pain of fine or imprisonment or both.

11. The right of patent in Canada does not extend to any invention made in the United States or in any part of British America.

12. Specifications are to be made in the usual manner; they are to be accompanied by drawings, and if necessary by a model; they are to be examined by the Attorney or Solicitor-General previously to granting the patent.

13. In cases of interfering, applications are to be adjudicated by three skilful persons, one chosen by each of the applicants, the third by the secretary of the

province or person appointed by him to perform that duty.

14. The fee for a patent in Canada is 5*l.* currency, to be paid on presenting the petition. Copies of papers are to be paid for at the rate of 1*s.* for every seventy-two words, and a further sum of 10*s.* for affixing the great seal to the copy of exemplification of any patent.

15. Travellers may import and patent inventions they may have learned in their travels, but this right does not extend to the United States nor to British dominions in Europe or America.

16. By the Act of the 16 Vict. c. 11, a bureau of agriculture is constituted, the head of which is to be called minister of agriculture, and is to replace the colonial secretary with respect to the granting custody on registration of patents.

INDIA.

An Act of 1856, No. 6, was passed by the Legislative Council of India, for giving exclusive privileges to inventors, but as this had not received the previous sanction of the crown, it was repealed by Act IX. of 1857.

A new Act received the royal sanction on the 19th March, 1859, of which the following is an analysis.

1. The word invention is to include an improvement, and the word manufacture is to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture. (*Cl.* 38.)

2. The inventor of any new manufacture may petition the Governor-General of India in Council for leave to file a specification. The petition must be in writing, signed by the petitioner, or in case of his absence from

India, by his authorised agent, and shall state the name, addition, and place of abode of petitioner, and the nature of the invention. (*Cl.* 1.)

Form of Petition.

To the Governor-General of India in Council.

The petition of [*here insert name, addition, and place of residence*], for leave to file a specification under Act No. .

Showeth,

That your petitioner is in possession of an invention for [*state title of invention*], which invention he believes will be of public utility; that he is the inventor thereof [*or, as the case may be, the assignee, or the executor or administrator of the inventor*]; and that the same is not publicly known or used in India or any part of the United Kingdom of Great Britain and Ireland, to the best of his knowledge and belief.

The following is a description of the invention [*here describe it*].

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provision of Act No. .

And your petitioner, &c.

The day of

[Signed].

On such petition the Governor-General may make an order authorising the petitioner to file a specification.

2. Before making such order the Governor-General in Council may refer the petition to any person or persons for inquiry and report, a fee for which is to be

paid, the amount of which, in case of dispute, to be settled by one of the courts of judicature in a summary manner. (*Cl.* 3.)

3. On obtaining such order the petitioner may, within six months, cause a specification of his invention to be filed, and having done so, he and his legal representatives shall have a right to the exclusive use, &c., of his invention for fourteen years, and for a further term of not exceeding fourteen years, should the Governor-General in Council so direct upon petition from inventor presented not more than a year nor less than six calendar months before the expiration of the first period of privilege. (*Cl.* 4.)

4. The order may be made subject to such restrictions as the Governor-General in Council may think expedient. (*Cl.* 5.)

5. The specification shall be in writing, it shall be signed by petitioner, and shall particularly describe the nature of the invention, and in what manner the same is to be performed. (*Cl.* 6.)

6. The petition and specification shall be left with the Secretary to the Government of India in the Home Department, and each petition and specification shall be accompanied by a declaration in writing in the following forms: —

Form of Declaration to accompany Petition.

I, [*name, addition, and place of residence*], do solemnly and sincerely declare that I am in possession of an invention for [*title*]; that I believe the said invention will be of public utility; that I am the inventor thereof [*or the assignee, or executor, or administrator of the inventor*], and that the same is not publicly known or used in India or in any part of the United Kingdom of

Great Britain and Ireland to the best of my knowledge and belief, and that, to the best of my knowledge and belief, my said invention is truly described in my petition for leave to file a specification thereof.

The day of

[Signed].

Form of Declaration to accompany Specification.

I, [*name, addition, and residence*], do solemnly and sincerely declare that I am in possession of an invention for [*nature of invention*]; which invention I believe will be of public utility; that I am the inventor thereof [*or the assignee, executor, or administrator of the inventor*], and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief, and that to the best of my belief the instrument in writing under my hand herewith annexed particularly describes and ascertains the nature of the said invention, and in what manner the same is to be performed.

The day of

[Signed].

If the inventor be absent from India the petition and specification are to be accompanied also by a declaration from the agent to the effect that he verily believes that the declaration was signed by the inventor and that the contents are true. The agent's declaration is to be in similar form to that of the inventor, and the date of delivery of the petition and specification is to be endorsed on them and recorded at the office of the secretary. Any false statement in such declaration is punishable as perjury. (*Cl.* 7 and 8.)

FORM OF DECLARATION BY AGENT WHEN AN INVENTOR IS ABSENT FROM INDIA.

I, , of , do solemnly and sincerely declare that I have been appointed by the said , his agent, for the purpose of ; and I verily believe that the declaration purporting to be the declaration of the said , marked ( ), was signed by him, and that the contents thereof are true.

The day of

[Signed].

The fees under the Act, and also the fees (if any) of the person to whom the petition may have been referred, must be paid before filing the specification. (*Cl.* 9.) No fee is mentioned in the Act, the only stipulation being that the petition for the original grant of exclusive privilege or for its extension must be written on stamped paper of the value of 100 rupees (10*l*). (*Cl.* 37.)

7. On delivering the specification for filing, five copies are to be delivered to the Secretary, one to be filed at the office of the Government Secretary, Bengal, one to be sent to the Government Secretary, Fort St. George (Madras), one to the Government Secretary Bombay, and the fifth to the Government Secretary of the north-west provinces. A copy of such specification is to be open to public inspection on payment of one rupee. A registry book is also to be kept by the Secretary to the Government of India, containing the petitions, specifications, and orders duly numbered with reference to every act relating thereto, and to every petition, memorandum, or amended specification. Such

book is to be open to public inspection on payment of one rupee, and copies may be had on payment of the expense of copying. (*Cl.* 10, 11, and 12.)

8. Certified copies are to be *primâ facie* evidence. (*Cl.* 13.)

9. Should an error be discovered in a petition or specification, or should it be proved that the invention was not wholly new, or that the specification was in any respect defective or insufficient, the inventor may petition the Governor-General in Council for leave to file a memorandum pointing out the defect discovered and disclaiming any part of the invention, or in case of any defect or insufficiency of the specification, for leave to file an amended specification. The petitioner must state how the error occurred, and that it was not fraudulently intended, and the petition must be accompanied by a declaration signed by petitioner, or by his agent should he be absent from India, stating that the contents of the petition are true to the best of his knowledge and belief. The Governor-General in Council may then make an order allowing such memorandum or amended specification to be filed. The regulations in instruction 7 are applicable to such petitions, orders, and memorandas or amended specifications. Except as regards such heading at the time of filing, the amended specification is to have the same effect as the original specification, but it shall not enlarge the exclusive privilege acquired. (*Cl.* 14.)

10. No exclusive privilege is obtained if the invention is useless; if not new; if the petitioner was not the inventor; if the specification does not truly and particularly describe the invention, and if the original or any subsequent petition shall contain a wilful or fraudulent mis-statement. (*Cl.* 15.)

The privilege will also cease if declared by the Governor-General in Council mischievous to the state or prejudicial to the public, or if a breach of any special condition be proved to the satisfaction of any court of judicature. (*Cl.* 16.)

11. The importer of an invention into India must also be the actual inventor. (*Cl.* 17.)

12. A foreigner, whether resident abroad or not, may petition for leave to file a specification. (*Cl.* 18.)

13. An invention shall be deemed new if not publicly used in India or the United Kingdom before the application for privilege, or if it have not been published in a book. Nor shall public use be a bar to the privilege if obtained surreptitiously or in fraud of the inventor or through breach of confidence, provided

inventor within six months after such public use

ply for leave to file a specification, that he shall not have acquiesced in such previous public use. The public use of an invention by the inventor, his servants or agents for a period not exceeding a year before the date of the petition shall not be deemed a public use within the meaning of the Act. (*Cl.* 19.)

14. An inventor having obtained letters patent in the United Kingdom may, within twelve calendar months from the date of the letters patent, petition the Governor-General for the exclusive privilege in India. He must state in his petition that such letters patent have been granted, with the date and term during which they are to be in force. The Indian privilege will cease in case of the revocation of the original letters patent, and shall not exceed the original term unless the same be renewed. (*Cl.* 20.)

Form of Petition.

That your petitioner [*or that A. B., of whom your petitioner is the assignee, or executor, or administrator*] has obtained Her Majesty's Letters Patent, dated the day of for [*title of invention*], and that such letters patent are to continue in force for years, that your petitioner believes that the said invention is not now and has not hitherto been publicly known or used in India.

The following is a description of the invention [*here describe it*].

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. .

And your petitioner, &c.

The day of .

[Signed].

15. An action for infringement may be maintained in the principal court of original jurisdiction in civil cases, within the local limits of whose jurisdiction the cause of action shall accrue, or the defendant shall reside. (*Cl.* 22.)

16. A defect in the specification, want of novelty in the invention, or the fact of wilful mis-statement in a petition or specification, cannot be pleaded by the defendant, nor can he allege that the plaintiff was not the inventor unless he can show that he, the defendant, was the inventor, or that he had obtained a right from the inventor to use the invention. But the action may be defended on the ground that the invention was not new, if the defendant or some person through whom he claims shall have publicly used the invention in India

or the United Kingdom before the date of the petition for the privilege. (*Cl.* 23.)

Any person may apply to any court of judicature for a rule to show cause why the court should not declare an exclusive privilege has not been properly acquired on the following grounds: that the invention is of no utility; that the invention was not new at the time of presenting the petition; that the petitioner was not the inventor; that the specification does not particularly describe the invention, or how it is to be performed; that the petitioner has fraudulently included in the petition or specification something not new or of which he was not the inventor; that the original or subsequent petition or specification contains a wilful or fraudulent mis-statement, or that some part of the invention or the manner of performing it as described, is not sufficiently described, and that such defect or insufficiency was fraudulent and is injurious to the public. (*Cl.* 24.)

A like application may be made by reason of any of the following objections (to be specified in the rule): that such part of the invention is wholly distinct from the other part and is of no utility; or that at the date of the petition it was not a new invention; that the petitioner was not the inventor of that part of the invention, or that the part was not fully described in the specification, the defect being injurious to the public. (*Cl.* 25.)

The Advocate-General may also raise the question of the abrogation of the privilege on account of any breach of the special provisions. (*Cl.* 26.)

Notice of any rule obtained or proceedings taken must be served on all persons appearing to have shares or interests in the exclusive privilege. (*Cl.* 27.)

The Supreme Court may direct issue for trial in other courts, or for a new . (*Cl.* 28.)

17. Should any court of judicature find that a petition or specification included something not new, or that the specification was in any way defective, the error or deficiency not having arisen through fraudulent intention, and that the error may be amended without detriment to the public, the court may order the specification to be amended, and the petitioner or his legal representative shall within the period decreed by the court file an amended specification accordingly. (*Cl.* 30.)

18. A mis-statement in a petition if not fraudulent does not vitiate the privilege. (*Cl.* 31.)

19. When a privilege is declared by judgment of a court wholly or in part null, the Secretary of the Government shall cause entry thereof to be made in the register-book. (*Cl.* 32.)

20. If within two years from the date of the original petition the actual inventor shall prove to the satisfaction of the court that the petitioner was not the inventor, that the knowledge of the invention was obtained surreptitiously, or in fraud, or through breach of confidence, the court may compel the petitioner to assign the right to the actual inventor, and account to him for the profits of the invention. (*Cl.* 33.)

21. In an action for breach of exclusive privilege the plaintiff shall deliver with his plaint the particulars of the breaches complained of, and the defendant deliver a written statement of his grounds for believing that the plaintiff is not entitled to an exclusive privilege. In like manner the applicant in the cases described in instruction 16 shall deliver statements of the objections on which he means to rely, no evidence being admitted

on trial not contained in such particulars. The places where it is alleged the invention had been previously publicly used must be stated. The court may allow plaintiff or defendant to amend such particulars. (*Cl.* 34.)

The Secretary to the Government shall keep a book (open to inspection without fee) in which the grantee of an exclusive privilege or his assign shall state some place in India where service of any rule or proceeding, for the purpose of revoking the privilege, may be entered, and shall cause a reference to such entry to be made in the margin of the entry of specifications, substituting any other place in India from time to time. The place named shall be deemed the proper place for serving a copy of such rules or proceedings, the same to be delivered to any person resident at or in charge of such place, or if no one be resident there, or the place be beyond the jurisdiction of the court, the service may be made by a registered letter directed to such person at such place. If no such entry be made in the book, service may be made by affixing a copy in some conspicuous part of the court house, or in such manner as the court shall direct. (*Cl.* 35.)

22. The Act 6 of 1856 is to apply to all petitions and specifications filed under its provisions previously to its repeal by the Act 9 of 1857, the term of privilege under such Act to be extended until the expiration of fourteen years from the date of the present Act (19th March 1859). No exclusive privilege obtained by an importer not being the actual inventor under the 16th section of the Act shall be invalid if put into effect in India within two years from the passing of the present Act.

CHAP. VII.

FOREIGN PATENT LAWS.

UNITED STATES OF AMERICA.

THE following is an abstract from the rules and directions issued by the commissioner of patents for public use; they are founded on the laws of the 4th July, 1836, 3rd March, 1837, 3rd March, 1839, 29th August, 1842, 27th May, 1848, 3rd March, 1849, and 3rd March 1851.

1. Any person, whether citizen or alien, may obtain a patent for any novel invention or improvement made by him. (See Act of 1835, sect. 6, 7, and Act of 1843, sect. 3.)

2. The assignee of an *entire* invention may have a patent granted directly to him, but should the original inventor retain a portion to himself, a patent cannot be issued to him and others. (Act of 1837, sect. 6.) Joint inventors are entitled to a joint patent, but neither can claim one separately. In case of the death of an inventor the patent will issue to his legal representative. (Act 1836, sect. 10.)

3. Patents will not be granted when the whole or any part of the invention claimed as new shall have been previously patented or described in any printed publication in the United States or elsewhere, or if it has been previously invented in the United States, or if the inventor shall have abandoned his

invention to the public, or allowed it to be in public use for two years. But the mere fact of invention abroad will not invalidate the invention, unless the invention had been there patented or described in some printed publication. (Act 1836, sect. 6, 7, 15, Act 1839, sect. 7.)

4. The invention must not be a mere idea of an improvement, but must have been reduced to a practical form, either by the construction of the machine or a model, or full drawing of it, or some other full description, so that a mechanic would be enabled to construct therefrom a model of it.

5. To obtain a patent the original inventor, if living, must apply, although the patent is to issue to his assignee; but in case of death the application may be made by the administrator of deceased. The application must be in writing, signed by the applicant and addressed to the commissioner.

Usual Form of Application.

(To be varied according to circumstances.)

The petition of [*name*], of [*county or city*], in the [*state of*],

Respectfully represents:—

That your petitioner has invented a new and improved mode of [*here insert the title*], which he verily believes has not been known or used prior to the invention thereof by your petitioner. He therefore prays that Letters Patent of the United States may be granted to him therefore, vesting in him and his legal representatives the exclusive right to the same upon the terms and conditions expressed in the Act of Congress in that case made and provided; he having

paid dollars into the treasury, and complied with the other provisions of the said Act.

[Signed].

6. With the above application a specification of the invention must be given, which, avoiding prolixity, must contain a full, clear, and exact account of it, so as to enable a person skilled in the art or science to which the invention appertains to put it into operation, designating the part or parts claimed as new. If claimed as a mere improvement that fact should be clearly stated, and if substantially differing from some other invention with which it appears coincident, the difference should be distinctly pointed out. Two or more separate machines cannot be the subject of one patent. The drawings (if any) must be described in the specification by figures, sections, and letters of reference. The specification must be signed by the inventor in presence of two witnesses.

SPECIFICATION.

To all whom it may concern:

Be it known that I, , of , in the county of in the state of , have invented a new and improved mode of, or a new and useful machine for, or a new and useful improvement on [*title*], and I do hereby declare that the following is a full and exact description thereof, reference being had to the accompanying drawings and to the letters of reference marked thereon.

The nature of my invention consists in [*here insert the description, and conclude with the claim, which should describe the nature and character of the inven-*

tion, and identify the parts claimed separately or in combination]. If the application be for a machine such should be clearly described, and if for an improvement the parts claimed as such should be clearly pointed out, the original invention being disclaimed, and the claim confined to the improvement.

6. The applicant must then make oath or affirmation to the following effect.

OATH.

On this day of 185 before me, the subscriber personally appeared the within named and made solemn oath (or affirmation) that he verily believes himself to be the original and first inventor of the mode herein described for [*title*], and that he does not know or believe the same was ever before known or used, and that he is a citizen of the United States.

Signed, A. B.
Justice of Peace.

7. If the applicant be an alien who has resided a whole year in the United States, and has taken the oath prescribed by law for becoming naturalised in that country, the fact must be stated in the oath, and if not residing in the States nor intending to be naturalised, the oath must be modified accordingly. It may be taken before any person authorised by law to administer oaths. If taken in a foreign country, it may be taken before any minister, consul, or commercial agent of the United States, or before a public notary, being attested in all cases by the proper official seal.

8. The drawings (if any), which must be in duplicate,

should be in perspective, neatly executed, and such parts as cannot be shown in perspective must be represented in plans, sections, or details. They should be from eighteen to nineteen inches from top to bottom, not less than thirteen, nor more than twenty-five across, unless more space is necessary to exhibit the invention clearly. One of the drawings must be on stiff drawing-paper, and the other, which is to be attached to the patent, should have a margin of at least one inch on the right hand side, and be made of a material to bear folding and transportation. The drawings must be signed by applicant and attested by two witnesses.

9. A model (a working model if possible) must be furnished for each patent. It must be neatly and substantially made and of durable material, not more than one foot in length or height, except where special permission shall be obtained from the office. Models filed in cases of litigation should also, as far as practicable, conform to these requirements. If made of soft wood they should be painted, stained, or varnished. The name of the inventor, and (if assigned) of the assignee must be permanently fixed thereto.

10. When the invention is a composition, a specimen of the materials and of the composition must accompany the application, with the name of the inventor, &c., permanently affixed.

11. The collector of the ports of Portsmouth, N. H., Portland, Burlington, Providence, Boston, Hartford, New York, Philadelphia, Baltimore, Richmond, Savannah, New Orleans, Detroit, Buffalo, Cleveland, and the surveyor at St. Louis, Chicago, Cincinnati, and Louisville are appointed agents to forward to the office models, specimens, and manufactures. The cost of transportation will only be defrayed by the office when

sent through these channels. The models thus sent must also conform in size to the above regulations.

12. All cases at the Patent Office are arranged in classes, and taken in the order of their respective applications. But when a foreign patent has been taken out, or where an invention is deemed of peculiar importance to some branch of the public service, the case may, at the request of the head of some department of the government, be taken out of its order.

13. A specification can only be amended when it does not correspond with its drawing or model. Likewise the drawing or model may be amended to make it correspond with the specification. And where any substantial change is made by describing or representing in the specification a new invention not included as a portion of that originally described in the specification, a second affidavit must be made to the specification as amended, attested by witnesses. Where the change is considerable the case may be placed at the foot of the list.

14. After examination and allowance of a claim no alteration will be permitted in the character of the invention without a withdrawal of the case and the filing of a new application, or, if the patent be granted, an application for a re-issue, or for an additional improvement, as the case may require.

15. The business may be transacted by correspondence or by attorney. All correspondence must be addressed to the commissioner.

16. After decision, the office retains the original papers. The applicant may have copies at the usual expense.

17. When the patent is granted it will be transmitted to the patentee or to his attorney if fully authorised.

18. If, when an application is rejected, the applicant relinquishes his claim, he must notify his withdrawal, and send a receipt for two-thirds of the fee paid, which will be then returned. The model and papers will be retained at the office, but he may have back the duplicate drawing if he desires it. This right of withdrawal does not extend to applications for a design, or for a reissue or additional improvement.

Form of Application for Withdrawal.

To the Commissioner of Patents.

Sir,—I hereby withdraw my application for a patent for [*title of the invention*], now in your office, and request that dollars may be returned to me, agreeably to the provision of the Act of Congress authorising such withdrawal. [*Signature, address, and date.*]

Form of Receipt.

Received of the Treasurer of the United States, per [*name*], Commissioner of Patents, dollars, being the amount refunded on withdrawing my application for a patent for [*title of the invention*]. [*Signature, address, and date.*]

19. Parties withdrawing money are particularly to state whether it is to be payable to their order at the office or remitted by mail.

20. When caveats have been filed, withdrawals can be made as in other cases, and two-thirds of the fee will be refunded at any time previous to the renewal of the oath.

21. No application upon which a patent has been

ordered to issue shall be retained in the secret archives of the office more than six months from the date of the order of issue. The request to have the application placed in the secret archives must be made by the patentee or his assignee of all the interest therein in writing, and filed by the chief clerk before the patent shall be recorded.

22. A case once rejected, the applicant may have a second examination by renewing his oath, either with or without an alteration of the specification. The alteration must be in accordance with Instruction 11. After thus applying for a second examination no withdrawal can be allowed.

23. After a second rejection the applicant may bring the case before the Commissioner in person, and still further may appeal to one of the judges of the circuit court of the district of Columbia.

24. Notice of appeal must be given to the Commissioner, and applicant must, within such time as the Commissioner shall appoint, file his reasons for appeal and pay a sum of twenty-five dollars. Blanks for notice to appeal, the reasons of appeal, the petition and copies of the appellant's judge's rules will be forwarded on request.

