THE

# PATENT LAWS OF THE WORLD.

COLLECTED, EDITED AND INDEXED.

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## COLLECTED, EDITED AND INDEXED.


BY

ALFRED CARPMAEL, SOLICITOR,

MEMBER OF THE COUNCIL AND PATENT COMMITTEE OF THE SOCIETY OF ARTS;
MEMBER OF THE PATENT COMMITTEE OF THE BRITISH ASSOCIATION;
ASSOCIATE OF THE INSTITUTE OF PATENT AGENTS.

AND

EDWARD CARPMAEL, B.A., PATENT AGENT,

LATE SCHOLAR OF ST. JOHN'S COLLEGE, CAMBRIDGE; ASSOCIATE OF THE INSTITUTION OF CIVIL ENGINEERS; MEMBER OF THE SOCIETY OF ARTS; FELLOW OF THE INSTITUTE OF PATENT AGENTS.



YALE LAW LIBRARY.



LONDON:

WILLIAM CLOWES AND SONS, LIMITED,

27, FLEET STREET.

1885.

FLG
C.228
1885

LONDON:
PRINTED BY WILLIAM CLOWES AND SONS, LIMITED,
STAMFORD STREET AND CHARING CROSS.

# PREFACE.

NOTHING but necessity could have driven us to undertake the task which we are glad to say is now completed.

However imperfectly our work has been done—and none will ever know better than ourselves how many faults it has—we at least have the satisfaction of feeling that we have to some extent supplied a pressing want.

There are many who are daily consulted on questions, of foreign and colonial patent law, which cannot be answered without reference to the laws themselves. There exist many abstracts of the laws, some of them most carefully compiled, but these, though very valuable to the general public and persons who only require to know their scope and nature, do not meet the requirements of those who have to advise on points of detail.

The Commissioners of Patents formerly published from time to time the text of colonial laws and translations of foreign laws. Some years ago, most unfortunately, this was discontinued, and now many of the most important laws are out of print, and worse still, repealed enactments are sold without any warning that they are not in force.

It was under these circumstances that we determined to publish, as completely as we could without unreasonable delay, the patent laws of the world. At first it was our intention merely to make a collection, reproducing the colonial laws and reprinting the best translations we could find of the foreign laws.

The colonial laws did not present any serious difficulty; we had merely to fill up the gaps left by the Commissioners of Patents: but with the foreign laws the case was different; the gaps were more numerous, many laws were entirely wanting,

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or repealed laws appeared in the place of more modern ones, and, in addition, many of the translations were free and sometimes very inaccurate.

We think we may say that in this collection of Patent Laws few gaps remain to be filled up. We cannot pretend, however, that all inaccuracies of translation have been corrected. We have done our best, and much more than we intended to do at starting. Almost all the translations have been more or less revised, but in the case of the more remote countries they are still very imperfect. The laws of all the more important European countries, on the other hand, have been entirely re-translated.

We have added an index, which we think will not be the least useful part of the book. Here, again, we have done more than we originally intended, and less than we should have liked. A complete analytical index of the laws would be most useful, but neither the space at our command nor our scanty leisure admitted of our attempting this. We think, however, that what we have done will prove useful in pointing out the clauses of the laws bearing on the points arising under the various heads we have selected.

If the saying, "what is worth doing at all is worth doing well," means that nothing ought to be attempted that cannot at once be done perfectly, such a book as this would never appear, for there are few capable of producing anything approaching to perfection, and not one of these can spare the necessary time.

We felt, however, that a beginning ought to be made. If others will assist us with additions and corrections, we will endeavour at some future time to bring this book one step nearer perfection.

"Whereas many persons in different parts of the world are engaged in preparations for the appropriation of various kinds of intellectual property," commonly recognized as creations of the mind, which the United States have the power to secure, but not without the enforced lapse of time, to the authors or inventors the exclusive right to their writings and discoveries; and whereas it is just and proper that persons who shall have produced any new and useful work, or who shall have invented any new and useful machine, manufacture, or composition of matter, or any new and useful improvement on any machine, manufacture, or composition of matter, should have the sole liberty of printing, reprinting, manufacturing, compounding, and vending such new and useful invention or discovery;"

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[Note.—*At the last moment we have received the new Queensland Act which came into force on the* 1st *January*, 1885. *It is almost word for word the same as the English Act of* 1883, *but the numbering of the sections is slightly different. The fees are* £2 *for provisional protection,* £3 *on the complete specification, and to keep up the patent* £5 *and* £10 *before the ends of the* 4*th and* 8*th years, or else ten corresponding annual payments.*]

THE

# PATENT LAWS OF THE WORLD.

## ARGENTINE REPUBLIC.

*Law of the* 11*th of October*, 1864.

### TITLE I.

*General Provisions.*

Art. 1.

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

Art. 2.

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

Art. 3.

The following shall be considered as new discoveries or ventions, viz., all new products of industry; new means, d the new application of known means, for obtaining an dustrial result or product.

Art. 4.

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

Art. 5.

Patents shall be granted for the term of 5, 10, or 15 years, according to the merit of the invention and the wish of the applicant; the re-issue (confirmation) of Foreign Patents shall be limited to 10 years, and in no case shall the term exceed that of the original Patent, at the expiration of which they shall lapse.

Art. 6.

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

Art. 7.

The payment of the fees shall be made, one half at the time of application, and the other half by successive yearly payments.

Art. 8.

The Executive Government shall regulate by a Special Decree the mode in which the Patent Office has to pay over the said fees to the Public Treasury.

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## TITLE II.

### *Patent Office.*

Art. 9.

The before-mentioned Patents are to be delivered by a special office established for that purpose.

Art. 10.

The official staff of the Patent Office is to be composed of a Commissioner, at a salary of 1,200 piastors per annum; of four Sub-Commissioners, at a salary of 800 piasters per annum; of a secretary, at a salary of 600 piasters per annum; and a porter, at a salary of 240 piasters. The five former are to be appointed by the President of the Republic direct, and the two latter on the recommendation of the Commissioner.

Art. 11.

No officer of the Patent Office is allowed to hold an interest, directly or indirectly, in Patents which come under his control, under pain of dismissal, and a fine of from a hundred to one thousand piasters, if convicted.

Art. 12.

The Commissioner is chief of the office, and responsible to the Government for all the documents and objects deposited, which must be carefully kept and registered.

Art. 13.

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

Art. 14.

The Patent Office shall form a Department of the Ministry of the Interior.

## TITLE III.

*Proceedings for Granting Letters Patent.*

### First Section.

Art. 15.

All applications for Letters Patent must be made by petition addressed to the Commissioner of Patents. This petition, with

a 25 cents stamp affixed, has to be delivered at the Patent Office in the capital, or at one of the chief Post Offices in the provinces, and must be accompanied by a description, with proper drawings and patterns (all in duplicate), and a list of the objects presented.

Art. 16.

In cases where the application is made through the Post Office, applicants may deliver the descriptions, patterns, and drawings in a sealed packet, and require the same to be safely forwarded, at their own cost, to the Patent Office.

Art. 17.

The Commissioner of Patents shall provide the Postmasters mentioned in Art. 15 with a ledger, duly paged and headed, in which the petitions shall be entered in order of their presentation, with the date, and time. A similar book shall be kept as a register at the Patent Office. This register is to state in a few words the subject of the application, and has to be signed by the Commissioner, the Secretary, and the applicant, or his attorney. At the request of the applicant, a certificate of deposit may be delivered to him at the mere cost of a fourth-class paper stamp.

Art. 18.

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

Art. 19.

Applications are to refer to a single chief object, with its accessories and applications; they must mention the term for which the Patent is sought, without containing any restrictions, conditions, or reservations whatever; they must indicate

a short and precise title of the invention; they must be written in the Spanish language; the omissions or additions must be duly mentioned, and the drawings accompanying the same are to be made in ink, and according to a metrical scale.

## SECOND SECTION.

### Art. 20.

As soon as the application is in the hands of the Commissioner, and when it appears that the object applied for is *within the limits of Art. 2, and does not come under the limitation* of Art. 4, the Patent is granted, provided the term applied for does not exceed ten years; if it exceeds that time, the application is referred to the Minister of the Interior *for ulterior decision, from which decision there lies no appeal.*

### Art. 21.

All Patents shall be issued in the name of the Nation, by authority of the Government, and shall bear the signature of the Commissioner and Secretary, with the official seal, and shall consist of the decree granting the same, accompanied by the duplicate of the description and drawings.

### Art. 22.

Immediately after the issue of the Patent it shall be delivered to the applicant or his attorney. However, if the application has been made through the Post Office, the Patent shall be forwarded by the same channel, the respective Postmasters having to acknowledge the receipt as soon as possible. All subsequent certificates applied for shall be delivered at the rate of five piasters each.

### Art. 23.

The *grant of a Patent does not obviate the exceptions* mentioned in Art. 46.

### Art. 24.

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

Art. 25.

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

Art. 26.

A quarterly list of all Patents delivered and refused, with their respective dates, has to be forwarded by the Commissioner to the Government for publication.

## Third Section.

### *Certificates of Addition or Improvement.*

Art. 27.

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

Art. 28.

Certificates of Addition are subject to the same formalities as Patents, with the exception of the fees, the original Patentee having only to pay one-fourth, and others than the Patentee one-half of the said fees.

Art. 29.

When such Certificates of Addition have been obtained by others than the original patentee, they do not confer on their owners the exclusive right of working their invention, except under the condition of paying a premium to the original inventor, the amount thereof having to be fixed by the Commissioner by taking into account the importance of the improvement and of the part used of the original invention.

Art. 30.

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

Art. 31.

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

Art. 32.

If two or more parties should apply at the same time for a Certificate of Addition for the same improvement, and if they should not come to some arrangement between themselves, no Patent shall be issued to either. The same provision applies also to Letters Patent.

FOURTH SECTION.

*Provisional Patents.*

Art. 33.

Inventors or improvers may obtain a Provisional Patent, for the term of one year, and renewable at the expiration of each year.

Art. 34.

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

Art. 35.

On the receipt of this petition the Commissioner shall deliver the Provisional Patent, entering the same in a special book, to be kept in his custody in the secret archives, together with all the documents relating thereto.

Art. 36.

No Provisional Patent shall be granted for inventions prohibited by Art. 4.

Art. 37.

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

Art. 38.

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

Art. 39.

In case of an opposition by the owner of a Provisional Patent, the Commissioners shall give a separate hearing to both applicants; and if the inventions should be identical, neither shall obtain a Patent, unless both parties come to an arrangement. Should such inventions be different, the Patent applied for shall be granted.

Art. 40.

The fees paid for a Provisional Patent shall be deducted from the sum to be paid for Letters Patent, or for a Certificate of Addition obtained previous to the expiration of the former.

## TITLE IV.

### First Section.

*Assignment of Patents.*

Art. 41.

Owners of Patents or Certificates may assign their rights on their own terms; such assignments, however, must be made by a notarial act, and after the payment of the entire fees mentioned in Art. 6. In order to give such assignments legal force with respect to third parties, they must be registered either at the Patent Office in the capital, or at the before-mentioned post-offices in the provinces; and, to have this registration performed, it is necessary to produce the notarial act of assignment. Within

five days of this registration, or by the earliest mail if in the provinces, a certificate of the register and the assignment shall be forwarded to the Patent Office. The mutations that have taken place shall be entered in a special book, the entries to be published quarterly.

Art. 42.

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

SECOND SECTION.

*Communication and Publication of Patents.*

Art. 43.

On the issue of a Patent or Certificate the Commissioner shall publish it in the newspapers by inserting the name of the patentee, the duration of the Patent, and a summary of the invention or discovery.

Art. 44.

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

Art. 45.

At the beginning of each year the Commissioner of Patents shall publish in a volume the list of Patents granted during the preceding year, together with the descriptions and drawings required for the comprehension of the Patented inventions or discoveries. A copy of the said publication is to be deposited at the Patent Office and at the post-offices mentioned in paragraph 15, for free public inspection.

## TITLE V.

*Nullity and Invalidity of Patents.*

Art. 46.

All Patents or Certificates obtained contrary to paragraph 4 are null and void, as likewise all those that have been obtained

under a fraudulent title, not corresponding to the invention; whenever the drawings or descriptions are incorrect or incomplete; whenever, in the case of certificates, they refer to a Patent not actually obtained; or, whenever, in case of a foreign invention, the Foreign Patent confirmed by the Republic has expired; or, whenever, at the date of the Patent the discovery or invention was already in operation in the Republic.

Art. 47.

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

Art. 48.

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

Art. 49.

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

Art. 50.

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

Art. 51.

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

sufficient security in favour of the claimant. Within ten days of the expiration of the term allowed for evidence, the judge shall deliver judgment and award costs. From this judgment there lies an appeal to the Supreme Court, which must be entered within three days. This Court after previously consulting the Patent Office, shall deliver a final judgment.

Art. 52.

The nullity or invalidity of a Patent being established by judgment, and the judgment having become final, the tribunal shall inform the Commissioner of Patents thereof, that he may publish it in the prescribed form.

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## TITLE VI.

### *Infringements, Legal Proceedings, and Penalties.*

Art. 53.

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

Art. 54.

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

Art. 55.

In case of a second offence within five years the beforementioned penalty shall be doubled.

Art. 56.

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

Art. 57.

All actions for the recovery of the above-mentioned penalty are private, and are to be pleaded before the same sectional

tribunals on the production of the Patent, without which the complaint cannot be entered into; the defendant can only plead by way of answer the annulment or invalidity of the Patent, his co-interest in the same, or his exclusive right of property.

Art. 58.

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

Art. 59.

All those who call themselves Patentees without really having patents shall be considered as forgers, and are liable to the penalties inflicted on forgers, with the exception of the loss of the infringing articles.

Art. 60.

All fines imposed by this law shall be divided equally between the Treasury and the informers.

## TITLE VII.

### *Re-issue of Provincial Patents.*

Art. 61.

Owners of the Provincial Patents which are in force at the promulgation of the present Law may obtain a re-issue within the six months following, by accompanying the Patent with a petition according to the form prescribed by Art. 15.

Art. 62.

Provincial Patents not re-issued within said term shall have no effect whatever before the tribunals of the Republic.

Art. 63.

The re-issue may take place in two ways; either for the same Province in which the Patent right was exercised, or for the

whole Republic. In the former case the Patent shall be granted free of expense and without any previous examination; in the latter case the proceedings shall be the same as for a new Patent, and the portion of the fees corresponding to the term allowed must be paid in the usual way.

Art. 64.

Re-issues of Patents granted for the same Province shall only be valid for the remainder of the term of the Patent, and the Patent rights conferred shall relate to the said Province only. When granted for the whole Republic, such re-issues may extend to ten years, the time they have already run being deducted.

Art. 65.

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

Art. 66.

From the promulgation of the present Law, all contrary provisions shall be abrogated.

Art. 67.

The Executive Government shall be informed thereof.

# AUSTRIA.

## *Law of the 15th of August*, 1852.

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

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

### Section I.

### *Of the subject of an exclusive privilege.*

### § 1.

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

*a.* A new product of industry; or,

*b.* A new means of production; or,

*c.* A new method of production;

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

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

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

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

The term *new* is applied to any discovery, invention, or improvement that, up to the time of the application for a privilego, has neither been worked nor become known through publications in the empire.

§ 2.

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

§ 3.

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

§ 4.

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

§ 5.

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

§ 6.

Two or several discoveries, inventions, or improvements that are different from each other may only be united into one Patent

if those discoveries, inventions, or improvements relate to one and the same object, as component parts or operative means.

## Section II.

### *Of the conditions for obtaining an exclusive privilege, and the formalities to be fulfilled.*

§ 7.

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

Those conditions are :—

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

*b.* Payment of a fixed tax.

*c.* Fulfilling the obligation of describing the new discovery, invention, or improvement clearly and completely; and, if required for the sake of clearness, of illustrating it by drawings or models, so as to enable every competent man to execute the same after its publication at the expiration of the Patent.

§ 8.

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

§ 9.

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

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

must not correspond with an existing firm unless the consent of its proprietor be obtained.

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

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

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

§ 10.

Petitions for Patents must be accompanied by—

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

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

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

*d.* The above-mentioned (§ 7 *c*) description of the invention under sealed cover, on which is written the essence of the discovery, invention, or improvement, corresponding with the statement made in the petition, and the address of the applicant or his attorney.

§ 11.

The Patent tax is in proportion to the duration of the privilege, and is the same for discoveries, inventions, improvements; for foreigners, or natives. It amounts to one hundred florins (10*l.*) for the first five years, two hundred florins (20*l.*) for the following five years, and four hundred florins (40*l.*) for the last

five years; the annual ratio being twenty florins (2*l.*) for the first five years, and that of the subsequent years as follows:—

| | |
|---|---|
| 6th year . . . . . | 30 fl. |
| 7th year . . . . . | 35 fl. |
| 8th year . . . . . | 40 fl. |
| 9th year . . . . . | 45 fl. |
| 10th year . . . . . | 50 fl. |
| 11th year . . . . . | 60 fl. |
| 12th year . . . . . | 70 fl. |
| 13th year . . . . . | 80 fl. |
| 14th year . . . . . | 90 fl. |
| 15th year . . . . . | 100 fl. |

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

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

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

§ 12.

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

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

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

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

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

*e.* The discovery, invention, or improvement must be

set forth in a clear and plain manner, and contain no ambiguities that might lead astray, contrary to the provisions contained in *c*.

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

*g*. Should drawings, patterns, or models be required for better understanding the specification, the former must be annexed in lasting colours; besides which (in as far as it may add to clearness according to *c*), any other print or writing may be added which the applicant shall think fit.

§ 13.

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

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

*b*. Whether the required documents are annexed;

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

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

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

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

§ 14.

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

§ 15.

The governors examine such petitions—

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

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

Should a governor think the article to be patented absolutely unfit for a privilege according to § 2–6, he is to inform the petitioner thereof, requiring him to withdraw and give a receipt for the sealed specification, as well as to receive back the tax paid up, or otherwise to appeal to the Ministry of Commerce and Trades within the term assigned in the regulation of trades.

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

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

§ 16.

The Minister of Commerce and Trades is to re-examine whether all the formalities have been fulfilled, and he has the exclusive authority to open the sealed specification and see—

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

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

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

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

§ 17.

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

§ 18.

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

§ 19.

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

§ 20.

The enclosed specifications belonging to the privileges, together with the annexed documents (§ 16), are delivered to the custody and the ulterior use of the Central Record Office for Patents, as will be explained in Section V. of the present law.

## Section III.

*Of the advantages and liberties incident to exclusive privileges.*

§ 21.

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

§ 22.

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

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

§ 23.

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

## Section IV.

### *Of the extent and duration of exclusive privileges, and their publication.*

§ 24.

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

§ 25.

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

§ 26.

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

§ 27.

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

The prolongation is granted by the Minister of Commerce and Trades, and is officially confirmed on the Letters Patent.

§ 28.

Every privilege granted or prolonged by the Minister of Commerce and Trades, as well as every cession of a privilege and its extinction, is published according to § 26.

§ 29.

Privileges lose their force—

1. By nullity or by termination (recall, surrender or decree):
   *a*. Such an annulment may take place if it is shown that the legal requirements for an exclusive privilege do not exist, particularly

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

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

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

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

*c.* If the privilege is contrary to public law (§ 19).

2. By extinction, which takes place,—

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

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

*c.* If the privilege is surrendered voluntarily.

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

§ 30.

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

## SECTION V.

### *Of the registration of privileges and recording of specifications.*

### § 31.

All privileges as soon as granted are inscribed in a register at the Ministry of Commerce and Trades.

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

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

### § 32.

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

### § 33.

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

### § 34.

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

## Section VI.

### *Of the transfers of privileges.*

§ 35.

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

§ 36.

All assignments, together with the Patent, must be submitted to the Minister of Commerce and Trades, directly, or through the governor of the province where the transfer took place, or where the petitioner resides, and for this purpose they must be duly legalized, unless they are issued by a public authority.

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

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

§ 37.

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

## Section VII.

### *Of infringements, and the proceedings in litigation.*

§ 38.

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

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

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

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

§ 39.

If the specification of a privilege is inserted in the open registers, the very first infringement comes under the law; but if the specification has been kept secret, the repetition only of the infringement is considered as contrary to law, both being punishable at the request of the injured party with the confiscation of the existing counterfeit goods, and a fine of from 25 fl. to 1000 fl. (2*l.* 10*s.* to 100*l.*). In case of insolvency of the guilty party, the fine is to be discharged by imprisonment at the rate of one day for 5 fl. (10*s.*). As for the tools and means exclusively used for such counterfeitings, they are to be destroyed, transformed, or made useless, according to their nature, unless a special agreement be made between the parties.

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

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

§ 40.

Should the injured person not proceed criminally, or in cases of a first infringement of a privilege of which the specification is kept secret, the injured person is only authorized to demand the discontinuance of counterfeiting and selling counterfeit goods, and a security against the use or sale, during the term of the Patent, of the counterfeit goods found at the infringer's establishment, provided they were manufactured in the empire, and for their re-exportation in case they were imported from abroad for sale.

§ 41.

In all litigation relating to Patents the discovery, invention, or improvement is only to be judged according to the specification annexed to the petition; that specification must therefore be

taken as a basis in all cases where the decision depends on the contents of the specification, without regard to its being kept secret, and no additional alteration or framing whatever of the patent article can be taken into consideration at these proceedings.

§ 42.

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

§ 43.

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

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

§ 44.

The Criminal Court may, if sufficient reasons exist, order an inspection or inquiry to be made by an expert, and if by these

or other means the case of an infringement is clearly made out, the Court may, at the request of the injured party, order the immediate confiscation or other effective keeping of the counterfeit articles, and the tools and means exclusively used thereto.

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

§ 45.

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

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

§ 46.

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

§ 47.

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

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

§ 48.

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

§ 49.

Infringements of the rights of third parties, which patentees commit in working their Patent by exceeding the limits of their rights founded thereon, are to be punished by those authorities to whose competency it belongs to decide on infringements of the regulations on trades, according to the special prescriptions on that subject. The circumstance of their having used the privilege for spoiling trades must be considered as aggravating the guilt.

§ 50.

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

## Section VIII.

*Special provisions relating to Patents delivered before the promulgation of the present law, and that are still in force.*

§ 51.

In order to procure to the proprietors of Patents granted under the Law of 31st March, 1832, that are still in force, the advantage of a greater extension similar to those Patents granted according to the present law, they are entitled, from the promulgation of the present law, to use their Patent rights even in those provinces of the empire that were excluded from the Patent Law of 31st March, 1832. However, that extension of Patents to provinces in which the Patent Law of 31st March, 1832, had not been introduced, must not be detrimental to those who worked the respective discovery, invention or improvement already before the publication of that extension.

§ 52.

However the effective extension of a privilege granted under the Law of 1832 takes place only in as far as each patentee has given satisfactory evidence as to his Patent right to the governor of the province where he intends to exercise it, and, moreover, only after the official publication in the respective province.

§ 53.

The extension of Patents is exempt from new or additional taxes.

§ 54.

All petitions for prolongations of Patents granted according to the law of 31st March, 1832, are subject to the provisions of the present law, as soon as promulgated.

§ 55.

All infringements committed before the promulgation of the present law in those provinces in which the Patent Law of 31st March, 1832, was in operation, are to be treated according to the provisions of the latter.

§ 56.

Generally, the present law, with its restrictions mentioned in the foregoing paragraphs, is substituted immediately after its promulgation for the old Patent Law of 31st March, 1832, in all matters relating to former Patents, their working, continuance, validity or annulment. However, the present law does not apply to the registrations of privileges granted or prolonged previous to its promulgation.

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FORM A.

*Petition for a Privilege.*

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

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

The complete Specification drawn up according to the provisions of § 12 of the Patent Law of is subjoined in the Appendix.

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

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

[*Address and date.*]

*Signature*[*s.*]

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## *Law of June 27th*, 1878.

This Law empowers the Ministry of the Kingdoms and Countries represented in the House of Parliament to establish a Commercial and Tariff Union with the Ministry of the Countries of the Hungarian Crown. The following Article relates to Patents for Inventions.

### ARTICLE XVI.

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

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

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

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

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

The prolongation or annulment of Patents for Inventions shall also be effected by mutual understanding.

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

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

## *Law of December 20th*, 1879.

This law relates to the creation of a mutual Union of Tariffs with Bosnia and Herzegovina. The following clause refers to Patents for Inventions.

### § 9.

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

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

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

# BARBADOS.

## *Act of 12th December*, 1883.

An Act to amend the law relating to the granting of exclusive privileges to the inventors of new and usoful inventions.

*Preamble.*

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

*Title of Act.*

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

*Specification to be filed in the Colonial Secretary's Office.*

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

*Fee for filing specification.*

III. Every person who files in the Colonial Secretary's Office a specification of an invention shall pay to the Colonial Secretary for the benefit of the general revenue a fee of three pounds six shillings and eight pence.

*On complying with two last preceding sections Patentee to have exclusive right for seven years.*

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

*Protection to Patentees.*

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

*Remedy for infringement of Patent.*

VI. If any person or persons whomsoever, body or bodies politic or corporate, shall during the continuance of the term hereinbefore mentioned at any time, either directly or indirectly make, use, exercise, put in practice or vend the invention described in any specification so filed as aforesaid or any part

thereof within this Island without a consent, permission, license or agreement in writing first had and obtained from the person who filed the specification thereof, his attorneys, executors, administrators or assigns under his or their hand or hands, and seal or seals, the person who filed the specification thereof, his executors, administrators and assigns, shall have and be entitled to such and the like remedies both at law and in equity in the courts of this Island against every such person or persons, body or bodies politic or corporate, for every such infringement or violation of the rights and privileges to which he and they is and are under this Act entitled, or against the person or persons for whose benefit the said invention or any part thereof shall have been so made, used, exercised, put in practice or vended without such consent, permission, license or agreement as aforesaid as the grantee of any Letters Patent for any invention would be entitled to in the like case by the law of England but to none other remedies; and in any action, suit or other proceeding which may be brought, instituted or taken against any such person or persons, body or bodies politic or corporate, it shall be lawful for the defendant to plead any such matter in defence as may be pleaded by any defendant in any action brought in any division of Her Majesty's High Court of Justice in England for the infringement of any patent granted by Her Most Gracious Majesty the Queen.

*No benefit unless invention a new one, or if person applying is not the true inventor, or if any invention was known elsewhere and to some other person or persons in this island.*

VII. Nothing in this Act contained shall be deemed to confer on any person who files in the Colonial Secretary's Office a complete specification of an invention the exclusive privileges mentioned in sections four, five, and six of this Act, if the invention described in such specification is not at the time when such specification is filed a new invention as to the public use and exercise thereof within this Island, or if such person is not the true and first inventor within this Island of the invention described in such specification, or if such invention was at the time when such specification was filed an invention well known elsewhere and also known to some person or persons in this Island other than the person filing such specification.

*Not to give privilege to use the invention of any other person.*

VIII. Nothing in this Act contained shall extend or be construed to extend to give to any person who files in the Colonial Secretary's Office a complete specification of an invention, or to his executors, administrators or assigns or any of them, privilege to use or imitate any invention or work whatever which has prior to the filing of such specification been found out or invented by any other person whomsoever and publicly used or exercised within this Island, and for the sole use, exercise and benefit whereof within this Island the exclusive privileges mentioned in sections four, five and six of this Act or similar privileges have, prior to the filing of such specifications, been obtained; but the person filing such specification, his executors, administrators and assigns, and all and every other person and persons who have as aforesaid previously obtained like privileges, shall distinctly use and practice their several inventions by them invented and found out.

*Rights to cease if invention not brought into operation within three years.*

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

*Specifications to be numbered.*

X. All specifications filed under this Act in the Colonial Secretary's Office shall be numbered in that office consecutively from Number 1 upwards in the order of the dates on which they are filed.

*Form of certificate.*

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

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

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

(Sgd.)

Colonial Secretary,

Barbados.

*Numbers of certificate and specification to be the same.*

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

*Power of renewal.*

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

*Fees to be paid on renewal.*

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

*Renewal certificate—Form.*

XV. The Colonial Secretary shall, on receipt of any fee under the last preceding section of this Act, fill up and give

to the person by or on whose behalf the same is paid a certificate having on it the number of the specification of the invention to which it relates, and of the following form:

Specification No. .

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

(Sgd.)
Colonial Secretary,
Barbados.

Dated

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

*Copy certificate to be published in Official Gazette.*

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

*Repeal Clause.*

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

# BELGIUM.

## *Law of the 24th May*, 1854, *omitting transitory provisions.*

### Art. 1.

Exclusive and temporary rights will be granted, under the name of Patents of Invention of Improvement or of Importation, for every discovery or every improvement capable of being worked as an article of industry or of commerce.

### Art. 2.

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

### Art. 3.

The duration of the patents is fixed at twenty years, except in the case provided for in Art. 14. It will commence from the day on which the Memorandum mentioned in Art. 18 shall have been drawn up.

There shall be paid for every patent an annual and progressive tax as follows:—

| | | | | |
|---|---|---|---|---|
| 1st year | . | . | . | 10 francs |
| 2nd „ | . | . | . | 20 „ |
| 3rd „ | . | . | . | 30 „ |

and so on until the 20th year, for which the tax shall be 200 francs. The tax shall be paid in advance, and in no case shall it be returned.

No tax shall be required for patents of improvement when they are granted to the owner of the principal patent.

Art. 4.

Patents confer on their owners, or persons entitled, the exclusive right:—

*a.* Of working the article patented for their profit, or causing it to be worked by those that they may authorize.

*b.* Of prosecuting before the tribunals those persons who may attack their rights either by the manufacture of products or the use of means included in the Patent, or holding, selling, exposing for sale, or importing into Belgian territory one or several infringing articles.

Art. 5.

If the persons prosecuted by virtue of Art. *4b* have acted knowingly, the tribunals shall pronounce for the benefit of the patentee or his assigns, the confiscation of the articles manufactured in contravention of the patent, and the instruments and utensils specially destined for the manufacture, or allow a sum equal to the price of the articles which may have been already sold.

If the persons prosecuted have acted in good faith, the tribunals shall prohibit them under the above mentioned penalties from using commercially the machines and apparatus of production found to be infringements, and from making use for the same purpose of the instruments and utensils for manufacturing the articles patented.

In both cases damages may be granted to the patentee or his assigns.

Art. 6.

The owners of patents, or persons entitled through them, may, with the authorization of the President of the Tribunal of first instance obtained on petition, cause the inventory of the apparatus, machines and articles said to be infringements, to be made by one or several experts.

The President may by the same order prohibit the holders of the said articles from parting with them, and allow the patentee to appoint a guardian, or even place the articles under seals.

The order shall be served by an officer appointed for that purpose.

Art. 7.

The patent shall be annexed to the petition, which shall contain election of domicile in the Commune where the inventory has to be made. The experts appointed by the President shall be sworn by him, *or by the Justice of the Peace specially authorized by him for the purpose*, before commencing their operations.

[NOTE.—The words in italics were introduced by the law of March 27th, 1857.]

Art. 8.

The President may impose on the patentee the obligation of depositing security. In that event the order of the President will only be delivered on proof of the deposit having been made.

Security shall always be required from a foreigner.

Art. 9.

The patentee may be present at the inventory if he is specially authorized by the President of the Tribunal.

Art. 10.

If the doors are closed, or should their opening be refused, the procedure shall be in conformity with Article 587 of the Code of Civil Procedure.

Art. 11.

A copy of the official report of Inventory shall be left with the holder of the articles inventoried.

Art. 12.

If within a week the inventory is not followed up by a summons before the tribunal in the jurisdiction of which the inventory was made, the order issued in conformity with Article 6 shall cease to have effect, and the holder of the articles inventoried may claim the surrender of the original official report, with prohibition to the patentee of making use of or publishing its contents, all without prejudice to any damages.

Art. 13.

The tribunals shall take cognizance of matters relating to patents as of summary and urgent business.

Art. 14.

The author of a discovery already patented abroad, can obtain by himself or by his assigns a patent of importation in Belgium; the duration of this patent shall not exceed that of the patent previously granted abroad for the longest term, and in no case the limit fixed by Art. 3.

Art. 15.

In the event of modifications in the object of the discovery, a patent of improvement may be obtained which shall terminate at the same time as the original patent.

However, if the owner of the new patent is not the original patentee, he cannot, without the consent of the latter, make use of the original discovery, and reciprocally the original patentee cannot work the improvement without the consent of the owner of the new patent.

Art. 16.

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

Art. 17.

Every person who wishes to take out a patent shall be bound to deposit under seal in duplicate at the registry of one of the principal governments of the kingdom, or at the office of a District Commissary, complying with the formalities which will be settled by a Royal Decree, a clear and complete description in one of the languages used in Belgium, and an exact drawing to a metrical scale of the object of the invention. No deposit shall be received without the production of a receipt proving the payment of the first annuity of the tax on the patent.

A memorandum setting out the day and the hour of the delivery of the papers drawn up without charge by the provincial Registrar or by the District Commissary in a register kept for this purpose, and signed by the applicant, shall prove each deposit.

Art. 18.

The legal date of the invention is proved by the memorandum drawn up at the time of the deposit of the application for the patent.

A duplicate of this memorandum will be given without charge to the depositor.

Art. 19.

A decree of the Minister of the Interior verifying the fulfilment of the prescribed formalities, will be delivered without delay to the depositor, and it shall constitute his patent. Extracts from this decree will be inserted in the *Moniteur*.

Art. 20.

The Specifications of Patents granted shall be published verbatim or in substance by the Administration in a special collection three months after the grant of the patent. When the patentee shall require a complete publication or that of an extract supplied by him, the publication shall be made at his cost.

After the same term the public shall likewise be allowed to see the specifications, and copies of them may be obtained on paying the cost.

Art. 21.

Every transfer of patent by Act *inter vivos* or testamentary shall be registered, the fixed tax being 10 francs.

Art. 22.

*When the tax fixed by Art.* 3 *shall not have been paid within a month of coming due, the owner, after previous notice, shall, under penalty of forfeiting the rights which his title confers upon him, pay before the expiration of six months from the date at which the tax was due, the sum of* 10 *francs, in addition to the annuity payable. Forfeiture of Patents shall be published in the "Moniteur."*

[NOTE.—The original article was repealed, and the words in italics substituted by the law of March 27th 1857.]

Art. 23.

The owner of a patent must work the patented article, or cause it to be worked in Belgium within one year from the commencement of working abroad.

Nevertheless the Government may, by a Royal Decree stating reasons, inserted in the *Moniteur* before the expiration of that term, grant a prolongation of one year at most.

At the expiration of the first year, or of the extension which may have been granted, the patent shall be annulled by a Royal Decree.

The annulment shall likewise be pronounced when the patented article, worked abroad, shall have ceased to be worked in Belgium during a year, unless the owner of the patent justifies the causes of his inaction.

### Art. 24.

A patent shall be declared void by the tribunals for the following reasons:

*a.* When it shall be proved that the patented article has been employed, executed or worked, by a third party within the kingdom for a commercial purpose, before the legal date of the invention, importation or improvement.

*b.* When the patentee in the description annexed to his application shall intentionally have omitted to make mention of a part of his secret, or shall have indicated it in an incorrect manner.

*c.* When it shall be proved that the complete description and exact drawings of the patented article were prior to the date of the deposit brought out in a work or printed and published collection, unless as regards patents of importation, that publication may be exclusively the result of a legal requirement.

### Art. 25.

A patent of invention shall be declared void by the tribunals in the event of the article for which it was granted having been previously patented in Belgium or abroad.

However, should the applicant possess the qualification required by Article 14, his patent can be maintained as a patent of importation, according to the terms of the said Article.

These provisions shall, the case arising, be applied to patents of improvement.

### Art. 26.

When the nullity or forfeiture of a patent shall have been pronounced according to the terms of Articles 24 and 25, by judgment or final decree, the cancellation of the patent shall be proclaimed by a Royal Decree.

# BRAZIL.

## *Law of* 14*th October*, 1882.

### ARTICLE I.

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

#### Section 1.

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

1. The invention of new industrial products.
2. The invention of new processes or the new application of known processes for obtaining an industrial product or result.
3. The improvement of an invention already patented if it facilitates the manufacture of the product or the use of the patented invention, or if it increases its utility.

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

#### Section 2.

The following inventions cannot be the subjects of patents:—

1. Those contrary to law or morality.
2. Those dangerous to public security.
3. Those hurtful to public health.
4. Those which do not offer practical industrial results.

Section 3.

The patent will be granted by the Executive power after the fulfilment of the formalities prescribed in this law and in its regulations.

Section 4.

The exclusive privilege for a principal invention will only be valid for fifteen years, and that for an improvement to the invention granted to the inventor will terminate at the same time as the original patent.

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

Section 5.

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

## ARTICLE II.

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

Section 1.

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

Section 2.

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

Section 3.

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

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

Section 4.

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

## ARTICLE III.

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

Section 1.

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

Section 2.

If it shall appear that the subject of the invention involves an infraction of section 2, Article I, or has for its object ali-

mentary, chemical, or pharmaceutical products, the Government will order a previous secret examination of one of the samples deposited, in conformity with the regulations to be issued, and in accordance with the result it will or will not concede a patent. From an adverse decision there will be an appeal to the Council of State.

Section 3.

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

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

Section 4.

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

Section 5.

To the privileged inventor who improves his own invention will be given a certificate of improvement, which will be appended to the original patent. For this certificate the inventor will pay, once for all, an amount corresponding to the annuity about to become due.

Section 6.

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

## ARTICLE IV.

The patent having been issued, within a period of thirty days the opening of the deposited envelopes shall take place

with the formalities which the regulations shall specify. The specification shall be immediately published in the *Diario Official*, and one of the copies of the designs, plans, models, or samples will be open to the inspection of the public and the study of parties interested, copies being allowed to be taken.

Section 1.

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

## ARTICLE V.

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

Section 1.

The patent shall be null—

1. If in its granting any one of the requirements of sections 1 and 2 of Article I. has been violated.
2. If the patentee did not have priority.
3. If the patentee has falsified the truth or concealed essential matter in the specification describing the invention, whether in its object or in the manner of using it.
4. If the title of the invention is, with fraudulent purpose, diverse from its real object.
5. If an improvement has not an indispensable relation with the principal invention, but can constitute a separate industry, or if there shall have been the state of priority referred to in Article II., section 3.

Section 2.

The patent shall lapse—

1. If the patentee does not make effective use of the invention within three years, counting from the date of patent.
2. If the patentee suspends the effective use of the invention for more than one year, except by reason of *force majeur* admitted by the Government after consulting the Council

of State. By use is understood, in these two cases, the effective exercise of the patented industry, and the supply of the products in proportion to their employment or consumption. On proof that the supply of the products is evidently insufficient for the needs of employment or consumption, the privilege can be restricted to a zone determined by a decree of the Government with the approval of the legislative power.

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

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

5. If the patent is expressly renounced.

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

7. When the term of the privilege has expired.

## Section 3.

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

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

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

## Section 4.

The lapse of patents shall be declared by the Minister and Secretary of State for Affairs of Agriculture, Commerce, and Public Works, with an appeal to the Council of State.

## ARTICLE VI.

The following will be considered infringers of the patent :—

1. Those who, without license from the patentee, manufacture the products or employ the processes or make the applications which are the subject of the patent.
2. Those who import, sell, or expose for sale, conceal, or receive for the purpose of sale products which are infringements of the privileged industry, knowing them to be such.

### Section 1.

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

### Section 2.

The following will be considered as aggravating circumstances :—

1. The infringer being, or having been, an employé or workman in the establishment of the patentee.
2. The infringer having associated with an employé or workman of the patentee for acquiring knowledge of the practical method of obtaining or employing the invention.

### Section 3.

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

### Section 4.

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

### Section 5.

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

### Section 6.

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

1. Those who announce themselves as possessors of a patent, by using emblems, marks, placards or labels upon products or articles prepared for commerce or exposed for sale, as if they had been patented.
2. Inventors who continue to exercise an industry as patented when the patent has been suspended, annulled, or has lapsed.
3. Privileged inventors who in prospectuses, advertisements, placards, or by any mode of public notice shall mention patents without designating the special object for which they were obtained.
4. Professional men or experts who being employed under section 2 of Article III. cause the general diffusion of the secret of the invention; without prejudice in this case to such criminal or civil actions as the laws permit.

### Section 7.

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

## ARTICLE VII.

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

## ARTICLE VIII.

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

## ARTICLE IX.

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

## ARTICLE X.

All enactments contrary to the present law are hereby repealed.

# BRITISH GUIANA.

*Ordinance No.* 13, *of the Year* 1861.

An Ordinance to regulate the granting of Patents in this Colony.

*Preamble.*

Whereas it is expedient to regulate the granting of Patents for Inventions in this Colony: Be it therefore enacted by His Excellency the Lieutenant-Governor of British Guiana, with the advice and consent of the Court of Policy thereof, as follows:—

*Petition for Patent to be accompanied by Affidavit and Provisional Specification.*

1. From and after the taking effect of this Ordinance, every Inventor desirous of obtaining protection for his invention within this colony shall petition the Governor to grant to him, his heirs, executors, administrators, and assigns, Letters Patent for his invention, in the name of Her Majesty, under the public seal of this colony, and every petition for Letters Patent as aforesaid shall be lodged at the office of the Government Secretary, accompanied by an affidavit, signed by the Petitioner, that he is the true and first inventor, and that the invention is not in use by any other person or persons within the colony, to the best of his knowledge and belief, and also by a statement in

writing, hereinafter called the provisional specification, signed by or on behalf of the petitioner, describing the nature of the invention; and all such petitions, affidavits, and provisional specifications shall be preserved in, and a registry thereof kept at, the said office.

*Petition and Affidavit of absent Inventor to be legalised—Also Complete Specification.*

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

*Applications to be referred to Attorney-General for examination and report.*

3. Every application for Letters Patent under this Ordinance, together with all documents connected therewith, shall be referred for examination and report to the Attorney-General, who shall be at liberty in examining the provisional specification to call to his aid such scientific or other person as he may think fit, and to cause to be paid to such person by the petitioner such remuneration as the Attorney-General shall appoint; and if the Attorney-General be satisfied that the provisional specification describes the nature of the invention, he shall allow the same, and give a certificate of his allowance, and such certificate shall be filed in the office of the Government Secretary, and thereupon the invention therein referred to may, during the term of twelve months from the date of the application for Letters Patent for the said invention, be used and published without prejudice to any Letters Patent to be granted for the same, and such protection from the consequences of use and publication is hereinafter referred to as provisional protection: Provided always, that in case the title of the invention or the provisional specification be too large or

insufficient, it shall be lawful for the Attorney-General to allow or require the same to be amended; it being, nevertheless, in every case, entirely at the hazard of the petitioner whether the invention is new or will have the desired effect.

*Inventors may deposit in lieu of a provisional specification, a complete specification; such deposit to confer for* 12 *months the like rights as Letters Patent.*

4. The applicant for Letters Patent for an invention, instead of leaving with the petition and affidavit a provisional specification as aforesaid, may, if he think fit, deposit in the Registrar's office for the counties of Demerara and Essequebo an instrument in writing under his hand (hereinafter called a complete specification), particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, of which specification an authentic copy shall be filed with the petition and affidavit, and the day of the delivery of every such petition, affidavit, and complete specification shall be recorded at the office of the Government Secretary, and a certificate thereof given to such applicant or his agent, and thereupon, subject and without prejudice to the provisions hereinafter contained, the invention shall be protected under this Ordinance for the term of twelve months from the date of the application, and the applicant shall have during such term of twelve months, the like powers, rights and privileges as might have been conferred upon him by Letters Patent for such invention issued under this Ordinance and duly sealed as of the day of the date of such application; and during the continuance of such powers, rights, and privileges under this section, such invention may be used and published without prejudice to any Letters Patent to be granted for the same; and where Letters Patent are granted in respect of such invention, then in lieu of a condition for making void such Letters Patent in case such invention be not described and ascertained by a subsequent specification, such Letters Patent shall be conditioned to become void if such complete specification deposited as aforesaid does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed; and every such complete specification shall be open to the inspection of the public as hereinafter provided, from the time of depositing the same.

*Letters Patent granted to the first Inventor not to be invalidated by protection obtained in fraud of him.*

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

*Government Secretary to cause protections to be advertised and provisional specifications to be in due course deposited.*

6. Where any invention is provisionally protected under this Ordinance, or protected by reason of the deposit of such complete specification as aforesaid, the Government Secretary shall cause public notice of such provisional protection or other protection as aforesaid to be given in the Official Gazette, and the Government Secretary shall cause to be delivered to the Registrar for the counties of Demerara and Essequebo every provisional specification after the term of the provisional protection of the invention has expired, to be by him entered free of charge in "The Register of Patents" hereinafter mentioned.

*Application for Letters Patent to be advertised and oppositions may be entered.*

7. The applicant for Letters Patent, so soon as he may think fit after the invention shall have been provisionally protected under this Ordinance, or where a complete specification has been deposited at the time of filing his petition and affidavit, then so soon as he may think fit after such deposit, may give notice at the Office of the Government Secretary of his intention of proceeding with his application for Letters Patent for the said invention, and thereupon the Government Secretary shall cause his said application to be advertised in the Official Gazette in such manner as he may see fit; and any person having an interest in opposing the grant of such Letters Patent for the said invention shall be at liberty to file particulars in writing of their objections to the said application in the office of the

Government Secretary within one month from the date of the notice, and all such objections shall be referred to the Attorney-General.

*Letters Patent issue on report of Attorney General—Proviso as to appeal.*

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

*Duration and effect of Letters Patent.*

9. All Letters Patent for inventions under this Ordinance shall be granted by the Governor, in the name of Her Majesty, under the public seal of the colony, and the same shall extend to the whole of the colony, and shall continue in force within this colony for the term of fourteen years from the date of the original application, and during such term the patentee, his heirs, executors, administrators, and assigns, shall have full power, sole privilege, and authority, by himself and themselves, and by his and their deputy or deputies, servants or agents, or such others as he, the said patentee, his heirs, executors, administrators, or assigns, shall at any time agree with, and no others, from time to time, and at all times during the said term of fourteen years, lawfully to make, use, exercise, and vend the

invention mentioned in such Letters Patent within this colony, in such manner as to him, the said patentee, his heirs, executors, administrators, and assigns, or any of them, shall, in his or their discretion, seem meet; and he, the said patentee, his heirs, executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage from time to time coming, growing, accruing, and arising by reason of such invention for and during such term of fourteen years; but all such Letters Patent shall be subject to the conditions hereinafter mentioned.

*No person to use or imitate the invention mentioned in the Letters Patent without the consent of the Inventor.*

10. During the continuance of the said term it shall not be lawful for any person whomsoever at any time, either directly or indirectly, to make, use, or put in practice within this colony the said invention or any part of the same, nor in any wise to counterfeit, imitate, or resemble the same, nor to make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself the inventor or devisor thereof, without the consent, licence, or agreement of the said patentee, his heirs, executors, administrators, or assigns, in writing under his or their hands, first had and obtained in that behalf; and if any person shall, at any time during the continuance of the said term, either directly or indirectly, make, use, or put in practice within this colony the said invention or any part of the same, or shall in any wise counterfeit, imitate, or resemble the same, or make or cause to be made any addition thereto, or substraction therefrom, whereby to pretend himself the inventor or devisor thereof, without such consent, licence, or agreement as aforesaid, every such person shall be liable to such pains and penalties as can or may be inflicted upon any person for any such breach or violation of this Ordinance, and shall further be answerable to the said patentee, his heirs, executors, administrators, and assigns, according to law, for his and their damages thereby occasioned.

*Letters Patent to be subject to avoidance on non-fulfilment of certain conditions as to validity and originality of the invention.*

11. All Letters Patent for inventions under this Ordinance shall be made and shall be subject to the conditions that the same shall be void, and that the powers and privileges thereby

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

*Letters Patent to be subject to avoidance on non-fulfilment of certain further conditions.*

12. All Letters Patent for inventions under this Ordinance shall also be made and shall be subject to the further conditions that the same shall be void, and that the powers and privileges thereby granted shall cease and determine, if the patentee shall fail or neglect to record the said Letters Patent in the Registrar's Office for the counties of Demerara and Essequebo within ten days from the date thereof, and also if the patentee shall fail or neglect to deposit in the said Registrar's office, within six months from the date of the said Letters Patent, save (and except as provided in the 4th section of this Ordinance) a clear and copious statement in writing, herein called the complete specification, under his hand, particularly describing and ascertaining the nature of his invention, and in what manner the same is to be performed, and also if the said instrument in writing deposited as aforesaid does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said patentee, his heirs, executors, administrators, or assigns, shall not supply or cause to be supplied for Her Majesty's service in this colony all such articles of the said invention as he or they shall be required to supply by the officers administering the department of Her Majesty's

service in this colony for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms, as shall be settled for that purpose by the Governor; and further that the said Letters Patent shall be void, and that the powers and privileges thereby granted shall cease and determine, at the expiration of seven years from the date thereof, unless there be paid before the expiration of the said seven years the stamp duty in the Schedule A to this Ordinance annexed; and such Letters Patent, or a duplicate thereof, shall, on such payment, be stamped with a proper stamp, showing the payment of such duty, and notice of such payment shall be given by the Government Secretary in the Official Gazette.

*No Letters Patent to be issued after three months from the date of Attorney General's Report, nor after the expiration of protection.*

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

*Letters Patent may be granted to the Heirs, &c., of the Applicant during the term of protection or within three months after Applicant's decease.*

14. Where the applicant for such Letters Patent dies during the continuance of the provisional protection, or the protection

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

*Letters Patent may be dated as of the day of application.*

15. It shall be lawful to cause any Letters Patent to be issued in pursuance of this Ordinance to be sealed and bear date as of the day of the application for the same, or where the Governor thinks fit and directs, any such Letters Patent as aforesaid may be sealed and may bear date as of the day of the sealing of such Letters Patent, or of any other day between the day of such application and the day of such sealing.

*Letters Patent where antedated to be of the same validity as if sealed on the day of the date.*

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

*Letters Patent obtained in the Colony for patented extra-Colonial inventions not to continue in force after the expiration of the extra-Colonial patent.*

17. Where upon any application made after the taking effect of this Ordinance for or in respect of any invention first invented in the United Kingdom, or in any foreign country, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in the United Kingdom or in any foreign country is there obtained before the grant of such

Letters Patent in this colony, all rights and privileges under such Letters Patent shall (notwithstanding any term in the Letters Patent limited) cease and be void immediately upon the expiration or other determination of the term during which the patent or other like privilege obtained in the United Kingdom or in such foreign country shall continue in force, or where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges: Provided always that no Letters Patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained in the United Kingdom or in any foreign country, and which shall be granted in this colony after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

*Letters Patent not to prevent the use of invention in foreign ships resorting to Colonial ports.—Proviso.*

18. No Letters Patent for any invention (granted after the taking effect of this Ordinance) shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port in this colony or in any of the waters within the jurisdiction of any of Her Majesty's Courts in this colony, where such invention is not used for the manufacture of any goods or commodities to be vended within or exported from this colony: Provided always, that this enactment shall not extend to the ships or vessels of any foreign state, of which the laws authorize subjects of such foreign state having patents or like privileges for the exclusive use or exercise of inventions within its territories to prevent or interfere with the use of such inventions in British ships or vessels, or in or about the navigation of British ships or vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from the territories of such foreign state.

*Nothing to affect Letters Patent heretofore granted in the United Kingdom and made applicable to the Colony.*

19. Nothing herein contained shall extend to prejudice or affect any Letters Patent heretofore granted in the United

Kingdom, and made applicable by the tenor thereof to this colony, and such Letters Patent shall be in every respect as valid and effectual as if this Ordinance had not been passed: and printed or manuscript copies or extracts, certified and sealed with the Seal of the Commissioners of Patents, of every such Letters Patent, and of the specification thereto relating, and of any disclaimer or memorandum of alteration in respect thereof, shall be deposited or recorded in the Registrar's office, and notice thereof given in the Official Gazette.

*Disclaimer and Memorandum of Alteration in any part of title or specification may be entered with leave of the Attorney-General.—Proviso as to notice and appeal.*

20. Any person who, as grantee, assignee, or otherwise, shall obtain Letters Patent under this Ordinance, may, if he think fit, enter at the said Registrar's office, having first obtained the leave of the Attorney-General, certified by his fiat and signature, a disclaimer of any part of either the title of the invention or of the complete specification, stating the reason for such disclaimer, or may, with such leave as aforesaid, enter a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said Letters Patent; and such disclaimer or memorandum of alteration, being entered at the said office and notified by the Registrar in the Official Gazette, shall be deemed and taken to be part of such Letters Patent, or such complete specification, in all courts whatever in this colony: Provided always, that any person desirous of entering any such disclaimer or alteration shall be bound to give three weeks previous notice in the Official Gazette of his intention to enter the same: And provided further, that any party aggrieved by any decision of the Attorney-General under this section may, within two weeks from the date of such decision apply by petition to the Supreme Court or Chief Justice to alter or amend the same; and the Court or Chief Justice, after hearing the parties interested, if they or any of them shall think proper to appear, shall give judgment accordingly, and all costs shall be in the discretion of such Court or Chief Justice; and the Attorney-General shall alter or amend his decision, according to such judgment, if necessary.

*Caveats may be entered.*

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

*Mode of proceeding for confirmation of the Letters Patent where the Patentee is proved not to be the Inventor though he believed himself to be so.*

22. If in any action or suit in this colony it shall be specially found by the court of jury that any person who shall have obtained Letters Patent in this colony for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person or persons having invented or used the same or some part thereof in this colony before the date of such Letters Patent, or if such Patentee or his assigns shall discover that some other person had unknown to such Patentee invented or used the same or some part thereof in this colony before the date of such Letters Patent, it shall be lawful for such Patentee or his assigns to petition the Governor, with the advice and consent of the Court of Policy, to confirm the said Letters Patent, or to grant new Letters

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

*Mode of proceeding in case of application for the prolongation of the term of the patent.*

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

six months at least before the expiration of the term originally granted in such Letters Patent, and shall be thereafter prosecuted by the petitioner with due diligence, to the satisfaction of the Governor and Court of Policy.

*Witnesses may be summoned by order of Governor and Court of Policy in any Proceeding before them under this Ordinance.*

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

*Evidence to be given before them upon oath.*

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

*Summonses to be served by the Provost-Marshal.*

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

*Register of Patents to be kept.*

27. There shall be kept at the Registrar's office aforesaid, a book or books, to be called "The Register of Patents," which shall be kept alphabetically indexed, and wherein shall be entered and recorded in chronological order all Letters Patent granted or filed under this Ordinance (and nothing contained in section 24 of Ordinance No. 3 of 1860 shall extend or apply to any such Letters Patent), all provisional specifications after the term of the provisional protection of the invention has expired, all complete specifications, disclaimers and memoranda of alterations entered in respect of such Letters Patent, all amendments in such Letters Patent and specifications, all assignments of such Letters Patent, or of any share or interest therein, all confirmations and extensions of such Letters Patent, the expiry, vacating or cancelling of such Letters Patent, with the dates thereof, respectively, and all other matters and things affecting the validity of such Letters Patent as the Government Secretary may direct: and such register, on payment of the fee hereinafter provided, shall be open at all convenient times to the inspection of the public, subject to such regulations as the Supreme Court may make.

*In Suits for infringement of Letters Patent, particulars to be delivered and no evidence allowed not mentioned therein.*

28. In any suit for the infringement of Letters Patent the plaintiff shall deliver, with his claim and demand, particulars of the breaches complained of in the said suit, and the defendant, on pleading thereto, shall deliver with his pleading, and the plaintiff, in any proceedings to have declared void Letters Patent granted under this Ordinance, shall deliver with his claim and demand, particulars of any objections on which he means to rely at the trial in support of the defence in the said suit or of the averments in the said claim and demand in the proceedings to have declared void such Letters Patent respectively; and at the trial of such suit or proceeding no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such Letters Patent, which shall not be contained in the particulars delivered as aforesaid: Provided always, that the place or places at or in which, and in what manner, the invention is alleged to have been used or published prior to the date of the Letters Patent shall be stated

in such particulars; provided also that it shall and may be lawful for any Judge of the Supreme Court to allow such plaintiff or defendant, respectively, to amend the particulars delivered as aforesaid upon such terms as to such Judge shall seem fit; provided also, that at the trial of any proceeding to have Letters Patent declared void the defendant shall be entitled to begin and to give evidence in support of such Letters Patent, and in case evidence shall be adduced on the part of the plaintiff impeaching the validity of such Letters Patent, the defendant shall be entitled to the reply.

*Supreme Court or Chief Justice may grant an Interdict in case of infringement.*

29. In any suit for the infringement of Letters Patent, it shall be lawful for the Supreme Court or Chief Justice in non-session, on the application of the plaintiff or defendant, respectively, to make such order for an interdict, inspection, or account, and to give such directions respecting such suit, interdict, inspection, and account, and the proceedings therein respectively, as to such Court or Chief Justice may seem fit.

*Particulars to be regarded in taxation.*

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

*Copies of Official Gazette and certified copies by Registrar of Letters Patent, &c., to be received in evidence.*

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

*Patents previously granted extended to 14 years from their respective dates.*

32. All privileges granted to inventors, their heirs, executors, administrators, and assigns, under and by virtue of any Ordinance passed previously to the taking effect hereof for the term of seven years (not being an extension of a previous term) shall be and the same are hereby extended for a further term of seven years from the expiration of the term in such Ordinances respectively limited, subject to the provisions and conditions in the Ordinances respectively contained.

*Applications for Patents now pending to be dealt with under this Ordinance.*

33. All petitions for Patent rights heretofore presented to the Governor and Court of Policy, and in respect whereof no Bill has yet been introduced in said Court, shall and may be dealt with under this Ordinance, and shall, for the purposes thereof, be considered as bearing even date with the publication of these presents, provided that in each case the affidavit and provisional specification hereinbefore required shall be lodged at the office of the Government Secretary within one month from the taking effect of this Ordinance.

*Solicitor-General to act in case of absence or inability of Attorney-General.*

34. In case of the absence or inability to act of the Attorney-General, the duties of his office may, for all the purposes of this Ordinance, be discharged, and the fees in respect thereof received by the Solicitor-General.

*Fees and Stamp Duties on Letters Patent to be as in Schedule A.*

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

*Nothing to affect Prerogative of Crown.*

36. Nothing herein contained shall extend to abridge or affect the prerogative of the Crown in relation to the granting or withholding the grant of any Letters Patent whatever, or the terms, restrictions, conditions, or provisoes thereof.

*Forms in Schedule B may be used.*

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

*Interpretation Clause.*

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

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

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

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

*Short Title.*

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

*Commencement of Ordinance.*

40. This Ordinance shall come into operation and take effect on the publication thereof.

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

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## SCHEDULE A.

*Fees to be paid at the Attorney-General's Office.*

| | | |
|---|---|---|
| On examining provisional specification, to be paid on filing petition | $25 | 0 |
| On reporting on application for Letters Patent after notice to proceed | 25 | 0 |
| On giving notice of disclaimer or alteration | 25 | 0 |
| On entering caveat | 25 | 0 |

*Stamp Duties to be paid at the Government Secretary's Office.*

| | | |
|---|---|---|
| On notice to proceed | 5 | 0 |
| On the sealing of Letters Patent | 20 | 0 |
| On the Letters Patent or a duplicate thereof before the expiration of the seventh year | 100 | 0 |
| On petition for confirmation or prolongation of Patent | 50 | 0 |
| On the sealing of grant confirming or prolonging Letters Patent | 100 | 0 |

*Fees to be paid at the Registrar's Office.*

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

N.B.—For copies of drawing attached to specifications, the Registrar to be allowed to charge extra, subject to the approval of the Chief Justice.

## SCHEDULE B.

### Forms.

*Petition.*

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

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

That your petitioner is in possession of an invention for [*the title of the invention*], which invention he believes will be of great public utility; that he is the true and first inventor thereof; and that the same is not in use by any other person or persons in this colony, to the best of his knowledge and belief.

Your petitioner, therefore, humbly prays,—

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

And your petitioner will ever pray, &c.

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*Affidavit.*

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

*A.B.*

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

A Commissioner for administering Oaths to Affidavits, &c.

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*Provisional Specification.*

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

Dated this day of A.D.

(*To be signed by Petitioner or his Agent.*)

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*Letters Patent.*

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

To all to whom these presents shall come, greeting:

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

which the petitioner conceives will be of great public ulility; that he is the true and first inventor thereof; and that the same is not in use by any other person or persons in this colony, to the best of his knowledge and belief; the petitioner therefore most humbly prayed that I would be pleased to grant unto him, his heirs, executors, administrators, and assigns, Letters Patent in the name of Her Majesty, for the sole use, benefit, and advantage of his said invention, within the colony of British Guiana, for the term of fourteen years, pursuant to the Ordinance in such case made and provided; Know ye, therefore, that I, in the name and on the behalf of Her most Gracious Majesty the Queen, and being thereto duly authorized by the Ordinance in such case made and provided, do by these presents, give and grant unto the said , his heirs, executors, administrators, and assigns, my special licence, full power, sole privilege and authority that he, the said , his heirs, executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants, or agents, or such others as he, the said , his heirs, executors, administrators, or assigns, shall at any time agree with, and no others, from time to time, and at all times hereafter during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within the colony of British Guiana, in such manner as to him the said , his heirs, executors, administrators, and assigns, or any of them, shall in his or their discretion, seem meet; and that he, the said , his heirs, executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage from time to time coming, growing, accruing and arising, by reason of the said invention for and during the term of years herein mentioned; to have, hold, exercise, and enjoy the said licences, powers, privileges, and advantages hereinbefore granted or mentioned to be granted, unto the said , his heirs, executors, administrators, and assigns, for and during and unto the full end and term of fourteen years from the day of in the year of our Lord one thousand eight hundred and next and immediately ensuing, according to the Ordinance in such case made and provided; and to the end that he the said , his heirs, executors, administrators, and assigns, and every of them may have and enjoy the full benefit and the sole use and exercise of the said invention, I do, by these presents, require and strictly command all and every person and persons, bodies politic and corporate, and all others, of what estate, quality, degree, name, or condition soever they be, within this colony, that neither they, nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or

themselves the inventor or inventors, devisor or devisors thereof, without the consent, licence, or agreement of the said , his heirs, executors, administrators, or assigns, in writing under his or their hands first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders, for their contempt, and further not be answerable to the said , his heirs, executors, administrators, and assigns, according to law, for his and their damages thereby occasioned: Provided always, and these Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall be made to appear to the Honourable the Supreme Court of Civil Justice of this colony that this grant is contrary to law, or prejudicial or inconvenient to Her Majesty's subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said is not the true and first inventor thereof within this colony as aforesaid, these Letters Patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein contained to the contrary thereof in anywise notwithstanding: Provided also, that these Letters Patent or anything hereinbefore contained shall not extend or be construed to extend to give privilege unto the said , his heirs, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of Her Majesty's subjects whatsoever, and publicly used or exercised in this colony, unto whom like Letters Patent or privileges have been already granted in this colony for the sole use, exercise, and benefit thereof, it being my will and pleasure that the said , his heirs, executors, administrators, and assigns, and all and every other person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and 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 Letters Patent are upon this express condition, that if the said shall not record these Letters Patent in the Registrar's Office for the counties of Demerara and Essequebo within ten days from the date of these presents, and also if the said shall not particularly describe and ascertain the nature of his said invention, and in what manner the same is to be performed, by an instrument in writing under his hand, and cause the same to be deposited in the office of the said registrar within six calendar months next and immediately after the date of these Letters Patent, and also if the said instrument in writing, deposited as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said , his heirs, executors, administrators, or assigns, shall not supply or cause to be supplied for Her Majesty's service in this colony all such articles of the said invention as he or they shall be required to supply by the officers administering the department of Her Majesty's service in this colony, for the use of which the same shall be required, in such manner, at such times, and at and upon

such reasonable prices and terms as shall be settled for that purpose by the Governor of this colony, and also if the said , his heirs, executors, administrators, or assigns, shall not pay or cause to be paid at the office of the Government Secretary the sum of one hundred dollars stamp duty, on or before the day of A.D., that then and in any of the said cases these Letters Patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: provided that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted: And lastly, I do by these presents, in the name and on the behalf of Her Majesty, grant unto the said , his heirs, executors, administrators, and assigns, that these Letters Patent, or the filing thereof, shall be in and by all things good, firm, valid, sufficient, and effectual in the law according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favourable and beneficial sense for the best advantage of the said , his heirs, executors, administrators, and assigns, in all Courts of Record as well as elsewhere in this colony, and by all and singular the officers and ministers whatsoever of Her Majesty, and amongst all and every the subjects of Her Majesty in this colony, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging.