25. When each of two or more persons claims to be the first inventor of the same thing an "interference" is declared between them, and a trial is had before the Commissioner. Nor does the fact that one of the parties has already obtained a patent prevent such interference, for though the patent cannot be cancelled, the Commissioner may, if he finds that another person was the prior inventor, give him also a patent, thus placing him on an equal footing before the courts and the public.

26. On declaration of an interference a day will be

fixed for closing the testimony and a further day for hearing the cause. Previously to this latter day the arguments of counsel must be filed, if at all.

27. Should either party desire a postponement of the day for closing the testimony or the day of hearing, he must, before such day, show by affidavit a sufficient reason for such postponement.

28. A reissue may be granted to a patentee or his assigns where the patent is invalidated through inadvertency, accident, or mistake, the general rule being that whatever is really embraced in the original invention, and so described and shown that it might have been embraced in the original patent, may be the subject of a reissue.

29. A modification of a patent, so as to include an additional improvement, is allowed to the original patentee only, and when such improvement has been made *subsequently* to the issuing of the patent.

30. In each of the above cases the modified patent expires at the same date as the original.

31. In case of reissue separate patents may be had for distinct parts of the thing patented on paying the additional fees and fulfilling the other requirements of the law.

32. On application for reissue the claim is subjected to re-examination, and may be revised and restricted, but the patentee, after such decision, may retain the original patent on abandoning his claim to the reissue.

FORMS FOR REISSUES.

Surrender of a Patent.

TO THE COMMISSIONER OF PATENTS.

The petition of [*name and address*].

Respectfully represents:

That he did obtain letters patent of the United States for [*title of invention*], dated , that he now believes that the same is inoperative and invalid by reason of a defective specification, which defect has arisen from inadvertence and mistake. He therefore prays that he may be allowed to surrender the same, and requests that new letters patent may issue to him for the same invention for the residue of the period for which the patent was granted under the amended specification herewith presented, he having paid fifteen dollars into the treasury of the United States, agreeably to the requirements of the Act of Congress in that case made and provided. [*Signature.*]

OATH.

[*City, county, and state*] ss.

On this day, before the subscriber, a personally appeared the above-named , and made solemn oath (or affirmation) that he verily believes that, by reason of an insufficient or defective specification, his aforesaid patent is not fully valid and available to him, and that the said error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, to the best of his knowledge or belief.

[*Signed.*]

Addition of New Improvements.

To the Commissioner of Patents.

The petition of [*name and address*].

Respectfully represents:

That your petitioner did obtain letters patent of the United States for [*title of patent*], which letters patent are dated on the , and that he has since that date made certain improvements in his said invention, and that he is desirous of adding the subjoined description of his said improvements to his original letters patent, agreeably to the provisions of the Act of Congress in that case made and provided, he having paid fifteen dollars into the treasury of the United States, and otherwise complied with the requirements of the said Act.

[*Signature.*]

33. A specification and claim should then follow substantially as in the case of an original application. In the oath, instead of swearing to citizenship, the applicant should state as follows:—"And that such improvement was made subsequent to the date of his aforesaid patent."

34. Formerly, as in England, a patent became invalid if it included in its claim any invention already known. Though this is not now the case, the necessity for a disclaimer is manifest.

Form of Disclaimer.

To the Commissioner of Patents.

The petition of [*name and address*].

Respectfully represents:

That he did obtain letters patent of the United States, or has by assignment, duly recorded in the Patent Office become the owner of a right for [*mention the nature of such right, whether total or partial, as the case may be*], [*title of the invention*], dated , that he has reason to believe that, through inadvertence or mistake, the claim made in the specification of said letters patent is too broad, including that of which the said patentee was not the first inventor. Your petitioner, therefore, hereby enters his disclaimer to that part of the claim in the afore-named specification, which is in the following words, to wit: — [*here insert the portion intended to be disclaimed*], which disclaimer is to operate to the extent of the interest in said letters patent vested in your petitioner, who has paid ten dollars into the treasury of the United States, agreeably to the requirements of the Act of Congress in that case made and provided.

[*Signature.*]

35. The Commissioner has power to extend a patent for a further term of seven years from the date when it would expire, to justify which the two following questions must be decided in the affirmative. 1st. Was the invention new and patentable when originally patented? 2nd, Has the patentee, without fault or

neglect on his part, failed to derive a reasonable remuneration for the merit displayed in his invention? The applicant should file his petition for an extension, and pay the fee three months prior to the expiration of his patent. A patent once expired cannot be renewed.

36. The applicant for extension must furnish a statement on oath of the ascertained value of his invention, and of the receipts and expenditure. It should be given in detail, and filed within thirty days after filing the petition.

37. An opponent to an extension must file his reasons at least twenty days before the day of hearing, and also give notice to the applicant of his intention to oppose.

38. Patents for designs must be applied for according to the same rules as for patents, but can only be given to citizens of the United States or to aliens who, having resided there a year, have taken an oath of their intention to become citizens.

39. The taking out of a patent in a foreign country does not prejudice a patent previously obtained in the United States, nor does it prevent obtaining a patent there subsequently. It will only extend for fourteen years from the date of the foreign patent. For this reason applications for such are taken out of their regular order, and as soon as the application is completed. The applicant should (temporarily) file in the office the foreign patent with the specification, provisional or complete, attached, or a sworn copy; should these papers be not obtainable, he may make affidavit of his inability to procure them, and of the fact that a foreign patent has already been obtained, giving the date and clearly showing that the invention so patented covers the whole ground of his present application. If an alien neglects to put his invention on sale within eighteen

months from date of patent, and to continue it on sale at a reasonable price, his patent ceases to protect him.

40. Caveats are only granted to citizens or aliens making oath of their intention to become such (as in Instruction 36). The effect of a caveat is to give to the caveator, within one year after filing it, the right to have notice sent him of any person applying for a patent for the same invention, so as to enable the caveator to go into interference in order to prove the priority of his invention and to obtain the patent should that fact be proved. He may renew his caveat at the end of a year by paying the caveat fee, and so on from year to year as long as he desires. The caveat need not contain a complete specification, but must be sufficiently precise to enable the office to judge of its merits comparatively with any subsequent claim. In his petition for caveat the caveator states the nature of his invention, and adds that he is then engaged in making experiments for the purpose of perfecting the same preparatory to applying for letters patent.

41. Patentees, or their assignees, must affix the date of the patent on each article offered for sale under penalty of not less than 100 dollars, and parties not authorised affixing the name of a patentee to any article, or representing as patented an unpatented article, are liable to a like penalty.

42. An inventor may assign his entire right before patent is obtained, so as to entitle the assignee to take out patent in his own name, but the assignment must first be recorded and the specification sworn to by the inventor. In the case of a foreigner the same fee is due as if the patent had been issued to the inventor.

43. After (but not before) the granting of a patent, the patentee may assign his rights over it for any spe-

cified portions of the United States. It should be recorded within three months from date, and will only protect the assignee against any one purchasing after the assignment is placed on record.

Form of Assignment of entire Interest in Letters Patent before obtaining the same, and to be recorded preparatory thereto.

Whereas, I, [*name and place of residence*], have invented [*title of invention*], and whereas [*name and address of assignee*], has agreed to purchase from me all the right, title, or interest which I have or may have in and to the said invention in consequence of the grant of letters patent therefor, and has paid to me the said , the sum of dollars, the receipt of which is hereby acknowledged. Now this indenture witnesseth, that for and in consideration of the said sum to me paid, I have assigned and transferred, and do hereby assign and transfer to the said , the full and exclusive rights to all the improvements made by me, as fully set forth and described in the specification which I have prepared and executed preparatory to the obtaining of letters patent therefor. And I do hereby authorise and request the Commissioner of Patents to issue the said letters patent to the said , as the assignee of my whole right and title thereto, for the sole use and behoof of the said , and his legal representatives.

In testimony whereof I have hereunto set my hand and affixed my seal this day of 18 . .

[*Signed.*]

Sealed and delivered in the presence of two witnesses.

When the assignment is made after the issue of the patent or only for a particular state, territory, county, or town, the form of assignment must be varied accordingly.

Table of Fees to be paid in Advance.

	Dollars.
For every application for a design	15
For every caveat	20
For every application for a patent made by a citizen or by a foreigner who has resided in the United States one year, and made oath of his intention to become a citizen	30
For every application by a subject of Great Britain .	500
For every application by any other foreigner . .	300
For every filing of a disclaimer	10
For every application for adding a new improvement .	15
For every application for a reissue	15
For every additional patent granted for a reissue .	30
For every application for an extension	40
For every appeal	25
For every copy of a patent or other instrument, for every 100 words, 10 cents.	
For every copy of drawings, the cost of having it made.	
For recording every assignment of 300 words or under	1
For recording every assignment of over 300 and not over 1000 words	2
For recording every assignment over 1000 words . .	3

44. Fees should be paid to an assistant-treasurer or other authorised officer, and his certificate of receipt transmitted to the office. Otherwise the money may be remitted by mail at the risk of the owner, the accompanying letter stating the exact amount sent. In case of deposit with an assistant-treasurer, &c., a duplicate receipt should be taken, detailing such particulars as may enable the depositor to recover the twenty dollars in case of the withdrawal of a petition.

Form of Certificate of Deposit.

The Treasurer of the United States has credit at this office for dollars in specie, deposited by , of , the same being for [*state the name of the patent or object for which the money is deposited*].

[*Signed.*]

45. The following officers are authorised to receive patent fees: — The Assistant-Treasurers at Boston, New York, Charleston, St. Louis; the Treasurer of the Mint, Philadelphia; the Surveyor and Inspector at Pittsburg; the collectors at Baltimore, Richmond, Norfolk, Buffalo Creek, Wilmington, Savannah, Mobile, and San Francisco (California); the Treasurer of the Branch Mint, New Orleans; the Surveyors of the Customs at Nashville and Cincinnati; the Receivers of Public Moneys at Little Rock (Arkansas), Jeffersonville (Indiana), Chicago and Detroit, and the Depositary, Tallahassee (Florida). Only specie can be received. If sent by mail it must not be enclosed in models.

46. All correspondence must be in the name of the Commissioner of Patents, and all letters addressed to him. When an agent has filed his power of attorney, the correspondence will, generally speaking, be confined to him. Likewise the assignee of an invention is corresponded with to the exclusion of the inventor. The inventor if dissatisfied must revoke his power of attorney, and notify the office, which will then communicate with him. All correspondence must be free of postage.

47. All claims and specifications must be written in a clear and legible hand, without erasures, except such as are notified in a marginal or foot-note. Every paper must be endorsed, so as to show its general character on the outside, with the date when filed. But if several papers filed at the same time be permanently attached together, one filing will suffice.

48. Amendments of specifications must be made on sheets of paper separate from the originals, and filed as above directed. When amendments are required, the papers themselves are generally returned to the applicant; but it is only to enable him to make those amendments harmonise with the context. Even where the amendment consists in striking out a portion of the specification or other paper, the same course should be observed. No erasure must be made. The papers must remain for ever just as they were when filed.

Forms of Amendment of Specification.

I hereby amend my specification by inserting the following words after the word in the line of the page thereof.

Or,

I hereby amend my specification by striking out the line of the page thereof,

by striking out the first and fourth claims appended thereto, or otherwise, as the case may be.

49. All papers returned to the applicant for amendment must be punctually restored to the office for

preservation, together with the amendments. In some cases amendments will be allowed by writing out the entire paper anew, but even when this is done the original paper must be returned and preserved. A receipt will be taken for all papers withdrawn from the office. The party entitled to control the case must file a written request to withdraw papers, and before so doing all erasures and interlineations must be carefully noted, so as to prevent the possibility of any change taking place undetected.

50. No specification will be received unless attached by a tape to the affidavit, both ends of which tape must be secured by the seal of the officer who administered the oath. The officer must have subscribed his name on each separate sheet of paper, so as to show that the specification presented is the same that was subscribed and sworn to, and care will be taken to prevent signatures to specifications and other documents from being detached from the originals and applied to other papers.

51. On the rejection of an application for patent for want of novelty, the applicant will be furnished with references to the cases on which the rejection was made, with a brief explanation of the cause of rejection. Applicants may have a copy of the cases referred to, or of plates or drawings connected with them, on paying for the same.

52. If applicant feels able to remove the objections, he may by himself or agent come before the proper examiner between two and three P.M. any Monday, Wednesday, or Friday of the week, to make his explanations, or he may forward his reasons in writing. On a second rejection he may bring the matter before the Commissioner, that the case may be heard by him or a

board of examincrs. Beyond this, appeal must be made to a court of law.

53. Besides cavents, which are required by law to be kept secret, all pending applications are, as far as practicable, preserved in like secrecy. No information will be given to parties inquiring in the above cases. But information may be had when patents are issued or after the granting of them has been refused and the application for them abandoned. The models in such cases are open to general inspection, and specifications and drawings in any particular case may be examined. Copies may be had on payment of bare expense. If on parchment an extra charge will be made.

54. Even after rejection of a case, the application is regarded as pending until after decision of an appeal, or until the case is withdrawn from the consideration of the office. But in case of a rejection an applicant is considered finally to have abandoned his claim if two years elapse without further steps being taken, so far as that he will no longer be protected by any rule of secrecy. Abandonment is also presumed where a specification is withdrawn from the office and retained by applicant for six months. In such cases the specification, drawings, and model will be open for inspection.

55. In cases of interference pending between two parties, each is entitled to a knowledge of so much of his antagonist's case as may enable him to conduct his own understandingly. And where rejection is founded on another case rejected, but not withdrawn or abandoned, the rejected applicant will be furnished with all information necessary for a proper understanding of his own case. In application for a certain device, should such be found already *described* but not *claimed*, in another pending application previously filed, informa-

tion of the filing of such second application is always given to the prior applicant, with a suggestion, that if he desires to claim a patent for such device, he should forthwith modify his specification accordingly. But when the application thus describing a device without claiming it is subsequent in date to that whence such device is claimed, the general rule is that no notice of the claim in the previous application is given to the subsequent applicant.

56. All business with the office should be in writing. Unless by consent of all parties the action of the office will be predicated exclusively on the written record.

CHAP. VIII.

FOREIGN PATENT LAWS (*continued*).

FRANCE.

THE patent law originated in France in 1762. The present law on patents (*brevets d'invention*) was passed in the reign of Louis Philippe (5 July, 1844), modified by the Ministerial Circular of the 26th Dec. 1854. Its principal regulations are as follows:—

1. A patent may be obtained for any new discovery in the arts and manufactures, or any new application of known means for obtaining a result or an industrial product.

2. Pharmaceutical compositions or remedies of any kind, and plans and combinations on credit and finance, are not patentable.

3. The duration of a patent is fixed at five, ten, or fifteen years, at the option of the applicant; but as the payment is fixed at 100 francs a year, and can be discontinued at the will of the applicant, it is usual to ask for the longest term of fifteen years. Should the annual payment not be made on or before the day of the date of the patent in any year, the patent will lapse.

4. The applicant must deposit at the office of the Secretary of the Prefect of the Seine (*au Secrétariat de la Préfecture*), or in the provinces at the Departmental Prefectures, a sealed packet, containing the following

documents, which must be in the French language, and without alterations or interlineations; any words erased must be counted, and verified with the initials of the applicant and references to the pages; and when stating weights or measures those only must be employed which are decreed by the law of the 4th July 1837 : —

1. A letter to the Minister of Agriculture and Commerce containing a request for a patent.
2. A description of the discovery, invention or application forming the subject of the patent.
3. A duplicate of the same.
4. The drawings or patterns necessary for understanding the description.
5. A duplicate of the same.
6. A list of the above documents.

5. The request for a patent must be limited to one principal object, with its constituent details and proposed application.

6. It shall mention the number of years for which the patent is solicited, and contain neither restrictions, conditions nor reserves.

7. It shall indicate by a title the summary and precise designation of the object invented.

8. The drawings must be traced in ink according to a metrical scale.

9. All the documents must be signed by the applicant or his agent. An agent must be authorised by a written power of attorney. This power ought, according to the regulations, to be legalised, but in practice this is not required.

10. Besides the sealed packet containing the above documents, the applicant must hand in a receipt for 100 francs, being the first year's payment of the patent

tax. The Paris office at which these payments are to be made is that of the Receveur Central, Rue Neuve des Mathurins, No. 36.

11. These requirements fulfilled, the applicant receives a certificate stating the day and hour of depositing the documents. The patent commences from this date.

12. The documents are then transmitted by the Prefect to the Minister of Agriculture and Commerce, and the patent is returned to the applicant in regular order. The patent consists in a decree of the Minister declaring the regularity of the patent, accompanied by one of the copies of the description and drawings duly certified.

13. The patent is delivered at the risk of the applicant, and without guarantee from the government either as to the reality, the novelty, or the merit of the invention, or the accuracy of the description.

14. Should the patent be lost, or for any reason a new one be required, the applicant will be charged 25 francs for a new copy, with an additional charge for drawings.

15. In cases of informality, the petition for a patent will be rejected and half the sum paid be forfeited to the state; but if a proper application be made within three months of this rejection the whole amount will be taken to account of the new application.

16. Should the rejection be grounded on the fact of the invention being a pharmaceutical preparation, &c., or a project on credit or finance (see Instruction 2), the whole sum deposited will be returned.

17. Every three months a list of all patents granted is published in the official journal, the *Moniteur*.

18. The term of a patent cannot be prolonged.

19. During the term of a patent the inventor may apply for a certificate of addition by means of which any alteration or improvement becomes incorporated with the patent and expires with it. The fee for this is 20 francs, which must be paid in the same manner and accompanied by the same formalities as in the original application. But should the applicant desire that the duration of the patent privilege for such additions should be for five, ten, or fifteen years he will have to pay the fees as for an original patent.

20. No one except the original patentee or his representative can, during the first year of the invention, take out a patent for improvements thereon. Nevertheless any one may make application for the same, which application shall remain under seal, with the Minister of Agriculture and Commerce, till the expiration of the year, when the seal shall be broken and the patent delivered unless the original patentee shall have made application during the year for the same improvements.

21. Patentees may assign their patents wholly or partially, and either gratuitously or for a consideration. Such assignments must be made by a notarial act, and after payment of the whole fee as for a new patent. No assignment will be valid until registered at the prefecture of the department in which the notarial act shall have been made. The registration of assignment and all other acts of transfer shall be made on the production of an authentic extract of the assignment. A copy of the certificate of assignment, &c. is to be transmitted to the Minister of Agriculture and Commerce within five days from date. The Minister is to keep a register of such assignments, which shall be published every three months in the *Moniteur*.

22. In case of certificates of addition having been

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obtained either before or after assignment, whether by the patentee or the assignee, both parties are to have the advantage of them. Persons having an interest in them may obtain a copy of the certificates on payment of 20 francs.

23. The descriptions, drawings, &c. of patents expired or unexpired, may be inspected at the prefecture of the department in which they are granted, and copies may be obtained by payment according to their extent.

24. At the commencement of every year a catalogue of the titles of all patents granted in the preceding year shall be published.

25. The law provides that after payment of the second year's fee the descriptions and drawings of patents shall be published either in whole or in part, and copies thereof and of the catalogues deposited for gratuitous public inspection at the office of the Minister of Commerce, and of the secretary of the prefecture of each department; but specifications are not printed as in England.

26. Foreigners may obtain patents in France on the same conditions as natives, except that patents thus obtained shall expire at the same date as those granted in the foreign country from which they come.

27. The following are the cases in which a patent becomes void.

Want of novelty. No subject is considered new, if already so published, either in France or abroad, as to be capable of being put into practice.

The subject coming under the heads of Instruction 2.

Being merely a principle and not showing an industrial application.
Being contrary to public order or morality.
A fraudulent title indicating something not contained in the invention.
Want of a sufficient description to enable a person conversant with the subject to put it into practice.
If contrary to Instruction 18.
If the yearly fee be not paid before the expiration of the current year.
If not put into practical operation in France within two years, or if it shall cease to be used for two consecutive years, unless such omission can be sufficiently justified.
If the patentee introduces into France the patented article made in any foreign country.

28. Persons publishing unpatented articles, or those of which the patent has expired as patented, or who shall not add the words, *without the guarantee of the government*, shall be liable to a fine of from 50 to 1000 francs, the fine being doubled in case of repetition of the offence.

29. Actions for the nullification of a patent may be brought in the usual courts of law, according to Art. 405 of the Code de Procedure Civile, and may be either in the name of an individual or of the public prosecutor, according as the ground of action be private or public. When a patent is thus annulled the fact is to be made public by advertisement in the *Moniteur*.

30. Persons infringing the rights of a patentee, or introducing into the country, for sale, counterfeit objects,

will be liable to a penalty of from 100 to 2000 francs, and in case of repetition of the offence they may be condemned to from one to six months' imprisonment in addition to the fine. Workmen in the employ of a patentee giving information to enable others to infringe a patent may be proceeded against as accomplices. But the fine and imprisonment may be diminished in certain cases according to Article 463 of the Penal Code.

CHAP. IX.

FOREIGN PATENT LAWS (*continued*).

BELGIUM.

(The patent law of Belgium is contained in the royal decree, dated 14th May 1854, amended slightly by the decree dated 27th March 1857.)

1. AN exclusive privilege for twenty years is to be obtained under the title of patent of invention, of improvement or of importation for any new discovery applicable to industry or commerce. This grant is at the sole risk of the applicant, the government giving no guarantee either of its novelty or merit, and is without prejudice to the rights of other parties.

2. The fee payable for each patent is progressive, as follows:—first year 10 francs; second year, 20 francs; third year, 30 francs, and so on to the twentieth year, when the fee will be 200 francs. The fees are to be paid annually in advance, and in no case can be reimbursed. No fee is payable on patents of improvement when granted to the original patentee.

3. The rights secured by a patent are similar in their nature to those of England and France, with remedy in the courts of law for infringement.

4. The inventor of a discovery already patented abroad may obtain, by himself or agent, a patent of importation into Belgium, but its duration is not to exceed the term of the foreign patent previously granted.

5. A patent of improvement may be had for alterations in an article already patented terminable at the same date as the original patent. If obtained by any other person except the proprietor of the original patent the improvement can only be used with his consent. Reciprocally the proprietor of the original patent can only use the improvements with the consent of the new patentee.

6. The applicant for a patent, or his agent, must make application to one of the provincial governments of the kingdom, or at the office of one of the district commissioners, if situated at a distance from the chief town of the province. To this application must be added in a sealed envelope —

1. A specification of the objects invented.
2. The drawings, patterns or specimens necessary to understand the specification.
3. A duplicate certified as being in conformity with the specification and drawings.
4. A list of the objects deposited.

All these documents must be signed by the applicant or his agents.

7. A receipt showing that the first year's fee of 10 francs has been paid, must be deposited with the above.

8. The application must be on stamped paper, and contain the christian and surname of the inventor, his profession, and his address, real or elected, in the kingdom, and it must express the object of the invention distinctly and concisely. It must be confined to one principal invention with its details and applications. If a patent of importation it must state the duration of the original patent and the country where granted. An agent must produce a power to act. (The decree says that this be in due legal form, but the practice is not to

require that the power be legalised by notaries, magistrates, or consuls.)

9. The specification must be in French, Flemish, or German, and if not in French with a French translation. When the inventor is not resident in Belgium, the specification should be without interlineation or erasure, and any words interlined or erased should be counted, certified, and the pages and references indicated. The specification must be clear and distinct, and conclude with a summary of the matter of which it consists.

10. The drawings should be in ink, to a metrical scale, properly indicating the invention in plan, sections and elevations, and the parts which contain the invention patented should be of a different colour to the rest.

11. A statement must be drawn up and signed by the applicant and the registrar of the provincial government, or by the commissioner of the district, containing the day and hour of the deposit and the title of the invention, the inventor's christian and surname, calling and address, or those of his agent. If a patent of importation that fact must be mentioned, with the date and duration of the patent in the country where it originated, and the name of the patentee. This document must also contain an acknowledgment of the payment of the first annual fee, and be attached to the packet containing the specification and drawings. A copy gratis will be given to the applicant.

12. The offices for registration of patents are open daily from 10 to 2.

13. A register of all documents secured at the offices will be open to public inspection at the office of the Minister of the Interior.

14. In case of omissions or irregularity of form,

rectifications may be made and a note of such alterations mentioned in the register.

15. A certificate of the Minister of the Interior will be given to the applicant without delay stating that the prescribed formalities have been complied with. This certificate will constitute his patent right. The first copy will be given gratis, but all others must be paid for.

16. Summaries of the patents are to be published by government three months after they are granted, but should parties wish their patents to be printed at length, they must give a month's notice and deposit the cost.

17. At the end of three months, specifications will be open to public inspection, and copies may be had on payment.

18. Transfer of patents will be registered on payment of a fee of 10 francs.

19. If the annual fee is not paid within one month of its falling due, patentees shall, after notice given them, and within six months, under penalty of losing their patent rights, pay a sum of 10 francs besides the annual fee then due.

20. Patents must be put into operation within one year on penalty of forfeiture, but the government have the power to prolong this term for not more than one year longer. The patent will also be forfeited should the invention be used in foreign countries and cease to be used in Belgium during one year, unless good cause can be shown for such inactivity.

21. Patents will also become void for the following causes:—

If previously in use in Belgium for commercial purposes.

If the patentee has intentionally omitted to describe his process correctly.

If the process be already described in any printed book, unless the patent be one of importation.

If declared null by a court of law.

The same applies to patents for improvements.

22. All patents and other documents relating thereto shall be published in the Patent Journal, a paper devoted that purpose.

CHAP X.

FOREIGN PATENT LAWS (*continued*).

THE NETHERLANDS.

(The Dutch patent law is that of the 25th January, 1817.)

1. PATENTS are granted for an invention or an essential improvement in any branch of arts or industry, whether invented in the country or imported from abroad. The invention must be novel, and the patent is granted without prejudice to the rights of other parties. They are granted for five, ten or fifteen years. Those for five or ten years may be prolonged to fifteen. Application for prolongation is to be made to the Commissioner-General of Instruction, Arts, and Sciences.

TARIFF.

For five years, 150 florins, or 12*l.* 10*s.*
For ten years, 300 florins, or 25*l.*, or 400 florins, 33*l.* 6*s.* 8*d.*, according to the importance of the invention or improvement.
For fifteen years, 600 florins, or 50*l.*, or 750 florins, or 62*l.* 10*s.*, according to the importance of the invention or improvement.
Transfer or acquisition of a patent by inheritance, 9 florins, or 15*s.*

2. Patents for imported inventions are only to be in force as long as the original foreign patent.

3. Patents give to patentees similar rights and remedies at law to those granted under the Belgian law.

4. Application must be by petition stating general

object of the invention, giving applicant's name, domicile, &c., naming the term for which the patent is demanded, with an exact and detailed specification under sealed cover annexed with the necessary drawings, &c. These shall be published at the expiration of the patent unless the government shall for important reasons postpone such publication.

5. Patents may be annulled if the applicant shall intentionally have omitted part of his secret or made a false specification; if the invention has already been described in a printed publication; if the invention be not worked in the country within two years from date of patent (unless reasons be assigned satisfactory to the government); whenever patentees obtain afterwards patents abroad for the same invention, and whenever the invention by its nature or application endangers public safety. In case of the annullation of patents a proportionate part of the tax is to be refunded to the patentee.

6. Patentees making improvements in their inventions may obtain a new patent for using them either for the duration of the original patent, or for one of the terms of five, ten, or fifteen years, the same formalities being required for such patents as for the original. The tax will be in proportion to the term granted for the enjoyment of the new patent and to the importance of the various means of improvement.

7. Other parties may have patents for improvements on patents, but cannot execute the principal invention during the term of the original patent, nor can the proprietor of the latter make use of improvements patented by other parties.

8. Patents may be assigned by authorisation from the king; such transfers to be registered at the record office of the province and a report made to the Com-

missioner-General of Instruction, Arts, and Sciences. Patents acquired by inheritance must also be registered at the record office of the province and reported to the Commissioner-General.

9. The Commissioner-General shall send patents of invention, importation, or improvement granted and signed by the King to the Governor of the province where the applicant resides, the patent to be delivered to applicant on his proving that he has paid to the Receiver of the province the tax fixed by the tariff.

10. Patents, certificates of licence and transfers shall be inscribed at a register office at the ministry of public instruction. The register is open to be consulted by applicants for patents.

CHAP. XI.

FOREIGN PATENT LAWS (*continued*).

DUTCH WEST INDIES.

(By ordonnance of the Governor-General, dated 4th July, 1844.)

1. PATENTS for inventions and improvements are granted whether made in the Netherlands or its colonies or imported from abroad.

2. Applications are to be made by petition to the Governor-General, accompanied by a clear and exact description in a sealed packet, signed and sealed with plans, drawings, &c.; such applications are to have annexed to them an engagement to keep the article constantly on sale within two years from the date of the patent. The applicant must likewise bind himself to take up the patent within three months from date, and pay the fees on pain of annulment.

3. The cost of a patent for

Five years is 150 florins (15*l.*)
Ten years is 300 to 400 florins (30*l.* to 40*l.*), according to the importance of the invention.
Fifteen years is 600 to 700 florins (60*l.* to 70*l.*), according to the importance of the invention.
Transfer or inheritance fee, 20 florins.

4. Inventions already patented in the Netherlands pay no other tax than the usual stamp duties.

5. Patents of importation are restricted in duration to the term of the original patents.

6. Notice of assignment or of inheritance must be given to the Governor-General.

7. The usual enjoyment of an invention is secured by a patent, with remedy at law. It becomes void in case of wilful concealment of any part of the invention; in case it has been previously described in any printed work; in case it is not put into operation within two years (of which fact the patentee is bound to produce good evidence within such two years); in case the patentee import the patented article, except from the Netherlands or their colonies; in case the article be not supplied at a moderate price; in case it be contrary to public safety, or in case it be assigned without proper form.

8. Patents may be published at the expiration of the term, and a registry is kept, open to the inspection of applicants for patents.

CHAP. XII.

FOREIGN PATENT LAWS (*continued*).

GERMANY.

THE ZOLLVEREIN.

THIS Union consists of Prussia, Bavaria, Saxony, Hanover, Wurtemberg, Dueal and Electoral Hesse, Baden, Saxe-Weimar-Eisenach, Saxe-Coburg-Gotha, Saxe-Meiningen, Hildburghausen, Saxe-Altenburg, Nassau, Dessau, Anhault-Bamberg, Anhalt-Cothen, Schwartzburg-Rudolstad, Schwartzburg-Sonderhausen, Hohenzollern-Hechengen, Hohenzollern-Sigmarigen, Waldeck, the two branches of Reuss, Hesse-Homburg, and Frankfort-on-Main.

By Convention dated 21st September, 1842, the following regulations respecting patents were agreed to, subject to which, each state remained at liberty to make such separate patent laws as the respective governments should deem proper:—

1. Inventions to be patented must be really new and peculiar, to the exclusion of all which are already put in practice, brought into the market, or in any way known within the Union, or which have already been described in any publications, whether at home or abroad. Each government is to be the judge of the novelty. An invention patented in one of the States of the Union can only be patented in another State by the original inventor or his assignee.

2. Improvements on an invention already patented

may obtain a patent, subject to the rights of the original patentee.

3. Patents are not to authorise their proprietors to import similar articles to those patented, to prohibit their sale, nor to prohibit the use or employment of such objects when they have been procured elsewhere without their consent, except in cases of machines and tools for industrial purposes.

4. But each government may grant exclusive patent for working or manufacturing an object within its dominions, so as that the patentee may prohibit the use of the patented process unless with his sanction.

5. Equal protection is granted to the subjects of the different States. But the granting of a patent by one does not imply that another may not refuse a patent for the same object.

6. A patent may be annulled if after it is granted the invention prove not to be new. But if the invention shall be proved, though known to private individuals to have been kept secret by them, the patent remains valid as regards the public; but has no effect as regards such individuals.

7. Patents, and other documents relating to them, in any State of the Union, are to be published in the official papers.

8. Complete lists of patents granted are to be interchanged at the end of every year.

CHAP. XIII.

FOREIGN PATENT LAWS (*continued*).

SAXONY.

(Ordinance 20th January, 1853.)

1. PATENTS for inventions really new and unknown within the States of the German Confederation, and details of which have not been given in any publication at home or abroad, may be obtained.

2. Medicines, cosmetics, food, including articles of luxury, intended for consumption, patterns, designs, and general scientific principles cannot be patented.

3. Patents for improvements on existing patents are subject to the rights of the original owners.

4. A foreigner applying for a patent must elect an agent living and naturalised in Saxony, and produce his consent. The latter will be considered the proprietor of the patent.

5. Patents may be transferred.

6. A patent for an invention already patented in one of the States of the Confederation will only be granted to the inventor or his assignee.

7. A patent does not extend to prohibit importation of similar articles, nor to the sale and disposition of the objects patented or their use, unless they be manufacturing processes, or machines, or tools for manufacturing purposes.

8. A person who already knew of an invention pre-

viously to its being patented is not affected by the patent.

9. A patent is originally granted for five years. It may be renewed for other five years by lodging at the Ministry of the Interior, within four weeks of the expiration of the patent, a request for renewal together with the original patent and the amount of the tax.

10. A patent must be put into operation within a year from date, unless good cause can be shown for the delay, when an extension of time is granted. If that cannot be done the tax is returned, after deduction of costs.

11. A patent becomes void if proved not novel, if the patentee shall have made a false statement respecting his nationality, if contrary to Instruction 6, if the invention be not fully described in the specification, and if not worked in Saxony within the limited time. A patent is not to be regarded as wanting in novelty, although it be proved that a few persons only had a knowledge of it.

12. Applications for the grant or extension of a patent must be made in writing, addressed to the Minister of the Interior, accompanied by a specification and drawings or models so distinct that any skilled person may work the invention by such instruction. The novel points must be clearly indicated. The tax No. 1 is to be paid at the same time. The applicant will then learn whether the application can be granted, and when he is to pay the tax No. 2. The payment is immediately followed by the announcement of the grant of the patent.

13. Patents and documents relating thereto are to be announced in the "Leipzig Gazette."

14. Patents are kept secret during their term.

Afterwards they are at the entire disposal of the Minister of the Interior.

15. TARIFF.

	Thalers.
1. On application for a patent, costs and fees . .	7½
2. On the grant of a patent for five years, stamp duties and tax	22½
3. On application for extension of time for working, stamp duties, fees, &c.	4
4. On application for extension of the patent for five years more, stamp duties, fees, tax, &c. . .	50

A thaler is about three shillings English.

Additional fees are charged in case the papers lodged should be found deficient, and all papers connected with patents must be stamped.

CHAP. XIV.

FOREIGN PATENT LAWS (*continued*).

PRUSSIA.

1. PATENTS for new inventions, or great improvements in existing inventions, and for imported inventions may be obtained.

2. Foreigners may obtain patents, but in order to exercise them they must obtain letters of naturalisation, or assign the patent to a Prussian subject, in whose name the patent is to be issued. Applications may be made directly at the Ministry of the Interior, or through the respective ambassadors. The cost will amount to 20*l.* and upwards.

3. Applications must be accompanied by a precise description and illustration by models, drawings, or writings, and, if possible, by all these three means. Applicants must state if the patent is required for the whole or only part of the kingdom, and for how long a period. Experts are to examine the applications, and report thereon to the Minister of Commerce and Public Works as to the object, the extent, and duration of the patent. This minister is to execute and deliver the patent, and to control the custody of models, drawings, and specifications. The shortest term for a patent is six months, the longest, fifteen years.

4. Announcements are to be made in the official and local papers of each province to which the patent extends, within six weeks after delivery of the patent,

stating its object, and referring to the specification deposited. These publications are now undertaken by the Government. The patent must be exercised within six months on pain of nullity.

5. Persons who can prove that they exercised the invention previously to or simultaneously with the grant of a patent to any other person are not affected thereby.

6. A patent does not prevent the same article made, according to the patent, abroad, from being imported into Prussia, unless the patent be for the exclusive use of a certain instrument, or for a mechanical apparatus for manufacturing purposes.

7. The mere application of a known process or apparatus to some other purposes than those to which it was hitherto applied is not patentable. Nor are inventions patentable which are already described in published works in German or in other languages.

CHAP. XV.

FOREIGN PATENT LAWS (*continued*).

BAVARIA.

UNDER the rules for the execution of the Organic Laws regulating trades, dated 17th December, 1853, patents may be granted in Bavaria on the following conditions:—

1. The object of the patent must be new and original, or must contain a new and peculiar feature, and must be of such importance as to give it a character of public utility. Patents of importation may likewise be had whilst the article patented is still protected by one patent abroad. Patents of importation must be accompanied by the letters patent previously obtained abroad or with a legalised copy. Imported patents must be worked within one year from date.

2. Articles already patented in another state of the Zollverein may only be patented by the original inventor or his assignee, provided the respective governments grant reciprocal advantages. A patent in Bavaria for articles patented abroad must have the sanction of the King. It will be limited in its duration to that of the original patent.

3. A patent is granted for a fixed term of fifteen years at most. If granted for a shorter period it may be prolonged on payment of the additional tax.

4. The patent is no guarantee to the patentee of the novelty or originality of his invention.

5. It can be annulled on the ground of want of novelty, want of proper description, when not worked within half the term or three years, or if interrupted for two years.

6. The petition for a patent must be addressed to the Minister of Commerce and Public Works, it must contain the Christian and surname of the applicant, his calling and place of abode, and, if a foreigner, those of his agent in Bavaria, the general, but characteristic designation of the invention, and must state the number of years for which the patent is demanded. The petition must be accompanied by a detailed, complete, and true description in German, or accompanied by a German translation, of the invention, with drawings, models, &c., when necessary. The specification may be open or under cover, at the option of the petitioner. The documents must be endorsed with the exact day and hour of the deposit, and a certificate to the same effect must be given to the petitioner. The application must always be accompanied with the amount of the tax and stamp duty of three florins. Where the specification is found defective it will be returned for correction.

7. Inferior courts receiving petitions for patents are to forward them immediately to the Minister of Commerce and Public Works.

8. Patents will be refused where the process is dangerous to the public safety or health, or contrary to the existing laws, and when it does not fulfil the conditions of Instruction 1.

9. Patents give the usual rights of exclusive use and remedies in the courts of law for infringement.

10. TARIFF.

	Florins.
For one year	25
For two years	30
For three years	40
For four years	50
For five years	60
For six years	70
For seven years	90
For eight years	110
For nine years	130
For ten years	150
For eleven years	175
For twelve years	200
For thirteen years	225
For fourteen years	250
For fifteen years	275

The florin is 1*s*. 8*d*.

11. Letters patent do not prohibit the importation of similar articles from abroad, unless the object of the invention be a new manufacturing process, machine, or instrument, in which case the letters patent are illimited.

12. Patents may be assigned and also transmitted by inheritance; but cannot be divided as to the rights inherent in them, or to the places where they are to be worked. Mutations must be declared within three months to the Minister of Commerce.

13. A register of all patents is to be kept at the Ministry of Commerce, and in every provincial chief town, and the inspection of it is open to all parties interested therein, and particularly to all petitioners for patents. Extinct patents are open to public inspection.

CHAP. XVI.

FOREIGN PATENT LAWS (*continued*).

HANOVER.

(Law of the 18th August, 1847.)

1. PATENTS may be granted for original inventions, for improvements on inventions already patented (subject to the rights of the original patentees), and for inventions imported from abroad, not already known in the kingdom.

2. Applicants for patents must give a precise, correct, and complete description of the object patented, with the necessary drawings or models, and, if possible, a pattern of the product. The petition is be addressed to the Minister of the Home Department, who is to submit the invention to competent judges as to its novelty and peculiarity.

3. Foreigners can only obtain patents on condition of carrying them out within the kingdom. Imported patents are only valid during the term of the original foreign patent.

4. A patent can be had for ten years at the utmost. One granted for a shorter period may be afterwards prolonged to the full period, but the prolongation must be published one year before the expiration of the original term.

5. Patents may be published after the delivery of the patent, and the specifications and drawings are open

to public inspection, copies of which may be had on paying the expense of making them.

6. Patents and documents relating thereto are to be published in the "Hanover Gazette."

7. In case of imported patents a legalised copy of the original foreign patent is to be produced.

8. The costs of letters patent are to be paid by the patentee.

NOTE.—No particular tax is fixed by the act.

CHAP. XVII.

FOREIGN PATENT LAWS (*continued*).

WURTEMBERG.

(General Regulations concerning Trades, revised on the 5th August, 1836.)

1. PATENTS for the invention of a new article, or of a means or process of manufacturing, likewise for the importation of inventions, are granted for ten years. An extension can only be obtained by legislative act.

2. Applicants must deliver a petition to the authorities of the district in which they reside or intend to carry on their works, with a complete and true specification, and the required drawings, models, or plans. Specifications must be under a sealed cover, not to be opened by the district authorities. The authorities are then to give to applicants a certificate stating the day and hour when the delivery took place, and forward the documents to the Minister of the Interior.

3. Specifications may be communicated to the legal authorities in cases of litigation, they may also be inspected when the last year of the privilege shall have been entered on, and in the case of imported patents when half the term shall have expired. The party applying to inspect must be a native and residing in the country, and prove that he has an interest in being made acquainted with the specification. He must also give a guarantee not to work the invention without consent during the term of the patent.

4. An annual tax of from five to twenty florins (1*s.* 8*d.* each) is to be paid during the term of the patent, the first payment on delivery of the patent, and the subsequent payments at the beginning of every year.

5. Patents may be transferred and pass by inheritance. They enjoy the usual exclusive rights with remedy at law.

6. Patents for Wurtemberg inventions protect their owners against the importation of the patented article. Owners of imported patents may claim damages only against those who counterfeit their patented article, or sell it, knowing it to be counterfeit, in the country.

7. Persons inventing an improvement on a patented article can only use the improvement, but not the remaining parts of the invention patented before. Original patentees cannot use improvements patented by others.

8. Patents may be annulled if proved not new, or if the article patented has been fully described in any published work previously to the date of the patent. But if an invention has only been used secretly, the patent remains valid as to the public, but does not affect those who had previously used it in secret.

9. Patentees practising concealment or misrepresentation in their specifications are liable to punishment for imposition.

10. Patents must be worked within two years of date, and the manufacture must not be interrupted for any two years on pain of nullity, unless good reason can be shown for the delay or interruption. It also becomes void if contrary to the existing laws.

11. Annulled and expired patents are open to public inspection, and the Government may publish them if deemed proper.

CHAP. XVIII.

FOREIGN PATENT LAWS (*continued*).

THE GRAND DUCHY OF BADEN

Has no special legislation respecting patents, but the Minister of the Interior grants privileges for inventions after examination as to their utility and novelty by a competent commission.

The fee is from forty to fifty florins (3*l.* to 4*l.*), and the duration of the privilege five and ten years.

PETTY STATES OF GERMANY.

In the following states there is no special legislation, but the respective governments grant privileges to inventors for the exclusive use or working of their inventions.

Anhalt-Dessau.
Anhalt-Bernberg.
Anhalt-Cothen.
Brunswick.
Bremen.
Frankfort.
Hamburgh.
Hesse-Cassel.
Hesse-Darmstadt
Hesse-Homburg.
Hohenzollen-Sigmarigen.
Lippe-Detmold.
Lippe-Schaumburg.
Lubeck.
Mecklenburg-Schwerin.
Mecklenburg-Strelitz.
Nassau.
Oldenburgh.
Reuss-Schleitz.
Reuss-Ebersdorf
Reuss-Greiz.
Sachsen-Altenburg.
Sachsen-Coburg-Gotha.
Sachsen-Meinengen.
Sachsen-Weimar-Eisenach.
Schwarzburg-Rudolstadt.
Schwarzburg-Sonderhausen.
Waldeck.