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

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*Specification.*

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

Whereas His Excellency [*Governor's name*], Governor and Commander-in-Chief in and over the colony of British Guiana, &c., &c., &c., by Letters Patent, bearing date the day of in the year of our Lord one thousand eight hundred and , in the year of Her Majesty's reign, did, in the name of Her Majesty, pursuant to the Ordinance in such case made and provided, give and grant unto me, the said , his special licence, that I, the said , my heirs, executors, administrators, and assigns, or such others as I, the said , my heirs, executors, administrators, and assigns, should at any time agree with, and no others, from time to time, and at all times thereafter, during the term therein expressed, should and lawfully might make, use, exercise, and vend within the colony of British Guiana, an invention for [*insert title as in Letters Patent*] upon the condition (amongst others) that I, the said , by an instrument in writing under my hand, should particularly describe and ascertain the nature of the said invention, and in what manner the same

was to be performed, and cause the same to be deposited in the Registrar's office for the counties of Demerara and Essequebo within six calendar months next and immediately after the date of the said Letters Patent: Now know ye, that I, the said , do hereby declare the nature of my said invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement; (that is to say) [*describe the invention*].

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

# BRITISH HONDURAS.

*Law of 10th September, 1862.*

26° VICTORIÆ, SESSIO 1ª.

## CAP. II.

*An Act for amending the Law for granting Patents for Inventions.*

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

*Commissioners of Patents.*

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

*Authentication of documents and copies.*

II. Three or more of such Commissioners, of whom two shall be Members of the Executive Council, shall subscribe their names to all warrants for Letters Patent under this Act, and all instruments proceeding from the office of the Commissioners; and all copies or extracts from documents deposited in the Commissioners' office shall be certified by the clerk of the Commissioners, and all Courts, Judges, and other persons in this Colony shall take notice of and receive the signatures of such Commissioners in evidence, and shall also take notice of and receive in evidence, without further proof or production of the originals, all copies or extracts, certified under the hand of the said Commissioners' clerk, of or from documents deposited in such office.

*Power of Commissioners to make rules and regulations.*

III. It shall be lawful for the Commissioners from time to time to make such rules and regulations (not inconsistent with the provisions of this Act), respecting the business of their office, and all matters and things which under the provisions herein contained are to be under their control and direction, as may appear to them necessary and expedient for the purposes of this Act; and all such rules shall be laid before the Legislative Assembly within fourteen days after the making thereof, if the General Assembly be sitting in annual session, and if it be not sitting in annual session, then within fourteen days after the next meeting of the General Assembly in annual session; and in the meantime, and until the Commissioners shall make such rules and regulations, those contained in the schedule annexed to this Act shall be observed.

*Colonial Secretary's office to be the office of the Commissioners, and he their clerk.*

IV. The office of the Colonial Secretary shall be the office of the Commissioners for the filing of specifications, and the office of Colonial Secretary and the office of clerk of the Commissioners shall be combined; and the Colonial Secretary for the time being shall be the clerk of the Commissioners for the purposes of this Act.

*Petition and Declaration to be accompanied with a provisional specification.*

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

*Every application to be referred to Attorney General.*

VI. Every application for Letters Patent made under this Act shall be referred by the Commissioners, according to such regulations as they may think fit to make, to Her Majesty's Attorney General for this Colony.

*Provisional Specifications to be referred to Attorney General, who, if satisfied, may give certificate of his allowance, which shall be filed.*

VII. The provisional specification shall be referred to the Attorney General, who shall be at liberty to call to his aid such scientific or other person as he may think fit, and cause to be paid to such person by the applicant such remuneration as the Attorney General shall appoint; and if the Attorney General be satisfied that the provisional specification describes the nature of the invention, he shall allow the same, and give a certificate of his allowance, and such certificate shall be filed in the office of the Colonial Secretary, and thereupon the invention therein referred to may, during the term of six months from the date of the application for Letters Patent for the said invention, be used and published without prejudice to any Letters Patent to be granted for the same, and such protection from the consequences of use and publication is hereinafter referred to as a provisional protection: Provided always, that in case the title of the inven-

tion or the provisional specification be too large or insufficient, it shall be lawful for the Attorney General to allow or require the same to be amended.

*Inventor may deposit in lieu of a provisional specification a complete specification, such deposit to confer for a limited time the like rights as Letters Patent.*

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

*Letters Patent granted to the first Inventor not to be invalidated by protection in fraud of him.*

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

*Commissioners to cause protections to be advertised.*

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

*Application for Letters Patent to be advertised, and particulars of opposition may be left.*

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

*Specification and objections to be referred to Attorney General.*

XII. So soon as the time for the delivery of such objections shall have expired, the provisional specification, or the complete

specification (as the case may be) and particulars of objection (if any) shall be referred to the Attorney General.

*Power of Attorney General to order by and to whom costs shall be paid.*

XIII. It shall be lawful for the Attorney General, if he see fit, by certificate under his hand, to order by or to whom the costs of any hearing or enquiry upon any objection, or otherwise in relation to the grant of such Letters Patent, or in relation to the provisional (or other) protection acquired by the applicant under this Act shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid be not paid within fourteen days after the amount shall be so ascertained, it shall be lawful for the Attorney General to make an order for the payment of the same, and any such order may be made a rule of the Supreme Court to the effect that execution may pass thereupon in common form.

*Power of Attorney General to cause a Warrant to be made for sealing Letters Patent — Lieutenant Governor to have a discretion in granting Letters Patent — Writs of* Scire Facias.

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

Patent issued under the Great Seal of the United Kingdom of Great Britain and Ireland.

*Letters Patent to be made subject to avoidance on non-payment of certain sums.*

XV. All Letters Patent for inventions granted under the provisions hereinbefore contained, shall be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid before the expiration of the said three and seven years respectively the sum or sums of money in the schedule to this Act annexed; and the payment of the said sums of money shall be endorsed on the warrant for the said Letters Patent, and the Colonial Secretary shall issue under his hand a certificate of such payment, and shall endorse a receipt for the same on any Letters Patent issued on such warrant, and such certificate of payment shall be evidence of the payment of the several sums respectively.

*Letters Patent under Public Seal to be valid in the Colony.*

XVI. The Commissioners, so soon after the signing of the said warrant as required by the applicant for the Letters Patent, shall cause to be prepared Letters Patent for the invention according to the tenor of the said warrant, and it shall be lawful for the Lieutenant Governor to cause such Letters Patent to be sealed with the public seal of the Colony, and such Letters Patent so sealed shall extend to the whole of the Colony of British Honduras.

*No Letters Patent to be issued after three months from date of warrant.*

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

*No Letters Patent to be issued after expiration of protection given by this Act.*

XVIII. Provided also, that no Letters Patent (save Letters Patent issued in lieu of others destroyed or lost) shall be issued

or be of any force or effect unless the same be granted during the continuance of the provisional protection under this Act, or where a complete specification has been deposited under this Act, then unless such Letters Patent be granted during the continuance of the protection conferred under this Act by reason of such deposit, save that where the application to seal such Letters Patent has been made during the continuance of such provisional or other protection as aforesaid, and the sealing of such Letters Patent has been delayed by reason of any caveat or on application to the Lieutenant Governor against or in relation to the sealing of such Letters Patent, then such Letters Patent may be sealed at such time as the Lieutenant Governor shall direct.

*Letters Patent may be granted to personal representative of the applicant during term of protection, or within three months after applicant's decease.*

XIX. Provided also, that where the applicant for such Letters Patent dies during the continuance of the provisional protection, or the protection by reason of the deposit of a complete specification (as the case may be), such Letters Patent may be granted to the executors or administrators of such applicant during the continuance of such provisional or other protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such provisional or other protection, and the Letters Patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such provisional or other protection.

*If Letters Patent be destroyed or lost other Letters Patent may be issued.*

XX. Provided also, that in case any such Letters Patent shall be destroyed or lost, other Letters Patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the Commissioners may direct, be issued under the authority of the warrant in pursuance of which the original Letters Patent were issued.

*Letters Patent may be dated as of the day of application.*

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

*Letters Patent where ante-dated to be of same validity as if sealed on the day of date, but not as to infringements prior to actual sealing.*

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

*Letters Patent for patented foreign inventions not to continue in force after expiration of foreign patent.*

XXIII. Where, upon any application made after the passing of this Act, Letters Patent are granted in this Colony for or in respect of any invention first invented in the United Kingdom of Great Britain and Ireland, or in any foreign country, or in any other British colony, or by the subject of any foreign power or state, and a Patent or like privilege for the monopoly or exclusive use or exercise of such invention in the United Kingdom of Great Britain and Ireland, or in any foreign country, or in any other British colony is there obtained, before the grant of such Letters Patent in this Colony, all rights and privileges under such Letters Patent shall (notwithstanding any term in such Letters Patent limited) cease and be void immediately upon the expiration or other determination of the term during which the Patent or like privilege obtained in the United Kingdom, such foreign country, or other British colony (as the case may be) shall continue in force, or where more than one such Patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several Patents or like privileges: Provided always, that no Letters Patent for or in respect of any invention for which any such Patent or like privilege as aforesaid shall have been obtained in the United Kingdom of Great Britain and Ireland, in any foreign country, or in any other British colony, and which shall be granted in this Colony after the expiration of the term for which such Patent or privilege was granted or was in force, shall be of any validity.

*Letters Patent not to prevent use of inventions on board ships—Provisoes.*

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

*Specifications to be filed—Enrolment not necessary.*

XXV. All Letters Patent to be granted under this Act (save only Letters Patent granted after the filing of a complete specification) shall require the specification thereunder to be filed in the Colonial Secretary's office, instead of requiring the same to be enrolled, and no enrolment shall be requisite.

*Specifications to be filed and preserved in Colonial Secretary's Office.*

XXVI. Every specification to be filed in pursuance of the condition of any Letters Patent shall be filed in the Colonial Secretary's office, and every provisional specification and complete specification left at the office of the Colonial Secretary, on the application for any Letters Patent, shall forthwith after the grant of the Letters Patent, or if no Letters Patent be granted, then immediately after the expiration of six months from the time of such application, be filed and preserved in the said office; and in case reference is made to drawings in any specification deposited or filed under this Act, an extra copy of such drawings shall be left with such specification.

*Copies of Specifications to be open to inspection at the office of Colonial Secretary.*

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

*Register of Patents to be kept.*

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

*Register of Proprietors to be kept.*

XXIX. There shall be kept at the Colonial Secretary's office a book or books, entitled "the Register of Proprietors," wherein shall be entered, in such manner as the Commissioner shall direct, the assignment of any Letters Patent, or of any share or interest therein, and any license under Letters Patent, with the name or names of any person or persons having any share or interest in such Letters Patent or license, the date of his or their acquiring such Letters Patent, share, and interest, and any other matter or thing relating to or affecting the proprietorship in such Letters Patent or license; and a copy of any entry in such book, certified under the hand of the Colonial Secretary, shall be given to any person requiring the same, on payment of the fees hereinafter provided; and such copies, so certified,

shall be received in evidence in all courts and in all proceedings, and shall be primâ facie proof of the assignment of of such Letters Patent, or share and interest therein, or of the license or proprietorship as therein expressed : Provided always, that until such entry shall have been made, the grantee or grantees of the Letters Patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such Letters Patent and of all the licenses and privileges thereby given and granted; and any writ of *scire facias* to repeal such Letters Patent may be issued to the Provost Marshal in case of the grantee or grantees residing in this Colony, and in case such grantee or grantees do not reside in the Colony, it shall be sufficient to file such writ in the Clerk of the Courts' office, and serve notice in writing thereof at the last known residence or place of business of such grantee or grantees ; and such register, or a copy, shall be open to the inspection of the public at the Colonial Secretary's office, subject to such regulations as the Commissioners may make.

*Faleification or forgery of entries in Register of Proprietors a misdemeanour.*

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

*Entries may be expunged or varied.*

XXXI. If any person shall deem himself aggrieved by any entry made under colour of this Act in the said register of proprietors, it shall be lawful for such person to apply by motion to the Supreme Court, or by a summons to the Chief Justice in chambers, for an order that such entry may be expunged, vacated, or varied; and upon any such application the said Court or Chief Justice respectively may make such order for expunging, vacating, or varying such entry and as to the costs of such application, as to the said Court or Chief Justice may seem fit; and the Colonial Secretary, on the production to him of any such order for expunging, vacating, or varying any such

cntry, shall expunge, vacate, or vary the same according to the requisitions of such order.

*Provisions as to disclaimers, and memoranda of alterations.*

XXXII. Any person who, as grantee, assignee, or otherwise, shall obtain Letters Patent for the sole making, exercising, vending, or using of any invention, and in case the original patentee or patentees hath or have departed with his or their whole or any part of his or their interest by assignment to any other person or persons, such patentee, together with such assignee or assignees, if part only hath been assigned, and the assignee or assignees, if the whole hath been assigned, may, if he or they think fit, lodge with the Colonial Secretary an application for leave to enter a disclaimer of any part of either the title of the invention or of the specification, stating the reason of such disclaimer, or to enter a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said Letters Patent; and all such applications shall be referred by the Commissioners to the Attorney General; and every such disclaimer or memorandum of alteration, when approved by the Attorney General, certified by his fiat and signature, and being filed in the Colonial Secretary's office with the specification to which the same relates, shall be deemed and taken to be part of such Letters Patent or such specification in all courts whatever: Provided always, that any person may lodge with the said Colonial Secretary a caveat against such disclaimer or alteration, and every such caveat shall be referred by the Commissioners to the Attorney General; and such caveat, being so entered, shall give the party entering the same a right to have notice of the application being heard by the Attorney General: Provided also, that no such disclaimer or alteration shall be receivable in evidence in any action or suit (save and except by any proceeding by *scire facias*) pending at the time when such disclaimer or alteration was filed; but in every such action or suit the original title and specification alone shall be given in evidence and deemed and taken to be the title and specification of the invention for which the Letters Patent shall have been granted: Provided also, that it shall be lawful for the Attorney General, before granting such fiat, to require the party applying for the same to advertise his disclaimer or alteration, in such manner as to the Attorney General shall

seem right, and shall, if he so require such advertisement, certify in his fiat that the same has been duly made: Provided also, that such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the Attorney General, certified as aforesaid, shall, except in cases of fraud, be conclusive of the right of the party to enter such disclaimer or memorandum of alteration; and no objection shall be allowed to be made in any proceeding upon or touching such Letters Patent, specification, disclaimer, or memorandum of alteration, on the ground that the party entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf: Provided also, that no action shall be brought upon any Letters Patent in which, or in the specification of which, any disclaimer or memorandum of alteration shall have been filed, in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the Attorney General shall certify in his fiat that any such action may be brought notwithstanding the entry or filing of such disclaimer or memorandum of alteration.

*Provisions as to prolongation of terms of Letters Patent.*

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

*Commissioners may in certain cases warrant extension for fourteen years.*

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

*Grant of new Letters Patent extending period.*

XXXV. It shall be lawful to grant any such extension either to an assignee or assignees, or to the original patentee or patentees or to an assignee or assignees and original patentee or patentees conjointly.

*Warrant and Sealing such Letters Patent.*

XXXVI. In the granting of any new Letters Patent, extending the term for which the original Letters Patent were granted, the warrant of the Commissioners shall be a sufficient authority for the sealing of any new Letters Patent, and for the insertion in such new Letters Patent of any restrictions, conditions, and provisions in the said warrant mentioned; and the Lieutenant Governor shall thereupon cause Letters Patent, according to the tenor and effect of such warrant, to be made and sealed in the manner herein directed for Letters Patent issued under the certificate of the Attorney General and the Commissioners' warrant thereupon: Provided always, that such new Letters Patent shall be sealed and bear date as of the day after the expiration of the term of the original Letters Patent, which may first expire.

*In action for infringement of Letters Patent particulars to be delivered.*

XXXVII. In any action in the Supreme Court for the infringement of Letters Patent the plaintiff shall, two weeks at least previously to the entering of his complaint, deliver or

cause to be delivered to the person against whom such action is intended to be brought, particulars of the breaches intended to be complained of in such action, and the defendant, on pleading or filing any notice of defence thereto, shall deliver with his pleas or notice, and the prosecutor in any proceedings by *scire facias* to repeal Letters Patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration in the proceedings by *scire facias* respectively; and at the trial of such action or proceeding by *scire facias* no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such Letters Patent, which shall not be contained in the particulars delivered as aforesaid: Provided always, that the place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the Letters Patent shall be stated in such particulars: Provided also, that it shall and may be lawful for the Chief Justice at Chambers to allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid, upon such terms as to such judge shall seem fit: Provided also, that at the trial of any proceeding by *scire facias* to repeal Letters Patent the defendant shall be entitled to begin and to give evidence in support of such Letters Patent, and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such Letters Patent, the defendant shall be entitled to the reply.

*Supreme Court may grant injunction in case of infringement.*

XXXVIII. In any action in the Supreme Court for the infringement of Letters Patent, it shall be lawful for the Court if then sitting, or if the Court be not sitting then for the Chief Justice, on the application of the plaintiff or defendant respectively, to make such order for an injunction and inspection or account, and to give such directions respecting such injunction, inspection, and account, and the proceedings therein respectively, as to such Court or Chief Justice may seem fit.

*Particulars to be regarded in taxation of costs.*

XXXIX. In taxing the cost in any action in the Supreme Court regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be

allowed any costs in respect of any particular unless certified by the Chief Justice to have been proved by such plaintiff or defendant respectively, without regard to the general costs of the cause; and it shall be lawful for the Chief Justice to certify on the record that the validity of the Letters Patent in the declaration mentioned came in question; and the record with such certificate being given in evidence in any suit or action for infringing the said Letters Patent, or in any proceeding by *scire facias* to repeal the Letters Patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by *scire facias*, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, taxed as between attorney and client, unless the Chief Justice shall certify that the plaintiff or defendant respectively ought not to have such full costs.

*Fees and payments in Letters Patent to be as in schedule.*

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

*Payment of Fees to Attorney General and Colonial Secretary.*

XLI. Provided always, that nothing herein contained shall prevent the payment to the Attorney General on the investigation of each application, caveat, disclaimer, and memorandum of alterations, including certificate or report, or certificate and report, and in cases of opposition to the granting of Letters Patent, and to the Colonial Secretary for office or other copies of documents in his office, and in respect of the additional duties imposed on him by this Act, of the fees fixed in the schedule hereunto annexed.

*Defrayment of expenses incurred under Act.*

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

*Forms in schedule may be used.*

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

*No Letters Patent granted hereafter out of Colony to have effect here without compliance with this Act.*

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

*Interpretation of terms.*

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

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

The expression "Chief Justice" shall include any person appointed to act as Chief Justice during a vacancy in the office, and any senior or other puisne judge of the Supreme Court acting in the place of the Chief Justice

during his absence or incapacity, and also any person appointed acting Chief Justice during such absence or incapacity:

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

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

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

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

*Short title.*

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

*Operation suspended until confirmation of Act, &c.*

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

## The SCHEDULE to which this Act refers.

### Fees to be paid.

1. *To Colonial Secretary.*

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

2. *To the Attorney General.*

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

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

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

FORMS.

No. *Petition.*

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

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

Sheweth,

That your petitioner is in possession of an invention for

[*the title of the invention*]

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

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

And your petitioner will ever pray.

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No. *Declaration.*

I , of , in the Colony of British Honduras , do solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as in petition*]

which invention I believe will be of great public utility; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons to the best 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 to be performed;"]

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

*A.B.*

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

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



YALE LAW LIBRARY

No. *Provisional Specification.*

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

[*here insert description*]

Dated this day of A.D

(*To be signed by the applicant or his agent.*)

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*Reference.*

[*To be endorsed on the Petition.*]

The Commissioners of Patents for Inventions refer this petition to the Attorney General to consider what may properly be done therein.

*A.B., Member of Council*
*C.D., Member of Council*
*E.F.*
} Three of the Commissioners of Patents.

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

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

[*allegations of the petition*]:

And the petitioner humbly prays,

[*prayer of the petition*]:

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

[*allegations of the declaration*]:

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

That it appears the said application was duly advertised:

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

[*See next Form.*]

Given under my hand this day of A.D. .

*G.H.*, Attorney General.

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

*A.B.*, *C.D.*, *E.F.* } *Members of the Executive Council.* } Three of the Commissioners of Patents.

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*Letters Patent.*

BRITISH HONDURAS ss.

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

To all to whom these presents shall come, greeting:

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

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

And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioner's request: Know ye therefore, that we of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents for us, our heirs and successors, do give and grant unto the said , his executors, administrators, and assigns, our especial license, full power, sole privilege, and authority, that he the said , his executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants, or agents, or such others as he the said , his executors, administrators, or assigns shall at any time agree with, and no others, from time to time and at all times hereafter, during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within our said Colony of British Honduras, in such manner as to him the said , his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet; and that he the said , his executors, administrators, and assigns shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage from time to time coming,

growing, accruing, and arising by reason of the said invention for and during the term of years herein mentioned; to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages herein-before granted or mentioned to be granted unto the said , his executors, administrators, and assigns for and during and unto the full end and term of fourteen years from the day of A.D. next and immediately ensuing, according to the statute in such case made and provided; and to the end that he the said , his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention according to our gracious intention herein-before declared, we do by these presents for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all others our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within our said Colony of British Honduras, that neither they nor any of them at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, or put in practice the said invention or any part of the same so attained unto by the said as aforesaid, nor in any wise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors, thereof without the consent, license, or agreement of the said , his executors, administrators, or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can and may be justly inflicted on such offenders for their contempt of this our royal command, and further to be answerable to the said , his executors, administrators, and assigns according to law for his and their damages thereby occasioned; and, moreover, we do by these presents for us, our heirs and successors, will and command all and singular the justices of the peace, provost-marshal, alcaldes, constables, and all other officers and ministers whatsoever of us, our heirs and successors, for the time being, that they or any of them do not nor shall at any time during the said term hereby granted in anywise molest, trouble, or hinder the said , his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall be made appear to us, our heirs or successors, or to the Commissioners of Patents in our said Colony of British Honduras, that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said is not the true and first inventor thereof within this our Colony of British Honduras as aforesaid, these our letters patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein-before contained to the contrary thereof in anywise notwithstanding:

Provided also, that these our letters patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said , his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use, exercise, and benefit thereof, it being our will and pleasure that the said , his executors, administrators, and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and 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 the Colonial Secretary's office within six calendar months next and immediately after the date of these our letters patent;] [and also if the said instrument in writing filed as aforesaid does not describe and ascertain the nature of the said invention, and in what manner the same is to be performed;] and also if the said , his executors, administrators, or assigns, shall not pay or cause to be paid at the office of the Colonial Secretary the sums following; that is to say, the sum of fifty dollars on or before the day of A.D. , and the sum of one hundred dollars on or before the day of A.D. ; and also if the said , his executors, administrators, or assigns, shall not supply or cause to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same, that then and in any of the said cases these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything herein-before contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted; and lastly, we do by these presents, for us, our heirs and successors, grant unto the said , his executors, administrators, and assigns, that these our letters patent, or the filing thereof, shall be in and by all things good, firm, valid, sufficient, and effectual in the law according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most 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 said Colony of British Honduras; and amongst all and every the subjects of us, our heirs and successors, whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention or of the materials thereunto conducing and belonging. In witness whereof we have caused these our letters to be made patent.

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

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*Specification.*

To all to whom these presents shall come:

I , of , send greeting:

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

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

*A.B.* (Seal.)

# CANADA.

## *Act of 14th June*, 1872.

### 35 VICT. CAP. XXVI.

An Act respecting Patents of Invention.

*Preamble.*

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

### PATENT OFFICE CONSTITUTED.

*Minister of Agriculture to be Commissioner of Patents of Invention.*

1. There shall be attached to the Department of Agriculture, as a branch thereof, an office to be called the Patent Office; and the Minister of Agriculture for the time being shall be the Commissioner of Patents; and it shall be the duty of the said Commissioner to receive all applications, fees, papers, documents, and models for patents, and to perform all acts and things requisite to the granting and issuing of patents of invention; and he shall have the charge and custody of the books, records, papers, models, machines, and other things belonging to the said Office.

*Seal to be made and impressions thereof to be received in evidence.*

2. The Commissioner shall cause a seal to be made for the purposes of this Act, and may cause to be sealed therewith patents and other instruments and copies proceeding from the Patent Office; and all Courts, Judges, and other persons whomsoever shall take notice of such seal, and receive impressions thereof in

evidence, in like manner as impressions of the Great Seal are received in evidence, and shall also take notice of and receive in evidence, without further proof and without production of the originals, copies, or extracts certified under the seal of the said office to be copies of or extracts from documents deposited in such office.

*Commissioner to make rules.—Publication and effect.*

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

*Deputy Commissioner and Clerks.—Employés in Patent Office not to be concerned in patents.—Exception.*

4. The Deputy of the Minister of Agriculture shall be the Deputy Commissioner of Patents of Invention; and the Governor in Council may, from time to time, appoint such clerks and officers under him as may be necessary for the purposes of this Act, and such clerks and officers shall hold office during pleasure. No officer or employé of the Patent Office shall buy, sell, or acquire, or traffic in an invention or patent, or rights to patents therefor; and every such purchase and sale, and every assignment or transfer thereof; by or to any officer or employé as aforesaid, shall be utterly null and void. But this shall not apply to any original inventor, or to the acquisition by bequest.

*Annual report and list of patents.—Publication of specifications.*

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

### WHO MAY OBTAIN PATENTS.

*Any person may obtain a patent for his invention not having been then in public use in Canada for more than one year.—Form of patent. —Proviso: what shall not be patentable.*

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

*As to inventions for which foreign patents have been taken out.*

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

*Representatives of inventor may obtain the patent.*

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

administrators or *other legal representatives* of the deceased inventor.

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

*As to patents for improvements on patented inventions.—Proviso.*

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

*As to joint application for patent.*

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

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CONDITIONS AND FORMALITIES.

*Declaration to be made by application for a patent.—Before whom.—Applicant to elect a domicile in Canada.*

11. Every inventor, before a patent can be obtained, shall make oath, or, when entitled by law to make an affirmation instead of an oath, shall make an affirmation, that he verily believes that he is, or, in the case of the inventor being deceased, the applicant shall make oath or affirm that the person whose assignee or representative he is, was the inventor of the invention for which the patent is solicited, and that the several allegations in the petition contained are respectively true and correct. Such oath or affirmation may be made before any Justice of the Peace in Canada; but if the inventor or the applicant is not at the time in Canada the oath or affirmation may be made before any Minister Plenipotentiary, chargé d'affaires, consul, vice-consul, or consular agent, holding commission under the Government of the United Kingdom, or any Judge of *a Court of record or a Public Notary, or the Mayor or other Chief Magistrate of any City, Borough, or Town Corporate in* the country in which the applicant happens at the time to be.

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

*Particulars required in application.*

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

*Specification and drawing, form of and what to show.*

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

*Commissioner may require further drawings.—Drawings how disposed of.*

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

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

*Working model to be delivered to the Commissioner.—Or specimens of ingredients.—Exception as to explosive materials.*

15. The applicant shall also deliver to the Commissioner, unless specially dispensed from so doing for some good reason,

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

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

*Contents of patents.—Conditions.*

16. Every patent granted under this Act shall contain the title or name of the invention, with a reference to the specification,—and shall grant to the patentee, his executors, administrators, *legal representatives*, and assigns, for the period therein mentioned for the granting of the same, the exclusive right, privilege, and liberty of making, constructing, and using, and vending to others to be used, the said invention, subject, nevertheless, to adjudication before any Court of competent jurisdiction.

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

*Duration of patents and periodical extension—not exceeding fifteen years in all.—Form of extension.*

17. *The term limited for the duration of every patent of invention issued by the Patent Office shall be fifteen years; but at the time of the application therefor it shall be at the option of the applicant to pay the full fee required for the term of fifteen years, or the partial fee required for the term of five years, or the partial fee required for the term of ten years. In case a partial fee only is paid the proportion of the fee paid shall be stated in the patent, and the patent shall, notwithstanding anything therein or in this Act contained, cease at the end of the term for which the partial fee has been paid, unless at or before the expiration of the said term the holder of the patent pays the fee required for the further term of five or ten years, and takes out*

*from the Patent Office a certificate of such payment (in the form which may be from time to time adopted) to be attached to and to refer to the patent, and under the signature of the Commissioner, or, in case of his absence, another member of the Privy Council; and in case such second payment, together with the first payment, makes up only the fee required for ten years, then the patent shall, notwithstanding anything therein or in this Act contained, cease at the end of the term of ten years, unless at or before the expiration of such term the holder thereof pays the further fee required for the remaining five years, making up the full term of fifteen years, and takes out a like certificate in respect thereof. Every patent heretofore issued by the Patent Office in respect of which the fee required for the whole or for any unexpired portion of the term of fifteen years, has been duly paid according to the provisions of the now existing law in that behalf, has been and shall be deemed to have been issued for the term of fifteen years, subject, in case a partial fee only has been paid, to cease on the same conditions on which patents hereafter issued are to cease under the operation of this section.*

[NOTE.—The original clause 17 was repealed and the above substituted by 46 Vict. cap. 19.] May 25, 1883

*Patent or extension to be examined by Minister of Justice before granted.*

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

*In certain cases of error, &c., the Commissioner may cause a new patent to issue, on amended specification.—Effect of new patent and specification.*

19. Whenever any patent shall be deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee claiming more than he had a right to claim as new, but at the same time it appears that the error arose from inadvertence, accident, or mistake, without any fraudulent or deceptive intention, the Commissioner may, upon the surrender of such patent, and the payment of the further fee herein-after provided, cause a new patent, in accordance

with an amended description and specification to be made by such patentee, to be issued to him for the same invention for any part or the whole of the then unexpired residue of the period for which the original patent was or might have been, as herein-before directed, granted;—in case of the death of the original patentee or of his having assigned the patent, a like right shall vest in his assignee or legal representative: The new patent, and the amended description and specification, shall have the same effect in law, on the trial of any action thereafter commenced for any cause subsequently accruing, as if the same had been originally filed in such corrected form before the issue of the original patent, *and the Commissioner may entertain separate applications and cause patents to be issued for distinct and separate parts of the thing patented, upon payment of the fee for a re-issue for each of such re-issued patents.*

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

*Patentee may disclaim anything included in the patent by mistake.—Form.—Disclaimer not to affect pending suits.—In case of death of patentee.—Effect of disclaimer.*

20. Similarly, whenever by any mistake, accident, or inadvertence, and without any wilful intent to defraud or mislead the public, a patentee has made his specification too broad, claiming more than that of which he or the party through whom he claims was the first inventor, or has in the specification claimed that he or the party through whom he claims was the first inventor of any material or substantial part of the invention patented, of which he was not the first inventor, and to which he had no legal right;—the patentee may, on payment of the fee herein-after provided, make disclaimer of such parts as he does not claim to hold by virtue of the patent or the assignment thereof:—such disclaimer shall be in writing, and in duplicate, and attested in the manner herein-before prescribed for a patent, one copy to be filed and recorded in the office of the Commissioner, the other copy to be attached to the patent and made a part thereof by reference, and such disclaimer shall thereafter be taken and considered as part of the original specification. Such disclaimer shall not affect any action pending at the time of its being made, except in so far as may relate to the question of unreasonable neglect or delay in making it. In case of the death of the original patentee or of his having assigned the patent, a like right shall vest in his

assigns or legal representatives respectively, any of whom may make disclaimer. The patent shall thereafter be deemed good and valid for so much of the invention as is truly the disclaimant's own, and not disclaimed, provided it be a material and substantial part of the invention, and definitely distinguished from other parts claimed without right; and the disclaimant shall be entitled to maintain a suit for such part accordingly.