CHAP. XIX.

FOREIGN PATENT LAWS (*continued*).

GREECE.

ACCORDING to a law passed in 1843 the Government is empowered to grant privileges for inventions, subject to the approbation of the senate.

CHAP. XX.

FOREIGN PATENT LAWS (*continued*).

RUSSIA.

(Imperial Code, Vol. I. Book I. Part III. Ch. 3.)

1. PATENTS or privileges are granted for inventions and discoveries in arts and trades, but without guarantee on the part of the Government that an invention or discovery belongs really to the applicant.

2. To obtain a patent the applicant must petition the Minister of the Interior, give an exact description of his invention, without concealment, and pay the tax at the same time.

3. Patents for six years may be obtained for foreign inventions not known or used in Russia, the privilege being only co-existent with the original foreign patent.

4. Russian patents are granted for three, five, or ten years.

5. Patents become invalid if it can be proved that the discovery had been previously published in any work either in Russia or abroad, if the invention had been imported in exactly a similar form before the grant of patent, if not so described as to be capable of being put into execution by means of the description, and if not brought into operation within the prescribed term.

6. Applicants may apply personally or through an agent authorised by power of attorney. Such agent is to undertake to pay the tax in case the privilege be granted.

7. Petitions for patents are examined by the Board of Industry, to ascertain whether a previous patent had not been granted for the same object, whether the description be full, clear, and exact, whether any public benefit be derivable from the invention, whether it contain anything injurious to human health and safety.

8. The invention being found free from these objections the patent may be issued.

9. When two parties apply for a patent for the same invention, neither can obtain it without establishing by decree of a court of law his prior right.

10. When patents are refused the tax is refunded.

11. TARIFF.

Russian patents for	3 years	90 silver roubles (14*l.* 10*s.*).	
„	5 „	150	„
„	10 „	450	„
Imported inventions	1 „	60	„
„	2 „	120	„
„	3 „	180	„
„	4 „	240	„
„	5 „	300	„
„	6 „	360	„

The expense of advertising is paid by the government department which issues the patent.

12. Patents are to be published in the journals of the ministry to which they are referred, in the records of the senate, and in the newspapers of the two capitals.

13. Patents must be put into operation within one-fourth of their term of duration, the patentee reporting the same to the department which issued the privilege.

14. Transfers may be made, the patentee fulfilling all legal formalities, and reporting the fact of transfer to the department, but they cannot be made to con-

panies which issue shares without the special permission of the Government.

15. During a patent an improvement on it can only be patented with consent of the original patentee or his assign.

16. A patent for improvements on an existing patent made by the original inventor shall be for a shorter term than that of the original patent, and the working of the patent for improvements shall be independent of the patent granted for the principal invention, so that the term of the latter cannot continue though the privilege granted for the improvement has not expired. Patents for improvements made by other persons are limited to half the term of the original patent.

17. On the expiration or annulment of a patent the department which issued it is immediately to publish the fact in the newspapers of the two capitals.

CHAP. XXI.

FOREIGN PATENT LAWS (*continued*).

POLAND.

(Decree of the Emperor, November 2 (14), 1836.)

1. PATENTS of invention, and also of importation, are granted by the Administrative Council on the recommendation of the Commission of Home Affairs and Public Instruction.

2. Polish patents are for three, five, or ten years. Imported inventions can only be patented for the period which the original foreign patent has to run.

3. Patents are granted on a mere application, without guarantee by Government of their novelty and merit.

4. Patents may be assigned on extract of the authentic act of transfer being sent to the Board of Home Affairs.

5. Patents for improvements give the right of working the improved part only to any one except the original patentee.

6. The patent tax for a Polish patent is: —

150 florins	for 3 years.
250 florins	for 5 years.
500 florins	for 10 years.

It is payable in advance, and in one single payment.

7. A public register of patents is to be kept at the Ministry for Home Affairs, open to public inspection,

except in cases where the patentees shall request their inventions may be kept secret.

8. In applying for a patent the following documents are necessary : —

The receipt of the treasury for the tax.

A declaration whether the invention be original or imported.

A complete specification.

In case of an imported invention, proof that the article has been patented abroad, and that the patent has not expired.

A declaration that the applicant wishes the invention to be published totally, partially, or not at all, as the case may be.

9. When specifications are published no one is allowed to use or imitate the invention during the term of the patent; but when merely deposited with a declaration that the invention is to be kept secret, parties making the same or a similar article, may obtain a patent for working the same.

10. If the term of duration of a patent be considered too long it may be diminished, and the proportionate amount of tax paid be refunded.

11. Patents may be refused if the invention be injurious to society, if it relate to the common wants of life, or if it be already known in the country.

12. Patents may be annulled if the specification be not exact, and do not give sufficient information for working the invention, if the patent have not been worked during the term mentioned in the letters patent, or by judgment of the tribunals.

CHAP. XXII.

FOREIGN PATENT LAWS (*continued*).

AUSTRIA.

(The present law is contained in the Imperial Decree, dated 15th of August, 1852.)

1. A PATENT may be granted for a new product of industry, or for a new means or method of production.

2. It may be granted to an Austrian subject or to a foreigner.

3. No patent can be had for preparations of food, drinks, or medicines, nor for improvements that cannot be worked for reasons of public health, morals, or safety, nor if contrary to the general interests of the state.

4. An invention patented abroad can only be patented during the currency of the foreign patent, and can be granted only to the foreign patentee or his assign.

5. Purely scientific theorems cannot be patented, but only practical applications of them.

6. Two different inventions may be included in the same patent if they relate to the same object as component parts or operative means.

7. Subject to the above conditions a patent may be had by petitioning the competent authorities in due form, paying the fixed tax, and clearly describing the invention, with drawings and models if necessary.

8. Petitions for patent may be addressed by the

applicant or his agent to the governors of provinces or to the different authorities of districts. They must contain the Christian and surname, profession and residence of the applicant, and if not resident in the empire, the name, profession, and residence of a proxy domiciled there. If the process is intended to be worked by a firm bearing a different name, that name must also be stated. The comprehensive title of the invention must be given, and the number of years for which the patent is demanded, which must not exceed fifteen, except by special grant of the Emperor. Foreign patents are limited in duration to that of the original. Applicant must also state whether he desires that the invention shall be kept secret or not. The tax may be paid to a public treasurer, and his receipt must be given in with the application. If made by an agent, a power of attorney must be put in; and if there be a foreign patent, the original or an authenticated copy must be produced. The description of the invention must be under a sealed cover, endorsed with the title of the invention, and the address of applicant or his agent.

9. The patent tax is 100 florins (10*l.*) for the first five years, 200 florins (20*l.*) for the following five years, and 400 florins (40*l.*) for the last five years. The tax for the whole period for which the patent is requested must be paid down at once, but it may be limited in the first instance to three, five, or any number of years less than fifteen; and on application previously to the expiration of the term first accorded, one or more prolongations may be had on payment of the residue of the tax. If the patent be annulled on public grounds a part of the tax is refunded in proportion to the unexpired term.

Supposing the original application for patent to be

five years, the sum to be paid will be 100 florins, and the following will be the sums exigible for each of the subsequent years: —

Sixth year	30 florins
Seventh year	35 „
Eighth year	40 „
Ninth year	45 „
Tenth year	50 „
Eleventh year	60 „
Twelfth year	70 „
Thirteenth year	80 „
Fourteenth year	90 „
Fifteenth year	100 „

amounting to 700 florins (70*l.*) for fifteen years, the longest period allowed.

10. Specifications must be written in German or in the language of the province where the application is made, and must contain such a clear, unambiguous, and complete detail of the invention, as to enable any competent man to manufacture the article.

11. Should the authority to whom an application is made think the invention unfit to be patented, he is to inform the petitioner thereof, requiring him to withdraw it and give a receipt for the sealed specification. An appeal is allowed to the Minister of Commerce and Trades. A defective specification may be amended.

12. No examination of the novelty or merit of the invention is made, the patent being delivered at the mere risk and expense of the applicant.

13. The privilege of a patent extends to the whole of the Austrian dominions, that is to say, to Austria Proper, Bohemia, Austrian Italy, the Polish Provinces, Istria, Salzburg, Styria, Silicia, Moravia, and the Tyrol.

14. A patent is invalidated by annulment or judg-

ment of a court of law, if it be found deficient in the requirements already specified, if it be proved to have been previously known, if being a foreign patent it can be shown that the Austrian patentee was not the original inventor or his assign, if the patentee does not fulfil the obligations of his patent, if the privilege is in contradiction with public reasons, if the patent be not put into operation within the empire within one year from date, or if the works be discontinued for two entire years.

15. A register of patents is kept, with the specifications, drawings, models, &c., at a Special Record Office of the Ministry, which is open to public inspection. The specifications of patents expired are printed yearly, according to their apparent utility, and circulated in a proper manner.

16. Patents may be transferred, wholly or partially, during life-time, as well as by bequest. Assignments must be submitted to the Minister of Commerce directly or through the governor of the province where the transfer takes place, and be duly legalised and registered. All registered transfers of privileges are to be published immediately.

17. Infringements of patent rights are punishable by confiscation of the counterfeit goods and tools, by fines varying from 2*l.* 10*s.* to 100*l.*; and, in case of insolvency, by imprisonment.

18. The Ministry of Commerce and Trades alone decides the question whether a patent, from any legal motive whatever, is to be considered null and void.

19. Form of Petition for a Patent.

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

[*I, or we, as the case may be, Christian and surname, profession, and domicile*], beg to state that have made a new discovery [*invention, improvement*], consisting essentially in [*insert the comprehensive title*].

The complete specification, drawn up according to the provisions of § 12 of the Patent Law of is subjoined in the appendix.

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

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

[*Address and date.*] [*Signature.*]

20. Where not the money, but the receipt of a public pay office is tendered with the application for patent, such receipt must contain the name of petitioner, the title of the invention, the number of years for which

the tax has been paid, and the amount in words at length. Any deficiency or defect in this document must be remedied before the petition can be received.

21. The tax being paid, and the petition being found worded and directed according to prescription, the parties being present, an official memorandum is to be inscribed on the cover of the sealed specification, stating the day and hour when the petition was delivered and the amount of tax paid, and the applicant or his agent must also sign it. Of this formality an official certificate is to be delivered to the applicant.

22. These formalities being fulfilled, the petition is to be forwarded within three days to the governor of the respective province, unless the delivery took place in the chief town of the province, whence, if found correct, all the documents are to be forwarded to the Minister of Commerce and Trades, with a report from the governors.

23. The petition having been found correct, or its defects having been corrected, and the article having been deemed patentable, letters patent are then issued, the Minister having the power to impose on the working of the patent such conditions or restrictions as may be considered necessary.

24. Applications for prolongation of a patent must be delivered to the chief authorities of the province where the patentee or his agent has his abode. The petition must be delivered before the expiration of the original patent, and state the duration of the renewed patent solicited. The petition must be accompanied by the original letters patent and the tax for the term for which the renewal is demanded. Such petitions are then to be immediately submitted to the Minister of Commerce for his consideration.

CHAP. XXIII.

FOREIGN PATENT LAWS (*continued*).

SARDINIA.

(Royal Ordinance, 30th of October, 1859, by virtue of the Law of 25th of April, 1859.)

1. THE following inventions are entitled to patent privileges (*privatives industrielles*).

1. A product or industrial result.
2. An instrument, machine tool, or any mechanism or mechanical disposition.
3. A process or method of industrial production.
4. A motor or the industrial application of a force already known.
5. The technical application of a scientific principle, provided it produces immediate industrial results.

2. An invention is considered new, although some notion of it be already known, provided the details indispensable for its execution were not known.

3. An invention patented abroad, although already published by virtue of such patent, is entitled to like privilege in Sardinia if solicited before the expiration of the foreign patent, and before any one shall have imported and practised it in the kingdom.

4. Any modification on an existing patent confers on its author the right to a certificate of patent without

prejudice to that which has already been granted for the principal invention.

5. The following are not entitled to patent :—

1. Inventions contrary to law, morality, or the public safety.
2. Inventions not having for their object material results.
3. Purely theoretical inventions.
4. Medicines.

6. The right of patent is conferred by a certificate of the public administration, which, however, does not guarantee the merit nor the reality of the invention.

7. The author of a patented invention or his assigns is entitled to a certificate of addition for each modification of the original invention, which confers the same rights as the first patent. The fee for this certificate is 20 livres (16*s.*).

8. The duration of a patent must not exceed fifteen years nor be for less than one year. It commences from the last day of March, June, September, or December, nearest to the date of the application. No fraction of a year is included in the duration of a patent.

9. An invention already patented abroad is limited to the duration of the foreign patent, but cannot exceed fifteen years. A fraction of a year is taken as a year.

10. A patent taken out for a less term than fifteen years may be prolonged to that extent, and certificates of addition are included in such prolongation. The fee for prolongation is 40 livres (1*l.* 12*s.*).

11. Patents are subject to a proportional tax, pay-

able on making application for them, and also to an annual tax. The proportional tax consists of as many times 10 livres (8*s.*) as there are years solicited for the patent's duration. The annual tax is:—

40 livres for each of the first three years.
65 „ for each of the following three years.
90 „ for each of the seventh, eighth, and ninth years.
115 „ for each of the tenth, eleventh, and twelfth years.
140 „ for each of the three following years.

12. The first annuity and the proportional tax are to be paid at the time of applying for patent. The succeeding annuities are to be paid in advance on the first day of each year of the duration of the patent.

13. Applications for patent are to be addressed to the head of an office in the Ministry of Finance specially appointed for the purpose. They must be presented by the inventor or his agent, and contain:—

1. The Christian and surname of the inventor, the place of his birth and abode, and of his agent, if any.
2. A summary and precise designation of the nature and object of the invention, to form the title of it.
3. The number of years for which the patent is solicited.

Each application must be for one patent only, and one patent cannot include several inventions.

The following documents must accompany the application:—

1. The description of the invention or discovery.
2. The drawings, if they can be made, as well as

the models which the inventor may judge useful to explain his invention.

3. A receipt for the payment into the public treasury of the tax due on the patent.
4. The original or copy in due form of the foreign patent, when the invention shall already have been patented abroad.
5. The power of attorney of the agent (if any), which must be drawn up by an authentic deed, or, if by private deed, the signature of the inventor must be certified by a notary or by the syndic of his place of residence.
6. A list of the documents thus presented.

The description must be in French or Italian, and contain a clear and complete description, such as will enable a person conversant with the subject to put the invention into practice.

The description and drawings are to be in triplicate, the applicant alone being answerable for their correctness; when the application is accompanied by a model, the copies of drawings must also be sent in, or at least drawings of such parts of the model as constitute the invention.

14. In the course of the first six months of the patent, reckoned from the last day of March, June, September, or December, according to the date of application, the patentee may disclaim one or several parts of the invention, pointing out distinctly the parts which he wishes to exclude from his patent. Such parts are thenceforward considered as not having formed part of the patent. Applications of disclaimer must be accompanied —

1. By a receipt for the payment of a fee of 40 livres.

2. By a description, in triplicate, to be substituted for that originally deposited.
3. By drawings, in triplicate, necessary to be substituted for the originals.

The certificates thus delivered shall be called *certificats de réduction*, and shall have the same duration as the original patent.

15. Only the inventor or his assignee is entitled to a certificate of modification during the six months indicated in Instruction 14. A demand from any other person for such certificates, and the documents in support of them, shall be presented under seal. The six months being expired, the seal shall be broken, and the certificate delivered, unless the party concerned shall declare his desire to withdraw his demand, in which case the fee paid shall be returned to him.

The certificates of addition shall have effect from the first day following the six months, but in the case of strangers to the original patent the certificates shall have effect from the date of the deposit of the application. The applications for certificates of addition shall not contain any indication of duration, that being governed by the original patents.

16. Applications for prolongation of a patent must be accompanied by —

1. The title showing that the applicant is the owner of the patent in question.
2. A receipt for 40 francs and for the proportional tax for the first year, which shall follow the prolongation.
3. The power of attorney of the agent (if any), as described in Instruction 13, and a list of the documents presented.

17. Applications of all kinds are to be made at the office of the Ministry at Turin appointed for the purpose, and elsewhere at the *Bureaux d'Intendance.*

18. The applicant will be furnished with a copy of the inscription of his application, on stamped paper, he paying the stamp, and, provided the legal formalities have been duly fulfilled, the application will be registered, and a copy of each certificate will be delivered to the party concerned, with an original of the drawings and description, and with the list of the documents presented. This certificate of patent will be *gratis.* Any future copies required will cost 15 livres.

19. Inventions relating to food and drinks will be submitted to the Superior Council of Health, and should any doubt exist of their wholesomeness, the patent will be refused.

20. Patents will be refused if coming under the categories contained in Instruction 5, if the demand be not made in writing, or should it not contain the title of the invention; if the description be not annexed to the demand; if more than one invention be included in the demand; and if the tax paid be not that to which the patent is liable. Any irregularity will cause the delivery of the patent certificate to be suspended. The refusal or suspension will be duly notified to the applicant or his agent, who will then have an opportunity of rectifying the irregularity or protesting against the refusal or suspension. A copy of the documents necessitated by these proceedings, on stamped paper, will be furnished to the applicant on payment of the stamp. In case of no answer being given to this notice of refusal or suspension within fifteen days, the demand will be considered null and void; but the applicant may make a fresh application.

21. Any protest against the decision of the Minister will be submitted to one of the sections of a commission appointed for the purpose. The protest must be accompanied by a fee of 50 livres. If the decision is favourable to the applicant, this fee will be returned.

22. A public register of patents and documents relating thereto will be kept, and any person desiring an extract from them must apply for the same, on stamped paper, and the information required will be furnished on stamped paper at the expense of the applicant.

23. One copy of the description and drawings will be deposited at the patent office, and models or another copy in a room appointed for the purpose by the Government. These will be open to public inspection three months after the delivery of the patent certificate, when any one may take copies of them at his own expense.

24. A catalogue of patent certificates issued during the preceding three months shall be published, and every six months the descriptions and drawings shall be published in full, unless the director of the patent office shall consider extracts sufficient for a clear explanation of the invention. A copy of these catalogues, descriptions, and drawings shall be transmitted to each *Bureau d'Intendance* and Chamber of Commerce, for public inspection.

25. Patents granted are null and void if coming under the heads enumerated in Instruction 5, or should they have been erroneously granted contrary to the opinion of the Sanitary Commission, or without that commission having been consulted in case, when consulted, it should pronounce an adverse decision. They are also null should the title fraudulently indicate an

object different from the true object of the invention, should the description not give a complete and distinct explanation of the invention, should the invention not be new or not be of an industrial nature, and if the patent has formed the object of a certificate delivered to a third party for the modification of an invention within the six months reserved to the author or his assigns. Certificates of addition are null as respects alterations which do not relate to the principal invention, and all prolongations are likewise null, solicited after the expiration of the patent or after its absolute nullity shall have been pronounced.

26. A patent ceases to be valid when the annual tax is not paid in advance within three months; when a patent for five years shall not have been brought into use within a year after its date, or when the patentee shall cease to use it for a whole year; when a patent for more than five years shall not have been brought into use before the expiration of the second year, or which shall not have been used for two complete years. The patentee in these cases will, however, not be deprived of his rights if he can prove that the default has arisen from circumstances beyond his control. Want of pecuniary means will not be considered one of these circumstances.

27. Actions to annul patents are to be tried before the provincial tribunals.

28. Piracy of patents is punishable by a fine not exceeding 500 livres in amount, and the machines, &c. used in the fraudulent manufacture, with the articles so made, are to be confiscated in favour of the patentee. The party injured will also have a right to sue for damages. Should the possessor of the articles seized have become possessed of them in good faith he will

only be liable to a confiscation of them in favour of the patentee.

29. Patents granted by the Austrian government in the Lombardian and Venetian States continue to be valid in the new Sardinian provinces, subject to the provisions of the Austrian laws and subject also to the following conditions:—

1. They must be inscribed at the central office of patents by their owners by means of a demand on stamped paper addressed to the director of the office.
2. The original patent or a copy in due form must be deposited there, with a copy of the description and drawings in duplicate. If the demand be made by an agent, his power of attorney, according to the prescriptions in Instruction 13, must also be deposited. The documents must be signed by the applicant or his agent.

Patents whose inscription shall not be demanded within six months after 30 Oct. 1859 shall become null and void.

30. Such Austrian patents shall be inscribed in a special register, a memorandum of which inscription shall be added to the original patent. It shall then be returned to its owner without fee. These patents will be subject to the prescriptions contained in Instruction 26.

31. The owner of a patent in the new provinces may also, on demanding its inscription, require that it be extended at his risk to the old provinces. This demand must be written on a separate paper, but new documents need not accompany it. If the two demands

are made at the same time a single certificate of presentation will suffice. The director shall then issue a patent certificate with the following note inscribed on it. *Valid for the old provinces, the present patent being already inscribed for the new.*

32. The certificate of patent mentioned in the preceding instruction shall pay a proportionate tax of 10 livres for each year of its duration and the following annuities: —

30 livres for each of the first three years.
50 „ for each of the fourth, fifth, and sixth years.
70 „ for each of the seventh, eighth, and ninth years.
90 „ for each of the tenth, eleventh, and twelfth years.
110 „ for each of the three following years.

The first annuity shall be paid on presenting the demand, and the others in advance, according to Instruction 12.