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ASSIGNMENT AND INFRINGEMENT OF PATENTS.

*Government may use patented invention.*

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

*Patents to be assignable.—To be registered on pain of nullity.*

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

*Remedy for infringement of patent.*

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

*Action for infringement of patent.—Injunction may issue.—Appeal allowed.*

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

*Court may discriminate in certain cases.*

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

*Defence in actions for infringement.*

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

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NULLITY, IMPEACHMENT, AND AVOIDANCE OF PATENTS.

*Patents may be declared void in certain cases, or valid only for part. —Copy of judgment to be sent to Patent Office.*

27. A patent shall be void if any material allegation in the petition or declaration of the applicant be untrue, or if the

specification and drawings contain more or less than is necessary for obtaining the end for which they purport to be made, such omission or addition being wilfully made for the purpose of misleading; but if it shall appear to the Court that such omission or addition is simply an involuntary error, and it is proved that the Patentee is entitled to the remainder of his patent *pro tanto*, the Court shall render a judgment in accordance with the facts, and determine as to costs, and the patent shall be held valid for such part of the invention described; and two office copies of such judgment shall be furnished to the Patent Office by the patentee, one to be registered and to remain of record in the office, and the other to be attached to the patent, and made a part of it by a reference.

*Patents to be conditional for the manufacture in Canada of the thing patented:—and of the patentee's not importing it into Canada.—Proviso.—Commissioner may extend the term for manufacture in Canada.*

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

(*a*) *Whenever a patentee has been unable to carry on the construction or manufacture of his invention within the two years hereinbefore mentioned, the Commissioner may at any time not more than three months before the expiration of that period*

*grant to the patentee a further delay on his adducing proof to the satisfaction of the Commissioner that he was for reasons beyond his control prevented from complying with the above-mentioned condition.*

[NOTE.—The words in italics were substituted by 38 Vict. c. 14.]

*Proceedings for impeachment of patent.*—Scire facias *may issue.*

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

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

*Judgment voiding patent to be filed in Patent Office.*

30. A certificate of the judgment voiding any patent shall, at the request of any person or party filing it, to be of record in the Patent Office, be entered on the margin of the enrolment of the patent in the Office of the Commissioner, and the patent shall thereupon be and be held to have been void and of no effect, unless and until the judgment be reversed on appeal, as hereinafter provided.

*To be subject to appeal.*

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

PATENTS ISSUED UNDER FORMER LAWS.

*Existing Provincial and Dominion patents to remain in force.—Extension of Provincial patents to other Provinces, on certain conditions.*

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

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

*Records of Provincial Patent Offices to be handed over to the Commissioner.*

33. All the records of the Patent Offices of the late province of Canada, and of the provinces of Ontario and Quebec, of Nova Scotia and New Brunswick, and British Columbia, shall be handed over by the officers in charge of them to the Commissioner of Patents of invention, to form part of the records of the Patent Office for the purposes of this Act.

[NOTE.—The following six clauses of 38 Vict. c. 14. extend the Patent Act to Prince Edward Island.]

4. *From and after the passing of this Act all and every the provisions of the Patent Act of* 1872, *as amended by this Act, and of the Acts amending the same, shall have the same force and effect in Prince Edward Island as the same then respectively have in the other provinces forming this Dominion; and*

*every patent theretofore issued under the said Acts or any of them shall extend over the said province for the remainder of the term mentioned therein.*

5. *The following Acts of the General Assembly of Prince Edward Island are hereby repealed, that is to say: The Act passed in the seventh year of the reign of His late Majesty King William the Fourth, chapter* 21, *entitled "An Act for granting patents for useful inventions;" the Act passed in the thirty-second year of Her Majesty's reign, chapter* 20, *entitled "An Act to add to and amend the Act relating to patents for useful inventions," and the Act passed in the thirty-third year of Her Majesty's reign, chapter* 19, *entitled "An Act to amend the Act relating to patents for useful inventions," but in so far only as such Acts or any of them may be inconsistent with this Act or make any provision in any matter provided for by this Act, except only as respects all rights acquired and penalties or liabilities incurred under the said Acts, or any of them, before the coming into force of this Act, as to which the said Acts shall remain in force; and nothing in this Act contained shall affect any suit pending in any Court of Law or Equity at the time of the coming into force of this Act.*

*Patents issued under former laws.*

6. *All patents issued under the said Acts of the General Assembly of Prince Edward Island, or any of them, to the date of the passing of this Act shall remain in force in the said province for the same term as if the Act or Acts under which such patents respectively were issued had not been repealed, but subject to all the provisions of this Act in so far as such provisions or any of them may be applicable to such patents respectively.*

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

7. *All the records of the Patent Office of the Province of Prince Edward Island shall be handed over by the officers in charge of them to the Commissioner of Patents of Invention, to form part of the records of the Patent Office for the purposes of the Act hereby amended and of the Acts amending the same and of this Act.*

8. *Any person desiring to impeach any patent issued under the Patent Act of* 1872, *as amended by subsequent Acts and by this Act, the petitioner for which has elected his domicile at any place in Prince Edward Island, may obtain a sealed and certified copy of the patent and of the petition, affidavit, specification, and drawings thereunto relating, and may have the same filed in the office of the clerk of the Supreme Court of Judicature in that province, which Court shall adjudicate on the matter and decide as to costs. The patent and documents aforesaid shall then be held as of record in such Court, so that a writ of* scire facias *under the seal of the Court grounded upon such record may issue for the repeal of the patent, for cause as aforesaid, if upon proceedings had upon the writ in accordance with the meaning of this Act the patent be adjudged to be void.*

9. *This Act shall be read and construed as one Act with the Act hereby amended and the two Acts amending the same, and the said four Acts may be cited together as the Patent Acts,* 1872 *to* 1875.

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## Tariff of Fees.

*Tariff of fees.*

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

| | $ |
|---|---|
| On petition for a patent for 5 years . . . . . | 20 00 |
| On petition for a patent for 10 years . . . . . | 40 00 |
| On petition for a patent for 15 years. . . . . | 60 00 |
| On petition for extension from 5 to 10 years . . . | 20 00 |
| On petition for extension from 10 to 15 years . . . | 20 00 |
| On petition for extension from 5 to 15 years . . . | 40 00 |
| On lodging a caveat . . . . . | 5 00 |
| On asking to register a judgment *pro tanto* . . . | 4 00 |

| | $ |
|---|---|
| On asking to register an assignment . . . . . | 2 00 |
| On asking to attach a disclaimer to a patent . . . | 2 00 |
| On asking for a copy of patent with specification . . | 4 00 |
| On petition to re-issue a patent after surrender, and on petition to extend a former patent to the Dominion, for every unexpired year of the duration of sub-patent, the fee shall be at the rate of. . . . . | 4 00 |

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

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

*For copies of drawings.*

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

*Fees to be in full of all services.*

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

*Fees to form part of Consolidated Revenue Fund.—Exception.*

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

*Return of fees in certain cases only.—Case of withdrawal.*

38. No fee shall be made the subject of exemption in favour of any person; and no fee, once paid, shall be returned to the person who paid it, except:

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

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

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

## Miscellaneous Provisions.

*Intending applicant for a patent may file a* caveat.—*Effect of* caveat.—*Proviso : duration of* caveat.

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

*Commissioner may object to grant a patent in certain cases.*

40. The Commissioner may object to grant a patent in the following cases :—

1. When he is of opinion that the alleged invention is not patentable in law;
2. When it appears to him that the invention is already in the possession of the public with the consent or allowance of the inventor;
3. When it appears to him that there is no novelty in the invention;

4. When it appears that the invention has been described in a book or other printed publication before the date of the application, or is otherwise in the possession of the public;

5. When it appears that the invention has already been patented in Canada (or elsewhere, when the case is one within the seventh section of this Act), except, however, when the case is one in which the Commissioner has doubts as to whether the patentee or the applicant is the first inventor.

*Commissioner to notify ground of objection to applicant.*

41. Whenever the Commissioner objects to grant a patent as aforesaid, he shall notify the applicant to that effect, and shall state the ground or reason therefore with sufficient detail to enable the applicant to answer, if he can, the objection of the Commissioner.

*Appeal by applicant to Governor in Council.*

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

*Arbitration in case of interfering applications.—The same: Appointment of arbitrators.—Their oath of office.—Powers of arbitrators to summon and swear witnesses.—Wilful false evidence to be perjury.—As to fees to arbitrators, and by whom paid.*

43. In case of interfering applications for any patent, the same shall be submitted to the arbitration of three skilled persons, one of whom shall be chosen by each of the applicants, and the third person shall be chosen by the Commissioner or by his deputy or the person appointed to perform the duty of that office;—And the decision or award of such arbitrators, or any two of them, delivered to the Commissioner in writing, and subscribed by them or any two of them, shall be final as far as respects the granting of the patent:

2. If either of the applicants refuses or fails to choose an arbitrator, when required so to do by the Commissioner, the patent shall issue to the opposite party;—And when there are are more than two interfering applicants, and

the parties applying do not all unite in appointing three arbitrators, the Commissioner or his deputy or person appointed to perform the duty of that officer, may appoint the three arbitrators for the purposes aforesaid:

3. The arbitrators so named shall, before a judge of any court in any of the provinces of Canada, subscribe to the following oath:

"I, the undersigned (A.B.), being duly appointed an "arbitrator under the authority of the forty-third section of "the Patent Act of 1872, do hereby solemnly swear (*or* affirm, "*as the case may be*), that I will well and truly perform the "duty of such arbitrator on the interfering applications of "(C.D. and E.F.) submitted to me:"

4. The arbitrators, or any one of them, after having been so sworn, shall have the power of summoning before them any party or witness, and of requiring him to give evidence on oath, orally, or in writing (or on solemn affirmation, if the person be entitled to affirm in civil matters), and to produce such documents and things as such arbitrators deem requisite to the full investigation of the matters into which they are appointed to examine, and shall then have the same power to enforce the attendance of such witnesses, and to compel them to give evidence, as is vested in any court of law in civil cases, in the province in which the arbitration is to be had; and any wilfully false statement made by any such witness on oath or solemn affirmation, shall be deemed to be wilful and corrupt perjury; but no such party or witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution:

5. The fees for the services of arbitrators shall be a matter of agreement between the said arbitrators and the parties, and shall be paid by the parties naming them, respectively, except those of the arbitrator or arbitrators when named by the Commissioner of Patents, which shall be paid by the applicants jointly.

*Documents to be open to inspection.*

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

*As to clerical errors.*

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

*Destroyed Patent may be replaced.*

46. In case any patent be destroyed or lost, others of the like tenor, date, and effect may be issued in lieu thereof, on the party paying the fees hereinbefore prescribed for office copies of documents.

*As to use of patented invention in foreign vessels.*

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

*Patent not to affect a previous purchaser of the invention.—Proviso: As to other persons.*

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

*Patented articles to be marked as such.—Penalty for default.*

49. *Every patentee under this Act shall stamp or engrave on each patented article sold or offered for sale by him the year of the date of Patent applying to such article, thus: "Patented* 1872," *or as the*

*case may be; or when from the nature of the article this cannot be done by fixing to it or to every package wherein one or more of such articles is or are enclosed a label marked with a like notice; and any such patentee selling or offering for sale any such patented article not so marked or not enclosed in a package so marked shall be liable to the punishment of a fine not to exceed one hundred dollars, and in default of the payment of such fine, to imprisonment not to exceed two months.*

[NOTE.—The original clause 49 was repealed and the above substituted by 38 Vict. c. 14.]

*Falsely marking anything as patented to be a misdemeanor.—Punishment.*

50. Whosoever writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks upon anything made or sold by him, and for the sole making or selling of which he is not the patentee, the name or any imitation of the name of any patentee for the sole making or selling of such thing without the consent of such patentee—or without the consent of the patentee, writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks upon anything not purchased from the patentee, the words "Patent," "Letters Patent," "Queen's Patent," "Patented," or any word or words of like import, with the intent of counterfeiting or imitating the stamp, mark, or device of the patentee, or of deceiving the public and inducing them to believe that the thing in question was made or sold by or with the consent of the patentee, or whosoever puts to sale as patented, any article not patented in Canada, for the purpose of deceiving the public,—shall be deemed guilty of misdemeanor, and shall on conviction be punished therefor by fine, or by imprisonment, or both, in the discretion of the Court before which the conviction shall be had; but the fine shall not exceed two hundred dollars, nor shall the imprisonment exceed three months.

*Making false entry or copy in matters subject to this Act to be a misdemeanor.*

51. Any person wilfully making or causing to be made any false entry in any register or book, or any false or altered copy of any document relating to the purposes of this Act, or who shall produce or tender any such false or altered document, knowing the same to be such, shall be guilty of a misdemeanor, and shall be punished by fine and imprisonment accordingly.

*Inconsistent enactments repealed.—Exception.*

52. Chapter thirty-four of the Consolidated Statutes of the late Province of Canada, respecting Patents for Inventions,—Chapter one hundred and seventeen of the Revised Statutes of Nova Scotia (third series),—Chapter one hundred and eighteen of the Revised Statutes of New Brunswick, and "The Patents Ordinance, 1867," of British Columbia, "The Patent Act of 1869,"—and any Act amending any of the said Acts or Laws, or any other Act relating to Patents, are hereby repealed, in so far as they or any of them may be inconsistent with this Act, or make any provision in any matter provided for by this Act, except only as respects all rights acquired and penalties or liabilities incurred under the said laws or any of them, before the coming into force of this Act, as to which they shall remain in force, and nothing in this Act contained shall affect any suit pending in any court of law or equity at the time of the coming into force of this Act.

*Short title.*

53. In citing this Act it shall be sufficient to call it "The Patent Act of 1872."

*Commencement of Act.*

54. This Act shall commence and take effect on the first day of September, 1872.

# CAPE OF GOOD HOPE.

## *Act No.* 17 *of* 1860.

Act to provide for the granting, in this Colony, of Patents for Inventions.

### *Preamble.*

Whereas it is expedient that the making of new and useful inventions should be encouraged by securing to their inventors, for a limited time, the exclusive enjoyment thereof: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

### *Interpretation of Terms.*

I. In the interpretation of this Act the term "invention" shall bear and have the same meaning as the term "invention" bears and has in the Act of the Imperial Parliament, the 15th and 16th of Her Majesty, chapter 83, and the term "Letters Patent" shall mean authorizations granted by the Governor under the public seal of the colony, and the term "proceeding in the nature of a *scire facias*" shall mean as much as may be what the same term would mean if used in an Act of the Imperial Parliament.

### *Power to grant Patents.*

II. It shall be lawful to make and issue, in the manner herein-after mentioned, Letters Patent granting to the true and first inventor of any invention the privilege of the sole and exclusive working, making, and enjoyment of such invention, within this colony, for any term not exceeding fourteen years from the date of such Letters Patent.

*Governor to make Rules for executing this Act.*

III. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time to make such rules and regulations, not inconsistent with the provisions hereof, as may appear to be necessary and expedient for the purposes of this Act, and all such rules and regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the next meeting in Parliament.

*Applicants for Patents to deposit Specifications.—Specification may be amended before issue of Patent.*

IV. All applications under this Act for the grant of Letters Patent for an invention shall be made as follows, that is to say, the applicant shall deposit at the office of the Colonial Secretary an instrument in writing under his hand, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, and also a copy of such instrument, and of the drawings accompanying the same, if any; and the day of the deposit of every such specification shall be recorded at the said office, and endorsed upon such specification, and a certificate thereof given to such applicant or his agent; and thereupon, subject and without prejudice to the provisions herein-after contained, the said invention shall be protected under this Act, for the term of six months next after the said deposit, and the applicant shall have during such term the like powers, rights, and privileges as might have been conferred on him by Letters Patent for such invention issued under this Act, and duly sealed, as of the day of such deposit, and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any Letters Patent to be granted for the same; and where Letters Patent are granted in respect of such invention, such Letters Patent shall be conditioned to become void if such specification does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed: Provided always, that in the case the title of the invention or the said specification be too large or insufficient, it shall be lawful for the Attorney-General herein-after mentioned, during the said term of six months, and before the grant of the Letters Patent, to allow or require such specifi-

cation to be amended, or another and sufficient specification to be deposited in lieu thereof; and every such amended or new specification shall have the same force, effect, and operation as if it had been originally deposited in its amended state.

*Patent of true Inventor not to be affected by Specification of pretended Inventor.*

V. In case of the deposit of any such specification as aforesaid, in fraud of the true and first inventor, any Letters Patent granted to the true and first inventor of any such invention shall not be invalidated by reason of such deposit, or of any use or publication of the invention subsequent to such deposit, and before the expiration of the said term of protection.

*Mode of Proceeding after deposit of Specification.*

VI. The applicant so soon as he shall think fit after the deposit of such specification as aforesaid, and of the drawings and models accompanying the same, if any, may give notice in writing at the office of the Attorney-General of his intention to proceed with his application for Letters Patent for the said invention, stating in such notice the title of the said invention, and the day on which the specification thereof was deposited at the office of the Colonial Secretary, and at the time of giving such notice shall produce the said certificate of deposit; and thereupon the said Attorney-General shall deliver to the applicant or his agent an appointment in the form contained in the second schedule to this Act, or to the like effect; and such applicant or agent shall cause the said appointment to be published once in the Government Gazette, once in some newspaper published in the city of Cape Town, and twice in some newspaper published in the town or place at or near to which the applicant uses or exercises the said invention, or (in case he does not use or exercise the same) in or near to which he resides, or if there shall be no newspaper published in such town or place, then twice in some newspaper circulating in the neighbourhood where he uses or exercises the said invention, or (in case he does not use or exercise the same) where he resides; and any persons having an interest in opposing the grant of Letters Patent for the said invention shall be at liberty to leave particulars in writing of their objections to the said application at the Office of the Attorney-General within such time, not being less than one month, as the said Attorney-General by such appointment may direct.

YALE LAW LIBRARY.

*Attorney-General to hear Applications and Objections, and award Costs.*

VII. At the time and place named in the said appointment the applicant shall produce the newspapers containing the same, and the Attorney-General shall thereupon hear and consider the said application and all objections to the same mentioned in the said particulars, if any, and for that purpose shall obtain from the office of the Colonial Secretary the copy of the said specification, and of the drawings and models accompanying the same, if any, and may call to his aid such scientific or other person or persons as he may think fit, and may, by writing under his hand, order to be paid to such person or persons some remuneration for his or their attendance, and may also in like manner order that the costs of any hearing, upon any objection or otherwise, in relation to the grant of such Letters Patent or the protection acquired by the applicant under this Act, shall be paid, and in and by such writing shall fix the amount of such remuneration or costs, and by or to whom the same respectively shall be paid; and every such order shall be in the form contained in the third schedule to this Act or to the like effect, and may be made a rule of the Supreme Court: Provided always, that the applicant, the objectors, and their respective witnesses and evidence, shall be respectively heard, examined, and considered separately, and apart from and in the absence of the other and his witnesses and evidence.

*Attorney-General may issue Grant for Letters Patent.*

VIII. The Attorney-General after such hearing and consideration may issue a warrant under his hand for the granting of Letters Patent for the said invention, and by such warrant shall direct the insertion in such Letters Patent of all such restrictions, conditions, and provisoes as he may deem usual and expedient in such grants, or necessary in pursuance of this Act, and the said warrant shall be the warrant for the making and sealing of Letters Patent under this Act, according to the tenor of the said warrant; and every such warrant shall be in the form contained in the fourth schedule to this Act, or to the like effect.

*Letters Patent may be repealed or withheld, and Specifications cancelled.*

IX. A writ of the Supreme Court, in the nature of a writ of *scire facias* in England, shall lie for the repeal of any Letters

Patent granted under this Act, and it shall be lawful for the Governor, with the advice aforesaid, to order such Attorney-General to withhold such warrant as aforesaid, or that any Letters Patent, for the granting whereof he has issued a warrant, shall not issue, or to order the insertion in any such Letters Patent of any restrictions, conditions, and provisoes, in addition to or in substitution for any restrictions, conditions, or provisoes which would otherwise be inserted therein under this Act; and it shall also be lawful for the Governor, with the advice and consent aforesaid, to order any specification in respect of the invention described in which no Letters Patent may have been granted, to be cancelled, and thereupon the protection obtained by the deposit of such specification shall cease.

*Letters Patent to be void on non-performance of conditions.*

X. All Letters Patent for inventions granted under this Act shall be in the form contained in the fifth schedule to this Act, or to the like effect, and be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid within the said three and seven years respectively the sum or sums of money in that behalf hereby required to be paid, and the Colonial Secretary shall issue under his hand a certificate of such payment, and shall endorse a receipt for the same on the Letters Patent.

*Letters Patent to be issued within three months after warrant, and during the protection.*

XI. The Colonial Secretary, so soon after the receipt by him of the warrant aforesaid as required by the applicant, shall cause to be prepared Letters Patent for the invention according to the tenor of the said warrant; and it shall be lawful for the Governor, with the advice of the Executive Council, to cause Letters Patent to be sealed with the public seal of the Colony, and such Letters Patent shall be made applicable to the said Colony, and shall be valid and effectual as to the whole of the same; but, except as hereinafter mentioned, no Letters Patent shall issue on any warrant granted as aforesaid, unless application be made to seal such Letters Patent within three months

after the date of the said warrant, nor unless such Letters Patent be granted during the continuance of the protection conferred under this Act by reason of such deposit as aforesaid.

*Letters Patent may issue after that time, in certain cases.*

XII. Where the application to seal such Letters Patent has been made during the continuance of such protection as aforesaid, and the sealing of such Letters Patent has been delayed from accident, and not from the neglect or wilful default of the applicant, then such Letters Patent may be sealed at such time, not being more than one month after the expiration of such protection as the Governor, with the advice aforesaid, shall direct; and where the applica t for such Letters Patent dies during the continuance of such protection as aforesaid, such Letters Patent may be granted to the executors, testamentary or dative, of such applicant during the continuance of such protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the Letters Patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such protection; and in case any Letters Patent shall be destroyed or lost, other Letters Patent, of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the Governor, with the advice aforesaid, may direct, be issued under the authority of the warrant in pursuance of which the original Letters Patent were issued.

*Letters Patent to bear date of deposit of Specification.*

XIII. All Letters Patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such specification as aforesaid, and shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date; and after any Letters Patent shall have been granted or issued under this Act it shall not be necessary or admissible to inquire or ascertain whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

*Letters Patent for Foreign Inventions not to continue after expiration of Foreign Patent.*

XIV. Where, upon any application made under this Act, Letters Patent are granted for or in respect of any invention, first invented in parts out of the Colony of the Cape of Good Hope, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any parts out of the Cape of Good Hope is obtained before the grant of such Letters Patent in the Cape of Good Hope, all rights and privileges under such Letters Patent shall, notwithstanding any term in such Letters Patent limited, cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such part out of the Cape of Good Hope shall continue in force, or, where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges: Provided always, that no Letters Patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained abroad, granted in the Cape of Good Hope after the expiration or determination of the term for which such patent or privilege was granted or was in force, shall be of any validity.

*Letters Patent not to prevent the use of Inventions in foreign ships resorting to ports in the Colony.*

XV. No Letters Patent for any invention, granted after the passing of this Act, shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of the Cape of Good Hope, in case such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the same.

*Specification to be filed in office appointed by Governor, after issue of Patent or expiring of Protection.*

XVI. Every specification deposited at the office of the Colonial Secretary as aforesaid, and the drawings and models accompanying the same, if any, shall forthwith, after the grant of the Letters Patent, or if no Letters Patent be granted, then immediately on the expiration of six months from the time of

such deposit, be transferred to and kept in such office as the Governor, with the advice aforesaid, shall from time to time appoint for that purpose.

*Notice of application to disclaim or make alterations.*

XVII. Any person who shall obtain Letters Patent under this Act, or in case such person shall depart with the whole or any part of his interest by assignment, such person, together with the assignee (if part only has been assigned), or the assignee alone (if the whole hath been assigned), may apply to the Attorney-General for leave to enter a disclaimer of any part of either the title of the invention or of the specification, or a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration, as shall extend the exclusive right granted by the said Letters Patent; and thereupon the Attorney-General shall deliver to such patentee and assignee, or either of them, or to their or either of their agents, an appointment in the form contained in the sixth schedule to this Act, or to the like effect, and such patentee or assignee shall thereupon cause such disclaimer (stating the reason for the same) or such memorandum of alteration to be written at the foot of such appointment, and shall cause the same respectively to be published in the manner hereinbefore required, with respect to the said first-mentioned appointment, and any person having an interest in opposing the said application shall be at liberty to leave particulars, in writing, of their objections to the same, at the office of the Attorney-General, within such time, not being less than one month, as the said Attorney-General by such appointment may direct: Provided always, that where such application as aforesaid shall be for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the Attorney-General may dispense with such appointment and publication, and in that case shall certify in the fiat hereinafter mentioned, that he has dispensed with the same.

*Application for Disclaimer to be heard.*

XVIII. At the time and place named in such appointment, the said patentee and assignee, or one of them, shall produce the newspapers containing the same, and the said disclaimer or memorandum of alteration at the foot thereof; and the Attorney-General shall thereupon hear and consider the said

application, and all objections to the same mentioned in the said particulars, if any, and all such power and authority shall and may be exercised on such occasion by the Attorney-General, as by virtue of the provisions hereinbefore contained can and may be exercised in relation to the hearing and considering an application for Letters Patent, and objections to the same, and shall and may be enforced in the same manner.

*How Disclaimer may be entered, and Alterations made.*

XIX. After such hearing and consideration, or without such hearing and consideration where the said appointment and publication shall have been dispensed with, as aforesaid, such patentee and assignee, or either of them, may, by leave of the Attorney-General, to be certified by a fiat under his hand (to be written at the foot of the same parchment with the said disclaimer or memorandum), enter such disclaimer, stating the reason for the same, or such memorandum of alteration; and at the time of entering such disclaimer or memorandum of alteration shall deposit a copy thereof in the office next hereinafter mentioned, and such disclaimer or memorandum of alteration being filed in such office as the Governor, with the advice aforesaid, shall from time to time appoint for that purpose, shall be deemed and taken to be part of such Letters Patent or such specification, and subject to the several incidents thereof in all colonial courts, and shall be valid and effectual in favour of any person in whom the rights under the said Letters Patent may then be, or hereafter become, legally vested; and no objection shall be allowed to be made in any proceeding upon, or touching such Letters Patent, specification, disclaimer, or memorandum of alteration, on the ground that the person entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf: Provided always, that no action shall be brought upon any Letters Patent in which, or on the specification of which, any disclaimer or memorandum of alteration shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration (unless the Attorney-General shall certify in his said fiat that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration); and no such disclaimer or alteration shall be receivable as evidence in any action or suit (save and except in any proceeding, as aforesaid, in the nature of a *scire facias*) pending at the time

when such disclaimer or alteration was filed as aforesaid; but in every such last-mentioned action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the Letters Patent have been or shall have been granted: Provided also, that when any such fiat shall have been granted or issued under this Act, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act; and such filing of any disclaimer or memorandum of alteration, in pursuance of the leave of the Attorney-General certified as aforesaid, shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Act.

*Copies of Specification, Disclaimers, &c., to be open for inspection.*

XX. The copies of all specifications, and the drawings and models accompanying the same, if any, and of all disclaimers and memoranda of alterations respectively deposited under or in pursuance of this Act, shall be open to the inspection of the public at all reasonable times after the grant of Letters Patent, or if no Letters Patent be granted, then immediately on the expiration of six months from the time of such deposit, but subject to such regulations as the Governor, with the advice aforesaid, may make in that behalf.

*Mode of obtaining Extension of the Term.*

XXI. If any person having obtained Letters Patent under this Act, or in case such person shall have departed with his whole, or any part of his interest by assignment, if such person, together with the assignee (where part only hath been assigned), or if the assignee alone (where the whole hath been assigned), shall, six months before the expiration or other termination of such Letters Patent, present to the Governor a petition for the extension of the term in such Letters Patent mentioned, and shall set forth in such petition that he or they has or have been unable to obtain a due remuneration for his or their expense or labour in perfecting such invention, and that an exclusive right of using and vending the same for some further period, to be named in such petition, in addition to the said term, is necessary for his or their reimbursement and remuneration, it shall be lawful for the Governor, with the advice aforesaid, to refer

the consideration of the said petition to Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Mode of obtaining Confirmation of invalid Patent.*

XXII. If in any suit or action it shall be proved or specially found by the verdict of a jury that any person who shall have obtained Letters Patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented or used the same or some part thereof, before the date of such Letters Patent, or if such patentee or his assigns shall discover that some other person had, unknown to such patentee, invented or used the same or some part thereof before the date of such Letters Patent, such patentee or his assigns may petition the Governor to confirm the said Letters Patent, or to grant new Letters Patent, and it shall be lawful for the Governor, with the advice aforesaid, to refer the consideration of the said petition to Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Governor to appoint Commissioners.*

XXIII. For the purpose of considering any such petition as aforesaid, it shall be lawful for the Governor, if, with the advice aforesaid, he shall think fit, to issue and direct in the name of Her Majesty, her heirs or successors, to five or more persons, of whom some of the judges of the Supreme Court shall be two, a commission reciting such petition, and requiring and authorizing such persons or any three of them, of whom one of the said judges shall be one, to meet at some time, not being less than two months from the publication of the said commission in the Government Gazette, and at some place to be respectively fixed in the said commission, and then and there to consider the said petition, and to report to the Governor, in case such petitioner shall have prayed for an extension of the term in the Letters Patent mentioned, whether any and, if any, what further extension of the said term should be granted, according to the prayer of the said petition, and upon what, if any, conditions, or, in case such petitioner shall have prayed for a confirmation of the Letters Patent, or for a grant of new Letters Patent, whether such confirmation or grant should be made.

*Notice of Commission to be published, and Caveats entered.*

XXIV. Two months at least before the time named in the said commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published in the same manner as is herein-before required with respect to the said first-mentioned appointment, an advertisement of the contents of the said commission in the form contained in the seventh schedule to this Act, or to the like effect; and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the Colonial Secretary at any time, not being less than one week before the time named in the said commission for the execution thereof.

*Commissioners to hear all Parties, and report.*

XXV. At the time and place fixed in the said commission for that purpose, the Commissioners shall meet and proceed to consider such petition, and the petitioner shall be heard by his counsel and witnesses, to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this Act; and the persons entering caveats shall likewise be heard by their counsel and witnesses; and all such witnesses shall be examined upon oath or affirmation, which oath or affirmation such commissioners as aforesaid are hereby authorized and required to administer, and thereupon, and upon hearing and inquiry of the whole matter, in case such petitioner shall have prayed for an extension as aforesaid, the said commissioners may report whether any, and, if any, what further extension of the said term should be granted; and the Governor is hereby authorized and empowered, if he, with the advice aforesaid, shall think fit, to grant to the petitioner new Letters Patent for the said invention, for a term not exceeding fourteen years after the expiration of the first term, anything herein-before contained to the contrary thereof in anywise notwithstanding; and such new Letters Patent shall be sealed and bear date as of the day after the expiration of the term of the first Letters Patent; or, in case such petitioner shall have prayed for a confirmation or grant as aforesaid, such commissioners, upon examining the said matter, and being satisfied that such patentee, as aforesaid, believed himself to be the first and original inventor, and being satisfied that such invention, or part thereof, had not been publicly and generally used before the date of such first

Letters Patent, may report to the Governor their opinion that the prayer of such petition ought to be complied with, whereupon the Governor may, if he, with the advice aforesaid, shall think fit, grant such prayer; and the said Letters Patent shall be available at law and in equity to give to such petitioner the sole right of using, making, and vending such invention, as against all persons whatsoever, anything herein-before contained to the contrary thereof notwithstanding: Provided that any person, party to any former action or suit touching such first Letters Patent as last aforesaid, shall be entitled to have notice in writing of the time and place fixed, as aforesaid, for the first meeting of the said commissioners to consider the said petition, and after any such report shall have been made, it shall not be material to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner herein-before directed in that behalf.