33. If the owner of an Austrian patent available for the new provinces shall desire to prolong it for those provinces, without extending it to the old Sardinian provinces, he must address an application to that effect to the director of the patent office. In this case he will be liable to a tax of 5 livres for each year of prolongation, besides the annuities stated in the preceding Instruction. He must present the title proving him to be the owner of the patent whose prolongation he solicits, a receipt for the payment of a duty of 20 livres, and for the annuity for which he will be liable, the power of attorney (if any), and the list of documents thus presented.

The annuities to which he will be liable for such prolonged patent will be —

10 livres for each of the first three years.
15 „ for each of the fourth, fifth, and sixth years.

20 livres for each of the seventh, eighth, and ninth years.
25 „ for each of the tenth, eleventh, and twelfth years,
30 „ for each of the three following years.

The annuity to be paid shall be that corresponding with the year in which the prolongation commences, including the years elapsed and during which the prolonged patent has been in force.

34. The owner of a patent in the old provinces who shall desire to extend it to the new must apply directly to the director of the central patent office, according to the usual forms, mentioning the original certificate of patent, but without adding any other document. The director will then issue a certificate referring to the previous certificate, and declaring that its stipulations are extended to the new provinces at the risk of the applicant. The payment for such extension will be, besides the taxes fixed by the previous law, those mentioned in Instruction 33.

35. The owner of a patent available for the old provinces desiring to prolong its duration without extending it to the new, is liable to a fixed duty of 40 livres, and to the annuities mentioned in Instruction 32.

36. The owner of two patents relating to the same subject, the one for the new Sardinian provinces, the other for the old, may require that they be united, the duration of them being increased, on condition, however, that such duration shall not exceed that of the patent having the longest term, nor in any case exceed fifteen years. Such junction can only take place where the inventions are identical. The only cost of the application for junction of patents shall be that of the stamped paper of the documents. But the existing patent must be inscribed in the new provinces.

37. In case the junction of patents requires that

there should be a prolongation of duration in the new provinces there shall be paid for it, besides the tax due on the original patent in the old provinces, the amounts mentioned in Instruction 33, calculated in proportion to the number of years during which the patent has still to run, as well as the years already elapsed.

If the result be an increase of the patent's duration in the old provinces, it shall be considered at the same time as a demand for prolongation, and be subject to a payment of 40 livres at once, besides the proportional tax and the annuities mentioned in Instruction 32.

Such junction shall be effected by a note written on stamped paper by the director of patents and annexed to the former certificates of patents. Demands for patents already under examination by the authorities of the new provinces may be carried forward up to the 1st January, 1860, on payment of the taxes mentioned in Instruction 11.

38. Certificates of patent which were delivered under the name of *brevets d'invention*, or privileges under the law of 12th March, 1855, in the old provinces, shall continue to be governed by the laws then in force.

39. Suits of law before the Lombard courts, arising out of patents granted by the Austrian government, shall continue to be judged by the same authorities according to the laws in force in those countries before the publication of the present decree, and by the ordinary tribunals of the provinces.

CHAP. XXIV.

FOREIGN PATENT LAWS (*continued*).

ROMAN STATES.

(Edict of 3rd September, 1833.)

1. PATENTS are granted for the discovery of a natural product, or for the invention or importation of a new mode of agriculture, or a new and useful mode, process or improvement unknown in the country, for not less than five or more than fifteen years, imported patents being limited to the term of the original foreign patent, but are not to exceed six years at the most. The duration is to depend on the importance of the invention, the cost of working it, and the greater or less profit likely to arise from it.

2. When patents have been granted for shorter periods than the extreme term, application may be made for prolongation.

3. Application must be by petition, containing an exact and true description of the invention, indicating the advantages the state is likely to derive from it, and stating whether it may endanger the public health or the interests of others. A duplicate description is also to be sent in, accompanied by the necessary drawings or models. The description, &c., are to be signed by applicant, and sent in under sealed cover, endorsed with the date when presented and the title of the invention.

4. Opposition to patents may be made, but they must originate within six months of the date of the patent.

5. Assignments, entire or partial, may be made of patents, and remedy for infringement is given in the courts of law.

6. Patents become null if they endanger public health; if it be proved at law that the invention was not novel; if not fully and truly described in the specification; if the process be not put into operation within one year from the date of the patent; if the taxes have not been fully paid; and if the articles made by the patented process can be proved to have deteriorated in quality.

7. Annulled or expired patents are to be published.

8. The tax is at the rate of 10 scudi (about 2*l.*) per annum, and for imported patents 15 scudi (about 3*l.*) per annum. In cases of prolongation the tax is augmented one third. The tax is payable in two moieties, the first on delivery of the patent, and the second when half the term of its duration shall have expired.

9. Patents and matters relating thereto are to be published in the journals of Rome.

CHAP. XXV.

FOREIGN PATENT LAWS (*continued*).

NAPLES.

(Decrees of March 2nd, 1810, and March 11th, 1844.)

1. PATENTS may be obtained for new discoveries and inventions in any branch of industry for a term of five years, which may be prolonged to ten or even fifteen years for good reasons of public utility. Patents of importation are also granted, limited in duration to the term of the original foreign patent.

2. Applications are to be made to the administration of the province, stating in writing whether the object presented be an invention or improvement, or merely an importation. The application is to be accompanied by a specification in duplicate, containing a true and complete description of the invention, with drawings or models also in duplicate.

3. Inventors of articles of public utility, where the manufacture is so simple as to be easily imitated, or for any other reason, may apply for a pecuniary reward instead of a patent.

4. Applications for patent must be confined to one principal object.

5. A register of patents is kept at the Ministry of the Interior.

6. Patents may be transferred as personal property, wholly or partially, subject to registration in due form at the Ministry of the Interior.

7. Patents become null and void if the mode of working the invention is not truly and fully described; if they be not worked within one year of date (unless good reason be alleged for the delay); if the manufacture be suspended for one whole year; if the patentees have taken a patent abroad for the discovery, or if it have been already described in any published work.

8. Patentees, or those who have obtained premiums for inventions, are bound to deposit the models or drawings of the machines or other objects at the Royal Museum of Industry in Naples and in Sicily. This deposit must be proved to have been made before the grant of patent or premium.

9. No tax is fixed by these decrees, but there are fees and expenses to be paid, which amount to about 20*l.*

CHAP. XXVI.

FOREIGN PATENT LAWS (*continued*).

SWEDEN AND NORWAY.

(The Swedish Patent Law is dated 13th December, 1834.)

1. PATENTS may be had for inventions made in the kingdom or imported from abroad for objects of manufacture or arts, and for improvements of old inventions which do not infringe former patents. New and original inventions obtain patents for fifteen years, improvements of inventions for ten years, and imported inventions for five years. But patents may be extended under certain circumstances, and imported inventions may be prolonged for ten years more if the invention is proved to be costly and to consist of a complicated mechanism.

2. Patents may be obtained in Sweden by either natives or foreigners. But foreigners must, within a year from date, settle in the kingdom or transfer their patent to a resident.

3. The College of Commerce is the board appointed to manage all matters relating to patents.

4. Patentees must publish their specifications in the Official Gazette (Swerige Stats Tidningen) three times within two months of the date of the patent, and oppositions to the granting of patents must also be published in the Gazette.

5. Cases of opposition are to be decided by five arbitrators, two chosen by the patentee, two by the

adverse party, and the fifth by the other four. No appeal can be had from their decision.

6. Patents must be worked within two years from date, unless it can be shown that they have been prevented by complicated mechanism or by unforeseen difficulties.

7. Patents may be assigned, notice being given to the College of Commerce, and the usual enjoyment of exclusive use during the term of the patent is secured, with remedies in the law courts in case of infringement, &c.

8. No government tax is imposed, but there are some official fees to be paid, as well as the expense of advertising in the Government Gazette.

CHAP. XXVII.

FOREIGN PATENT LAWS (*continued*).

SPAIN.

(The Spanish Patent Law is governed by Royal Decrees dated 27th March, 1826, and 14th June and 23rd December, 1829.)

1. PATENTS are granted to Spaniards and foreigners for inventions and improvements in machines, &c., and in mechanical or chemical operations. No guarantee of the novelty or utility of the invention is conferred the patent.

2. Patents are granted for five, ten, or fifteen years, at the option of the inventor. Patents of importation are only granted for five years, and are only available for working the invention within the kingdom; such patentees, therefore, cannot import their patent article from abroad, ready made, unless by submitting to the common duties on foreign articles, and the public is permitted also to import such articles from abroad. Patents granted for five years may be extended to five years more; those granted for ten or fifteen years cannot be prolonged.

3. Patents must be solicited by the applicant or his agent by means of a memorial (in Spanish) in the following form: —

To the Governor of the Province of .

N. domiciled [*or residing*] at [*state profession*], begs respectfully to state, that for the

purpose of securing the property of a machine [*instrument, apparatus, process, method*] invented [*imported*] by him for [*state object*], and conformably to the royal regulations; he presents to you the required memorial for his Majesty, and a closed and sealed packet [*or case*]. and the following inscription [*copy of inscription*].

I request you to sign the said packet [*or case*], to deliver the proper certificate to me, and to let me have the required official letter to his excellency the Secretary of State and of the Exchequer, that I may deliver the whole into his hands according to the regulations.

[*Address and date.*] [*Signature.*]

This memorial is to be accompanied by a petition to the King, on stamped paper, mentioning the object of the patent, whether original or imported, and its duration. Each application must not contain more than one object.

Form of Petition to the King.

N. domiciled [*or residing*] at [*state profession*], submits to your Majesty, with profound respect, that for the purpose of securing the property of a machine [*instrument, apparatus, process, method*] invented [*imported*] by him [*state object*], and conformably to the regulations made by your Majesty, he solicits from your Majesty the delivery of letters patent for years; and he will ever pray, &c.

[*Signature.*]

There must likewise be sent with the memorial and petition a plan or model, with the description and explanation of the mechanism or process clearly and cor-

rectly, so that no doubt may ever arise of its object or particular nature, with a declaration that the invention has never been worked in that form before. Models must be in a sealed case, and plans and descriptions in a sealed cover, both bearing the following inscription:—

Application for letters patent presented by N. domiciled at , to the governor of , for [*insert title of invention as mentioned in the petition to his Majesty, month, year, day, and hour*].

[*Signature of Governor.*]
[*Name of the Applicant.*]
[*Number of Register.*]

4. The petition having been examined by the General Commission of Commerce, Money, and Mines, and approved, is granted, and letters patent are delivered on the production of a receipt showing that taxes, according to the following tariff, have been paid to the Royal Conservatory of Arts:—

For a privilege of	5 years	1000 reals	(10 guineas).
„ „	10 „	3000 „	(30 „).
„ „	14 „	6000 „	(60 „).
For a privilege of importation of . . .	5 „	3000 „	(30 „).

besides which 8 reals are to be paid for the delivery of the letters patent.

5. After delivery of the patent, the closed and sealed documents shall be deposited in a room of the Royal Conservatory of Arts, and shall only be opened in case of litigation, and by order of the judge. Grants of patent are to be published in the Royal Gazette. A register of patents is to be kept open to public inspection.

6. Transfers of patents must be in writing, stating

whether the transfer be total or partial, absolutely or with reserves. Assignments are to be presented to the governor of the province where the application for patent was made, to be transmitted by him to the Council of Exchequer for registration at the Royal Conservatory of Arts. If not presented within thirty days from date, assignments become void.

7. Patents must be put into practical operation within a year, and must not be interrupted during any whole year on pain of nullity. A patent likewise becomes void if already in use in Spain; if it is described in any printed work at the Royal Conservatory of Arts, or if it is worked in any foreign country whilst it is represented by the patentee as new and original.

8. Patentees of imported inventions shall produce, within a year, the proper certificate of having worked the patent article, such certificate to be presented through the respective governors to the Council of Exchequer for registration at the Royal Conservatory of Arts.

9. A note is to be annexed to the description and explanation which accompanies the petition for a patent, pointing out clearly, distinctly, and solely that part, mechanism, substance, or process, which is the object of the patent, and which the applicant desires to secure, and the letters patent shall apply only to the contents of the said note. This note is to be verified by the Council of the Exchequer.

CHAP. XXVIII.

FOREIGN PATENT LAWS (*continued*).

CUBA, PUERTO RICO, AND THE PHILIPPINE ISLANDS.

By Royal Decree, dated 30th of July, 1853, the Spanish patent law is extended to these dependencies, with the following exceptions: —

1. In Cuba patents relating to agriculture shall only be limited to inventions and improvemen[illegible] In case of imported inventions the Governor-General and the President of the Superior Assembly, after taking the advice of the Chamber of Commerce, shall decide on the expediency of granting a patent, and if so, in what districts only.

2. The Governor-General and minor provincial authorities are to write the word "presented" below the inscription on the sealed packet, sign it, close the case or envelope, and deliver a certificate of leaving. The packet is then to be immediately forwarded to the Superior Court of Exchequer to be opened.

3. The Chamber of Commerce is to receive the tax previously to the delivery of the patent according to the following tariff: —

Patent for	. .	5 years	70 dollars	(15*l.*)
„	. . .	10 „	210 „	(45*l.*)
„	. . .	15 „	420 „	(90*l.*)
Patent of importation for		5 „	210 „	(45*l.*)

In addition eight dollars are to be paid for the expense of the letters patent.

4. A register is to be kept at the Chamber of Commerce open to public inspection.

5. A patent becomes void for the same reasons as in Spain; also if the patentee neglects to take away his letters patent within three months from date.

6. Inventors patented in Spain or in Cuba, Puerto Rico, or the Philippines, may use the patent in all other parts of the Spanish dominions on obtaining an order in council within one year of date, after which term any one may import the invention under a patent of importation.

CHAP. XXIX.

FOREIGN PATENT LAWS (*continued*).

MEXICO.

(Law of the 7th May, 1832.)

1. PATENTS for new inventions and improvements are granted for all the States of the Confederation. Patents for inventions shall be in vigour for ten years, and those for improvements for six years. Importers of any branch of industry which the General Congress might think of great importance may obtain an exclusive pri ge by making an application through the G rnment to the Congress.

2. Application for patents may be made directly to Government or else to the local authorities. A precise description of the invention, with drawings, models, or whatever may be considered necessary for distinctly explaining the invention, is to be signed by applicant and delivered to the authorities. The petition is to be published three times in the Gazette, to enable other parties to raise claims of priority. The patent may then be granted at the risk of the applicant as to the novelty and utility of the invention.

3. Patents may l olonged by application to Congress through th ment.

4. The patent fees vary between 10 and 300 dollars (2 guinea and 60 guineas).

5. Half the number of men employed by the patentee in mechanical works must be citizens of the United States or Mexico, if such may be had.

CHAP. XXX.

FOREIGN PATENT LAWS (*continued*).

PORTUGAL.

A ROYAL decree, issued 16th of January, 1837, of which the following is an abstract, is the only law under which patents can be obtained in Portugal. It will be seen that the notions there indicated respecting patents differ very much from ours, and that a privilege thus obtained would be considered of very little value in this country. The tax is about 1*l.* per annum for every year of the privilege, the whole amount of which is to be paid on obtaining the patent.

1. All original productions of the mind in literature and the fine arts, and also discoveries in the construction or form of instruments, machines, models, and other kinds of manufactures, new chemical inventions, and any new discovery tending to improve industry, art, science, agriculture, navigation, war, &c., are entitled to patent for fifteen years, but no extension is ever granted. Patents must be limited to one object.

2. Foreign inventions, although already known abroad, may be imported and patented for such term as the government may fix. Importers of inventions must apply for their patent previously to importation, when a public competition shall be opened to fix the lowest term for the duration of the patent, which shall in no case exceed five years.

3. Patents are transmissible by cession, inheritance,

or contract. The transfer must be registered. Their validity may be contested in the law courts, and patentees may sue or be sued civilly or criminally for infractions of rights or duties. Disputes may be settled by arbitration.

4. Government may purchase a patented invention if for the public utility.

5. The truth, priority, or merit of an invention are not guaranteed by the patent.

6. Patentees are to pay a tax to the respective collectors of their residence in proportion to the term for which a patent is solicited. They must then deposit at the General Administration of the province, under a sealed cover, an exact description of the invention, with plans, drawings, and models appertaining to it, and which duplicate memorandum signed by them of the objects contained in the packet, and they shall receive a certificate containing an exact copy of the description, with the models, drawings &c., on a reduced scale, the same to be furnished by them. The patent, with the certificate, will be delivered within twenty days.

7. For improvements on inventions a fresh patent may be had, or, if patentees are content to limit the privilege to the term of the original patent, they may obtain from government a memorandum to that effect.

8. Patentees are bound to exhibit their works in operation to the public at least twice in every month, giving three days previous notice of the exhibition in the Government Gazette. If a chemical process, 1000 dollars (about 300*l.*) are to be deposited as caution money, and the process is to be worked publicly three times during the currency of the patent, previous notice of the exhibition being given in the Government Gazette. Infraction of the first regulation is punish-

able by a small fine for the first offence by the maximum fine for the second offence, and by a confiscation of the article, and the same penalty for the third offence. Infraction of that relative to a chemical process is punishable by long detention, heavy fine, and confiscation of the drugs, or a corresponding portion of the caution money is to be forfeited.

9. Patents become void if not worked within the first half of the duration of the patent.

10. Inventions become public property should a printed copy, drawing, engraving, or model of the machine fall, by the voluntary act of the owner, into the hands of a person not a member of his own family or not residing in his house.

11. In cases of litigation, should it be necessary to examine the sealed description deposited with the General Administration of the province, the presenting party must deposit a sufficient sum as caution money to cover any loss to the patentee by thus divulging his secret.

CHAP. XXXI.

COPYRIGHT OF DESIGNS.

(Office, 1 Whitehall. Open from 10 to 4.)

THE law of copyright of designs is contained in the Acts 5 & 6 Vict. c. 100 (Designs Act, 1842), the 6 & 7 Vict. c. 65 (22 Aug. 1843), and the 13 & 14 Vict. c. 104 (Designs Act, 1850). Under these Acts copyright may be secured either for ornamental articles or for articles of utility (the former includes sculptures, models, copies or casts of the whole or parts of the human figure or of animals), for the term or unexpired part thereof of a copyright under the Sculpture Copyright Acts.

GENERAL REGULATIONS.

The following regulations apply both to ornamental articles and to articles of utility:—

1. *Copyright secured by provisional or complete registration.* — Copyright is secured to the author or proprietor of designs by provisional or by complete registration, provided that they have not been already published in the United Kingdom or elsewhere.

2. *Provisional registration for one year may be extended six months longer.*—Provisional registration gives protection for one year, which may be extended six months longer by order of the Board of Trade. In case of extension the certified copy, together with the proper

fee, should be transmitted to the office for registration *prior to the expiration of the existing copyright.*

3. *During provisional registration right to invention may be sold, but the article made must not be sold.*—During the term of provisional registration the proprietor may sell the right to apply his invention to an article of manufacture, but must not, under penalty of nullifying the copyright, sell any article with the design applied thereto until after complete registration.

4. *Complete registration, when to be effected.*—Complete registration must be effected prior to the expiration of provisional registration.

5. *Acknowledgment of receipt of a design to be taken.*—A person bringing a design to the office must take an acknowledgment for the same, which will be given him on payment of the proper fees. This acknowledgment must be produced on application for the certified copy, which will be returned in exchange for the same.

6. *What is essential to obtain protection.*—In order to obtain protection it is necessary that the design should not have been already published in the United Kingdom or elsewhere, and that after provisional registration every copy of the design shall have thereon or attached thereto the words "Provisionally Registered," and the date of registration, and after complete registration such marks and words as shall be indicated under the rule laid down for ornamental articles and articles of utility.

7. *Penalty for pirating a design.*—The proprietor of a properly registered design is protected from piracy by a penalty of from 5*l.* to 30*l.* for each offence, each individual illegal publication or sale of a design constituting a separate offence. The penalty may be reco-

vered by action in the superior courts, or by a summary proceeding before two magistrates.

8. *A transferee may register.*—A design executed by one person for a valuable consideration paid him by another belongs to the latter, and may be registered by him. A person purchasing either the exclusive or partial right to use such design is also entitled to register.

9. *Name and address to be given.*—Owners of a design must give their names or firms, and the address of their place of business or abode in distinct characters.

10. *Forms may be obtained at the office.*—The forms for the various applications to the office are not given here, since the proper blank forms and directions may be obtained on application to the office.

11. *How communications with office are to be made.*—Communications for the registration of designs may be made by post or by other mode of conveyance, directed to the "Registrar of Designs, Design Office, London," and provided they be carriage paid, and the proper fees remitted, the designs will be duly registered, and the certified copies returned to the proprietor free of expense.

12. *How fees may be paid.*—Fees may be paid by post-office order, payable at the post-office, Charing Cross, to James Hill Bowen, Esq.; but postage stamps, orders on bankers or others, Scotch and country bank notes and light gold cannot be received in payment of fees.

13. *Penalty for wrongful using of registration mark.*—A penalty of not more than 5*l.* nor less than 1*l.* is imposed on persons marking, selling, or advertising for sale any article as "Registered," unless the design for it has been registered under one of the *above-mentioned Acts*.

14. *When designs, &c. are to be registered.*—Designs and transfers are registered from 11 until 3, after which latter hour no money can be received.

15. *Discretionary power to registrar to refuse.*—The registrar has discretionary power to refuse registration of any design not coming within the scope of the Acts authorising such registration. Labels, wrappers, or other coverings are not susceptible of registration, and the registrar is authorised to refuse registration to any article, the sale of which would be contrary to public morality or order. With these exceptions any design will be registered, without reference to the nature or extent of the copyright sought to be obtained, the proprietor of the design having to use his own judgment and discretion as to whether or not the article of utility be of the shape or configuration coming within the meaning of the Act.

16. *Hours for bringing designs to office.*—Parties bringing designs before half-past 12 may learn after 3 o'clock whether they be approved of. If so they will be registered on the following day, and the proper fee being paid before half-past 1 on such day, the certified copies will be ready for delivery after 3 o'clock on the subsequent day.

Ornamental Articles.

17. *Designs and copies with fee to be sent to office. Size, &c.*—Proprietors of a design are to send to the office two exactly similar copies, drawings, tracings, or prints of it with the fees (as per Table). These copies may consist of portions of the article to be registered (except carpets, oil-cloths, or woollen shawls), which must be fac-similes of each other. When the article thus

furnished is not of a nature to admit of being pasted in a book, drawings or tracings (not in pencil), or prints, are to be sent as well. Drawings, &c., must not exceed 42 inches in length by 23 inches in breadth.

18. *Details.*—The number of the class (as per Table) must be given (except sculpture). A design may be registered in respect of one or more of the classes, according as it is intended to be employed for one or several articles of manufacture; but the fee for each class must be paid, and all such registrations must be made at the same time. On reference to the Table of Fees, however, it will be seen that parties desirous of securing protection for articles made of all the materials in Classes 1, 2, 3, and 4, may do so by paying one sum of 5*l.*, or in Classes 5 to 13 inclusive, by paying one sum of 3*l.*; or they may obtain copyright of all the thirteen classes by one payment of 7*l.* But in this case no extension of copyright can be obtained.

19. *One copy to be filed, the other returned to proprietor with certificate and mark.*—After registration one of the two copies, &c., is to be filed at the office, the other returned to the proprietor with a certificate annexed, on which will be given the mark to be placed on each article.

20. *In provisional registrations no mark.*—In provisional registrations no mark is required, but merely the words "Provisionally Registered," and the date of registration.

21. *Transfer of design.*—To transfer a design, whether provisionally or completely registered, a copy or certified copy must be sent to the registrar, with an application in proper form (which may be obtained at the office) filled up and signed, and the transfer fee

must be paid. The transfer will then be registered and the certified copy returned.

22. *Copyright may be extended.* — Copyright may be extended if the Board of Trade think fit. Provisional registrations may be extended for an additional six months, and complete registrations for three years. In such case the certified copy, with the proper fee, should be sent to the office for registration before the expiration of the existing copyright. But the extension privilege has very seldom been granted.

23. *Inspection of design.* — Designs of which copyright has expired may be inspected on payment of the fee (see Table). Existing copyrights are not generally open for inspection. But on producing the registration mark of any particular article any person may be furnished with a certificate of search (fee 2s.), stating whether the copyright be in existence and for what particular class or classes it is registered, with the term of the copyright, the date of its registration, and the name and address of the proprietor. Also by producing a piece of a manufactured article with the pattern thereon and the registration mark, he may be informed whether such pattern be registered or not. In cases of provisional registration, as there is no mark, the design or a copy of it with the date of registration and other necessary information must be furnished in order to procure certificate of search.

24. *Mark to be affixed to articles protected.* — After complete registration every article made according to such design and published, shall have thereon or attached thereto a particular mark, which will be exhibited on the certificate of registration.

25. *Sculptures.* — After registration of sculpture &c., every copy shall have thereon or attached thereto

the word "Registered" and the date of registration.

26. *Penalty for wrongly using registration mark.*—Any person who shall put the registration mark on a design not registered, or after copyright thereof has expired, or when the design has not been applied within the United Kingdom, is liable to forfeit for every such offence 5*l.*

27. *Table of Fees:*—

Provisional Registration.

Registration fee in all Classes, one year . .	1*s.* each design.
Transfers	5*s.* „
Certifying former registration (*to proprietor of design*)	1*s.* „
Cancellation or substitution (*according to decree or order in Chancery*)	5*s.* „

Complete Registration.

Class.	Article.	Copyright.	Fee. £.	s.
1.	Wholly or chiefly of metal . . .	3 years	3	0
2.	„ wood . . .	3 „	1	0
3.	„ glass . . .	3 „	1	0
4.	„ earthenware, bone, papier-mâché, or other solid substances not comprised in 1, 2, 3 . . .	3 „	1	0
5.	Paper-hangings	3 „	0	10
6.	Carpets, floor-cloths, and oil-cloths .	3 „	1	0
7.	Shawls (*patterns printed, &c.*) . .	9 months	0	1
	„ extended for a further period of	9 „	0	6
	„ extended for whole term of .	18 „	0	7
8.	Shawls (*not comprised in Class* 7) .	3 years	1	0
9.	Yarn, thread or warp (*printed, &c. &c.*)	9 months	0	1
10.	Woven fabrics (*patterns printed, &c. &c.*) except those included in Class 11	9 „	2	1
11.	Woven fabrics, technically termed			

Class.	Article.	Copyright.	Fee. £	Fee. s.
	furnitures (*patterns printed, &c. &c.*) the repeat of the patterns exceeding twelve inches by eight inches. . .	3 years	0	5
12.	Woven fabrics not included in preceding	12 months	0	5
	Woven fabrics, damasks, and figured quilts	12 „	0	5
	Woven fabrics, extended term . .	2 years	0	16
	„ whole term of . .	3 „	1	0
13.	Lace and other articles not comprised in any preceding Class . . .	12 months	0	5
	In all the thirteen Classes (*copyright not extended*)		7	0
	In Classes 1, 2, 3, and 4, inclusive (*copyright not extended*)		5	0
	In Classes 5 to 13 inclusive (*copyright not extended*)		3	0
			3	0

Registration of Sculpture.

Each design	5 0

Fees in Complete Registration and Registration of Sculpture.

Transfer	Same as in Provisional Registration.
Certifying former registration (*to proprietor*)	
Cancellation or substitution (*according to decree or order in Chancery*) for all Classes except Class 1 and sculpture	
For Class 1, and Sculpture	1s.

Inspections, etc., of Provisional and Complete Registration and Sculpture.

Search	2s.
Inspection of all the designs of which the copyright has expired, each quarter or part of quarter of an hour, each Class	1s.

Taking copies of expired designs, each hour or part of an hour, each Copy	1s.
Taking copies of unexpired designs (*according to judge's order*) for each hour or part of an hour, each copy	2s.

Office copies of a design are charged for according to the nature of the design.

Articles of Utility.

28. *What articles can be protected.*— The legislature, in according copyright to articles of utility, gives protection to the author or proprietor of any new or original design for the SHAPE or CONFIGURATION of the whole or any part of any article of manufacture, such SHAPE or CONFIGURATION having reference to some PURPOSE of UTILITY and not to any mechanical action, contrivance, or application, except in so far as it may be inseparably dependent on such shape or configuration. Neither does the protection apply to the material of which the article is composed. Inventions of articles of utility, where the discovery consists in a mechanical principle or adaptation, and not in the shape or configuration of it, can only be protected by the laws of patents of invention. But registration constitutes no guarantee that the article registered is capable of being protected, each proprietor of a design having the sole responsibility of this fact.

29. *Provisional and complete registration.* — Provisional registration is the same for articles of utility as for ornamental articles, but by complete registration protection is obtained in the case of articles of utility for a uniform period of three years of whatever materials the article may be composed.

DIRECTIONS FOR REGISTERING.

30. *Form and size of drawings.* — Two exactly similar drawings or prints of the design, made on a proper geometrical scale, marked with letters, figures, or colours for reference, are to be delivered at the Design Office.

31. *Materials, &c. of documents.* — Each drawing or print, with the whole of the following particulars, must be drawn, written, or printed *on a separate sheet of paper or parchment, only one side of which must be drawn, written, or printed upon.* Such sheet must not exceed in size 24 by 15 inches, and on the same side as these particulars there *must be left a blank space* of the size of 6 by 4 inches, upon which the certificate of registration will be placed. If the design is for provisional registration an *additional similar space* must be left for the certificate of complete registration. Should this be omitted, a fresh drawing, copy, or print will be necessary when complete registration is required.

32. *Table of fees:* —

PROVISIONAL REGISTRATION.

On registering design	10*s.*
Certifying former registration (*to proprietor of design*)	5*s.*
Registering and certifying transfer	10*s.*
Cancellation or substitution (*according to decree or order in Chancery*)	5*s.*

COMPLETE REGISTRATION.

	Stamp.	Fee.	Total
Registering design . . .	5*l.*	5*l.*	10*l.*
Certifying former registration (*to proprietor of design*)	5*l.*	1*l.*	6*l.*
Registering and certifying transfer .	5*l.*	1*l.*	6*l.*
Cancellation or substitution (*according to decree or order in Chancery*). . . .		1*l.*	1*l.*

33. *Particulars of application.*

1. Give the title of the design.
2. Two exactly similar drawings or prints of it, made to a proper scale, with letters, figures, and colours to be referred to.
3. Name and address, as for ornamental articles, (see Instruction No. 9).
4. A statement of the purpose of utility to be attained by the article in question.
5. An intelligible description, distinguishing the several parts referred to by their respective letters, figures, or colours. ✓
6. A short and distinct statement of the parts of the design (if any) which are not new or original, which may be done by either of the following forms: —

1. "The parts of this design which are not new or original, as regards the shape or configuration thereof, are all the parts except those marked (A, B, C, &c.), or coloured (blue, green, &c.)."

Or, 2. "The parts of this design which are not new or original, as regards the shape or configuration thereof, are all the parts taken separately; but the parts (A, B, C, &c.), or coloured (blue, green, &c.), as here combined, form a new design."

The above particulars must be given in the order indicated, in separate paragraphs, and be strictly confined to what is here required.

7. Each drawing or print, and the whole of the other particulars, must be drawn, written, or printed on a separate sheet of paper or parchment on one side only. The sheets

must not exceed 24 by 15 inches, and on that containing the particulars there must be left a blank 6 by 4 inches, on which the certificate of registration will be placed.

34. *One drawing filed, the other returned to proprietor.* —After the design has been registered, one of the drawings will be filed at the office, and the other returned to the proprietor duly stamped and certified.

35. *Transfer.* — In case of the transfer of a completely registered design, a copy thereof (or the certified copy, provided there is sufficient space thereon for the certificate), made on one sheet of paper with a blank space left for the certificate, must be transmitted to the registrar, together with the forms of application (which may be procured at the office) properly filled up and signed, the transfer will then be registered and the certified copy returned.

36. *Transfer of design provisionally protected.* — For the transfer of a design provisionally registered the new copy will not be required; but the certified copy must be transmitted to the registrar with the above mentioned forms.

37. *Index.*—An index of the titles and names of proprietors of designs is kept at the office for inspection. Designs of which the copyright is expired may by inspected and copied at the office; but those unexpired, though they may be inspected, must not be copied without a judge's order.

CHAP. XXXII.

LITERARY COPYRIGHT.

(Office of Registration, Stationers' Hall, Stationers' Hall Court, Ludgate Hill.)

THIS copyright consists in the ownership of a literary work or the copy of it, including the sole right to print, publish, or sell the same.

In England, before the invention of printing, the University of Oxford claimed the sole right of multiplying books by transcription. Authors do not seem to have claimed any such privilege. The introduction of the art of printing rendered this question important. As early as 1518 an exclusive claim to a work was made by a printer as a privilege granted by the Crown.

In 1556 letters patent were granted to the stationers, incorporating them into a company, with the exclusive privilege of printing in England. A bye-law of the Stationers' Company required that every person who had printed a book should first enter it in the Company's register, and obtain a licence from them. The Star Chamber supported this regulation, it being found a convenient means for keeping a strict control over the publication of books. Afterwards the Act of 13 & 14 Charles II. c. 33, commonly called the Licensing Act, was passed, giving greater authority to the Crown over literary publications. This act expired in 1694.

At length, on the 10th April 1710, by 8 Anne, c. 19, authors were released from the usurpations of the

Crown, the tyranny of the Stationers' Company, and the uncertain decisions of the courts.

A strong opinion had prevailed, supported by the decisions in the case of Donaldson *v.* Beckett and others, that, previously to the Act of Anne, at common law an author possessed an unrestrained and perpetual right to his work. The Act of Anne, therefore, was considered by many not as limiting the common right, but rather as regulating it, and affording protection to authors by imposing severe penalties on those who encroached upon it.

In the case of Miller *v.* Taylor, brought to maintain the plaintiff's right to the sole publication of Thomson's "Seasons," a special verdict was obtained, when Lord Mansfield and his colleagues decided that an author or his assignee had a perpetual right to his work. But on another similar case, that already mentioned, of Beckett *v.* Donaldson, being carried by writ of error into the House of Lords, it was settled that if the right contended for ever did exist, it was abrogated by the statute of Anne.

Hence all literary copyright depends on the statute law of Anne, modified by subsequent acts of parliament, and by the construction put on them by the courts of law and equity.

The statute of Anne gave the author or proprietor of a book the sole right to print or publish it for fourteen years and no longer, but if the author should be living at the expiration of that term, then the right should continue to him for another like term.

The Act of the 15 Geo. III. c. 56 conferred on the English and Scottish Universities, and the Colleges of Eton, Westminster, and Winchester a perpetual right *

* Copyrights the property of the Crown are also perpetual.

to all literary property belonging to them, and the 41 George III. c. 107 extended a similar privilege to the University of Dublin, and conferred on authors in Ireland the same rights throughout the United Kingdom as those enjoyed by the people of Great Britain. By it eleven copies of each book were to be delivered to eleven public libraries.

By the 54 Geo. III. c. 156 the provisions of the former Acts were consolidated and considerable changes effected in the law, the author's privilege being fixed at twenty-eight years, and, if living at the end of that term, for the residue of his life. The Act extends, besides the United Kingdom, to the Channel Islands and colonies. By 3 Wm. IV. c. 65 the property in dramatic works is declared to belong to their authors, whose profitable enjoyment is fixed, and by the 5 & 6 Wm. IV. c. 65 public lectures are declared to be the copyright of their authors.

Other statutes secure to artists a right to the productions of their knowledge, skill, and labour. A copyright in engravings is conferred by 8 Geo. II. c. 13, 7 Geo. III. c. 38, and 17 Geo. III. c. 57, extended to Ireland by 6 & 7 W. IV. c. 59.

But the most important and beneficial change which has been effected in the laws of literary copyright was made by the Act 5 & 6 Vict c. 45, commonly called Serjeant Talfourd's Act, and which was due to the exertions of that able and accomplished lawyer, statesman, and poet. This Act repeals those of Anne, the 41 Geo. III., and the 54 Geo. III. It was amended, as regards the colonies, by the 10 & 11 Vict. c. 95.

The following is an analysis of the acts and regulations which at present govern the ownership of literary property.

1. *Definition of a book.*— A book is defined to mean and include every volume, part or division of a volume, pamphlet, sheet of letter press, sheet of music, map, chart or plan separately published.

2. *Definition of copyright.* — The term copyright is declared to mean the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the word is applied in the statute.

3. *MS. exclusive and perpetual property of author.*— A literary composition whilst in MS. is the private and exclusive property of the author, and he may keep it in that condition for ever. Even a description of such a work in a catalogue will not be permitted.

4. *Duration of privilege of copyright.* — The copyright in every book belongs to the author and his assigns for the life of the author and for seven years after his death, and should such term expire before the end of forty-two years from first publication, the copyright shall endure for such complete term of forty-two years. A book published after the death of an author shall enjoy copyright for forty-two years.

5. *Publications before date of Act enjoy extended term.* — The copyright in books published before the date of the Act (1st July 1842) is extended to the full term given by the Act, and shall be the property of the person who at that date shall be proprietor of the copyright, provided he acquire the right through the natural love and affection of the author. But a publisher or person having given valuable consideration for the copyright shall not acquire an increased duration. The author, if living, or his personal representative if dead, may, before the expiration of the original term, consent and agree to accept the benefit of the enlarged term, and shall cause a minute of such consent in the

following form to be entered in the book of registry at Stationers' Hall.

Form of Minute of Consent to be entered at Stationers' Hall.

We, the undersigned, A. B. of the author of a certain book intituled Y. Z. (or the personal representative of the author, *as the case may be*), and C. D. of do hereby certify that we have consented and agreed to accept the benefits of the Act passed in the fifth year of the reign of Her Majesty Queen Victoria cap. 45 for the extension of the term of copyright therein provided by the said Act, and hereby declare that such extended term of copyright therein is the property of the said A. B. or C. D.

Dated this day of 18 .

(Signed) A. B.
C. D.

To the Registering Officer appointed by
the Stationers' Company.

6. *When owner of copyright refuses to republish.* — If complaint be made to the Judicial Committee of H. M. Privy Council that the proprietor of the copyright of a book, after the death of the author, refuses to republish it or allow it to be republished, a licence may be granted to complainant to publish the book on such conditions as the Council may think fit.

7. *Copy of work for British Museum.* — A copy of every book, with all maps, prints, or engravings, finished and coloured as the best copies published, and also subsequent editions wherein any additions or alterations are made shall, within one calendar month, if published within the bills of mortality, or within three

months in other parts of the kingdom, be delivered to the British Museum, the same to be on the best paper, and bound, sewed, or stitched together. The delivery is to be made between 10 A.M. and 4 P.M. any day except Sunday, Ash Wednesday, Good Friday, and Christmas Day. A receipt for the delivery is to be given by the proper officer of the Museum.

8. *Copy of work may be demanded for other libraries.* — A copy in like manner, on demand in writing made to the publisher within twelve months after publication by the authorised officer of the Stationers' Company, or by a person authorised by the respective libraries, is to be delivered to the Bodleian Library, Oxford, the Public Library, Cambridge, the Advocates' Library, Edinburgh, and Trinity College Library, Dublin, on the paper of which the largest number of copies shall be printed. The delivery is to be made to the Stationers' Company within one month of demand, and the proper officer is to give a receipt for the same. But the publisher may, if he pleases, deliver the copy intended for each library to the librarian or other person authorised, taking a receipt in writing for the same.

9. *Penalty for not sending copies to libraries.* — The penalty for not delivering such copy or copies is not to exceed 5*l.* besides the value of the book, to be recovered by the duly authorised officer of the library which ought to have received the book. The penalty may be recovered in a summary way on conviction before two justices of the peace for the county or place where the publisher shall reside, or by action for debt in any Court of Record, with costs.

10. *Registry at Stationers' Hall.* — A book of registry is to be kept at Stationers' Hall by the proper officer, to contain a record of the proprietorship in the copy-

right of books and assignments thereof, and of dramatic and musical pieces, in MS. or not, and licences affecting such copyright, open to public inspection on payment of 1*s.* for every entry searched for. A copy of any entry, stamped with the seal of the Company, may be had on payment of a fee of 5*s.*, such copy to be received as evidence in a court of justice. A false entry in the book is punishable as a misdemeanour.

11. *Registration.* — The proprietor of a copyright may, on payment of a fee of 5*s.*, enter in the registry book the title of his work, the date of its publication, and the name and address of the publisher, and also of the proprietor of the copyright or any portion thereof. The proprietor may partially or wholly assign his interest by making an entry in the registry book in the following form, paying a fee of 5*s.* for the same, such entry to have the same effect as a deed of assignment without being subject to any stamp or duty.

FORM OF REQUIRING ENTRY OF PROPRIETORSHIP.

I, A. B., of , do hereby certify, that I am the proprietor of the copyright of a book entitled Y.Z., and I hereby require you to make entry in the register book of the Stationers' Company of my proprietorship of such copyright, according to the particulars underwritten.

Title of Book.	Name of Publisher and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of first Publication.
Y. Z.		A. B.	

Dated this day of 18 .

Witness, C. D. (Signed) A. B.

12. *Alteration of Register.* — Any person deeming himself aggrieved by such an entry may apply to the Court of Queen's Bench, Common Pleas, or Exchequer, and if an order to expunge it be obtained (with or without costs), the proper officer of the Stationers' Company shall, on the production of such order, expunge or vary the same accordingly.

13. *Redress of violation of copyright privileges.* — Printing, selling, or exporting any work protected by the Act, without the consent in writing of the proprietor, renders the person so offending liable to an action at the suit of the proprietor in any Court of Record in the British dominions where the offence is committed, or if in Scotland in the Court of Session. The defendant in such action is to give to the plaintiff a notice in writing of the objections on which he means to rely on trial, and if the defence be that the plantiff is not the author or first publisher of the book, or is not the proprietor thereof, or that some other person was the author, publisher, or proprietor, the defendant ic to specify the name of the person he alleges to have been the author, publisher, or proprietor, with the title of the book and date of its publication. Otherwise the defendant on trial will not be allowed to plead that the plaintiff was not the author, publisher, or proprietor. The defendant will have to confine his objections to those which are stated in such notice.

14. *Importation of copyright books.* — Only the proprietor of a copyright, or some person authorised by him, may import for sale or hire any book first composed, printed, or published in the United Kingdom and protected by copyright. Any other person so importing such a book, selling it or letting it for hire will be liable to have it seized by any officer of customs or excise

and destroyed, and if convicted before two justices of the peace for the county or place where the book is found, shall forfeit for every offence 10*l.* and double the value of the book, half the penalty to the officer of customs or excise and the remainder to the proprietor of the copyright.

15. *Serial works.*—When a publisher or other person shall be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall employ any persons to compose the same or any portion thereof, and they shall have been done on the terms that the copyright shall belong to such publisher, then, on payment for the same, the copyright shall fully vest in him. But in case of essays, articles, or portions forming part of, and first published in, reviews, magazines, or other periodical works of a like nature there is this exception, that after twenty-eight years from the date of publication the proprietor cannot publish any article separately, and the author who may by any contract, express or implied, have reserved to himself such right may publish his composition in a separate form. The proprietor of an encyclopædia cannot publish an article supplied for such a work in a separate form without the consent of the author. It would appear that where the publisher of a magazine employs and pays an editor, who in his turn employs and pays authors, the copyrights in articles thus furnished does not vest in the publisher.

16. *Entry at Stationers' Hall of serial works.*—The proprietor of the copyright of any encyclopædia, review, or other periodical or serial, in order to acquire the benefit of copyright must enter at Stationers'

Hall its title, the date of publication of the first volume, number, or part, and the name and place of abode of the proprietor, and also of the publisher when not the proprietor.