*Indexes to Specifications, Disclaimers, &c.*

XXVI. The Governor, with the advice aforesaid, may cause indexes to all specifications, disclaimers, and memoranda of alterations heretofore or to be hereafter enrolled or deposited as aforesaid, to be prepared in such form as may be thought fit, and such indexes shall be open to the inspection of the public at such places as the Governor, with the advice aforesaid, shall appoint, and subject to the regulations to be made as herein-before provided.

*Register of Patents to be kept.*

XXVII. There shall be kept at the office to be appointed as aforesaid, a book or books to be called "The Register of Patents," wherein shall be entered and recorded in chronological order all Letters Patent granted under this Act, the deposit and filing of specifications, disclaimers, and memoranda of alterations filed in respect of such Letters Patent, all amendments in such Letters Patent and specifications, all confirmations and extensions of such Letters Patent, the expiry, determination, vacating, or cancelling such Letters Patent, with the dates thereof respectively, and all other matters and things affecting the validity of such Letters Patent as the Governor, with the advice aforesaid, may direct; and such register or a copy thereof shall be open

at all convenient times to the inspection of the public, subject to such regulations as the Governor, with the advice aforesaid, may make in that behalf.

*Register of Proprietors to be kept.*

XXVIII. There shall be kept at the same office a book or books entitled "The Register of Proprietors," wherein shall be entered, in such manner as the Governor, with the advice aforesaid, shall direct, the assignment of any Letters Patent, or of any share or interest therein, any licence under Letters Patent, and the district to which such licence relates, with the name or names of any person having any share or interest in such Letters Patent or licence, the date of his or their acquiring such Letters Patent, share, and interest, and any other matter or thing relating to or affecting the proprietorship in such Letters Patent, or licence; and a copy of any entry in such book, certified as herein-after mentioned, shall be given to any person requiring the same, and shall be *primâ facie* proof of the assignment of such Letters Patent, or share, or interest therein, or of the licence or proprietorship as therein expressed: Provided always, that until such entry shall have been made, the grantee or grantees of the Letters Patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such Letters Patent, and of all the licences and privileges thereby given and granted, and such register, or a copy, shall be open to public inspection subject to such regulations as the Governor, with the advice aforesaid, may make.

*Falsification or forgery of entries.*

XXIX. If any person shall wilfully make, or cause to be made, any false entry in the said registry, or shall wilfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in the said book, or shall produce or tender, or cause or suffer to be produced or tendered in evidence, any such writing, knowing the same to be false or forged, he shall be guilty of the crime of contravening this section of this Act, and shall upon conviction be liable to imprisonment with or without hard labour for any period not exceeding five years.

*Entry may be expunged, or varied, by order of Supreme Court.*

XXX. If any person shall deem himself aggrieved by any entry made under colour of this Act in the said register, it shall be lawful for such person to apply by motion to the Supreme Court for an order that such entry may be expunged, vacated, or varied; and upon any such application, such court may make such order for expunging, vacating, or varying such entry, and as to the costs of such application as to such court may seem fit; and the officer having the care and custody of such registry, on the production to him of any such order, shall expunge, vacate, or vary the said entry according to such order.

*Penalty for unauthorized user of word "Patent."*

XXXI. If any person shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark upon anything made, used, or sold by him, for the sole making or selling of which he hath not, or shall not have obtained Letters Patent, the name or any imitation of the name of any other person who hath or shall have obtained Letters Patent for the sole making or vending of such thing, without leave in writing of such patentee or his assigns: or if any person, shall, upon such thing not having been purchased from the patentee, or some person who purchased it from or under such patentee, or not having had the licence or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "Patent," the words "Letters Patent," or the words "By the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, he shall for every such offence forfeit and pay the sum of one hundred pounds, one half to Her Majesty, Her heirs and successors, and the other half, with full costs of suit, to any person who shall sue for the said penalty by action of debt: Provided always, that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping, or in any way marking the word "Patent" upon anything for the sole making or vending of which Letters Patent before obtained shall have expired or otherwise determined.

*In actions for infringement, particulars of breaches and objections to be delivered.*

XXXII. In any action for the infringement of Letters Patent, the plaintiff shall deliver with his declaration particulars of the

breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his pleas, and the prosecutor in any proceedings in the nature of *scire facias* to repeal Letters Patent, shall deliver with his declaration particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration respectively; and at the trial of such action or proceedings, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such Letters Patent, which shall not be contained in the particulars delivered as aforesaid: Provided always, that the place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the Letters Patent, shall be stated in such particulars: Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff, or defendant, or prosecutor respectively, to amend the particulars delivered as aforesaid, upon such terms as to such judge may seem fit: Provided also, that at the trial of any proceeding to repeal Letters Patent, the defendant shall be entitled to begin and give evidence in support of such Letters Patent, and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such Letters Patent, the defendant shall be entitled to the reply.

*Particulars to be regarded in taxing Costs.*

XXXIII. In taxing the costs in any action for infringing Letters Patent, regard shall be had to the particulars delivered in such action; and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular, unless certified by the court before which the trial was had, to have been proved by such plaintiff or defendant respectively; and it shall be lawful for the court before which any such action shall be tried, to certify on the record that the validity of the Letters Patent in the declaration mentioned came in question, and the record with such certificate being given in evidence in any suit or action for infringing the said Letters Patent, or in any proceeding in the nature of a *scire facias*, to repeal the Letters Patent, shall entitle the plaintiff in any such suit or action, or the defendant in any such proceeding, on obtaining a decree or judgment, to his full costs, charges, and expenses, to be taxed as between attorney and client, unless the court making such judgment, decree, or order shall certify that the plaintiff or defendant respectively ought not to have such full costs.

*Fees on obtaining Patents.*

XXXIV. There shall be paid in respect of Letters Patent applied for or issued as herein mentioned, the depositing of specifications, disclaimers, and memoranda of alterations, warrants, certificates, entries, and searches, and other matters and things respectively mentioned in the last schedule to this Act, such fees as are enumerated in that schedule; and such of the said fees as are thereby made payable to the Attorney-General, as well as the residue thereof, shall form part of the colonial revenue.

*English Patents subject to this Act.*

XXXV. All Letters Patent which shall be granted in the United Kingdom of Great Britain and Ireland after the first day of July, in the year of Our Lord one thousand eight hundred and sixty, for any invention, shall, so far as the same relate to this said Colony, be utterly void and of none effect, and in nowise be put in execution: But all such Letters Patent granted in the said United Kingdom on or before that day, and which, if this Act had not been passed, would have been valid in this Colony, shall be deemed and taken to have been granted under this Act and may be dealt with accordingly.

## SCHEDULES.

### The First Schedule.

To all to whom these presents shall come, I, John Doe, of Cape Town, Engineer, send greeting: Whereas I am desirous of obtaining Letters Patent for securing unto me Her Majesty's special licence that I, my executors and assigns, and such others as I or they should at any time agree with, and no others, should and lawfully might, from time to time and at all times during the term of fourteen years (to be computed from the day on which this instrument shall be left at the office of the Colonial Secretary), make, use, exercise, and vend within the colony of the Cape of Good Hope, an invention for [*insert the title of the invention*]; and in order to obtain the said Letters Patent, I must, by an instrument in writing under my hand, particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and must also enter into the covenant herein-after contained; Now know ye that the nature of the said invention and the manner in which the same is to be performed are particularly described and ascertained in and by the following statement, that is to say [*describe the invention*]. And I do

hereby, for myself, my heirs and executors, covenant with Her Majesty, Her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, and that I do not know or believe that any person other than myself is the true and first inventor of the said invention, and that I will not deposit these presents at the office of the Colonial Secretary with any such knowledge or belief as last aforesaid. In witness whereof I have hereunto set my hand at Cape Town this day of 186 .

## Second Schedule.

Patent for [*insert the title as in the specification*].

This is to notify that John Doe, of, &c., did on the day of instant (or last) deposit at the office of the Colonial Secretary in Cape Town, a specification or instrument in writing under his hand, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, and that by reason of such deposit the said invention is protected and secured to him exclusively for the term of six calendar months thence next ensuing. And I do further notify that the said John Doe has given notice in writing at my office, of his intention to proceed with his application for Letters Patent for the said invention, and that I have appointed [Thursday] the day of next, at o'clock in the noon, at my office, to hear and consider the said application and all objections thereto; and I do hereby require all persons having an interest in opposing the grant of such Letters Patent to leave, before that day, at my office in Cape Town, particulars in writing of their objections to the said application, otherwise they will be precluded from urging the same.

Given under my hand, this day of 186 .

W. P., Attorney General.

## Third Schedule.

Upon hearing the objection of A.B., to the grant to John Doe, of Letters Patent for [*insert the title as in the specification*], I do by this writing under my hand order that the said A. B. shall pay to the said John Doe the sum of for the costs of such hearing [or to E F. the sum of as a remuneration for his attendance at such hearing.]

Given under my hand, this day of 186 .

W. P., Attorney-General.

## Fourth Schedule.

I have heard and considered the application of John Doe for Letters Patent for [*insert the title as in the specification*], and also all objections to the same, and having perused the specification and the usual and necessary advertisements, am of opinion that as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, Her Majesty's Royal Letters Patent may be issued in the form

contained in the fifth schedule to the Act [*with the following additional clauses, that is to say: here set them out, if any*].

Given under my hand, this day of 186 .

W. P., Attorney-General.

FIFTH SCHEDULE.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to all to whom these presents shall come, greeting: Whereas John Doe, of in the division of engineer, hath represented that he is desirous of obtaining our Royal Letters Patent for securing unto him our special licence that he, his executors and assigns, and such others as he or they should agree with, and no others, should and lawfully might make, use, vend, and exercise within our Colony of the Cape of Good Hope an invention for [*insert the title of the invention*], and by an instrument in writing under his hand deposited in the office of the Colonial Secretary, the said John Doe hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed: And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said John Doe the privileges herein-after mentioned. Know ye, therefore, that we of our especial grace, certain knowledge, and mere motion have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said John Doe. his executors and assigns, our especial licence, full power, sole privilege, and authority, that he, the said John Doe, his executors, administrators, and assigns, and every of them, by himself and themselves, or his and their deputy or deputies, servants or agents, or such others as he or they shall at any time agree with, and no others, during the term herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within our said colony, in such manner as to him, his executors and assigns, or any of them, shall seem meet; and that he, his executors and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention, during the said term: to have, hold, exercise, and enjoy the said licences, powers, privileges, and advantages unto and by the said John Doe, his executors and assigns, for and during and unto the full end and term of years now next ensuing. And to the end that he, his executors and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention, according to our gracious intention, we do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, whatsoever, of what estate, quality, degree, name, or condition soever they be within our said colony, that neither they, nor any of them, at any time during the said term, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said John Doe as aforesaid, nor in any wise counterfeit, imitate, or resemble the same, nor

shall make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, licence, or agreement of the said John Doe, his executors or assigns, in writing under his or their hands first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this our Royal command; and further to be answerable to the said John Doe, his executors and assigns, according to law, for his and their damage thereby occasioned: Provided always, and these our Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall appear that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said John Doe is not the first and true inventor thereof within this colony, these our Letters Patent shall forthwith cease, determine, and be utterly void to all intents 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 to be construed to extend, to give privilege unto the said John Doe, his executors and assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like Letters Patent or privileges have been already granted for the sole use and exercise and benefit thereof, within our said colony; it being our will and pleasure that the said John Doe, his executors and assigns, and all and every person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and 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 instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also, if the said John Doe, his executors or assigns, shall not pay at the office of the Colonial Secretary of our said colony the sum of pounds within three years next after the date of these presents, and the sum of pounds within seven years next after such date, that then, and in any of the said cases, these our Letters Patent and all liberties and advantages whatsoever hereby granted shall utterly cease, determine, and become void, anything herein-before contained to the contrary hereof in anywise notwithstanding; provided that nothing herein contained shall prevent the granting of 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 John Doe, his executors and assigns, that these our Letters Patent shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged

in the most favourable and beneficial sense for the best advantage of the said John Doe, his executors and assigns.

In witness whereof we have caused these our letters to be made patent, and to be sealed and bear date as of the day of

## The Sixth Schedule.

*Patent for* [*insert the title*].

This is to notify to all whom it may concern that John Doe, of, &c., has applied to me for leave to enter a disclaimer of part [or memorandum of alteration, as the case may be] of the said invention, the particulars whereof are stated below; I do therefore appoint [Thursday] the day of next, at o'clock in the noon, to hear and consider the said application and all objections to the same. And I do hereby require all persons having an interest in opposing the said application to leave, before that day, at my office, in Cape Town, particulars in writing of their objection to the same, otherwise they will be precluded from urging such objections.

Given under my hand this day of

W. P., Attorney-General.

The following is the disclaimer [*or as the case may be*] which I desire to make in, &c. [*the applicant must here set forth what he wishes to enter, and sign it.*]

## The Seventh Schedule.

*Patent for* [*insert the title*].

Notice is hereby given that I have presented a petition to his Excellency the Governor, praying for the confirmation of [*or extension of the term in*] the said Patent, and that a Commission has issued authorizing and requiring certain commissioners therein named to consider and report upon the subject to the said Governor, which said commissioners will meet for that purpose on the day of next, at o'clock in the noon, at . All persons objecting to the said confirmation [*or extension*] must enter a caveat against the same at the office of the Colonial Secretary in Cape Town, otherwise they will be precluded from objecting to it.

Dated this day of

John Doe.

## The Last Schedule.

| | £ | s. | d. |
|---|---|---|---|
| On depositing specification . . . . . | 2 | 10 | 0 |
| To the Attorney-General for any "appointment" . . . | 2 | 4 | 6 |
| On obtaining Letters Patent . . . . . | 2 | 10 | 0 |
| At or before the expiration of the third year . . . | 10 | 0 | 0 |
| At or before the expiration of the seventh year . . . | 20 | 0 | 0 |
| To the Attorney-General with particulars of objections . . | 2 | 4 | 6 |
| On presenting petition for extension or confirmation . . | 2 | 10 | 0 |
| | L 2 | | |

| | £ | s. | d. |
|---|---|---|---|
| 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 |

# CEYLON.

## *Ordinance No. 6. 1859.*

An ORDINANCE for granting exclusive Privileges to Inventors.

*Preamble.*

Whereas it is expedient for the encouragement of Inventors of new manufactures, that certain exclusive privileges in their inventions should be granted to them in Ceylon; it is enacted by the Governor of Ceylon, with the advive and consent of the Legislative Council thereof, as follows:—

*Short Title of Ordinance.*

1. This Ordinance may be cited for all purposes as the "Inventions Ordinance, 1859."

*Commencement of Ordinance.*

2. This Ordinance shall come into operation on the day of passing the same.

*Inventor may petition for leave to file Specification.—Form, &c., of Petition.*

3. The inventor of any new manufacture may petition the Governor for leave to file a specification thereof. Every such petition shall be in writing, in the form or to the effect

mentioned in the Schedule hereunto annexed, and shall be signed by the petitioner, or, in case the petitioner shall be absent from Ceylon, by an authorized agent, and shall state the name, condition, and place of residence of the petitioner, and the nature of the invention.

*Order to file Specification.*

4. An *alien ami*, whether resident in Ceylon or not, may petition for leave to file a specification under this Ordinance.

*Power to refer Petition for Inquiry and Report.*

5. Upon such petition, the Governor may, with the advice of the Executive Council, make an order authorizing the petitioner to file a specification of the invention: Provided always, that before making such order, the Governor shall refer the petition to any person or persons for inquiry and report, and such person or persons shall be entitled to a reasonable fee for such inquiry and report, to be paid by the petitioner; the amount of fee, in case of dispute, to be settled by the District Court of Colombo in a summary manner.

*Petitioner entitled to exclusive Privilege for Fourteen Years.—Extension of Time.*

6. If within the space of six months from the date of such order, the petitioner cause a specification of his invention to be filed, in manner hereinafter mentioned, the Governor, with the advice and consent of the Executive Council, may, in the Form D. in the Schedule to this Ordinance appended, under the public seal of the Island of Ceylon, grant to the petitioner, his heirs, executors, administrators, and assigns, the sole and exclusive privilege of making, selling, and using the said invention in Ceylon, and authorising others so to do, for the term of fourteen years from the time of filing such specification; and for such further term, if any, not exceeding fourteen years from the expiration of the first fourteen years, as the Governor, with the advice of the Executive Council, may think fit to direct, upon petition to be presented by such inventor, at any period, not more than one year, and not less than six months, before the expiration of the exclusive privilege hereby granted.

*Order to file Specification may be made subject to Conditions.*

7. An order, authorising the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to such conditions and restrictions as the Governor, with the advice of the Executive Council, may think expedient.

*Specification to be in Writing, and to describe Invention.*

8. Every specification of an invention filed under this Ordinance shall be in writing, and shall be signed by the petitioner, and shall particularly describe and define the nature of the said invention, and in what manner the same is to be carried out.

*Petition and Specification to be left with the Colonial Secretary; and to be accompanied by Declaration.—Date of Delivery to be indorsed on Petition.*

9. Every petition for leave to file a specification, and every specification filed under this Ordinance, shall be left with the Colonial Secretary, and shall be accompanied by a declaration in writing, signed by the petitioner, in the form or to the effect mentioned in the Schedule hereunto annexed, marked A. and B. respectively; and if the inventor be absent from Ceylon, the petition and specification shall also be accompanied by a declaration, signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration purporting to be the declaration of the inventor was signed by him, and that the contents thereof are true; which declaration shall be in the form hereunto annexed, marked C. The date of the delivery of every such petition and specification shall be indorsed on the same respectively, and shall be also recorded at the office of the Colonial Secretary.

*False Statement in Declaration punishable as Perjury.*

10. Any person who shall wilfully and corruptly make any false statement in any declaration required by this Ordinance shall be liable to the pains and penalties of perjury.

*Payment of Fees.*

11. No specification shall be filed until the petitioner shall have paid all fees payable under this Ordinance.

*To be open to Inspection.*

12. The specification, or a copy thereof, shall be open at all reasonable times, at the office of the Colonial Secretary, to public inspection, upon payment of a fee of five shillings.

*Book for the Registry of Petitions, Specifications, &c.*

13. A book shall be kept in the office of the Colonial Secretary, wherein shall be entered every such petition and specification, and every order made upon such petition, or relating to the invention therein mentioned, and every grant of exclusive privilege. Every specification and every such grant as aforesaid shall be numbered according to the order in which it is entered in such book; and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention.

*Inspection of Registry Book.—Certified Copy of Entry to be given.*

14. Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person, upon payment of a fee of five shillings; and the said Colonial Secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

*Certified Copy to be primâ facie Evidence.*

15. Every such certified copy shall be *primâ facie* evidence of the document of which it purports to be a copy.

*When exclusive privilege does not attach.*

16. No person shall be entitled to any exclusive privilege under the provisions of this Ordinance,

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention in Ceylon, or

If the petitioner is not the inventor or importer thereof into Ceylon, or

If the specification filed does not particularly describe the nature of the invention, and in what manner the same is to be carried out.

*Invention not publicly used or known before application to file Specification to be deemed new Invention.—Knowledge of invention fraudulently acquired.—Public use by actual Inventor.*

17. An invention shall be deemed a new invention within the meaning of this Ordinance, if it shall not, before the time of applying for leave to file the specification, have been publicly used in Ceylon. The public use of an invention prior to the application for leave to file a specification shall not be deemed a public use within the meaning of this section, if the knowledge thereof shall have been obtained surreptitiously, or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor, or in breach of confidence. Provided the inventor shall, within six months after the commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use. Provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his licence in writing, shall not be deemed a public use thereof, within the meaning of this Ordinance.

*Inventor having obtained Patent in England may petition for it here. —Proviso.*

18. If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Ordinance, shall have obtained Her Majesty's Letters Patent for the exclusive use of such invention in any part of the United Kingdom, but not extending to this Island, shall petition the Governor for leave to file a specification of such invention, it shall be competent to the Governor, with the advice of the Executive Council, to make an order authorizing the petitioner to file a specification of the invention and exemplification of the Letters Patent granted to him. On this being done, the petitioner shall be entitled to the sole and exclusive privilege of making, using, and selling the said invention in Ceylon for the term or terms mentioned in the 6th section. Provided the petition for leave to file the specification shall state that such Letters Patent have been granted, and shall also state the date thereof, and the term during which the same are to continue in force.

*Exclusive Jurisdiction vested in the District Court of Colombo.*

19. And whereas it is expedient that sole jurisdiction over all actions, suits, and proceedings arising in respect of this Ordinance should be vested in the District Court of Colombo, to the exclusion of other courts having jurisdiction under the 24th and 29th sections of the Letters Patent of His late Majesty King William the Fourth, bearing date the 18th day of February, 1830; And whereas by Letters Patent of Her present Majesty, bearing date the 28th day of January, 1843, it is declared that it shall be competent to the Governor, by any law or ordinance to be by him from time to time made, with the advice and consent of the Legislative Council, to make provision for the better administration of justice within this Island, anything in the said Letters Patent of King William the Fourth to the contrary notwithstanding: It is therefore enacted that the said District Court of Colombo shall have sole and exclusive jurisdiction over all such actions, suits, and proceedings as aforesaid, wheresoever the same may arise, and to the exclusion of all other District Courts in the Island, subject, however, to appeal, as hereinafter provided.

*Particulars to be delivered.*

20. In any suit for the infringement of such exclusive privilege the plaintiff shall deliver with his libel particulars of the breaches complained of in the said suit, and the defendant, in pleading thereto, shall deliver, with his answer, particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to the said District Court under the 22nd, 23rd, and 24th sections of this Ordinance, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any such suit or issue, no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such exclusive privilege, which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used, shall be stated in such particulars. Provided always, that it shall be lawful for the Court in which the suit or pro-

ceeding is pending, or in which the issue is tried, to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid, upon any such terms as shall seem fit.

*Defect in Specification or Petition, or want of novelty in Invention, &c., no defence to such Action.—The actual use of an Invention before date of Petition a defence to such Action.*

21. No such suit shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor shall any such suit be defended upon the ground of a misdescription of the invention in the petition; unless the defendant shall show that he is the actual inventor or derives title from him.

*Application to District Court of Colombo to declare exclusive Privilege not to have been acquired, on following grounds.*

22. It shall be lawful for any person to apply by motion to the District Court of Colombo for a rule to show cause why the court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this Ordinance, by reason of all or any of the objections following, (to be specified in the rule,) that is to say:—

*Invention not new.*

That the said invention was not, at the time of presenting the petition for leave to file the specification, a new invention; or

*Petitioner not the Inventor, &c.*

That the petitioner was not the inventor thereof, and in addition thereto, either that the applicant was the inventor, or that the inventor has dedicated or made known the invention to the public, or has acquiesced in the public use thereof; or

*Invention not described in Specification.*

That the specification filed does not particularly describe and define the nature of the invention, or in what manner the same is to be carried out; or

*Fraud in Petition or Specification.*

That the petitioner has fraudulently inserted in the petition or specification, as part of his invention, something which was not new or whereof he was not the inventor; or

*False Statement in Petition.*

That the petitioner has wilfully made a false statement in his petition; or

*Fraudulent Misdescription of Part of Invention in Specification.*

That some part of the invention, or the manner in which that part is to be carried out as described in the said specification, is not thereby sufficiently described and defined, and that such defect or insufficiency was fraudulent, and is injurious to the public.

*Like Application as to Part of an Invention.*

23. Any person may in like manner apply to the said District Court for a rule to show cause why that Court should not declare that an exclusive privilege has not been acquired under the provisions of this Ordinance, in any part of the invention to be specified in the rule, by reason of all or any of the objections following (to be specified in the rule), that is to say:—

That such part of the invention was not new at the date of the petition for leave to file the specification; or

That the petitioner was not the inventor of that part of the invention, and, in addition thereto, either that the applicant was the inventor of that part, or that the inventor has dedicated or made known the same to the public, or has acquiesced in the public use thereof; or

That that part of the invention, and the manner in which it is to be carried out, is not sufficiently described and defined in the specification, and that such defect or insufficiency is injurious to the public.

*Application by Queen's Advocate on breach of special condition.*

24. It shall be lawful for the Queen's Advocate or any Deputy Queen's Advocate to apply to the said District Court for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor under the power hereinafter reserved may, in the judgment of the said Governor, depend, should not be tried in the form of

an issue directed by the said Court; and if the rule be made absolute, the Court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor. The costs of such trial, and also the costs of such proceedings, shall be in the discretion of the said Court.

*When exclusive Privilege shall cease.*

25. Every exclusive privilege under this Ordinance shall cease if the Governor, with the advice of the Executive Council, shall declare by notification in the Government Gazette that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the petitioner shall have been authorized to file a specification, or upon which the term of the exclusive privilege shall have been extended, shall be proved to the satisfaction of the aforesaid District Court, and if the Governor, with the advice of the Executive Council, shall thereupon declare that such exclusive privilege shall cease.

*District Court may direct Issue for Trial.*

26. The said District Court may, if it think fit, direct an issue for trial before the same Court of any question of fact arising upon an application under Sections 22, 23, 24 of this Ordinance, and such issue shall be tried accordingly, in a summary manner.

*Judgment.*

27. If it shall appear to the said District Court at the hearing of any application under the provisions of Sections 22 and 23 of this Ordinance that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall give judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just; and thereupon the petitioner, his heirs, executors, administrators, and assigns, shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

*Amendment of Specification.*

28. If the Court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the description of his invention in the petition or specification, included something which at the date of the petition was not new, or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the said Court may adjudge the said exclusive privilege to have been acquired and to be valid save as to the part thereof affected by such error, defect, or insufficiency; or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, it may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his heirs, executors, administrators, or assigns, shall, within the time limited by the Court for the purpose, file a specification amended according to such order.

*Misdescription in the Petition, if not fraudulent, not to defeat the Privilege.*

29. An exclusive privilege shall not be defeated upon the ground that there is any misdescription of the invention in the petition, unless such description was fraudulent.

*Entry in Registry Book of Judgment, and declaring Privilege not to have been acquired.*

30. Whenever it shall be adjudged by the said District Court that an exclusive privilege as to the whole or any part of an invention has not been acquired, the Colonial Secretary shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

*In what case actual Inventor entitled to Assignment of an exclusive Privilege fraudulently obtained.*

31. If upon proceedings instituted within two years from the date of a petition to file a specification the inventor shall prove to the satisfaction of the said District Court that the

petitioner was not the inventor, and that at the time of the petition he knew, or had good reason to believe, that the knowledge of the invention was obtained by himself, or by some other person surreptitiously or in fraud of the inventor, or by means of a communication made in confidence by the actual inventor, to him or to any person through whom he derived such knowledge, the Court may compel the petitioner to assign to the inventor any exclusive privilege obtained under this Ordinance, and to account for and pay over the profits thereof.

*Service of Proceeding.*

32. A book shall be kept in the Office of the Colonial Secretary, (such book to be open to inspection without fee,) wherein every person filing a specification under this Ordinance shall cause to be stated, under a number corresponding with the number of the specification, some place in Ceylon where service of any rules or proceedings, for the purpose of cancelling or revoking his exclusive privilege, may be made. Any person, partnership, or company, from time to time being proprietors of, or having shares or interest in such exclusive privilege, shall cause to be entered in such book, under such number as aforesaid, their names, together with the name of some place for the service of such proceedings as aforesaid. All such rules and proceedings shall be deemed sufficiently served on any such person, partnership, or company, if a copy thereof be left at the place entered in such book, or (if any other place be substituted for the same, by entry in the said book) at the place last substituted, by delivering the same to any person resident at or in charge of such place, or if there be no person resident at or in charge of such place, or if such place be not within the local limits of the jurisdiction of the Court, by causing such rule or proceeding to be sent by post, by a registered letter directed to such person, partnership, or company, at such place; and if any such person, partnership, or company shall neglect to make or cause to be made such entry, then service of such rule or proceeding may be effected by affixing a copy thereof to some conspicuous part of the Court House, or in such other manner as the Court may direct, provided that notice of any rule obtained or proceeding taken under either of the Sections 22, 23, and 24, shall be served on all persons appearing to be proprietors, or to have shares or interests in the exclusive privilege under the provisions of this section, and it shall not be necessary to serve such notice on any other person.

*Prerogative in respect to Letters Patent saved.*

33. Nothing in this Ordinance contained shall abridge or affect the prerogative of the Crown in relation to the granting or withholding the grant of any Letters Patent for inventions, or otherwise, or affect or interfere with any Letters Patent for an invention heretofore granted or hereafter to be granted by the Crown.

*Right of Appeal saved.*

34. All decisions and orders of the District Court of Colombo, made under the authority of this Ordinance, shall be subject to an appeal to the Supreme Cout, and every such appeal shall be brought on and prosecuted in such manner and shall be subject to such regulations as now exist or shall be hereafter made by law; and subject to the rules and limitations contained in the 52nd clause of the charter, any party or parties to any suit or proceeding under this Ordinance may appeal to Her Majesty, her heirs and successors, in her, his, or their Privy Council, from any final judgment, decree, or sentence of the Supreme Court, or against any rule or order made by such Supreme Court, and having the effect of a final or definitive sentence.

*Stamp of Petition.*

35. Every petition for leave to file a specification under the provisions of this Ordinance, or for the extension of the term of an exclusive privilege, shall be written or printed on a stamped paper of the value of ten pounds.

*Interpretation.*

36. In the construction of this Ordinance, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such constructions:—

The word "invention" shall include an improvement.

The word "manufacture" shall be deemed to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture.

The word "inventor" when not used in conjunction with the word "actual" shall include the importer of an invention not publicly known or used in Ceylon.

The words "inventor" and "actual inventor" shall include the heirs, executors, administrators, or assigns of an inventor or actual inventor, as the case may be.

The word "assigns" shall include grantees of the sole use or benefit in Ceylon, of an invention, or of the sole use of an exclusive privilege, for a limited time.

The words "Colonial Secretary" shall include any person acting as or for the Colonial Secretary.

The words "Queen's Advocate" shall include any person acting as or for the Queen's Advocate.

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## SCHEDULE.

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### Form of Petition.

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*To the Governor of Ceylon.*

The petition of [*here insert name, addition, and place of residence*] for leave to file a specification under the Inventions Ordinance, 1859.—Sheweth,

That your Petitioner is in possession of an invention for [*state the title of the invention*], which invention he believes will be of public utility; that he is the inventor or owner of the said invention [*or, as the case may be, the assignee, or the executor, or administrator, or heir of the inventor or owner of the said invention*]; and that the same is not publicly known or used in Ceylon, to the best of his knowledge and belief [*or, as the case may be, that he is the first importer into Ceylon of the said invention, and that the same is not publicly known or used in Ceylon*].

*If Letters Patent have been obtained for the invention, state according to the requirements of Section* 18.

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

Your Petitioner therefore prays leave to file a specification of the said invention, pursuant to the provisions of the Inventions Ordinance, 1859.

And your Petitioner, &c.

(Signed)

The day of

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### Forms of Declaration.

#### A.

I [*here insert name, addition, and place of residence*] do solemnly and sincerely declare, that I am in possession of an invention for [*state the*

*title of the invention as in the petition*]; that I believe the said invention will be of public utility; that I am the inventor or owner of the said invention [*or, as the case may be, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention; or, that I am the first importer of the said invention into Ceylon*]; and that the same is not publicly known or used in Ceylon, to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said invention is truly described in my petition for leave to file a specification thereof.