17. *Dramatic and musical works.* — The Act of the 3 and 4 Wm. IV. c. 15, to amend the laws relating to dramatic property, enacts that the author of any dramatic piece shall have, as his property, the sole liberty of representing it, or causing it to be represented at any place of dramatic entertainment for twenty-eight years, and for the whole term of his life if living at the expiration of the twenty-eight years. The same privilege is extended to any such piece published within ten years before the passing of the Act (10th June 1833). Infringers are liable to a penalty of not less than 40s., or the full amount of benefit arising from the representation, recoverable, with double costs, by the author or proprietor. All actions to be commenced within twelve months. The 5 and 6 Vict. c. 45 extends the same to musical compositions, and gives to the author of dramatic or musical works the sole right of representation for the full term given to the duration of copyright in books, subject to the same provisions with regard to registration, except that the first public representation or performance of any dramatic or musical composition shall be deemed equivalent to the first publication of any book. But a dramatic or musical work in manuscript need only be registered with its title, the name and place of abode of the proprietor, and the time and place of its first representation.

18. *Assignment of copyright of book does not give right of representation.* — The assignment of the copy-

right of a book containing a dramatic or musical work does not convey to the assignee the right of representation, unless such intention shall be expressed by the proprietor in the act of assignment.

19. *Copies of pirated works become property of owner of copyright.*— All copies of any work enjoying copyright which shall be illegally printed or imported without the consent of the proprietor shall be deemed to be the property of the proprietor, who may sue for and recover the same or damages for the detention thereof, or recover damages in an action of Trover.

20. *Registration must be made before owner of copyright can sue.* — No proprietor of copyright shall sue for infringement until after making entry in the book of registry. But this is not to prejudice the remedies which the proprietor of the sole right of representing any dramatic work shall have by virtue of the 3 Wm. IV. (See instruction 17.)

21. *Copyright personal property.* — Copyright shall be deemed personal property, and be transmissible by bequest, or in case of intestacy, be distributed as personal property, and in Scotland shall be deemed personal and movable estate.

22. *Procedure in actions.* — In actions under the 5 and 6 Vict. c. 45 the defendant may plead the general issue and give the special matter in evidence, and if a verdict be given for defendant, or the plaintiff be nonsuited or discontinue his action, defendant may recover full costs. Actions are to be commenced within twelve calendar months after the offence has been committed, but this limitation shall not extend to bar the claim of the British Museum and the other libraries.

23. *Perpetual copyright of universities and colleges.*—

The Act shall not interfere with the perpetual right of copyright enjoyed by the Universities of Oxford and Cambridge, the four Universities of Scotland, Trinity College, Dublin, and the Colleges of Eton, Westminster, and Winchester.

24. *Copyright forms.*—The following are the other forms to be used pursuant to the Act of 5 & 6 Vict. c. 45.

Original Entry of Proprietorship of Copyright of a Book.

Time of making the Entry.	Title of Book.	Name of Publisher, and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of first Publication.
	Y. Z.	A. B.	C. D.	

Form of Concurrence of the Party Assigning in any Book previously Registered.

I, A. B., of , being the assigner of the copyright of the book hereunder described, do hereby require you to make entry of the assignment of the copyright therein.

Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
Y. Z.	A. B.	C. D.

Dated this day of , 18 .

(Signed) A. B.

Form of Entry of Assignment of Copyright in any Book previously Registered.

Date of Entry.	Title of Book	Assignor of the Copyright.	Assignee of Copyright.
	[*Set out the title of the book, and refer to the page of the Registry Book in which the original entry of the copyright thereof is made.*]	A. B.	C. D.

25. *Abridgments.* — Many valuable works are so voluminous that abridgments are very useful; and considerable latitude is allowed in this case, the present ruling being that an abridgment is legal provided that it be not so done as to interfere with or prejudice the sale of the original work. Several cases might be cited in support of this view. In D'Almaine *v.* Boosey, Lord Lyndhurst said, "It is a nice question what shall be deemed such a modification of an original work as shall absorb the merit of the original in the new composition. No doubt such a modification may be allowed in some cases, as in that of an abridgment or digest; such publications are in their nature original. Their compiler intends to make of them a new use; not that which the author proposed to make. Digests are of great use to practical men, though not so, comparatively, to students. The same may be said of the abridgment of any study, but it must be a *bonâ fide* abridgment; because, if it contains many chapters of the original, or such as made that work most saleable, the maker of the abridgment commits a piracy."

26. *Lectures.*—The 5 & 6 Vict. c. 65 gives the

author, or his assignee, of lectures to be delivered in any school or other place the sole right to publish them. A person taking them in short-hand, or by other means, and publishing them without leave, or any one selling the same, is punishable by forfeiture of the illegal copies and a fine of one penny per sheet, half to the crown, half to the party suing. Printers and publishers of newspapers similarly offending are liable to the like penalties. Persons who, on payment of fees are admitted to lectures, are forbid to publish them. The Act does not extend to lectures of the delivery of which notice in writing shall not have been given to two magistrates living within five miles of the place of delivery two days, at least, before delivery, nor to lectures given in a university, or public school, or college, or on a public foundation, or by an individual in virtue of any gift, endowment, or foundation.

Lectures published by the author or assignee enjoy the same protection as other literary works.

27. *Newspapers.*—By 6 & 7 Wm. IV. c. 76 the printer or publisher of every London, Edinburgh, or Dublin newspaper, or any paper published within twenty-one miles of those cities shall, on the day of publication, or the day following (not being a holiday), between 10 A.M. and 3 P.M., deliver to the Commissioner of Stamps, or other authorised officer at the head office in those cities, a copy of such newspaper, with the second or other varied editions thereof, with the name and address of the printer or publisher in his own usual hand-writing, or that of some other duly authorised person, signed thereon. The printer or publisher of newspapers in other places is to deliver to the distributor of stamps of his district, or other authorised officer, two copies of each paper, with the second or other

varied editions, signed as above, the price of such papers to be paid to him weekly on demand. Printers or publishers neglecting this duty are liable to a penalty of 20*l.* Such newspapers may be used as evidence in any action on application in writing to the commissioners, distributor, or officer, at the expense of the applicant, within two years of the date of publication. The commissioners may, on the petition of any printer or publisher not residing in London, Edinburgh, or Dublin, allow him to deliver his copies to some other distributor whom he may name.

28. *Printer's and publisher's name to be printed at end of newspaper.*—The full name of the printer and publisher and their address are to be printed at the end of every newspaper and supplement, under penalty of 20*l.* for omission or falsification.

29. *Postmaster-General to make regulations for transmission.*—The Postmaster-General, with the sanction of the Lords of the Treasury, is to make the necessary regulations for the transmission of newspapers and for detecting and preventing frauds. These regulations may be varied from time to time.

30. *Definition of periodical publications.*—The term "periodical publication" is to be construed to mean and include a newspaper and every printed literary work or paper published at intervals not exceeding thirty-one days. For the purposes of these Acts the Channel Islands and the Isle of Man are to be deemed part of the United Kingdom.

31. *Stamps on newspapers.*—By the 18 Vict. c. 27, to amend the laws relating to the stamp duty on newspapers, it is no longer necessary to print newspapers on paper previously stamped. But, although not compulsory, they may still be printed on paper stamped for

denoting the rate of duty, and are entitled to the privilege of transmission and retransmission by post, postage free. Such periodicals must be printed at intervals not exceeding thirty-one days. They must bear at the top of each page the title and date, and must be folded in such manner as distinctly to show the whole stamp. They must not be printed on cardboard or pasteboard, nor have a pasteboard back or cover, and must be posted within fifteen days after publication. The Postmaster-General, with the consent of the Lords of the Treasury, is finally to decide whether any printed paper shall or shall not be entitled to the privilege of transmission by post as a newspaper.

32. *Registration of newspapers for transmission abroad.* — Papers entitled to the privilege of a newspaper for transmission abroad (the Postmaster-General being satisfied that they are so entitled) may be registered for the purpose at the General Post Office in London, in such form as the Postmaster-General, with the consent of the Lords of the Treasury, may appoint on payment of a fee of 5*s*. But an impressed stamp is not to be used for a newspaper sent abroad, the postage being payable only by affixing adhesive stamps.

33. *Newspaper matter capable of copyright.* — There seems no reason why matter published in newspapers should not enjoy the benefit of the Copyright Acts. But the ephemeral nature of such publications would almost always render them not worth the trouble and expense which must be incurred for registration, &c.

34. *Sculpture and fine arts.* — Copyright in these is conferred by the 54 Geo. III. c. 56 (which amends 38 Geo. III. c. 71), and they may also be registered under the Designs Act, 1850, 13 & 14 Vict. c. 104 (see previous chapter). Original sculptures, models,

copies, casts of the human figure, or of animals, or parts thereof, singly or combined, are the property of the maker for fourteen years. It is essential, under the statute of Geo. III., that the name of the proprietor and date be put on the article before publication. If the original maker be living at the end of the fourteen years, and not have divested himself of the copyright, he is entitled to an additional term of fourteen years. Redress at law for infringement is accorded by special action in the case, a jury to assess damages. The action must be brought within six calendar months after discovery of the offence. By the Designs Act, 1850, a penalty from 5*l.* to 30*l.*, which may be by action, or be recovered summarily before two magistrates, provided the article be registered under the Act at the Designs Office, and bear upon it the word "registered," and the date of registration. Legal proceedings in this case must be taken within twelve months of the commission of the offence.

CHAP. XXXIII.

INTERNATIONAL COPYRIGHT.

35. *International copyright conferred. Conditions.*— The 7 & 8 Vict. c. 12 repeals the former International Copyright Act, and enacts that Her Majesty may, by an order in council, direct that in the case of all or any of the following works,—books, prints, articles of sculpture, and other works of art defined in such order, which shall thereafter be published in any foreign country named in the order, the authors, inventors, designers, engravers, and makers, and their legal representatives shall have a copyright for a period defined in such order not exceeding the term allowed if first published in this country. Copies of books are to be deposited in the British Museum and other libraries. In the case of prints, sculptures, and works of art, the English copyright law is to apply.

36. *Dramatic and musical works.*— An order in council may direct that authors of dramatic and musical works first publicly represented abroad may have the same privileges as are conferred by the Dramatic and Copyright Acts. All foreign works thus protected are to be registered at Stationers' Hall, and copies of them are to be deposited there. In the case of such works being published anonymously, the name of the publisher will be sufficient for registration. The provisions of the English Copyright Act as to entries at Stationers' Hall are extended to this Act. All works

obtaining copyright under this Act are forbidden to be imported from any foreign country except that in which such works were originally published, without the consent of the registered proprietor, and under the penalties for piracy of the English Copyright Act.

37. *Second, &c. editions.*—Second, or subsequent editions, unless containing additions or alterations, need not be deposited at Stationers' Hall. The order in council may specify different periods for different foreign countries, and for different classes of works.

38. *International copyright reciprocal.*—The order will only take effect when reciprocal protection is secured by the foreign power in question to works first published in this country.

39. *Orders in council to be published in Gazette.*—The orders in council are to be published in the "London Gazette" and laid before Parliament. They may afterwards be revoked.

40. *Copyright where no reciprocal treaty exists.*—In cases where no reciprocal treaty of copyright exists it is a question, which has frequently been mooted, whether a work by a foreign author resident abroad, published in this country at or nearly at the same time as it was published abroad, is or is not protected by the English law of copyright.

Various cases have been decided favourably to the right of the foreigner; but there are also some which lead to the contrary conclusion, especially that of Boosey *v.* Purday, in which it was decided that a foreign author residing and composing his work abroad and sending it to be first published here, does not acquire copyright in England; and that a British subject purchasing the right of the author, does not stand in a better position. A more recent case, Ollendorf *v.* Black,

was one in which the plaintiff, an alien author, while residing in this country, here published his work, sued the defendant for importing from Frankfort copies of the work published there and selling them. Lord Justice, then Vice-Chancellor Knight Bruce, granted the injunction prayed for, expressing his regret and surprise at the contrary decision in the case of Boosey *v.* Purday. "Surely," said the learned judge, "literature is of no country, and the Act of Parliament must have been to promote learning generally." He also expressed his opinion that the circumstance of Dr Ollendorf being temporarily resident in this country was of no importance.

It has been justly remarked that the 19th section of the International Copyright Act might have been brought to bear on this point. The words of the section are, "That neither the author of any book, dramatic work, or musical composition, nor the designer, &c. of any print, or maker of any article of sculpture, &c., which shall after the passing of this Act be first published *out of Her Majesty's dominions* shall have any copyright therein, &c., otherwise than such (if any) which he may become entitled to under this Act."

It would appear also that a cotemporaneous publication abroad does not defeat the copyright here, since, by the 7 & 8 Vict. c. 12 sec. 19, the right of copyright is taken away from a work first published out of Her Majesty's dominions, consequently, to obtain copyright, an actual first publication in England would be necessary.

Legal opinion is now in favour of the liberal view taken by the eminent judge whose opinion has just been quoted, the general principle on which it is founded being, that aliens may acquire personal rights and main-

tain personal actions in respect of injuries to them in this country.

Indeed, since the opinions unanimously given by the judges and other luminaries of the law in the appeal case, Jeffreys *v.* Boosey, in the House of Lords (1854), the question may be considered as settled in favour of the right of foreigners to copyright who are temporarily domiciled in this country at the time of publication here.

On the other hand, these learned personages were nearly equally unanimous in considering that a domicile here at the moment of publication, however brief, was absolutely necessary to entitle a foreigner to the benefit of British copyright, since only two out of thirteen, Justices Crompton and Erle, considered the mere fact of first publication here, irrespective of residence, sufficient to entitle the author to copyright.

The opinions thus expressed are so distinct and instructive on this important point, that it has been considered right to print them in a separate chapter, to which the reader desirous of fuller light on the question is referred. (See p. 206.)

41. *Copyright in the colonies.* — By 10 & 11 Vict. c. 95, if the legislature of any British possession shall make legislative provision for securing the rights of British authors in such colony, an order in council may be issued directing that so long as such Act shall continue in force, the prohibitions against exporting, selling, &c. foreign reprints of books first published in the United Kingdom and entitled to copyright shall be suspended as regards that colony.

42. *Translations.* — By 15 Vict. c. 12 an order in council may protect translations of foreign books and dramatic works for five years, during which such trans-

lations may only be made by the author. Articles of news and politics may always be translated, and also similar articles unless the author shall notify his desire to reserve the right of translation.

But adaptations of dramatic works are not forbidden.

The conditions for securing the right of translation are,—

1. The original work must be registered, and a copy deposited within three months of publication.
2. The author must notify on the title page, or some conspicuous part of his work, that he reserves the right of translation.
3. The translation must be published within one year of registration.
4. The translation must be registered or a copy deposited at Stationers' Hall.
5. A dramatic piece must be translated in three months after registration.
6. The right of translation applies to articles published in a newspaper, if afterwards printed in a separate form.

43. *International treaties with foreign countries.*— A treaty with France for International Copyright was signed at Paris, 3rd Nov. 1851.

The British order in council for giving effect to the treaty is dated 10th January 1852. The following are the terms of it:—

Authors, inventors, designers, engravers, and makers of books, prints, articles of sculpture, dramatic works, musical compositions, and any other works of literature and the fine arts published in France, in regard to which the laws of Great Britain give to British subjects the privilege of copyright, shall have in this country

the same privilege and for the same term as authors of similar works first published in the United Kingdom, provided such works are duly registered within three months from first publication, copies of the same being delivered according to the English Copyright Acts.

Dramatic and musical works are to have the same right of sole representation as similar works originally published in Great Britain, if they are registered, and copies of them deposited at Stationers' Hall within three months of first representation.

Translations are also protected on compliance with the formalities enumerated in Instructions 36 and 42.

By this treaty the same rights in France which are enjoyed by natives in respect to copyright are secured to British authors. (See French Law of Copyright, page 204.) A best copy of the English work is to be deposited at the Librairie Nationale, Paris, and the work is to be registered at the Ministry of the Interior, *Bureau de la Librairie*. These forms must be complied with within three months from date of publication in England.

To secure the copyright of translation in France for five years the same registration and deposit of copy must be effected within three months. The reservation of the right to translate must also be conspicuously published on the original work. (See also Instructions 36 and 42.)

Similar treaties have been concluded with various foreign countries, viz.—

With Hamburgh, on 16th August 1853. The English work must be registered at the office of the Public Library, Hamburgh. Rights and regulations as to translation the same as in France.

With Belgium, on the 12th of August 1854. A copy of the book is to be deposited at the Royal Library, Brussels, and registered at the Ministry of the Interior.

With Prussia, on the 14th of June 1855, for that state and for Saxony, Saxe-Weimar, Saxe-Meiningen, Saxe-Altenburg, Saxe-Coburg-Gotha, Brunswick, Anhalt-Dessau-Cöthen, Anhalt-Bernberg, Schwartzenburg, Sonderhausen, Reuss (elder and younger branches).

To obtain copyright under this treaty, a best copy of the work is to be deposited at Berlin.

A similar treaty was concluded with Spain on the 7th of July 1857.

FORM AUTHORISING DEPOSIT AND REGISTRATION IN FOREIGN COUNTRIES HAVING INTERNATIONAL COPYRIGHT TREATIES WITH GREAT BRITAIN.

I, , authorise you to make deposit at the Bureau de la Librairie du Ministre de l'Intérieur à Paris [*or otherwise, as the case may be*], and to execute there all other necessary formalities to procure the registration of the following work, viz.—

Title of Book.	Name and Address of Author.	Name and Address of Proprietor.	Time and Place of first Publication.

Dated this day of , 18 .

(Signed)

Witness.

CHAP. XXXIV.

FRANCE.

COPYRIGHT belongs to an author or his assigns for his life, and until twenty years after his death or the death of the author's wife or husband, if secured to either by marriage settlement; or only until ten years after the author's death, if he leave no children, to other heirs or assigns.

It lasts for the benefit of the widow, if the marriage was one "*sous le régime de la communauté*," a mode of settlement which establishes complete community of property between husband and wife.

BELGIUM.

Copyright is for twenty years after author's death.

SWEDEN.

Copyright here also is for twenty years, with the proviso that should the representative of the author neglect to continue the publication, the copyright falls to the State.

AUSTRIA, PRUSSIA, GERMAN CONFEDERATION, WURTEMBERG, BAVARIA, SAXONY, PORTUGAL, TWO SICILIES.

Copyright is for thirty years after the author's death to all his heirs and assigns without distinction.

DENMARK.

Copyright is also for thirty years, but it lapses if a work be out of print during five years. Until 1838 the duration of copyright was unlimited, provided only the work should have been kept in print.

SPAIN.

Copyright is for the author's life, and for fifty years after his death.

GREECE, SARDINIA.

Copyright is for fifteen years after date of publication.

ROMAN STATES.

Copyright is for life, and for twelve years after the author's death.

RUSSIA.

Copyright is for life, and for twenty-five years after the author's death, with an additional ten years should a new edition have been issued during the preceding five years.

UNITED STATES OF AMERICA.

Copyright is for twenty-eight years from first publication, with an extension of fourteen years to the author, his widow, or children, provided the formalities of registration, &c. are complied with, as in the first instance.

CHAP. XXXV.

OPINIONS OF LAW LORDS ON FOREIGNERS' RIGHT TO COPYRIGHT.

THE following opinions of the most eminent judges on the right of a foreigner to copyright in this country were given in the appeal case of Jeffreys *v.* Boosey, in the House of Lords, 1854. They are so lucid and instructive, and are also so conclusive in settling a question which had previously been exposed to some doubt, in consequence of one or two opposite decisions, that it has been judged expedient to print them as a separate chapter.

Including Lords Brougham and St. Leonards, no less than thirteen judges gave their opinions; of whom, as will be seen, ten were in favour of the right of foreigners coming to this country to publish, two justices, Crompton and Erle, thought that aliens were entitled to copyright without even temporary domicile, and the thirteenth, Justice Maule, did not advert to the point.

LORD ST. LEONARDS.

A foreigner actually resident abroad can only obtain English copyright, by first publishing here, either by virtue of a supposed or asserted common law right or of statute right.

In my opinion there is identity of principle between a literary work and a mechanical invention, and I

affirm that there is no more common law right in the one case than in the other.

There is a broad distinction between the right of an author to his manuscript, and the right to the exclusive privilege in the disposal of copies of it. In the manuscript he has a common law right.

An Act of Parliament having merely municipal operation, cannot be held to extend *primâ facie* beyond our own subjects, except as both statute and common law do provide for foreigners when they become resident here, and owe at least a temporary allegiance, thus acquiring rights, not because they are foreigners, but because, being here, they are entitled, in as far as they do not break in on certain rules, to the general protection of their property in the same way as if they were natural born subjects.

The alleged absurdity involved in the latter proposition, namely, that a man may pass from Calais to Dover and obtain the right here, whilst, had he remained at Calais he could not have acquired it, has no bearing on the question. It does not depend upon whether the author is on the other side of the Atlantic or whether he is on the other side of the narrow channel between Dover and Calais, and can get over in two hours. The question is, let him be where he will, he either is or is not a foreigner residing out of the realm, and claiming the benefit of the copyright whilst residing abroad. The case of the man at Calais and the man on the other side of the Atlantic is exactly the same.

It is no longer disputed that the first publication must take place here; but that is only by implication, not by express enactment. I apprehend it is implied also that the printing should take place here. Then is

it not a natural inference that the man should be here to superintend the publication?

It seems not to be denied that an English author may reside abroad, and yet may have his right as an English author upon publication here. Why? Because he owes a natural allegiance which he cannot shake off. Residence abroad cannot release him from his natural allegiance, and therefore he carries with him the natural rights of a subject of England wherever he goes. This could not be said of any foreigner not actually resident here. Justice Bayley, in Clementi *v.* Walker (2 B & C 861—867), supports this view.

With respect to residence, whatever would constitute a man a resident here, so as to make him subject in point of allegiance to the country whilst here, would be a residence which would give him a copyright here if published here.

LORD BROUGHAM.

The differences of opinion among learned judges on the various points of the present case are not greater than existed when *Donaldson* v. *Beckett* was decided here in 1774, and when in 1769, in *Miller* v. *Taylor*, the judges of the Court of King's Bench had been divided in opinion for the first time since Lord Mansfield presided in that Court. This House, however, reversed the decree under appeal, in accordance with the opinion given on the main point by the majority of the judges; and upon the general question of literary property at common law no judgment whatever was pronounced.

In this diversity of opinion it asks no great hardihood to maintain a doctrine opposed to that of the majority of those high authorities, considering the great names

which are to be found on either side; but it must be admitted that they who, both on that memorable occasion and more recently, have supported the common law right, appear to rely upon somewhat speculative, perhaps enthusiastic views, and to be led away from strict, and especially from legal, reasoning into rather declamatory courses. All such considerations must be entirely discarded from the present discussion, which is one purely judicial, and to be conducted without regard to any but strictly legal arguments.

The right of the author before publication is unquestioned, and, when accurately defined, never denied. But whatever the original right of the author, the publication appears to be a necessary abandonment of it. The protection then, in my opinion, is the mere creature of enactment.

A foreign author coming to Dover obtains the exclusive privilege; if he had stopped at Calais he could not have it. This is only one of the consequences of a law which is bounded in its operation by extent of territory. There are abundant other instances of it.

LORD CRANWORTH (THEN LORD CHANCELLOR).

Copyright, if not the creature of statute laws as I believe, is now entirely regulated by it, and in determining its limits we must look exclusively to the statutes on which it depends.

The statute of Anne, in my opinion, referred to British authors only, including all persons who are within the Queen's dominions, and who thus owe her temporary allegiance. I think, that if the foreigner having composed a work abroad, were to come to this country, and the week or day after his arrival were to

print and publish it here, he would be within the protection of the statute.

Copyright, meaning the exclusive right to multiply copies, commences from the instant of publication, and, if the author is at that time in England, and while here he first prints and publishes his work, he is, I apprehend, within the meaning of the statute, even though he should have come here solely with a view to publication. The author is then a British author, wherever he may have composed his work. But if he is not in this country, he is not, in my opinion, a person whose interest the statute meant to protect. The argument that a foreigner having composed a work at Calais gains British copyright if he crosses to Dover involves no absurdity; it is only one amongst a thousand instances, not only in law, but in all the daily occurrences of life, showing, that whenever it is necessary to draw a line, cases closely bordering on either side of it are so near together that it is difficult to imagine them as belonging to separate classes, and yet our reason tells us they are as completely distinct as if immeasurably removed from each other. The second which precedes mid-day is as completely distinct from that which follows as the event which happened one hundred years ago.

LORD CHIEF JUSTICE JERVIS.

Natural born subjects and persons resident within the kingdom owe obedience to the laws and are within the benefits conferred by the legislature. I think that the statute is confined to British authors, that is, natural born subjects and those who by domicile or residence, or possibly by personal presence only, are under the dominion and subject to the laws of England.

But if an alien can acquire the right by coming to England, may he not have it whilst resident abroad? The answer is, that whilst out of the realm he is not subject nor entitled to the benefit of the laws of this kingdom.

LORD CHIEF BARON POLLOCK.

An alien residing here owes temporary allegiance to the British Crown, and while residing here is one of Her Majesty's subjects, and is, therefore, entitled to the benefit of the law, and I think he is an author within the meaning of the statute.

JUSTICE WILLIAMS.

The doctrine of the plaintiff in error does not deny that a foreign author may gain an English copyright by a publication in England provided he is resident here, and it seems plain that residence at the date of publication in England was intended. It is surely immaterial where he resided when he composed his work.

JUSTICE WIGHTMAN.

It seems admitted, that if a foreign author comes to England, for however short a time, and first publishes here, he is entitled to copyright. But if he stopped at Calais and sent his work to London by an agent he would not be entitled, or if he assigned his copy at Calais he would transfer no right of property to his assignee, though he would if he assigned at Dover.

JUSTICE COLERIDGE.

It appears that if an alien *amy* being here had composed, or had come here with a work previously

composed abroad, but remaining unpublished, he would have been within the provisions of the statutes of Anne and George III. in respect to copyright, and could confer a good title to his assignee under the statutes.

BARON ALDERSON.

Copyright after publication is the sole right to multiply copies of a published work. Either copyright was originally created, or at any rate is now entirely regulated by, and in this country depends on, statute.

An alien *may* may make himself capable of obtaining copyright by coming to the country and first publishing his work here. But till he does that I think he cannot have the right at all, and consequently cannot transmit what he has not yet acquired. The Act gives a right to the author and to his assignees not of the manuscript but of the copyright.

BARON PARKE.

The object of the Acts is the encouragement of learning, by encouraging learned men to compose useful books. The legislature has no power over persons except its own subjects, that is, persons either natural born or within the limits of the kingdom. When the legislature offers a reward to authors in the shape of an exclusive privilege, making the printed work dearer to all over whom its authority extends, it was meant to benefit English authors only. I have no doubt that the benefit to be given to English authors only includes not merely subjects by birth, but subjects by domicile or residence, or even perhaps by personal presence at the time of composing the work, or at least at the time

of first publication, for even this constitutes a temporary allegiance and ought to have a corresponding benefit.

I think the same construction ought not to be put on copyright as upon the Patent Acts. The 21 James I. c. 3 was on restraint of the prerogative, and the King, having discretion at common law, might give the privilege to an alien resident abroad. But the Crown is not bound to give it to any person whatever; it is entirely in its discretion. But in the case of copyright the Crown has no discretion, and an alien if entitled under the Act would be entitled absolutely, for the right is given to every author.

If aliens living abroad could, under the International Copyright Acts (1 & 2 Vict. c. 59, repealed and re-enacted by 7 Vict. c. 12), obtain a copyright by first publication in England, and could make the first publication by a new device of simultaneously publishing abroad and in England (a device of very questionable validity), there would be an end of the advantage we could offer to foreign countries (the United States, for instance, who recognise no copyright but in citizens of those States) as an equivalent for a copyright in this country. If the decision of the Exchequer Chamber is law, an American author can obtain the right of sole publication here, if he takes care to publish it on the same day as in his own country.

The provision of the statute of Anne is that a licence shall be in writing signed in presence of two witnesses. In that of George III. it is enacted that it shall be in writing. The 5 & 6 Vict. leaves no doubt, for it expressly repeals the whole statute of Anne, and an assignment may now be made in writing untestified, as well as by entry in the Stationers' Register.

APPENDIX

APPENDIX A.

STATISTICS OF PATENTS.—EFFECT OF THE PRESENT LAWS.

THE following is believed to be a tolerably faithful sketch of the population of the principal States of the civilised world, the number of patents annually issued, the cost of the patents, and the number issued in proportion to the population.

Countries.	Population.	Patents per annum.	Cost of Patent.	Patents per million of inhabitants.
	Millions.			
FRANCE . . .	36	5820	£4 per annum for 14 years	162
UNITED STATES . .	23			
To citizens . .	. .	3668	£6 total cost	160
To British subjects .	. .	20	80 ,, ,,	
To other aliens .	. .	22	60 ,, ,,	
GREAT BRITAIN . .	30			
(Provisional Protection) . . .	. .	3000	£5	100
Sealed . . .	. .	1950	25 additional	65
At end of 3 years .	. .	550	50 ,,	18
At end of 7 years .	. .	100	100 ,,	3½
BELGIUM . . .	4½	1406	8s. first year, and increasing progressively for 20 years up to £8 for last year	312
AUSTRIA . . .	36½	703	£10 for first 5 years 20 for second 5 years 40 for third 5 years	19
SARDINIA . . .	4½	171	8s. 4d. per year paid at once £1 12s. per annum first 3 years 2 12s. ,, ,, second 3 ,, 3 12s. ,, ,, third 3 ,, 4 12s. ,, ,, fourth 3 ,, 5 12s. ,, ,, fifth 3 ,,	35
SAXONY	2	107	£4 10s. for first 5 years 8 second 5 ,,	54
SWEDEN . . .	3½	64	Fees not fixed, and expenses of advertising	18
VICTORIA (*Australia*) .	½	53	£7 4s. 6d. for first 3 years	106
PRUSSIA . . .	17	49	£20 and upwards from 6 months to 15 years	3
BAVARIA . . .	4½	41	£2 for first year, increasing by degrees annually to £23 for 15 years	9
NETHERLANDS . .	3½	39	£12 10s. for 5 years. From £25 to £33 for 10 years ,, 50 to 62 15 ,,	12
RUSSIA	70	26	£14 10s. for 3 years 24 ,, 5 ,, 72 10s. ,, 10 ,,	⅛

The facts exhibited in the above Table are well worthy of serious consideration.

That which will at the first glance strike the reader is the proportionately small number of patents awarded to her citizens by the richest, the most industrial, and the most enterprising nation in the world, compared with others which certainly rank beneath her in all these respects. Great Britain rewards her inventive sons with only 65 patents per million, whilst Belgium issues no less than 312 of these privileges in the same proportion.

The next fact which will be remarked is, that the number of patents issued depends on the moderation of the fees and the reasonable conditions which are attached to the possession of the privilege.

The Commissioners of Patents, in their Report to the Lords of the Treasury, published in their Journal for the 13th of September, 1859, state the present number of patents issued (provisional protection) at 3000, and they express their belief that this will be about the future annual number which may be confidently relied on. They give 86,000*l.* as the average income now received and to be in future expected from patent duties. Of these 3000 grants of provisional protection, 1050 become abortive from the inability or unwillingness of the grantees to pay for complete patent. Again, 1490, or nearly three-fourths of the completed patents, become void from the non-payment of 50*l.* before the expiring of the third year; and probably not more than 100 of the surviving 550 will pay the 100*l.* additional stamp duty required before the end of the seventh year.

The Commissioners regard this state of things as highly satisfactory. They say that the fees paid upon

the passing of a patent are not too heavy; the large number of applications (3000 in each year) accounting for the large amount of income. They say that any material reduction in the amount of fees would undoubtedly tend to increase the number of useless and speculative patents; in many instances taken merely for advertising purposes. They add that, considering the beneficial results of the additional payment of 50*l.* in sifting useless patents, they are of opinion that it is not expedient to reduce the amount for the present at least, and so long as the surplus can be expended for the benefit of patentees and that portion of the community which is principally interested in and connected with the practical application to public purposes of discoveries and improvements in science and art.

The inventive public are hardly likely to join in this jubilation; on the contrary, they may fairly look at the results of the present patent laws in a very different point of view.

They may allege that the patent privilege is intended as a reward for the ingenuity and industry displayed by them in their inventions, and for which they pay the full value by making to the public an unreserved disclosure of their secret.

They may, therefore, believe any taxation levied upon them beyond the amount strictly necessary for defraying the expenses of the Patent Office, to be wrong in principle, as being a burthen on the national intelligence, and an oppression of individual merit. They may regard the nullification of no less than 1050 grants of provisional protection annually as a very deplorable fact, proving a barren loss to them of more than 5000*l.* in fees, and of considerably more than that amount in agents' charges, which amount will but feebly represent

the injury inflicted on them by the weight of fees by which they are oppressed. They may be convinced that many meritorious inventions, the result of hard labour, mental and physical, become public property owing to the inability of the inventors to pay the stipulated tax.

They may refer to Belgium, where a progressive system, equitably framed, induces the inventor to take out five times as many patents, having regard to the population, as are granted in this country.

They may refer to the United States, where British invention is taxed at more than thirteen times the price charged to American citizens; and where we are also made to pay 30 per cent. more than any other foreign nation, the only pretext for which is the high price charged Americans in this country for patent privilege.

They may cast an envious glance at the better fate of their literary brethren who, by the deposit of a few copies of their works for the use of certain libraries, and the payment of a trifling fee, obtain an exclusive privilege in their invention for forty-two years. They may deny the propriety of allowing the law officers of the crown and their clerks to levy upon the inventive faculty of the country a black-mail of nearly 10,000*l.* a year in return for merely nominal services, and they may think that the appointment of a permanent officer at a moderate salary to superintend the issue of patents, would have more effect in promoting order and regularity in privileges for inventions than can be obtained by the interference of the learned gentlemen whose political or legal merits have obtained for them the post of Attorney or Solicitor-General for the time being.

They may opine that libraries and museums for the promotion of inventive attainments should rather be paid for by the public at large, who are certainly the chief gainers by the progress of science and art, and they may think, that to tax the ingenious and industrious inventive few for the benefit of the public, is as unjust and absurd as was the contribution levied on the wages of the seamen in the merchant service towards defraying the keep of disabled veterans of the military navy in Greenwich Hospital.

And, finally, they may apply to themselves the stinging sarcasm of Virgil's apostrophe to the bees:—

Vos, non vobis, mellificatis, apes!

APPENDIX B.

AMOUNT OF DUTIES RECEIVED ON BRITISH PATENTS (16 VICT. c. 5) FOR THE YEAR 1858.

	£	s.	d.
3,007 petitions for grant of letters patent, at 5*l.* each	15,035	0	0
2,174 notices of intention to proceed with application, at 5*l.* each	10,870	0	0
50 notices of objection to the grant of letters patent, at 2*l.* each	100	0	0
1,954 warrants for patents, at 5*l.* each	9,770	0	0
1,954 patents sealed, at 5*l.* each	9,770	0	0
1,880 final specifications filed, at 5*l.* each	9,400	0	0
51 complete specifications filed, at 5*l.* each	255	0	0
553 entries of assignments of patents and licences, at 5*s.* each	138	5	0
360 searches and inspections, at 1*s.* each	18	0	0
13,011 folios of office copies of documents, at 2*d.* per folio	108	8	6
558 patents upon which the progressive stamp duty of 50*l.* has been paid	27,900	0	0
8 duplicate patents issued in lieu of original patents lost or destroyed, 5*l.* each	40	0	0
28 petitions on application for disclaimers, 5*l.* each	140	0	0
16 caveats against disclaimers, at 2*l.* each	32	0	0
1 patent granted upon Her Majesty's order in council under the 40th section of the Act (1852), being a prolongation of a patent granted previous to the Act	5	0	0
	83,581	13	6

APPENDIX C.

CHARLES READE'S "EIGHTH COMMANDMENT," A TREATISE ON COPYRIGHT.—REMARKS THEREON.

WHILST this work was going through the press, Mr. Charles Reade's volume, entitled the "The Eighth Commandment," has appeared, and turns out, much to the surprise of the numerous admirers of the eloquent and witty author of "Never too Late to Mend," to be a treatise on Copyright, especially directed to the subjects of International Treaties and the Drama. Such being the case, his book is entitled to respectful notice here. Mr. Reade begins by saying that he pleads, not to angels, but to M.P.'s. It is, therefore, legislative enactments that he calls for. Now what are the wrongs which he would set right?

In 1851 Europe agreed, by International Copyright Treaties, that intellectual property should pass frontiers and sheets of water and still be property. But these treaties, in his opinion, are marred by this proviso:

> *It is understood that the protection stipulated by the present article is not intended to prohibit fair imitations or adaptations of dramatic works to the stage in England and France respectively, but is only meant to prevent piratical translations.*

The result, he complains, is a statute contradictory in terms, failing in its proposed object of abolishing international injustice, robbery of the French, and starvation of the English author.

He then proceeds to denounce the abuse of the practice of abridgment, and claims for authors, British and foreign, the absolute property in their works, with exclusive power to abridge, dramatise, and metamorphose them at will, turning prose into poetry, romances into plays, and *vice versâ*. All this is mixed up with narratives of expensive, vexatious, and unsatisfactory law proceedings, angry attacks on his critics, and other extraneous matter, filling 379 pages octavo, in which this charming writer, with much untoward and perverse ingenuity, has proved himself capable of writing an unpopular, disagreeable, UNREADable book. We regret this result the more, because we sympathise to a certain, but moderate extent, in the object he so sincerely, but so injudiciously advocates.

Mr. Reade proves very clearly that the theatre obtained greater success at an earlier period in England than in any other European country, that the nation has shown, at various epochs, a very remarkable genius and taste for the drama, that there is no reason why the dramatic spirit should have departed from the land, and yet, in the present day, dramatic literature is less cultivated than any other branch of imagination, whilst in France it is more flourishing than at any former period, and its authors equitably and richly rewarded.

Whilst admitting these facts, we cannot allow, however, that the decadence of British dramatic art is to be ascribable, in any great extent, to the adaptation or piracy of French plays. The evil is certainly not of modern origin. Pope, in the prologue to Cato, written a century and a half ago, complains,

> "Our scenes precariously subsist too long
> On French translation, and Italian song."

Genius has a course so capricious, that it can with difficulty be accounted for by fixed rules.* Each age and each country has its distinguishing attributes; at one time war, at another legislation, at another commerce is the characteristic feature; now poetry, now painting, now sculpture, now music seem to absorb the intellect of the day. And this is equally true with regard to the kind of excellence which prevails in different countries and in different times. In early days the bard and the minstrel were the representative men of the poetic spirit of their age, and, unsuspicious of copyright, charmed the leisure of their rude contemporaries. Then the drama became the power which made

"Mankind, in conscious virtue bold,
Live o'er each scene, and be what they behold."

At one period the epic was the form of the divine afflatus; then lighter verse usurped its place; again, poetry itself became distasteful to an age or a country, and romance assumed the sceptre vacated by its august predecessors. No law would have secured the permanency of any of these; no law was instrumental in effecting their downfall.

Powerfully operating causes may be assigned, which are entirely independent of defective legislative protection against piracy, for the present decay of the drama in this country. A great change has taken place in the habits and hours of what are called the

* Les idées sont des forces vives, mêlées à l'air que nous respirons; le vent les charrie et les sème à tous les points de l'horizon, et quoi qu'on puisse faire pour échapper à ces invisibles courans, si loin qu'on se tienne à l'écart, on s'en pénètre, on s'en imprègne; on est toujours l'enfant de son siècle.—*Jules Sandeau.*

higher and middle classes of society, which renders attendance at the theatre generally inconvenient, whilst the increased taste of these classes for Italian music makes the opera a formidable foe to the ordinary drama; railroads and other facilities of locomotion withdraw a very influential and wealthy class from the theatrical centres; increased attachment to domestic life disinclines its votaries for outdoor amusement; the universal spread of literature makes the closet, rather than the theatre, the temple of the imagination; and, finally, the religious spirit of the age has set itself against the theatre with so strong a bias, as to place the whole dramatic world under the ban of its anathema. Those powerfully influential bodies, the low-church party in the establishment, and the various classes of dissenters, assuming the title of evangelical, are anti-theatrical to a man. It is even wonderful how in Scotland, with the opinions generally prevalent there, the theatre can exist as an institution at all. The patronage of the theatre has now fallen to the humbler classes, less competent to appreciate merit and less able to reward it. The theatrical manager must, therefore, bow to the taste and intelligence of his patrons, and limit his expenditure to the amount they place at his disposal.

In France the case is quite different. A greater national cheerfulness and a greater taste for amusement is everywhere remarkable, accompanied by a much less absorbing attachment to domestic life. The love of the French for outdoor recreation produces effects which are evident in various ways, besides their patronage of the drama. Witness the café, the restaurant, and other places of eager general resort, which have never been thoroughly acclimatised in this country. Again,

the Government of France, by means of subventions gives a factitious stimulus to the theatre throughout the country. Similar encouragement does not exist in Great Britain. We need not inquire whether such be a desirable mode of employment for the national revenues. It certainly would never be permitted here.

Dr. Johnson somewhere remarks, with his usual acumen, that the dullest book ever written, if the pure and entire conception of the mind of its author, would be a miracle of genius. We are hardly conscious how much we owe to our predecessors and contemporaries. The proportion we borrow, compared with the really original part of our works, may perhaps be in the ratio of Falstaff's unconscionable quantities of sack to his halfpennyworths of bread. The author should reflect, and the reflection should make him modest, that a very large part of that which he complacently publishes as his own must necessarily be derived from sources outside his own brain pan, and that it is consequently merely a return to the public and to posterity of matter which he himself has derived from those who have gone before him, sometimes consciously, sometimes unconsciously. It is true that the matter thus re-distilled through the mental alembic may come out as disguised as Bishop Butler's sermon when it was first translated by Mr. Reade's friend, the curate, into Welsh, and then retranslated into English, after which operation, as the worthy curate boasted exultingly, "the Devil himself would not know it again!"

"An author is a venerable name,
How few deserve it, and how many claim."

It is on this ground that the Legislature is fully justified in limiting the exclusive privilege of author-

ship, and the same remark is equally applicable to all other kinds of invention. Such exclusive privileges are always exceptional in their nature, and must always be framed on a system of compromise. The same law is destined to reward a Macaulay and the compiler of a cookery book; a Watt and the inventor of a new pill. Occasional injustice cannot, therefore, be avoided. Protection must necessarily diminish in proportion to the transitory and ephemeral nature of the literary property without reference to its literary merit. The newspaper press flourishes without any protection at all, and in the face of the most unblushing piracy.

We think it will generally be admitted that too great a licence prevails in the practice of abridgment, and that some restraint might be imposed on its extent with advantage to the original author and without injury to the public. Authors might be allowed a short delay, during which they might have the exclusive right to abridge, dramatise, or otherwise remodel their works, and it would only be fair to extend this privilege to the foreign writer. But we are not blind to the great difficulty which exists in legislating satisfactorily on questions of degree, and we consider that anything like the absolute and exclusive control over literary work claimed by Mr. Reade on behalf of the author would be a great injury to the public, not balanced by any corresponding advantage to literary merit.

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