(Signed)

The day of

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I [*here insert name, addition, and place of residence*] do solemnly and sincerely declare, that I am in possession of an invention for [*state the title if the invention*], which invention I believe will be of public utility; that I am the inventor or owner of the said invention [*or, as the case may be, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention; or, that I am the first importer of the said invention into Ceylon*], and that the same is not publicly known or used in Ceylon to the best of my knowledge and belief; and that, to the best of my belief, the instrument in writing under my hand hereunto annexed particularly describes and defines the nature of the said invention, and in what manner the same is to be carried out.

(Signed)

The day of

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C.

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

(Signed)

The day of

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FORM OF GRANT.

D.

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

To all to whom these presents shall come, Greeting.

Whereas A.B. of C.D. has presented to us [*insert name of Governor*] Governor of Ceylon, a petition (numbered in the book of petitions for exclusive privilege in inventions in the Colonial Office), praying for leave

to file a specification of a certain invention, intituled [*here insert title of invention*], and we have with the advice and consent of the Executive Council made an order, dated the day of 18 , authorizing the said A.B. to file a specification of the said invention; and whereas the said A.B. did on the day of 18 , file a specification in accordance with the said order, and the same is entered in the Book of Specifications in the Colonial Office, and bears the number therein; and whereas the said Governor and the Executive Council are agreed that the said A.B. hath done all things to entitle him to exclusive privilege in the invention in the said petition and specification instituted, mentioned, and described, for the term of years; Now know ye that we, with the advice and consent of the Executive Council, do grant to the said A.B. his heirs, executors, administrators and assigns, the exclusive privilege of making, selling, and using [*as the case may be*] the said invention in the said specification described in Ceylon for the term of years, in terms of and subject to the provisions of the Inventions Ordinance, 1859. [*Here insert any condition under which the Grant is made.*]

(Signed) [*Signature of Governor.*]

# CHILI.

## *Law of 9th September*, 1840.

### Art. 1.

The author or inventor of an art, manufacture, machine or instrument, preparation of materials or any improvement thereof, who seeks to obtain the exclusive right to it assured by Art. 152 of the Constitution, shall present at the Ministry of the Interior a faithful, clear, and succinct account of the work or invention, declaring that the discovery is original and unknown in the country, accompanying it with samples, drawings, or models, as the circumstances of the case may require, and soliciting a patent which may establish his property therein.

### Art. 2.

The Minister of the Interior shall name a Commission of one or more experts to examine the work or invention, and inform him as to its originality; they, in presence of the applicant, making oath to the faithful discharge of their duty, and also to religiously guard during the whole time prescribed by the Law the secret which may be communicated.

### Art. 3.

After due investigation, the President of the Republic shall grant the exclusive privilege for a term not exceeding ten years, and shall order the issue of the necessary patent, which shall be authenticated by his signature, and sealed with the seal of the Republic.

Art. 4.

This patent shall be registered in full in a book kept in the office of the Ministry of the Interior.

Art. 5.

Before delivery of the Letters of Patent to the Applicant, he shall show by the exhibition of the proper receipt that he has paid into the Public Treasury the sum of $50, and that he has deposited in the National Museum drawings, samples or models, and a specification in full, to the satisfaction of the inspecting Commission, and bearing the signature of each of its members, which shall contain a complete, minute, and specific description distinguishing the invention or discovery from other matters previously known and employed, and defining the method or principles adopted, in order to enable any other competent person to use the same for the public benefit at the expiration of the term of the patent.

This written specification shall be closed in presence of the Commission, the title or subject of the patent being written on the envelope, and the proprietor shall declare that he has faithfully fulfilled the conditions here imposed, and the Commission shall certify thereto. The proprietor during the term of his privilege may examine the envelope as often as he pleases, in order to see if it remains sealed and closed as when he handed it over.

Art. 6.

In the National Museum a room shall be set apart for the reception of the plans, samples or models, and a secure chest for the safe keeping of the closed packets above mentioned, which shall not be opened or published before the expiration of the patent, except in cases of Arts 11, 12, 15.

Art. 7.

The $50 above mentioned shall go towards the maintenance, &c., of the room in the Museum.

Art. 8.

*The introducers of arts, industries, or machines invented elsewhere, and entirely unknown or not established nor employed in Chili, can obtain exclusive privileges on the same terms and conditions as for new*

*discoveries or inventions, but for a term not exceeding eight years, according to the utility or the difficulties in their employment, according to the judgment of the Minister having before him the report of the Commission. Simple variations or changes of form or proportion of machines or things already existing shall not be entitled to a patent.*

[NOTE.—This clause was repealed by the law of the 25th July, 1872.]

Art. 9.

Property in a Patent is transferable like anything else, but in such cases the Minister of the Interior must first be informed, reasons being given. If these are found to be good, the transfer shall be noted in the transfer book, and if not, the provisions of Art. 11 shall come into play.

Art. 10.

Any person constructing protected articles by the same method shall pay a fine of from $100 to $1000, the articles so constructed, and the machines, implements, &c., made use of being confiscated, and the value thereof being divided between the Government and the patentee, and in addition losses and damages may be recovered.

Art. 11.

Patentees whose patents have been surreptitiously obtained, that is to say, by false testimony or under a false name, or for industries already established in the country, shall immediately in the same manner be fined, besides which they shall be condemned in costs, and shall incur imprisonment of from three to twelve months.

Art. 12.

In case of dispute between rival inventors, arbitration shall be employed, one arbitrator being named by each party, and a third by the Minister of the Interior.

Art. 13.

Patents conceded may be general, that is for the whole Republic, or particular, that is for a Department or portion thereof.

Art. 14.

For each patent a proportionate term shall be fixed for the establishment of the machinery, plant or manufactures, on the conclusion of which the term of the patent shall commence to run.

Art. 15.

If, at the expiration of this term of establishment, the invention has not come into work, the privilege shall lapse, as shall it also do if after establishment it shall be abandoned for more than one year, or if the products are adulterated, becoming inferior to the samples, specimens, or models exhibited.

Art. 16.

Renewal of patents can only be granted when accidents or unforeseen circumstances render the patentees really deserving of it, and it shall be sought at least six months before the expiration of the actual patent.

Art. 17.

The present law shall not invalidate the mining "or denanza" with respect to patents in that branch, nor what is established in the law of 24th July, 1834, with reference to literature and the fine arts.

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*Decree of* 1st *August*, 1851.

Having noticed in several reports of the experts nominated for the concession of special privileges, that the necessary demonstration of the specialty of that to which the privilege relates has not been submitted to the Government, and it being indispensable to correct this abuse in order to the due fulfilment of the law,

I have granted and decreed that those persons who, as experts, are nominated agreeably to Art. 2 of the law of 9th September, 1840, shall not only report as to the usefulness or

introduction of the invention, but also as to the injury which might result to industry or commerce, also as to the difficulties and expenses incurred by the petitioners, in order to regulate the period for which the privilege should be granted, and the time within which the said industry shall be established.

They shall also show whether it relates to a new invention, or only to one newly introduced into the country, and specify what particulars should be required for the clear recognition of the invention, introduction, or industry, which by granting of the above privilege shall be otherwise prohibited.

Signed, &c.

# COLOMBIA.

*Law No. 35, May 13th, 1869.*

## Art. 1.

All new discoveries or inventions, in whatever kind of industry, give the inventor under the conditions and for the time mentioned in this law a right to the exclusive benefit of his invention or discovery. This right is secured by grants issued by the Executive Power of the Union, called "Patents of Invention."

## Art. 2.

Any Colombian or foreigner who shall invent or improve any machine, mechanical contrivance, combination of materials, or process, useful to industry, arts or sciences, or any manufacture or industry, may obtain a patent from the Executive Power, securing to him or to his lawful representatives, for a term of from five to twenty years, the exclusive right to make, sell, or use his discovery or invention.

## Art. 3.

No privileges shall be granted for the importation of natural or manufactured productions from foreign countries.

## Art. 4.

Persons applying for a patent in Colombia for inventions which have already been patented in a foreign country may obtain the said patent, provided the invention in question has not been already introduced into public use.

A patent granted in Colombia for an invention which has already been patented in a foreign country, shall expire at the same time as the foreign patent.

Art. 5.

In order to obtain a patent of invention or improvement, the person interested shall apply either personally or through his attorney to the Executive Power, specifying his invention or improvement, explaining it with clearness, and asking for the patent to be granted to him; and if the said patent be granted, he is required before he receives it to furnish within forty days an exact drawing or model of the machine or mechanical contrivance he shall have invented, or a full and detailed description of the new method or process, or a specimen of the manufacture, if the nature of the case should admit, in order that the same may be deposited in the corresponding department of state, to be there at hand should any questions arise touching the patent.

Art. 6.

Every patent shall contain a copy of the present law, as also of the Executive Decree granting the privilege, and specifying the invention, improvement, or new industry, and the term of its duration, and shall declare the patentee to be in possession of said privilege, and it shall be published twice at least in the National Official Gazette.

Art. 7.

A patent of invention or improvement shall be granted without previous inquiry as to the usefulness of the article, or as to whether it be really an invention or improvement. The Government does not declare, on issuing a patent, that the invention or improvement is genuine or useful, or that the patentee is the actual inventor, or the article a new one, or that the descriptions or models are exact; as those who are interested in the matter are at liberty to prove the contrary before the law courts.

1. The Executive Power shall give notice through the National Gazette thirty days before issuing the grant of any applications that may be made for Patents.

Art. 8.

No patent shall be issued unless all the formalities laid down in this law are fulfilled, or in case the invention, improvement, or new industry, should endanger public health or security, or if it should be opposed to morality or to existing rights.

Art. 9.

When the term for which a patent is granted expires, the manufacture, sale, or use of the patented invention or improvement shall become free; the descriptions furnished by the inventor shall be published, and copies of the respective drawings or models may be had on application at the expense of the person asking for them.

This will likewise take place when, before the expiration of the term, the patent is declared null and void.

Art. 10.

All attempts to imitate or counterfeit patented articles or industries, shall be prosecuted in accordance with the penal laws of the Union.

Art. 11.

Besides the case mentioned in Art. 4, patents become void when they have been granted to the prejudice of a third party, which shall be decided by the tribunals of the States.

Art. 12.

A patent for a new industry will also be void when said industry is not practised during a whole year, unless unavoidable circumstances should have intervened.

Art. 13.

On receiving the patent the patentee shall pay into the National Treasury a fee of from five to ten dollars ($5 to $10) for every year of the privilege. The person who applies for a patent shall fix a term for its duration within the maximum fixed, and shall deposit at the treasury the sum of ten dollars ($10), which he shall forfeit if the patent be refused, and which shall be taken in part payment of the patent fee should the patent be granted.

Art. 14.

The law of May 15th, 1848, respecting "Patents of Invention or improvement of machines and industrial apparatus" is hereby repealed.

# DENMARK.

*Report by Mr. Strachey.*

(*From the Commissioners of Patents' Journal.*)

1. No laws have been passed in Denmark on the subject of protection to inventions.

Inventors are protected by Royal Letters Patent, granted through the Ministry of the Interior, in accordance with rules prescribed by the traditional practice of that department.

2. A person who wishes his invention to enjoy "Gueret," or monopoly, must address the Ministry of the Interior, accompanying his demand by detailed specifications and drawings.

3. The Ministry forwards these papers to the Polytechnic School with a request that the directors will report on the applicant's scheme. The director, after consulting, if necessary, the Professors of the Institute, reports to the Ministry whether the alleged invention is new and deserving of protection. He also states the period for which, in his opinion, the "Gueret" or patent should be granted.

4. The Ministry always adopts the director's conclusion. It is understood that a patent will be allowed whenever the alleged invention really contains something novel in principle or practice. Generally speaking, the applicant's request is granted.

5. The patents usually run for three, four, or five years. Important inventions are protected for ten years, and in special cases for fifteen years.

Patents granted to foreigners never run for more than five years.

6. The fee charged at the Ministry of the Interior for the whole transaction is 1*l.* 17*s.* 6*d.* (17 dollars). The time occupied in the correspondence is about two months.

7. The patent is forfeited (1) if it is shown that a similar invention has been used in Denmark before; or (2) if the patentee does not carry out his invention within the year, and continue to employ it.

*Copenhagen, 24th December*, 1872.

# FIJI.

## *Ordinance No.* III. 1879.

To repeal Ordinance No. XXIV. of 1877 and to make other provisions in lieu thereof for the issue of Letters Patent.

### *Privileges.*

I. Every inventor shall be entitled, under the conditions and restrictions hereinafter enacted, to the sole exclusive right of and in his invention.

### *Interpretation Clause.*

II. In the interpretation of this Ordinance the word "invention" shall mean and include any manner of new manufacture, also every new process of manufacture, and every new method of application of known processes, and improvements in any known process.

The word "inventor" shall include the heirs, executors, administrators or assigns of an inventor.

### *Form of Letters Patent and Privileges conferred.*

III. The right and privilege granted to inventors shall be conferred by Letters Patent under the Seal of the Colony in Form contained in Schedule A hereto, whereby the inventor shall be entitled to the sole and exclusive privilege of using, selling, or making his said invention in the colony, and of authorizing others so to do, for the term of fourteen years from the date of the Letters Patent.

*Letters Patent not to be granted in certain cases.*

IV. No person shall be entitled to Letters Patent—

*a.* If the invention is of no utility.

*b.* If the invention at the time of presenting the petition was not a new invention.

*c.* If the petitioner is not the true and first inventor thereof.

*d.* If the petition or any specification contain a wilfully false statement.

And the Attorney-General may make an application to the Supreme Court on any such grounds for the cancellation or revocation of any Letters Patent.

*Proceeding in application for Letters Patent.*

V. Every person desirous of obtaining Letters Patent under this Ordinance shall file in the Office of the Colonial Secretary a petition in the form contained in Schedule B, signed by him or his agent or attorney, setting forth the residence of the inventor and the title of the invention. To the petition shall be annexed a specification (or instrument in writing), particularly describing and ascertaining the nature of the said invention and the manner in which the same is to be produced or performed, and with such specification or instrument in writing shall be filed the drawings necessary to elucidate the same, and such petition, and all documents and drawings accompanying the same, shall be in duplicate.

*Petition to be accompanied by Declaration.*

VI. Every petition and specification particularly describing the nature of an invention shall be accompanied by a declaration in writing, signed by the petitioner, or his agent or attorney for him, in the form contained in Schedule C hereto.

*Petition, Specification, &c., to be recorded.*

VII. The Colonial Secretary shall cause to be filed every petition and specification, with accompanying drawings, if any, explaining the nature of any invention; and also any certificate granted by the Attorney-General, and every Letters Patent issued, and a memorandum of any order relating thereto.

*Records may be inspected.*

VIII. Such records shall be open to the inspection of all persons, at any reasonable hour, upon the payment of a fee of four shillings, and any person may have a copy of any document recorded on payment for the same at the rate of eight-pence for every folio of seventy-two words.

*Certified copies to be received as evidence.*

IX. Copies of any documents so recorded, certified as correct by the Colonial Secretary, shall be received in evidence in any court of law in the Colony.

*Specification may be amended.*

X. A specification may be amended on application to the Attorney-General, provided that if the Attorney-General shall refuse to allow such specification to be amended the same may be amended by leave of the Governor in Council, and when so amended shall, except as to suits and proceedings relative to the exclusive privilege claimed by any inventor pending at the time, have the same effect as if no amendment had been made, and no extension or enlargement of any exclusive privilege before acquired should be effected thereby.

*Provisional Certificate.*

XI. When any applicant has filed his petition for Letters Patent, the Governor shall direct the same to be referred by the Colonial Secretary to the Attorney-General, with one of the duplicates of such petition and the specification, and all other accompanying documents and drawings, and a certificate of the filing of the petition; and the Attorney-General shall, if he deem the invention as *primâ facie* entitled to protection, issue a certificate to that effect, as in form contained in Schedule D, and the inventor shall, subject to the provisions of this Ordinance, be protected for a period of six months in like manner as by Letters Patent; Provided nevertheless, that it shall be competent to the Attorney-General to extend the period of such protection pending the decision as to any opposition made to the granting of any Letters Patent as to him shall seem necessary.

*Where issue of Certificate is refused by Attorney-General appeal may be made.*

XII. If in any case the Attorney-General shall refuse to issue such certificate as hereinbefore provided, an appeal shall lie from the decision of the Attorney-General so refusing such certificate to the Governor in Council, who may direct the same to be issued by the Clerk of the Council in such manner and subject to such conditions and restictions as shall seem fit, provided that such application shall be made to the Governor in Council within one month from the time of the decision of the Attorney-General refusing a certificate being made known to the applicant for Letters Patent, or to his agent or attorney: provided also that any certificate to be issued by direction of the Governor in Council shall be issued within three months from the date of such appeal, and upon the issue of such certificate like proceedings shall be had and taken as if such certificate had been issued by the Attorney-General.

*Procedure where no opposition is made application.*

XIII. Within two months of the issue of the certificate of the Attorney-General, or, where the Attorney-General has refused to issue such certificate, from the date of issue of the same by the Clerk of the Council, as provided in the next preceding section, the applicant for Letters Patent shall give notice in the form contained in Schedule E hereto, twice in the Royal Gazette, and one other paper published in Fiji; and if no notice of opposition to the application for Letters Patent be sent to the Attorney-General within three months of the date of publication of the first of such notices, the Attorney-General shall report such fact to the Governor in Council, and the Governor in Council shall, within three months from the date of such report, cause Letters Patent to be issued with such reservations, provisoes, and conditions as may be deemed fit.

*Where application is opposed, holder of Certificate may appeal.*

XIV. Any person desiring to oppose such application shall, within the time last mentioned in the next preceding section, give notice in writing of his opposition to such application and of the grounds thereof to the Attorney-General, who shall, after hearing the parties to and against such application, and such witnesses as he may deem necessary, decide the same and

intimate his decision to the Governor in Council, and the Governor in Council shall, within three months from the date of such intimation, if the same be favourable to the person holding a Provisional Certificate, direct the issue of Letters Patent to such person with such reservations, provisoes, and conditions as may be meet. And in case the decision be adverse to the party holding the Provisional Certificate, he may appeal against such decision to the Governor in Council; and the Governor in Council shall, within three months from the date of such appeal, either direct the issue of Letters Patent to the appellant, subject to such reservations, provisoes, and conditions as he may deem fit, or make such other order as may be meet.

*Where Letters Patent have been granted for Inventions already patented in parts beyond the Colony—Proviso.*

XV. Where upon application made under this Ordinance for Letters Patent in respect of any invention first invented in parts out of the Colony, and Letters Patent for the exclusive use of such invention has been granted in such parts before the grant of such Letters Patent in this Colony, all rights and privileges under such Letters Patent last mentioned shall (notwithstanding any term in such Letters Patent Limited) cease and be void immediately upon the revocation, cancellation, or other determination of such Letters Patent obtained in parts beyond the Colony; or where more than one such Patent is obtained, then upon the revocation, cancellation, or other determination of the first of such Letters Patent: Provided that no Letters Patent shall be granted in respect of any invention for which Letters Patent have been granted in parts beyond the Colony and have expired, or if Letters Patent shall be granted in respect thereof the same shall not be of any validity.

*Letters Patent may be obtained for Inventions protected by Imperial Letters Patent.*

XVI. Any person holding Her Majesty's Letters Patent for any invention may obtain Letters Patent for the same in this Colony on satisfactory proof of the issue of such Letters Patent, provided the patent obtained in this Colony shall be subject to the provisions relating to patents obtained in places beyond the Colony contained in the next preceding section.

*Letters Patent to be registered.*

XVII. All Letters Patent and assignments of Letters Patent shall be registered in the Office of the Registrar-General on the payment of fees in respect thereof, as specified in Schedule F.

*Governor in Council may annul Letters Patent.*

XVIII. Letters Patent may be annulled by the Governor in Council if the same be proved to be prejudicial to the public interests, or if the special conditions on which the same have been granted are not observed. Notice of any Letters Patent being annulled, and the cause thereof, shall be inserted in the Royal Gazette. On the issue of any Letters Patent any petition, specification, and other documents and drawings referring thereto, shall be transferred from the Office of the Colonial Secretary to the Registrar-General, and shall be filed by him forthwith.

*Letters Patent to be for one Invention only.*

XIX. No Letters Patent will be allowed to include several distinct and separate inventions; but where one invention is applicable to the improvement of several manufactures, or where several inventions are applicable to the improvement of one and the same manufacture, the whole may be included in the same Letters Patent.

*Notice of Proceeding under Section IV. to be published.*

XX. The Attorney-General shall give at least one month's notice of his intention to proceed under Section IV., by notice in the Royal Gazette, and such notice shall be published in not less than three issues of the Royal Gazette, and the period of one month before mentioned shall commence from the date of the publication of the last of such notices, and such publication shall be in lieu of service of any writ or process required by the rules of the Supreme Court.

*Where Letters Patent may be cancelled or revoked by Order of Supreme Court.*

XXI. If upon any of the grounds set out in Section IV. of this Ordinance, the Supreme Court or a Judge thereof shall order any Letters Patent to be cancelled or revoked, a copy of such order shall be forthwith forwarded by the Registrar of

the Court to the Registrar-General, who shall record the same, and all right under any Letters Patent so cancelled or revoked shall cease.

*Supreme Court may order Amendments.*

XXII. The Court may order any specification or petition to be amended, and may reserve its decision for a time sufficient to allow of such amendment to be effected, and thereafter give judgment on such terms as to costs and otherwise as may seem fit.

*Penalty for making false Declaration.*

XXIII. Any person making a false delcaration under this Ordinance shall be deemed guilty of perjury, and upon conviction be liable to imprisonment not exceeding two years, without prejudice to any action which any injured parties may bring against him.

*Fees.*

XXIV. The fees specified in Schedule F of this Ordinance shall be paid to the Colonial Treasurer for the several matters referred to therein. Provided that the Governor in Council may make additions, alterations, and amendments in the said Schedule, and such additions, alterations, and amendments so made and published in the Royal Gazette shall have the full force and effect of law.

*Ordinance No. XXIV. of 1877 repealed.*

XXV. From and after the passing hereof, Ordinance No. XXIV. of 1877 shall be, and the same is, hereby repealed: provided that nothing herein contained shall effect or prejudice any proceedings or thing lawfully done or taken, or any Letters Patent granted or protection issued by virtue of the said Ordinance.

*Short Title.*

XXVI. This Ordinance may be cited as "The Patent Ordinance, 1879."

Passed in Council this thirteenth day of January, in the year of our Lord One thousand eight hundred and seventy-nine.

SCHEDULE A.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to all to whom these presents shall come, greeting:

Whereas A.B., of in the Colony of Fiji hath represented that he is desirous of obtaining our Royal Letters Patent for securing unto him our special licence, that he, his executors, administrators and assigns, and such others as he or they should agree with, and no others, should and lawfully might make, use, exercise and vend within our Colony of Fiji and its dependencies, an invention for [*insert the title of the invention*], and by an instrument in writing under his hand and seal deposited in the office of the Colonial Secretary, the said A.B. hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed. And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said A.B. the privileges hereinafter mentioned. Know ye therefore that we, of our special grace, certain knowledge and mere motion, have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said A.B., his executors, administrators and assigns, our special licence, full power, sole privilege and authority, that he the said A.B., his executors, administrators and assigns, and every of them by himself and themselves, or his and their deputy or deputies, servants or agents, or such others as he or they shall at any time agree with, and no others, during the term herein expressed, shall, and lawfully may, make, use, exercise and vend his said invention within our said Colony and its Dependencies, in such a manner as to him, his executors, administrators and assigns, or any of them shall seem meet, and that he, his executors, administrators and assigns shall, and lawfully may, have and enjoy the whole profit, benefit, commodity and advantage from time to time coming, growing, accruing and arising by reason of the said invention during the said term. To have, hold, exercise and enjoy the said licences, powers, privileges and advantages unto and by the said A.B., his executors, administrators and assigns, for and during, and unto the full end and term of fourteen years now next ensuing. And to the end that he, his executors, administrators and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention according to our gracious intention. We do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic, corporate, and all other our subjects whatsoever, of what estate, quality, degree, name or condition soever, may be within our said Colony and its Dependencies, that neither they nor any of them at any time during the said term, either directly or indirectly, do make, use or put in practice the said invention, or any part of the same so attained unto by the said A.B. as aforesaid, nor in anywise counterfeit, imitate or resemble the same, nor shall make or cause to

be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the consent, licence or agreement of the said A.B., his executors, administrators or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders, or their contempt of this our Royal Command, and further to be answerable to the said A.B., his executors, administrators and assigns, according to law, for his and their damages thereby occasioned. Provided always, and these our Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall appear that this our grant is contrary to law or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said A.B. is not the true and first inventor thereof within this Colony or its Dependencies, these our Letters Patent shall forthwith cease, determine and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding. Provided also that these our Letters Patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said A.B., his executors, administrators or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any of our subjects whatsoever, and publicly used or exercised, or unto whom our like Letters Patent or privileges have been already granted for the sole use, exercise and benefit thereof within our said Colony or its Dependencies, it being our will and pleasure that the said A.B., his executors, administrators and assigns, and all and every other person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions by them invented and found out, according to the true intent and meaning of the said respective Letters Patent and of these presents. Provided likewise nevertheless, and these our Letters Patent are upon this express condition, that if the said instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said A.B., his executors, administrators or assigns shall not supply or cause to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the persons administering the department of our service, for the use of which the same shall be required in such manner, at such times and at and upon such reasonable prices and terms as shall be settled for that purpose by the said persons requiring the same, that then and in any of the said cases, these our Letters Patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding. Provided that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted. And lastly, we do by these presents for us, our heirs and successors, grant

unto the said A.B., his executors, administrators and assigns, that these our Letters Patent shall be in all things good, firm, valid and sufficient, and effectual in law, according to the true intent and meaning thereof, and shall be taken, construed and adjudged in the most favourable and beneficial sense for the best advantage of the said A.B., his executors, administrators and assigns, as well in all our Courts of Record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors in our said Colony and its Dependencies, and amongst all and every the subjects of us, our heirs and successors whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging. In witness whereof we have caused these our Letters to be made Patent.

Witness our trusted and well beloved Governor and Commander-in-Chief, &c., &c., of our said Colony, at on the day of 18 .

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## SCHEDULE B.

*Petition.*

I of do hereby humbly petition his Excellency the Governor for Letters Patent in respect of an invention [*state title of invention*].

I have furnished with this petition the necessary specifications or instruments particularly describing the nature of the said invention, and a solemn declaration that I am the true and first inventor thereof, in accordance with law.

Signed Petitioner
or Agent or Attorney for Petitioner.

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## SCHEDULE C.

I of do solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as in petition*], which I believe will be of great public utility, that I am the true and first inventor thereof, and that the same is not in use by any other person or persons, to the best of my knowledge and belief, and that the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention, and the manner in which the same is to be performed.

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## SCHEDULE D.

In obedience to his Excellency's commands, referring to me the Petition of of , to consider what may be properly done therein, I do certify as follows :—

That the said petition sets forth that the petitioner [*state briefly the allegations of the petition*].

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

That there has also been laid before me a specification, or instrument in writing, particularly describing the nature of the said invention, and a certificate of the filing of the said petition, declaration and specification.

Having duly and carefully considered the same, I hereby certify that the petitioner is entitled, *primâ facie*, to protection on account of his said invention, provided the said application for Letters Patent be duly advertised according to Ordinance No. III. of 1879, and that the petitioner do otherwise comply with the enactments of the said Ordinance.

Given under my hand, this day of A.D. .

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SCHEDULE E.

In the matter of the application of of for Letters Patent for

Notice is hereby given, that an application has been made for the issue of Letters Patent herein under the provisions of the "Patents Ordinance of 1879." And any person desirous of opposing such application is required to give notice of such opposition, and of the grounds thereof, to the Attorney General within three months from the date of the publication hereof.

A. B., Applicant.

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SCHEDULE F.

| | £ | s. | d. |
|---|---|---|---|
| On depositing petition and specification | 5 | 5 | 0 |
| For provisional certificate of protection | 3 | 3 | 0 |
| For obtaining Letters Patent | 10 | 10 | 0 |
| On lodging particulars of objections | 2 | 10 | 0 |
| Every search and inspection | 0 | 4 | 0 |
| Registration of Letters Patent | 0 | 5 | 0 |
| Filing Memorandum of Alteration or Amendment of Specification | 1 | 1 | 0 |
| Registration and Assignment of Letters Patent | 0 | 10 | 0 |
| Copy or extract of, and writing, per folio of 72 words | 0 | 0 | 8 |

# FINLAND.

## *Supreme Decree of 30th March*, 1876.

WE, ALEXANDER THE SECOND, by the grace of God, Emperor and Autocrat of all the Russias, Czar of Poland, Grand Duke of Finland, &c., &c., hereby make known: that upon the representation of the Finance Department of our Senate for Finland, and upon the recommendation of the Governor-General for this Territory, we have thought fit with regard to the mode and conditions for granting patents or privileges for the utilization and profitable working (to the exclusion of all other persons during a given period) of new inventions relating to handicraft industry and art, and also for improvements upon inventions already made—to decree as follows:—

### CHAPTER I.

### *Of the rights to be conferred by a Patent, and also the duration of time for which a Patent will be granted.*

#### Sec. 1.

A patent entitles the owner of the invention to make, exercise and vend, alone or through others, everywhere in Finland, the invention to which it relates, to the exclusion of all others, during the time specified by the Letters Patent. It is incumbent upon the owner that he should strictly conform to whatever is prescribed by the existing laws with regard to the manufacture and the sale of wares, without being obliged in order to enjoy the advantages of the said right, to acquire the dignity of a master craftsman or the freedom of a citizen.

The patent right is to be considered as the personal property of the owner, and may in consequence be devised by will, and also, in accordance with the ordinary legal practice, be assigned to other persons, together with the rights acquired by the Letters Patent, but subject to the observance of what is hereinafter prescribed in sec. 2 of the succeeding chapter.

Sec. 2.

(1.) A patent may be granted for new inventions relating to handicraft, industry or art.

(2.) For improvements upon earlier inventions of the same kind, but without prejudice to any such previously granted patent right.

A patent cannot be granted for the preparation of medicines nor for any invention which is of such a nature that the employment of the same would be contrary to the existing laws, to the public safety or to good morals.

Nor can any one by a patent acquire the exclusive right to make use of a new principle, but only to use the manner, method, and means for the employment of an invention which are mentioned and described in the petition for the patent.

Sec. 3.

A patent will be granted for the period of at least three years, and at the utmost twelve years, according to the nature and importance of the invention.

If any person has obtained a patent in a foreign country, and has thereby been compelled to publish a description of the manner in which the invention is to be applied, a patent may nevertheless be granted to him for a given time in Finland also, but not for a longer period than that within which the patent granted in the foreign country will expire.

Sec. 4.

The inventor only is entitled to the patent.

## Chapter II.

*On the manner in which Patents will be granted.*

Sec. 5.

If an inventor wishes to obtain a patent he must present his petition to the Finance Department of the Senate, and the said

petition must contain, together with a declaration of the object of the patent, the following particulars :—

A precise specification as to how far the invention for which the patent is desired is new, or whether it is an improvement upon an invention already in use ; the novelty of the invention or of the eventual improvement is specially to be cited ;

A declaration of the period of time for which the petitioner desires to obtain the patent right ;

A declaration whether the invention has previously been patented in any foreign country or not, and in the first case attested information is to be produced when such a privilege was granted, and for how long a time ;

A full and accurate description of the invention and of the method of using the same, and accurate drawings or models are also to be annexed to the petition in cases where such drawings or models are considered necessary ;

If the petitioner is not in a position at once to send in a full description, such fact must be mentioned in the petition, and he is then bound within one month after the presentation of the petition to send in a description ; during this period the examination of the petition remains in abeyance. If the petitioner does not send in his description within the term named, his application will be refused. The petitioner is however not precluded from sending in a fresh petition, together with a full description with reference to the same object.

Petitions referred to in this section are, in case the petitioner has not his residence in Finland, to be presented through some person domiciled therein. The name and residence of such person are to be set out in the power of attorney to be executed in his favour by the petitioner, empowering such attorney to act for and represent him in all matters relating to the patent. This power of attorney is to accompany the petition and the documents relating to the same.

Sec. 6.

After the petition, together with the supplemental documents, has been sent in to the Finance Department of the Senate, and after subsequent examination and approval by the said Department, a patent will be issued for the invention.

In the patent are to be set out the principle contents of the petition of the applicant :—

The period for the duration of which the patent is granted ;

The privileges which are to be conferred by the patent;
And the obligations which the holder of the patent must fulfil in order to enjoy the privileges of the patent right.
The patent must further contain expressly a declaration, in terms which cannot be mistaken, of that for which he requires protection, that the invention is new, and that it can be used with advantage.

Sec. 7.

The "Manufactures-Direction" is to be informed of all petitions for patents granted by the Senate, and the whole of the collective documents belonging to the matters connected with the patent are to be made over to them.
The "Manufactures-Direction" is bound to include these documents together in a catalogue and arrange them in accordance with their nature, in such a manner as that every person who may desire to do so may be afforded an inspection of the same.

Sec. 8.

If two or more persons present themselves desiring to obtain a patent for inventions of a like nature, it shall be decided upon examination whether the one of them who has first sent in the completed documents before the others shall receive the patent, or whether all the petitions are to be refused.

Sec. 9.

In addition to the customary dues which are payable to the Senate for the issue of a patent, an impost duty of twenty marks per annum is to be paid into the State Treasury of Finland for every year for which the patent right is granted.

## Chapter III.

### *Of the obligations and rights of the owners of Patents.*

Sec. 10.

Whoever has received a patent is obliged:—
1. To bring the patent right to public notice by means of the publication of the patent and the description three times in the official Swedish and Finnish newspapers of the country. The description must be in the same terms as that included in

the petition for the patent. Such publication is to be effected within two months, to be reckoned from the day of the issuing of the patent.

2. Within two years from the last-mentioned day, to send in evidence to the "Manufactures-Direction" that he is in full working of the patented invention; the said term may be limited by the Finance Department of the Senate at the granting of the patent to one year, and also extended, upon petition for that purpose, to at the utmost four years, as the scope and nature of the invention merit.

3. Afterwards, in every year during the whole duration of the patent, to give evidence to the "Manufactures-Direction" that the invention is being continuously worked.

Sec. 11.

If the holder of a patent wishes to assign the same to any other person, or if it comes by inheritance into the possession of another person, such fact must be notified to the "Manufactures-Direction," whereupon the matter is to be referred by a memorandum to the Finance Department of the Senate. The new patent holder will have brought to his notice by the medium of the memorandum, the obligations which are to be fulfilled by him during the continuance of the patent.

If a transfer should be effected to any person not domiciled in Finland, he is obliged, in accordance with the provisions contained in the last clause of section 5, to appoint an attorney to act for him.

Sec. 12.

The patent right ceases and becomes forfeited:

When the holder of a patent shall have omitted the observance of any of the provisions contained in section 10;

When, in consequence of any of the causes of complaint mentioned in section 14, the tribunal declares the patent to be annulled.

Sec. 13.

When a patent has become forfeited, and also when the time for which the patent was originally granted has expired, it is incumbent upon the "Manufactures-Direction" to publish in the official Swedish and Finnish newspapers of the country the fact that the patent has become cancelled.

## Chapter IV.

### *Of the judicial conduct of actions relating to a Patent.*

#### Sec. 14.

If a patent is granted for an invention similar to one previously patented, or which has already been discovered by some other person in Finland or elsewhere, or if the owner of the patent has falsely declared himself to be the inventor, or if it is proved that the patented invention is dangerous to the public safety or to the public health, or may lead to immorality, any person who believes his right to be prejudiced by the patent may, within one year after the patent resolution has been published for the third time in the newspapers named in section 10, and also the State Attorney, so soon as the protection of the commonweal requires it, may bring an action against the owner of the patent before the tribunal of the place wherein the owner—or, in case of his residing out of the country, his legally-appointed representative—is domiciled. The tribunal shall, in case any of the above enumerated events have happened, declare that the patent is to be revoked, in which case a copy of the judgment of the tribunal is to be forwarded to the "Manufactures-Direction" without delay. This latter shall proceed to act in the matter, after the judgment has become legally valid, in the manner prescribed in section 13.

#### Sec. 15.

If the owner of a patent believes that after the granting of the patent another person works the patented invention illegally, he may bring his action against him by means of a citation before the public tribunal to which the person informed against belongs. If the owner of the patent is able to give proof that his rights are being infringed upon in the matter mentioned the accused person shall be subject to a fine for the first time of from one hundred to three hundred Finnish marks, and in the case of repeated infringements of from three hundred to six hundred marks, and also be condemned each time to payment of compensation for the full amount of damages. Of the money fine, one half of the amount is to go to the owner of the patent, who alone can bring such action before the tribunal, and the other half to the Poor and Work-house Fund of the country. If the condemned person is not in a

position to pay the fine, the same shall be, in accordance with the prescriptions now in force with regard to pecuniary amercement, exchanged for imprisonment.

Sec. 16.

Should it appear upon the trial of an action for the infringement of a patent right that the invention to which the patent relates has been known or used in the country or elsewhere before the petition for the patent was presented to the Finance Department, or that the holder of the patent has given an incorrect or incomplete description of the method and the means to be employed for working the invention, and that a trustworthy basis for forming a judgment as to the peculiar characteristics of the invention has not thereby been obtained; or if the owner of the patent has falsely held himself out as the inventor, the defendant is not answerable.

## Chapter V.

### *General provisions.*

Sec. 17.

Whenever in this decree "months" are spoken of within which particular obligations are to be fulfilled, in the application of this term each month is to be reckoned as 30 days.

Sec. 18.

This decree comes into force on the 1st June, 1876, without prejudice however to the legal validity of patents previously granted.

And hereto every person to whom the same relates must hereafter conform.

# FRANCE.

## *Law of the 5th July*, 1844.

### CHAPTER I.

#### General Provisions.

#### Art. 1.

Every new discovery or invention, in all departments of industry, confers upon its author, under the conditions and for the time hereafter mentioned, the exclusive right of working for his own profit the said discovery or invention.

This right is established by deeds delivered by the Government, under the name of *Patents of Invention.*

#### Art. 2.

The following shall be considered as new inventions or discoveries:—

The invention of new industrial products;

The invention of new methods, or the new application of known methods, for obtaining an industrial result or product.

#### Art. 3.

The following are not patentable:—

1. Pharmaceutical compositions or medicines of all kinds, the said objects remaining subject to the special laws and regulations for these matters, and especially to the decree of the 18th August, 1810, relating to secret remedies;

2. Schemes and combinations relating to credit and finance.

### Art. 4.

The duration of Patents shall be five, ten, or fifteen years.

Every Patent shall be subject to the payment of a tax fixed as follows:—

Five hundred francs for a Patent of five years;

One thousand francs for a Patent of ten years;

Fifteen hundred francs for a Patent of fifteen years;

This tax shall be paid by yearly instalments of one hundred francs, under penalty of forfeiture if the Patentee allows any year to elapse without paying the tax.

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## CHAPTER II.

## Formalities respecting the Delivery of Patents.

### Section I.

### *Applications for Patents.*

### Art. 5.

Any person who shall wish to obtain a Patent of Invention must deposit under a sealed cover, at the office of the Secretary of the Préfecture in the department in which he is domiciled, or in any other department, on electing domicile there,—

1. His petition to the Minister of Agriculture and Commerce;

2. A specification of the discovery, invention, or application forming the subject of the patent applied for;

3. The drawings or specimens necessary for the comprehension of the specification; and,

4. A memorandum of the documents deposited.

### Art. 6.

The application must be limited to a single principal object, with the details that constitute it, and the applications which shall be indicated.

It must mention the duration which the applicants wish to assign to their Patent within the limits fixed by Article 4, and must contain neither restrictions, conditions, nor reservations.

It must set forth a title containing a short and precise designation of the object of the invention.

The specification must not be written in a foreign language. It must be without alterations, or interlineations. Words crased must be counted and verified; the pages and references being initialed. It must not contain any denomination of weights or measures other than those inserted in the table annexed to the law of the 4th July, 1837.

The drawings must be made in ink and to a metrical scale.

A duplicate of the specification and drawings must be added to the petition.

All documents must be signed by the applicant or by his attorney, whose power remains annexed to the petition.

### Art. 7.

No deposit can be received except on the production of a receipt proving the payment of a sum of one hundred francs on account of the patent tax.

An entry made without charge by the General Secretary of the Préfecture on a special register, and signed by the applicant, shall prove every deposit, indicating the day and hour when the documents were delivered.

A copy of the said entry shall be delivered to the depositor on paying the cost of the stamp.

### Art. 8.

The term of the Patent will run from the day of the deposit being made according to Article 5.

## Section II.

### *Delivery of Patents.*

### Art. 9.

Immediately after the registration of the petitions, and within five days from the date of the deposit, the Préfects are to transmit the documents, under the seal of the inventor, to the Minister of Agriculture and Commerce, adding thereto a certified copy of the entry of the deposit, the receipt proving the payment of the tax, and, if there be one, the power of attorney mentioned in Article 6.

Art. 10.

On the arrival of the documents at the Ministry of Agriculture and Commerce they shall be opened, the petitions registered, and the patents delivered in the order in which the said petitions have been received.

Art. 11.

Patents applied for in due form will be delivered, without previous examination, at the risk and peril of the applicants, and without guarantee either as to the reality, novelty, or merit of the invention, or the accuracy or exactness of the specification.

A decree of the minister certifying the regularity of the application shall be delivered to the applicant, and shall constitute the Patent of Invention.

To this decree shall be annexed the certified duplicate of the specification and drawings (mentioned in Article 6), after its conformity with the original has been verified and, if necessary, authenticated.

The first copy of patents shall be delivered gratis.

All subsequent copies required by the patentee or his assigns shall be subject to a tax of twenty-five francs.

The cost of the drawings, if any, shall be paid by the patentee or his assign.

Art. 12.

All applications in which the formalities prescribed by Nos. 2 and 3 of Article 5, and by Article 6, have not been observed shall be rejected.

One half of the sum paid shall belong to the Treasury; but the whole sum will be carried to the account of the applicant, if he renews his application within a term of three months, reckoning from the date of the notice of rejection of his application.

Art. 13.

Whenever, in pursuance of Article 3, a patent cannot be granted, the tax shall be repaid.

Art. 14.

A Royal Ordinance inserted in the *Bulletin des Lois* shall every three months announce the patents delivered.

Art. 15.

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

## Section III.

### *Certificates of Addition.*

#### Art. 16.

The patentee or parties interested under the patent during the whole term of the patent shall be entitled to make alterations, improvements, or additions to the invention by complying, in the deposit of the petition, with the formalities prescribed by Articles 5, 6, and 7.

These alterations, improvements, and additions shall be authenticated by certificates, delivered in the same form as the principal patent, and having, from the respective dates of the petition and the delivery, the same effect as the said principal patent, with which they will expire.

Every application for a Certificate of Addition shall be subject to the payment of a tax of twenty francs.

Certificates of Addition taken by any person interested inures to the benefit of all the others.

#### Art. 17.

Every Patentee who, for an alteration, improvement, or addition, wishes to take a principal patent of five, ten, or fifteen years, instead of a Certificate of Addition expiring with the original patent, must comply with the formalities prescribed by Articles 5, 6, and 7, and pay the tax mentioned in Article 4.

#### Art. 18.

None but the patentee or persons interested through him, acting as above mentioned, can during one year legally obtain a patent for an alteration, improvement, or addition to the invention which forms the subject of the original patent.

Nevertheless, any person who shall wish to obtain a patent for an alteration, addition, or improvement in the discovery already patented, may during the said year make an application, which shall be transmitted to and remain deposited under seal at the Ministry of Agriculture and Commerce.

At the expiration of that year the seal shall be broken and the patent delivered.

Nevertheless, the original patentee shall have the preference for all alterations, improvements, and additions for which he shall have demanded during that year a Certificate of Addition or a patent.

Art. 19.

Whoever has taken a patent for a discovery, invention, or application connected with the subject of another patent shall have no right to work the invention already patented; and, reciprocally, the owner of the original patent cannot work the invention which forms the subject of the new patent.

## Section IV.

### *Assignment and Transfer of Patents.*

Art. 20.

Every patentee may transfer the whole or part of the ownership of his patent.

The transfer of the whole or part of a patent, either gratuitously or for a consideration, can only be effected by a notarial deed and after the payment of the whole of the tax prescribed by Article 4.

No transfer shall be valid as regards third parties until it has been registered at the office of the Secretary of the Préfecture of the department in which the deed has been executed.

The registration of transfers and of all other acts making changes shall be made on the production and deposit of an authentic extract from the deed of transfer or change.

A copy of each entry of registration, together with the extract from the deed above mentioned, shall be forwarded by the Préfets to the Minister of Agriculture and Commerce within five days of the date of the entry.

Art. 21.

There shall be kept at the Ministry of Agriculture and Commerce a register in which shall be inscribed the changes in the ownership of each patent, and every three months a Royal Ordinance shall publish, in the form prescribed by Article 14, the changes registered during the expired quarter.

Art. 22.

Licensees under a patent, and those who may have acquired from a patentee or from persons interested through him the power to work the discovery or invention, shall have the full benefit of Certificates of Addition which may afterwards be delivered to the patentee or to persons interested through him.

Reciprocally, the patentee or persons interested through him shall have the benefit of Certificates of Addition which may afterwards be delivered to the licensees.

All those who may have a right to profit by Certificates of Addition may obtain a copy at the Ministry of Agriculture and Commerce, by paying a fee of twenty francs.

## Section V.

### *Inspection and Publication of Specifications and Drawings of Patents.*

#### Art. 23.

The specifications, drawings, specimens, and models of Patents delivered shall, until the expiration of the Patents, remain deposited at the Ministry of Agriculture and Commerce, where they may be inspected free of charge by every applicant.

Any person may obtain, at his own expense, a copy of the said specifications and drawings, according to the forms to be established by the regulations prescribed in accordance with Article 50.

#### Art. 24.

After the payment of the second annuity the specifications and drawings shall be published, either in full or by extracts.

Moreover, at the beginning of each year a catalogue shall be published, containing the titles of the Patents delivered in the course of the preceding year.

#### Art. 25.

The collection of specifications and drawings and the catalogue published according to the preceding Article shall be deposited at the Ministry of Agriculture and Commerce, and at the office of the Secretary of the Préfecture of each Department, where they may be inspected free of charge.

#### Art. 26.

On the expiration of patents the original specifications and drawings shall be deposited in the Royal Conservatory of Arts and Trades.

## CHAPTER III.

### Rights of Foreigners.

#### Art. 27.

Foreigners may obtain Patents of Invention in France.

#### Art. 28.

The formalities and conditions prescribed by the present law shall be applicable to patents applied for or delivered in compliance with the preceding article.

#### Art. 29.

The author of an invention or discovery already patented abroad may obtain a patent in France; but the duration of this patent must not exceed that of the patents previously obtained abroad.

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## CHAPTER IV.

### Annulments and Forfeitures, and Actions relating thereto.

#### Section I.

*Annulments and Forfeitures.*

#### Art. 30.

Patents delivered under the following circumstances shall be null and of no effect:—

1. If the discovery, invention, or application is not new;
2. If the discovery, invention, or application is not patentable according to Article 3;
3. If the patents refer to theoretical or purely scientific principles, methods, systems, discoveries, and conceptions, the industrial applications of which are not indicated;
4. If the discovery, invention, or application is found to be contrary to public order or safety, to morals, or to the laws of the country, without prejudice in such a case, and in that of the former paragraph, to any penalties which may be incurred by the manufacture or sale of the prohibited articles;

5. If the title under which the Patent has been applied for fraudulently indicates an object other than the real object of the invention;

6. If the specification annexed to the patent is not sufficient for working the invention, or if it does not point out in a complete and fair manner the real means employed by the inventor;

7. If the patent has been obtained contrary to the provisions of Article 18.

Certificates comprising alterations, improvements, or additions which are not connected with the original patent shall likewise be null and of no effect.

### Art. 31.

No discovery, invention, or application shall be considered as new which, in France or abroad, and before the date of the deposit of the application, has received sufficient publicity to enable the same to be worked.

### Art. 32.

The following shall be deprived of all their rights:—

1. The patentee who has not paid his annuity before the beginning of each year of the term of his patent;

2. The patentee who has not worked his discovery or invention in France within the term of two years from the date of the signature of his patent, or who has ceased to work it during two consecutive years, unless, in case one or the other, he justifies himself as to the causes of his inaction;

3. The patentee who has introduced into France articles manufactured abroad and similar to those which are protected by his patent. *Nevertheless the Minister of Agriculture, Commerce, and Public Works may authorise the introduction:—*

1. *Of models of machines.*

2. *Of articles made abroad intended for public exhibitions or for trials made with the consent of the Government.*

[NOTE.—The words in italics were substituted by the law of 31st May, 1856.]

### Art. 33.

Whoever, in sign-boards, advertisements, prospectuses, placards, marks, or stamps; calls himself patentee, without possessing a patent delivered conformably to law, or after the expiration of an anterior patent; or who, being a patentee,

mentions his title of patentee, or his patent, without adding the words, "without guarantee of the Government," shall be subject to a fine of from fifty to one thousand francs.

In the event of a repetition of the offence, the fine may be doubled.

## Section II.

### *Actions for Annulment and Forfeiture.*

#### Art. 34.

An action for annulment or an action for forfeiture may be brought by all persons interested therein.

These actions, as well as all disputes relating to the ownership of patents, shall be brought before the Civil Tribunal of first instance.

#### Art. 35.

If the claim is brought at the same time against the owner of the patent and one or several of the licensees, it shall be brought before the Tribunal of the domicile of the owner of the patent.

#### Art. 36.

The case shall be examined and decided in the form prescribed for summary matters by Article 405 and the following articles of the Code of Civil Procedure. It shall be communicated to the *Procureur du Roi.*

#### Art. 37.

In every instance tending to bring a patent under annulment or forfeiture, the Public Prosecutor may intervene and take steps to have the absolute nullity or forfeiture of the patent declared.

He may even proceed directly by principal action, to have the annulment pronounced in the cases provided for in Nos. 2, 4, and 5 of Article 30.

#### Art. 38.

In cases coming under Art. 37, all persons interested in the patent whose titles have been registered at the Ministry of Agriculture and Commerce, conformably to Article 21, must be parties in the cause.

Art. 39.

Whenever the absolute annulment or forfeiture of a patent has been pronounced by a judgment or final decree, notice shall be given to the Minister of Agriculture and Commerce, and the annulment or forfeiture shall be published in the form prescribed by Article 14, for bringing patents to public notice.

## CHAPTER V.

### Infringements, Prosecutions, and Penalties.

Art. 40.

Every interference with the rights of a patentee, either by the manufacture of the products or by using the means forming the subject of his patent, constitutes the offence of infringement.

That offence shall be punished by a fine of from one hundred to two thousand francs.

Art. 41.

Those who have knowingly received, sold, or exposed for sale, or introduced on French territory one or more infringing articles, shall be punished with the same penalties as the infringers.

Art. 42.

The penalties established by the present law cannot be accumulated.

The highest penalty shall alone be inflicted for all offences previous to the commencement of the prosecution.

Art. 43.

In case of a repetition of the offence, there shall be inflicted, in addition to the fine prescribed by Articles 40 and 41, an imprisonment of from one to six months.

It shall be considered a repetition of the offence if the accused has during the five previous years undergone a first punishment for one of the offences coming under the present law.

An imprisonment of from one to six months may also be inflicted if the infringer is a workman or employé in the workshops or establishment of the Patentee, or if the infringer, having

associated himself with a workman or an employé of the Patentee, has become acquainted through the latter with the processes described in the patent.

In the latter case, the workman or employé may be prosecuted as an accomplice.

Art. 44.

Article 463 of the Penal Code may be applied to offences provided for by the preceding provisions.

Art. 45.

The action relative to the misdemeanor, for the application of the above penalties, can only be brought by the Public Prosecutor on the complaint of the injured party.

Art. 46.

The Court for the trial of misdemeanors before which an action for the offence of infringement is brought, shall decide on the objections raised by the accused either as to the nullity or forfeiture of the patent, or on questions relating to the ownership of the said patent.

Art. 47.

The proprietors of the patent may, by virtue of an order of the President of the Tribunal of First Instance, proceed, by the officers of the court, to have pointed out and fully described, with or without seizure, the articles said to be infringements.

This order shall be issued on a simple request and on the production of the patent; it shall contain, if necessary, the nomination of an expert to assist the officer in his description.

Whenever a seizure is to be made, the said order may require of the applicant security, which shall be given before proceeding in the matter.

Security shall always be required from a foreign Patentee who may demand a seizure.

A copy of the order and of the deed certifying that the security, if required, has been deposited, shall be left with the holder of the objects described or seized, under pain of annulment of the proceedings and of damages against the officer.

Art. 48.

In default of the applicant suing, either by civil or criminal proceedings, within eight days, besides one day for every three myriamètres distance between the place where the objects seized or described were found and the residence of the infringer, concealer, importer, or seller; the seizure or description shall be legally void, without prejudice to the damages which may be claimed, if they have arisen in the form prescribed by Article 36.

Art. 49.

The confiscation of the objects held to be infringements, and if the case arises of the instruments or utensils specially designed for their manufacture, shall, even in case of an acquittal, be pronounced against the maker, concealer, importer, or seller.

The confiscated objects shall be delivered to the owner of the patent, without prejudice to his claiming greater damages, and the placarding of the judgment according to circumstances.

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## CHAPTER VI.

### Special and Transient Provisions.

Art. 50

Royal Ordinances for the regulation of the public administration shall prescribe the necessary provisions for the execution of the present law, which shall not come into force until three months after its promulgation.

Art. 51.

Ordinances delivered in the same form may regulate the application of the present law to the colonies, with the modifications that may be judged necessary.

Art. 52.

The following laws are to be abrogated from the day when the present law comes into execution; (viz.) the laws of the 7th January and 25th May, 1791; of the 20th September, 1792; the decree of the 17th Vendémiaire, of the year VII.; the decree of the 5th Vendémiaire, of the year IX.; the decrees of the 25th

November, 1806, and 25th January, 1807; and all provisions anterior to the present law, relating to patents of invention, importation, and improvement.

Art. 53.

The patents of invention, importation, and improvement at present in force, delivered pursuant to laws anterior to the present or prolonged by Royal Ordinance, shall continue in force during the time originally assigned to them.

Art. 54.

Proceedings begun before the promulgation of the present law shall be terminated in accordance with the anterior laws.

All actions for infringement, annulment, or forfeiture of patents, not yet begun, shall be concluded according to the provisions of the present law, even if they refer to patents previously delivered.

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## *Decree of* 21st *October*, 1848.

### Regulating the Application of the Patent Law of the 5th July, 1844, to the French Colonies.

Art. 1.

The Patent Law of the 5th July, 1844, shall be applicable in the Colonies from the date of the publication of the present decree.

Art. 2.

Applicants for Patents of Invention in the Colonies must deliver three copies of the documents prescribed by Art. 5 of the above law, at the office of the Director of the Interior.

The entry establishing the said delivery shall be made in a special register to be signed by the said officer and the applicant, agreeably to Art. 7 of the said law.

Art. 3.

Before making the said entry, the Director of the Interior shall require the production of:

1. The receipt of the Colonial Treasury for the payment of 100 francs due for the first instalment of the annual patent fees:
2. Three copies of each of the documents mentioned in paragraphs 1, 2, 3, and 4 of Art. 5 of the Patent Law of the 5th July, 1844.

One copy of each of these documents shall be kept under a sealed cover at the offices of the directors, to be consulted when required. The other two copies shall be enclosed in a single envelope sealed up by the applicant.

Art. 4.

The governor of each colony shall with the least possible delay, after due registration of the applications, forward to the Minister of Agriculture and Commerce, through the Minister of the Navy and Colonies, the sealed envelope containing the two respective copies, annexing thereto a certified copy of the entry, the receipt for the payment of the first instalment of the annual patent fees, and, if there be one, the power of attorney of the applicant.

Art. 5.

Patents shall be forwarded with the least possible delay to their owners, through the Minister of the Navy and Colonies.

Art. 6.

The registration of assignments of Patents mentioned in Art. 20 of the Patent Law of the 5th July, 1844, shall take place at the offices of the Directors of the Interior,

Copies of the entries of registration, accompanied with authentic abstracts of the assignments and the receipts for the payment of the total amount of the patent fees, shall be forwarded to the Minister of Agriculture and Commerce, conformably to Art. 4 of the present decree.

### Art. 7.

All patent fees prescribed by Arts. 4, 7, 11 and 22 of the Patent Law of the 5th July, shall be paid to the Treasurer of each colony, who is to deposit them at the Public Treasury, and shall at the same time forward to the Minister of Agriculture and Commerce, through the same channel, the returns of the payment of patent fees.

### Art. 8.

All actions for infringements shall be tried before the Court of Appeal in the colonies.

The delay allowed with respect to distances, as fixed by Art. 48 of said law, shall be modified conformably to the ordinances which in the colonies regulate proceedings in civil actions.

### Art. 9.

The Minister of Agriculture and Commerce, and the Minister of the Navy and Colonies, are respectively commissioned with the execution of the present decree.

# GERMANY.

## *Law of 1st July, 1877.*

### First Section.

### *Patent Rights.*

§ 1.

Patents are granted for new inventions which can be turned to account in trade.

The following are excepted :—

1. Inventions the use of which would be incompatible with the laws or public morals :
2. Inventions of articles of food (for nourishment or luxuries), of medicines and of substances produced by chemical process, so far as the invention does not relate to a definite method of producing such articles.

§ 2.

An invention is not regarded as new, if it has already been described in any printed publication, or publicly used in Germany at the time of application for a patent in accordance with this law, in such a manner that its employment appears possible by other persons skilled in the particular trade to which it relates.

§ 3.

Whosoever first applies for a Patent of Invention according to the provisions of this law, is entitled to the grant of the same.

The claim of the petitioner to the grant of a patent will not be allowed, if the essential contents of his application have without permission been taken from the descriptions, drawings, models, implements or contrivances of another person, or from a method of manufacture used by the latter, if such person raises opposition on that account.

§ 4.

The patent has the effect that nobody is allowed without the permission of the patentee to manufacture, trade in, or offer for sale, the article to which the invention relates.

If the invention relates to a process, to a machine or other mechanical contrivance, to a tool or other implement, the patent has moreover the effect of prohibiting any one from applying such method or of using the article to which the invention relates without permission of the inventor.

§ 5.

The patent has no effect against a person who, at the time the patentee made his application, had already been using the invention in Germany, or who had made the necessary preparations for using the same.

The patent, moreover, has no effect when the invention is to be used by order of the Imperial Chancellor for the army or navy, or in the interest of public welfare. Yet the patentee has in such case the right to claim proper compensation from the Empire or the State in whose special interest a limitation of the effect of the patent has been applied for. The amount of such compensation shall be fixed by a court of law in case an agreement cannot be arrived at.

Patents do not affect arrangements in means of conveyance, which come but temporarily within the boundaries of the empire.

§ 6.

The claim to the grant of a patent and the patent-rights themselves pass to the heirs. The claim and the patent-right may be transferred, wholly or partially, to others by agreement or in consequence of death.

§ 7.

The duration of a patent is 15 years: the term commences with the day following the day of application. If an invention

is an improvement upon another invention patented in favour of the applicant, the latter may apply for a patent of addition, which terminates with the patent for the original invention.

§ 8.

For every patent a fee of 30 marks (£1 10*s.*) is to be paid on the issue of it.

Except in the case of patents of addition (§ 7), a further fee must be paid for each patent at the commencement of the second and every subsequent year, amounting the first time to 50 marks (£2 10*s.*), and increasing by 50 marks each succeeding year.

A patentee who proves his povrtty, may delay the payment of the fees for the first and second year until the third year; and if the patent lapses in the third year, they are entirely remitted.

§ 9.

A patent lapses if the patentee renounces the same, or if he fails to pay the fees within 3 months at the latest after they have become due.

§ 10.

A patent will be declared void if it turns out:—

1. That the invention was not patentable according to §§ 1 and 2;
2. That the essential contents of the application were taken from descriptions, tools, contrivances, drawings, or models, of another, or from some means of working used by such other, without his consent.

§ 11.

A patent can be declared void after the expiration of three years:—

1. If the patentee fails to work his invention in Germany to an adequate extent, or at least to do everything that is necessary to ensure its being worked;
2. Whenever the grant of license to others to use the invention appears to be demanded in the public interest, and the patentee nevertheless refuses to grant such license upon adequate compensation and good security.

§ 12.

Persons not residing in the empire can only apply for a patent and claim the rights resulting therefrom by appointing a representative resident in Germany. The latter is authorised to act in all proceedings prescribed by this law, as well as in civil law-suits concerning the patent. Actions against a patentee must be brought before the tribunal of the district in which the representative resides, but if there be no representative, the court of the district in which the Patent Office has its seat is competent for jurisdiction.

## Second Section.

### *Patent Office.*

§ 13.

The granting, the annulment, and the revocation of patents is performed by the Patent Office.

The Patent Office has its seat at Berlin. It consists of at least three permanent members, including the President, and of non-permanent members. The members are appointed by the Emperor; the other officials by the Imperial Chancellor. The appointment of the permanent members is made on the nomination of the Federal Council, and lasts, if they hold an office of the Empire or of a State, during the term of such office, in other cases for life. The appointment of the non-permanent members will be for five years. Of the permanent members at least three must be qualified for a judgeship, or for the higher government service; the non-permanent members must be expert in some branch of technical science. The regulations in § 16 of the law of May 31, 1873, concerning the legal position of Imperial officials, do not apply to non-permanent members.

§ 14.

The Patent Office consists of several divisions. These are formed in advance for at least one year. A member may belong to several divisions.

The quorum of any division, when dealing with the grant of a patent, must not be less than three, among whom there must be two non-permanent members.

For decisions relating to the nullity and the revocation of patents, a special division shall be formed. For decisions of this division, a quorum is required of two members, including the President, who are qualified for a judgeship, or for the higher government service, and of three other members.

The provisions of the code of civil law with regard to challenge or refusal of members of the court are applicable.

Experts who are not members, may be summoned to attend the deliberations, but they are not permitted to take any part in the voting.

§ 15.

The resolutions and decisions of the divisions are issued in the name of the Patent Office; the grounds of them must be stated; and office copies must be delivered to each of the interested parties.

Notices by which special terms are fixed, will be sent by post in registered letters against receipt. If a notice cannot be delivered within the country, it will be forwarded by the proper official of the Patent Office by post, in accordance with the provisions of §§ 161 and 175 of the civil code.

An appeal lies from the decisions of the Patent Office.

§ 16.

If the decision of a division of the Patent Office is the subject of appeal, such appeal shall be heard before another division or several divisions sitting together.

In such appeal no member must take part who voted in the decision which is the subject of appeal.

§ 17.

The formation of the divisions, the fixing their duties, the forms of procedure and the order of business of the Patent Office, so far as these points are not regulated by the present law, will be prescribed by the Emperor, with the consent of the Federal Council.

§ 18.

The Patent Office is bound, on the request of the Law Courts, to give opinion in all questions concerning patents. In other cases it is not authorised, without special leave of the Imperial Chancellor, to pass resolutions or give opinions outside its official sphere.

§ 19.

A Register will be kept at the Patent Office, in which the subject and duration of Patents granted will be entered, together with the name and address of the patentees and of the representatives, if any, appointed by them at the time of application. The commencement, the termination, the expiration, the decree of annulment, and the revocation of patents, are to be entered in this Register, and simultaneously published in the *Reichsanzeiger* (Gazette).

Should a change take place in the person owning the patent, or his representative, such fact will likewise be entered in the Register and publicly notified by the *Reichsanzeiger*, when brought to the knowledge of the Patent Office in due form. As long as this is omitted, the former patentee and his former representative continue to be entitled to the benefits and subject to the provisions of this law.

The inspection of the Register, and of specifications, drawings, models and specimens on the basis of which patents have been granted, is open to everybody, unless the patent has been taken out in the name of the Imperial Administration for purposes of the army or navy.

The Patent Office will publish the essential parts of specifications and drawings, so far as their inspection is permitted to the public, in an official paper. In the same paper will also appear all notices which must be published by the *Reichsanzeiger* in accordance with this law.

## Third Section.

### *Proceedings in Patent-matters.*

§ 20.

The application for the grant of a patent for an invention must be made in writing to the Patent Office. For each invention a separate application is required. The application must contain the petition for the grant of a patent, and must point out with precision the object sought to be patented. In a separate document the invention must be described in such a manner that its practicability plainly appears to skilled persons. The necessary drawings, figures, representations, models and samples must be supplied at the same time.

The Patent Office will issue regulations respecting the other requisites of the application.

Up to the time of publication of the application, alterations in the description are permitted. With the application a fee of 20 marks (£1) must be paid for the cost of the proceeding.

§ 21.

If an application does not fulfil all the prescribed requirements, the Patent Office will point out to the applicant the defects, and demand of him the amendment within a specified time. Should this demand not be complied with within the time, the application will be rejected.

§ 22.

If the Patent Office finds the application in due form, and that there is no objection to the granting of a patent, it will order the application to be published. From the date of publication, the subject of the application will provisionally have the protection of a patent in favour of the petitioner (§§ 4 and 5).

If the Patent Office is of opinion that, according to §§ 1 and 2, the invention is not patentable, the application will be rejected.

§ 23.

The publication of the application is made by the name of the applicant and the chief points of his application being advertised once in the *Reichsanzeiger*. At the same time the application and accompanying papers will be laid open at the Patent Office for public inspection, and a notice inserted to the effect that the subject of the application is provisionally protected against unauthorised use.

If the matter relates to a patent applied for in the name of the Imperial Government, the publication of the application and accompanying papers is omitted.

§ 24.

After expiration of eight weeks from the day of publication (§ 23) the Patent Office will decide as to the granting of the patent. Until that date objections against the granting can be lodged with the Patent Office. They must be made in writing, giving the grounds, which can only be the assertion that the invention is not new, or that it comes under § 3, part 2.

Before deciding, the Patent Office may summon and hear the interested parties; it may also cause the grounds of objection to be examined by persons skilled in any branch of technical science, and otherwise take steps for elucidating the matter.

§ 25.

From a decision by which an application is rejected, the applicant—and from a decision relating to the granting of the patent, the petitioner or the opponent—may lodge an appeal within 4 weeks. On lodging the appeal, 20 marks (£1) must be paid for the cost of the proceeding; should this payment not be made, the appeal will be treated as void.

In the proceedings, § 24, part 2, applies.

§ 26.

If the grant of the patent is decided upon, the Patent Office will cause a notice to that effect to be published in the *Reichsanzeiger*, and issue a document to the patentee.

If the patent is refused, this will also be publicly notified. Upon the refusal, the provisional protection will be held void.

§ 27.

The commencement of proceedings relating to the annulment, or the revocation of a patent is by motion. In cases provided for by § 10, part 2, only the injured party is entitled to make the motion. The motion must be addressed to the Patent Office, and must set out the facts upon which it is based.

§ 28.

After the institution of proceedings the Patent Office, in communicating to the patentee that such motion has been made, will invite him to answer the same within four weeks.

If the patentee does not answer within this term, a decision may follow immediately, according to the motion, without summons or hearing, and for such decision all the facts asserted by the person making the motion will be treated as proved.

§ 29.

If the patentee answers in due time, or if, in the case of § 28, part 2, the motion is not decided upon immediately, the Patent Office will issue the necessary orders for investigating the

matter, and moreover, in the first case, communicate the answer to the person making the motion. It may also cause witnesses and experts to be examined. In this respect the regulations of the civil code will apply. The depositions must be taken down in writing by a sworn reporter.

The decision will be given after the parties interested have been summoned and heard.

If the motion made for the revocation of the patent is based on § 11, part 2, the determination of the motion must be preceded by a warning of cancellation, giving the reasons for it, and allowing a suitable delay.

§ 30.

In the decision (§§ 28 & 29) the Patent Office has full power to determine in what proportions the costs of the proceedings shall be borne by the parties.

§ 31.

The Law Courts are bound to render legal assistance to the Patent Office. The imposition of fines on witnesses and experts who have failed to appear, or who decline to give evidence, or to confirm it on oath, and also the attendance of witnesses who have failed to appear, will be ordered, on application, by the Courts.

§ 32.

An appeal is allowed against the decisions of the Patent Office (§§ 28 and 29). The appeal is to the Imperial Supreme Court of Commerce. It must within six weeks after the giving of the decision be presented in writing to the Patent Office, with a statement of the grounds.

The costs of the proceedings will also be determined by the Court in accordance with § 30.

In other respects the proceedings in Court will be determined by a regulation which will be drawn up by the Court and established by Imperial Ordinance with the assent of the Federal Council.

§ 33.

Regarding the official language of the Patent Office, the provisions of the law concerning the organisation of the Courts, and the language to be used before them, are to be observed. Applications which are not made in the German language will not be considered.

## Fourth Section.

### *Fines and Indemnities.*

§ 34.

Whoever knowingly makes use of an invention contrary to the provisions of §§ 4 and 5, will be punished by fine up to 5000 marks (£250), or by imprisonment not exceeding one year, and is bound to indemnify the person injured.

Prosecutions are only instituted on motion made to that effect.

§ 35.

If judgment is passed in criminal proceedings, the injured party is entitled to publish the sentence at the cost of the defendant. The manner and time of publication is to be fixed in the sentence.

§ 36.

Instead of an indemnity as provided by this law, the injured party may, in addition to the fine, demand an amercement not exceeding 10,000 marks (£500). For this amercement all the persons condemned are liable jointly and severally.

If such amercement is ordered, all further claims for damages are excluded.

§ 37.

The competency of the Imperial Supreme Court of Commerce, as determined by paragraph 12 of the law of June 12th, 1869, concerning the establishment of a Supreme Court of commercial affairs, is extended to all civil cases in which a claim is advanced on the basis of the provisions of this law.

§ 38.

Actions for infringement of patent right are barred with regard to each single case at the expiration of three years.

§ 39.

Whether damage has been caused, and to what amount, will be decided by the Court according to its conviction after due consideration of all circumstances.

§ 40.

Fines not exceeding 150 marks (£7 10*s.*) or a term of imprisonment will be imposed :—

1. On any person placing on articles, or their packing, any mark calculated to cause the erroneous belief that such articles are protected by a patent in accordance with this law.
2. On any person who in public advertisements, on sign-boards, on business cards, or in similar notifications, employs any mark calculated to cause the erroneous belief, that the articles mentioned thereon are protected by a patent in accordance with this law.

## Fifth Section.

### *Transitory Provisions.*

§ 41.

All patents in force by virtue of State laws shall until their expiration remain valid according to such laws, but a prolongation of the term is inadmissible.

§ 42.

The owner of an existing patent (§ 41) may, in respect of the invention protected by it, apply for the grant of a patent according to the provisions of this law. The examination of the invention in such case is subject to the forms prescribed by this law. The patent shall be refused, if the holder of another patent in force for the same invention (§ 41) claims the grant of a patent or opposes the grant before such grant has been decided upon. For want of novelty, the grant of the patent will only be refused if the invention was not new in the sense of § 2 at the time when first patented in the country.

With the grant of a patent in accordance with this law all patents in force for the same invention (§ 41) shall become void if they are in possession of the holder of the new patent. So far as this is not the case, the legal operation of the new patent will first take effect in the district in which the existing patent is valid on the expiration of the latter.

§ 43.

From the duration of a patent granted according to § 42 will be deducted the time during which the patent has been protected in the country by the oldest of the existing patents. The owner of the patent for the remainder of the duration of the patent is bound to pay the legal fees (§ 8). The date of payment and annual amount of the fees shall be fixed according to the time when the invention was first protected in the country.

§ 44.

By the grant of a patent according to the provisions of § 42, persons who had been using the invention without infringement of a patent right at the time a patent for the same was applied for, or who had made the necessary preparations for using the same, shall not be restrained from such use.

§ 45.

This law shall come into force on the 1st of July, 1877.

# GREAT BRITAIN, IRELAND, AND THE ISLE OF MAN.

*25th August*, 1883.

46 & 47 Vict. c. 57, so far as it relates to patents for inventions.

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

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

## PART I.

### PRELIMINARY.

*Short title.*

1. This Act may be cited as the Patents, Designs, and Trade Marks Act, 1883.

*Division of Act into parts.*

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

Part I.—PRELIMINARY.
Part II.—PATENTS.
Part III.—DESIGNS.
Part IV.—TRADE MARKS.
Part V.—GENERAL.

*Commencement of Act.*

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

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# PART II.

## PATENTS.

### APPLICATION FOR AND GRANT OF PATENT.

*Persons entitled to apply for patent.*

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

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

*Application and specification.*

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

(2) An application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application, one or more of the applicants, claims or claim to be the true and first inventor or inventors, and for which he or they desires or desire to obtain a patent; and must be accompanied by either a provisional or complete specification.

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

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

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

*Reference of application to examiner.*

6. The comptroller shall refer every application to an examiner, who shall ascertain and report to the comptroller whether the nature of the invention has been fairly described, and the application, specification, and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject matter of the invention.

*Power for comptroller to refuse application or require amendment.*

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

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

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

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

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

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

*Time for leaving complete specification.*

8. (1) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within nine months from the date of application.

(2) Unless a complete specification is left within that time, the application shall be deemed to be abandoned.

*Comparison of provisional and complete specification.*

9. (1) Where a complete specification is left after a provisional specification, the comptroller shall refer both specifications to an examiner for the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner, and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification.

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

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

(4) Unless a complete specification is accepted within twelve months from the date of application, then (save in the case of an appeal having been lodged against the refusal to accept) the application shall, at the expiration of those twelve months, become void.

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

*Advertisement on acceptance of complete specification.*

10. On the acceptance of the complete specification the comptroller shall advertise the acceptance; and the application and specification, or specifications with the drawings (if any), shall be open to public inspection.

*Opposition to grant of patent.*

11. (1) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete

specification give notice at the Patent Office of opposition to the grant of the patent, on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative; or on the ground that the invention has been patented in this country on an application of prior date; or on the ground of an examiner having reported to the comptroller that the specification appears to him to comprise the same invention as is comprised in a specification bearing the same or a similar title, and accompanying a previous application, but on no other ground.

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

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

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

*Sealing of patent.*

12. (1) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, the comptroller shall cause a patent to be sealed with the seal of the Patent Office.

(2) A patent so sealed shall have the same effect as if it were sealed with the Great Seal of the United Kingdom.

(3) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, except in the cases herein-after mentioned, that is to say—

(*a*) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct.

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

*Date of Patent.*

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

*Provisional Protection.*

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

*Protection by Complete Specification. Effect of Acceptance of Complete Specification.*

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

*Extent of Patent.*

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

*Term of Patent.*

17. (1) The term limited in every patent for the duration thereof shall be fourteen years from its date.

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

(3) If, nevertheless, in any case, by accident, mistake, or inadvertence, a patentee fails to make any prescribed payment

within the prescribed time, he may apply to the comptroller for an enlargement of the time for making that payment.

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

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

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

*Amendment of Specification.*

18. (1) An applicant or a patentee may, from time to time, by request in writing left at the Patent Office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of such amendment and his reasons for the same.

(2) The request and the nature of such proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(3) Where such notice is given the comptroller shall give notice of the opposition to the person making the request, and shall hear and decide the case subject to an appeal to the law officer.

(4) The law officer shall, if required, hear the person making the request and the person so giving notice, and being in the opinion of the law officer entitled to be heard in opposition to the request, and shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(5) Where no notice of opposition is given, or the person so giving notice does not appear, the comptroller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6) When leave to amend is refused by the comptroller, the person making the request may appeal from his decision to the law officer.

(7) The law officer shall, if required, hear the person making the request and the comptroller, and may make an order determining whether, and subject to what conditions, if any, the amendment ought to be allowed.

(8) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.

(9) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall in all courts and for all purposes be deemed to form part of the specification.

(10) The foregoing provisions of this section do not apply when and so long as any action for infringement or other legal proceeding in relation to a patent is pending.

*Power to disclaim part of Invention during Action, &c.*

19. (1) In an action for infringement of a patent, and in a proceeding for revocation of a patent, the Court or a judge may at any time order that the patentee shall, subject to such terms as to costs and otherwise as the Court or a judge may impose, be at liberty to apply at the Patent Office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

*Restriction on Recovery of Damages.*

20. Where an amendment by way of disclaimer, correction or explanation, has been allowed under this Act, no damages shall be given in any action in respect of the use of the invention before the disclaimer, correction, or explanation, unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.

*Advertisement of Amendment.*

21. Every amendment of a specification shall be advertised in the prescribed manner.

*Compulsory Licenses.*

22. If on the petition of any person interested it is proved to the Board of Trade that by reason of the default of a patentee to grant licenses on reasonable terms—

(*a*) The patent is not being worked in the United Kingdom; or

(*b*) The reasonable requirements of the public with respect to the invention cannot be supplied; or

(*c*) Any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Board may order the patentee to grant licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Board, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.

*Register of Patents.*

23. (1) There shall be kept at the Patent Office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licenses under patents, and of amendments, extensions, and revocations of patents and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed.

(2) The register of patents shall be primâ facie evidence of any matters by this Act directed or authorised to be inserted therein.

(3) Copies of deeds, licenses, and any other documents affecting the proprietorship in any Letters Patent, or in any license thereunder, must be supplied to the comptroller in the prescribed manner for filing in the Patent Office.

*Fees in Schedule.*

24. (1) There shall be paid in respect of the several instruments described in the Second Schedule to this Act, the fees in that schedule mentioned, and there shall likewise be paid, in respect of other matters under this part of the Act, such fees as may be from time to time, with the sanction of the Treasury, prescribed by the Board of Trade; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the Treasury may from time to time direct.

(2) The Board of Trade may from time to time, if they think fit, with the consent of the Treasury, reduce any of those fees.

*Extension of Term of Patent on Petition to Queen in Council.*

25. (1) A patentee may, after advertising in manner directed by any rules made under this section his intention to do so, present a petition to Her Majesty in Council, praying that his patent may be extended for a further term; but such petition must be presented at least six months before the time limited for the expiration of the patent.

(2) Any person may enter a caveat, addressed to the Registrar of the Council at the Council Office, against the extension.

(3) If Her Majesty shall be pleased to refer any such petition to the Judicial Committee of the Privy Council, the said Committee shall proceed to consider the same, and the petitioner and any person who has entered a caveat shall be entitled to be heard by himself or by counsel on the petition.

(4) The Judicial Committee shall, in considering their decision, have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(5) If the Judicial Committee report that the patentee has been inadequately remunerated by his patent, it shall be lawful for Her Majesty in Council to extend the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen, years; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the Judicial Committee may think fit.

(6) It shall be lawful for Her Majesty in Council to make, from time to time, rules of procedure and practice for regulating proceedings on such petitions, and subject thereto such proceedings shall be regulated according to the existing procedure and practice in patent matters of the Judicial Committee.

(7) The costs of all parties of and incident to such proceedings shall be in the discretion of the Judicial Committee; and the orders of the Committee respecting costs shall be enforceable as if they were orders of a division of the High Court of Justice.

*Revocation of Patent.*

26. (1) The proceeding by scire facias to repeal a patent is hereby abolished.

(2) Revocation of a patent may be obtained on petition to the Court.

(3) Every ground on which a patent might, at the commencement of this Act, be repealed by scire facias shall be available by way of defence to an action of infringement and shall also be a ground of revocation,

(4) A petition for revocation of a patent may be presented by—

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

(*b*) Any person authorised by the Attorney-General in England or Ireland, or the Lord Advocate in Scotland.

(*c*) Any person alleging that the patent was obtained in fraud of his rights or of the rights of any person under or through whom he claims:

(*d*) Any person alleging that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee:

(*e*) Any person alleging that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within this realm, before the date of the patent, anything claimed by the patentee as his invention.

(5) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and no evidence shall, except by leave of the Court or a judge, be admitted in proof of any objection of which particulars are not so delivered.

(6) Particulars delivered may be from time to time amended by leave of the Court or a judge.

(7) The defendant shall be entitled to begin, and give evidence in support of the patent, and if the plaintiff gives evidence impeaching the validity of the patent the defendant shall be entitled to reply.

(8) Where a patent has been revoked on the ground of fraud, the comptroller may, on the application of the true inventor made in accordance with the provisions of this Act, grant to him a patent in lieu of and bearing the same date as the date of revocation of the patent so revoked, but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

*Patent to bind Crown.*

27. (1) A patent shall have to all intents the like effect as against Her Majesty the Queen, her heirs and successors, as it has against a subject.

(2) But the officers or authorities administering any department of the service of the Crown may, by themselves, their agents, contractors, or others, at any time after the application, use the invention for the services of the Crown on terms to be before or after the use thereof agreed on, with the approval of the Treasury, between those officers or authorities and the patentee, or, in default of such agreement, on such terms as may be settled by the Treasury after hearing all parties interested.

## Legal Proceedings.

*Hearing with assessor.*

28. (1) In an action or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, and shall on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try and hear the case wholly or partially with his assistance; the action shall be tried without a jury unless the Court shall otherwise direct.

(2) The Court of Appeal or the Judicial Committee of the Privy Council may, if they see fit, in any proceeding before them respectively, call in the aid of an assessor as aforesaid.

(3) The remuneration, if any, to be paid to an assessor under this section shall be determined by the Court or the Court of Appeal or Judicial Committee, as the case may be, and be paid in the same manner as the other expenses of the execution of this Act.

*Delivery of particulars.*

29. (1) In an action for infringement of a patent the plaintiff must deliver with his statement of claim, or by order of the Court or the judge, at any subsequent time, particulars of the breaches complained of.

(2) The defendant must deliver with his statement of defence, or, by order of the Court or a judge, at any subsequent time, particulars of any objections on which he relies in support thereof.

(3) If the defendant disputes the validity of the patent, the

particulars delivered by him must state on what grounds he disputes it, and if one of those grounds is want of novelty must state the time and place of the previous publication or user alleged by him.

(4) At the hearing no evidence shall, except by leave of the Court or a judge, be admitted in proof of any alleged infringement or objection of which particulars are not so delivered.

(5) Particulars delivered may be from time to time amended, by leave of the Court or a judge.

(6) On taxation of costs regard shall be had to the particulars delivered by the plaintiff and by the defendant; and they respectively shall not be allowed any costs in respect of any particular delivered by them unless the same is certified by the Court or a judge to have been proven or to have been reasonable and proper, without regard to the general costs of the case.

*Order for inspection, &c., in action.*

30. In an action for infringement of a patent, the Court or a judge may on the application of either party make such order for an injunction, inspection or account, and impose such terms and give such directions respecting the same and the proceedings thereon as the Court or a judge may see fit.

*Certificate of validity questioned and costs thereon.*

31. In an action for infringement of a patent, the Court or a judge may certify that the validity of the patent came in question; and if the Court or a judge so certifies, then in any subsequent action for infringment, the plaintiff in that action on obtaining a final order or judgment in his favour shall have his full costs, charges and expenses as between soliciter and client, unless the Court or judge trying the action certifies that he ought not to have the same.

*Remedy in case of groundless threats of legal proceedings.*

32. Where any person claiming to be the patentee of an invention, by circulars, advertisements or otherwise threatens any other person with any legal proceedings or liability in respect of any alleged manufacture, use, sale or purchase of the invention, any person or persons aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as may have been sustained thereby, if the alleged

manufacture, use, sale or purchase to which the threats related was not in fact an infringement of any legal rights of the person making such threats: Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.

## MISCELLANEOUS.

### *Patent for one invention only.*

33. Every patent may be in the form in the First Schedule to this Act, and shall be granted for one invention only, but may contain more than one claim; but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it comprises more than one invention.

### *Patent on application of representative of deceased inventor.*

34. (1) If a person possessed of an invention dies without making application for a patent for the invention, application may be made by, and a patent for the invention granted to, his legal representative.

(2) Every such application must be made within six months of the decease of such person, and must contain a declaration by the legal representative that he believes such person to be the true and first inventor of the invention.

### *Patent to first inventor not invalidated by application in fraud of him.*

35. A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection.

### *Assignment for particular places.*

36. A patentee may assign his patent for any place in or part of the United Kingdom, or Isle of Man, as effectually as if the patent were originally granted to extend to that place or part only.

*Loss or destruction of Patent.*

37. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the comptroller, the comptroller may at any time cause a duplicate thereof to be sealed.

*Proceedings and costs before Law Officer.*

38. The law officers may examine witnesses on oath and administer oaths for that purpose under this part of this Act, and may from time to time make, alter, and rescind rules regulating references and appeals to the law officers and the practice and procedure before them under this part of this Act; and in any proceeding before either of the law officers under this part of this Act, the law officer may order costs to be paid by either party, and any such order may be made a rule of the Court.

*Exhibition at Industrial or International Exhibition not to prejudice Patent rights.*

39. The exhibition of an invention at an industrial or international exhibition, certified as such by the Board of Trade, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely,—

(*a.*) The exhibitor must, before exhibiting the invention, give the comptroller the prescribed notice of his intention to do so; and

(*b.*) The application for a patent must be made before or within six months from the date of the opening of the exhibition.

*Publication of illustrated journal, indexes, &c.*

40. (1) The comptroller shall cause to be issued periodically an illustrated journal of patented inventions, as well as reports of patent cases decided by Courts of law, and any other infor-

mation that the comptroller may deem generally useful or important.

(2) Provision shall be made by the comptroller for keeping on sale copies of such journal, and also of all complete specifications of patents for the time being in force, with their accompanying drawings, if any.

(3) The comptroller shall continue, in such form as he may deem expedient, the indexes and abridgments of specifications hitherto published, and shall from time to time prepare and publish such other indexes, abridgments of specifications, catalogues, and other works relating to inventions, as he may see fit.

*Patent Museum.*

41. The control and management of the existing Patent Museum and its contents shall, from and after the commencement of this Act, be transferred to and vested in the Department of Science and Art, subject to such directions as Her Majesty in Council may see fit to give.

*Power to require models on payment.*

42. The Department of Science and Art may at any time require a patentee to furnish them with a model of his invention on payment to the patentee of the cost of the manufacture of the model; the amount to be settled, in case of dispute, by the Board of Trade.

*Foreign vessels in British waters.*

43. (1) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any of Her Majesty's Courts in the United Kingdom or Isle of Man, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from the United Kingdom or Isle of Man.

(2) But this section shall not extend to vessels of any foreign state of which the laws authorise subjects of such foreign state, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British vessels while in the ports of such foreign state, or in the waters within the

jurisdiction of its Courts, where such inventions are not so used for the manufacture or preparation of anything intended to be sold in or exported from the territories of such foreign state.

*Assignment to Secretary for War of certain inventions.*

44. (1) The inventor of any improvement in instruments or munitions of war, his executors, administrators, or assigns (who are in this section comprised in the expression "the inventor") may (either for or without valuable consideration) assign to Her Majesty's Principal Secretary of State for the War Department (hereinafter referred to as the Secretary of State), on behalf of Her Majesty, all the benefit of the invention, and of any patent obtained or to be obtained for the same; and the Secretary of State may be a party to the assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the Secretary of State for the time being on behalf of Her Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the Secretary of State for the time being.

(3) Where any such assignment has been made to the Secretary of State, he may at any time before the application for a patent for the invention, or before publication of the specification or specifications, certify to the comptroller his opinion that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the Secretary of State so certifies, the application and specification or specifications, with the drawings (if any), and any amendment of the specification or specifications, and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the comptroller in a packet sealed by authority of the Secretary of State.

(5) Such packet shall, until the expiration of the term or extended term during which a patent for the invention may be in force, be kept sealed by the comptroller, and shall not be opened save under the authority of an order of the Secretary of State, or of the law officers.

(6) Such sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by

writing under the hand of the Secretary of State to receive the same, and shall if returned to the comptroller be again kept sealed by him.

(7) On the expiration of the term or extended term of the patent, such sealed packet shall be delivered to any person authorised by writing under the hand of the Secretary of State to receive it.

(8) Where the Secretary of State certifies as aforesaid, after an application for a patent has been left at the Patent Office, but before the publication of the specification or specifications, the application, specification or specifications, with the drawings (if any), shall be forthwith placed in a packet, sealed by authority of the comptroller, and such packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Secretary of State.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which the Secretary of State has certified as aforesaid.

(10) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, save as in this section otherwise directed, the provisions of this part of this Act shall apply in respect of any such invention and patent as aforesaid.

(11) The Secretary of State may at any time, by writing under his hand, waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State, or to any person or persons authorised by him to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.

### EXISTING PATENTS.

45. (1) The provisions of this Act relating to applications for patents and proceedings thereon shall have effect in respect only of applications made after the commencement of this Act.

(2) Every patent granted before the commencement of this Act, or on an application then pending, shall remain unaffected by the provisions of this Act relating to patents binding the Crown, and to compulsory licenses.

(3) In all other respects (including the amount and time of payment of fees) this Act shall extend to all patents granted before the commencement of this Act, or on applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.

(4) All instruments relating to patents granted before the commencement of this Act required to be left or filed in the Great Seal Patent Office shall be deemed to be so left or filed if left or filed before or after the commencement of this Act in the Patent Office.

DEFINITIONS.

46. In and for the purposes of this Act—

"Patent" means Letters Patent for an invention:

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

"Invention" means any manner of new manufacture the subject of Letters Patent and grant of privilege within section six of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chapter three, intituled "An Act concerning monopolies and dispensations, with penal laws and the forfeiture thereof" [*see post*, p. 256]), and includes an alleged invention.

In Scotland "injunction" means "interdict."

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## PART V.

## GENERAL.

### PATENT OFFICE AND PROCEEDINGS THEREAT.

*Patent Office.*

82. (1) The Treasury may provide for the purposes of this Act an office with all requisite buildings and conveniences, which shall be called, and is in this Act referred to as, the Patent Office.

(2) Until a new Patent Office is provided, the offices of the Commissioners of Patents for inventions and for the registration of designs and trade marks existing at the commencement of this Act shall be the Patent Office within the meaning of this Act.

(3) The Patent Office shall be under the immediate control of an officer called the Comptroller-General of Patents, Designs, and Trade Marks, who shall act under the superintendence and direction of the Board of Trade.

(4) Any act or thing directed to be done by or to the comptroller may, in his absence, be done by or to any officer for the time being in that behalf authorised by the Board of Trade.

*Officers and Clerks.*

83. (1) The Board of Trade may at any time after the passing of this Act, and from time to time, subject to the approval of the Treasury, appoint the Comptroller-General of Patents, Designs, and Trade Marks, and so many examiners and other officers and clerks, with such designations and duties as the Board of Trade think fit, and may from time to time remove any of those officers and clerks.

(2) The salaries of those officers and clerks shall be appointed by the Board of Trade, with the concurrence of the Treasury, and the same and the other expenses of the execution of this Act shall be paid out of money provided by Parliament.

*Seal of Patent Office.*

84. There shall be a seal for the Patent Office, and impressions thereof shall be judicially noticed and admitted in evidence.

*Trusts not to be entered in Registers.*

85. There shall not be entered in any register kept under this Act, or be receivable by the comptroller, any notice of any trust expressed, implied, or constructive.

*Refusal to grant Patent in certain cases.*

86. The comptroller may refuse to grant a patent for an invention, of which the use would, in his opinion, be contrary to law or morality.

*Entry of assignments and transmissions in Registers.*

87. Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, the comptroller

shall on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, in the registor of patents. The person for the time being entered in the register of patents as proprietor of a patent shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with the same, and to give effectual receipts for any consideration for such assignment, license, or dealing. Provided that any equities in respect of such patent may be enforced in like manner as in respect of any other personal property.

*Inspection of and extracts from Registers.*

88. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

*Sealed copies to be received in evidence.*

89. Printed or written copies or extracts, purporting to be certified by the comptroller and sealed with the seal of the Patent Office, of or from patents, specifications, disclaimers and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all Courts in Her Majesty's dominions, and in all proceedings, without further proof or production of the originals.

*Rectification of Registers by Court.*

90. (1) The Court may on the application of any person aggrieved by the omission without sufficient cause of the name of any person from any register kept under this Act, or by any entry made without sufficient cause in any such register, make such order for making, expunging or varying the entry as the Court thinks fit; or the Court may refuse the application; and in either case may make such order with respect to the costs of the proceedings as the Court thinks fit.

(2) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue

to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3) Any order of the Court rectifying a register shall direct that due notice of the rectification be given to the comptroller.

*Power for comptroller to correct clerical errors.*

91. The comptroller may, on request in writing accompanied by the prescribed fee,—

(*a.*) Correct any clerical error in or in connection with an application for a patent; or

(*b.*) Correct any clerical error in the name, style, or address of the registered proprietor of a patent.

*Falsification of entries in registers.*

93. If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders, or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanor.

*Exercise of discretionary power by comptroller.*

94. Where any discretionary power is by this Act given to the comptroller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

*Power of comptroller to take directions of law officers.*

95. The comptroller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to either of the law officers for directions in the matter.

*Certificate of comptroller to be evidence.*

96. A certificate purporting to be under the hand of the comptroller as to any entry, matter, or thing which he is authorised by this Act, or any general rules made thereunder, to make or do, shall be primâ facie evidence of the entry having been made, and of the contents thereof and of the matter or thing having been done or left undone.

*Applications and Notices by Post.*

97. (1) Any application, notice, or other document authorised or required to be left made or given at the Patent Office or to the comptroller, or to any other person under this Act, may be sent by a prepaid letter through the post; and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

(2) In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

*Provision as to Days for Leaving Documents at Office.*

98. Whenever the last day fixed by this Act, or by any rule for the time being in force, for leaving any document or paying any fee at the Patent Office shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or any day observed as a holiday at the Bank of England, or any day observed as a day of public fast or thanksgiving, herein referred to as excluded days, it shall be lawful to leave such document or to pay such fee on the day next following such excluded day, or days if two or more of them occur consecutively.

*Declaration by Infant, Lunatic, &c.*

99. If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act, or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any Court or Judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purposes of this Act be as effectual as if done by the person for whom he is substituted.

*Transmission of certified Printed Copies of Specifications, &c.*

100. Copies of all specifications, drawings, and amendments left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office, shall be transmitted to the Edinburgh Museum of Science and Art, and to the Enrolments Office of the Chancery Division in Ireland, and to the Rolls Office in the Isle of Man, within twenty-one days after the same shall respectively have been accepted or allowed at the Patent Office; and certified copies of or extracts from any such documents shall be given to any person requiring the same on payment of the prescribed fee; and any such copy or extract shall be admitted in evidence in all Courts in Scotland and Ireland and in the Isle of Man without further proof or production of the originals.

*Power for Board of Trade to make General Rules for regulating Business of Patent Office.*

101. (1) The Board of Trade, may from time to time make such general rules and do such things as they think expedient, subject to the provisions of this Act—

(*c*) For making or requiring duplicates of specifications, amendment, drawings, and other documents:

(*d*) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Board of Trade think fit, of specifications, drawings, amendments, and other documents:

(*e*) For securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office; and providing for the inspection of indexes and abridgments and other documents:

(*f*) For regulating (with the approval of the Treasury) the presentation of copies of Patent Office publications to patentees and to public authorities, bodies and institutions at home and abroad:

(*g*) Generally for regulating the business of the Patent Office, and all things by this Act placed under the direction or control of the comptroller, or of the Board of Trade.

(2) Any of the forms in the First Schedule to this Act may be altered or amended by rules made by the Board as aforesaid.

(3) General rules may be made under this section at any time after the passing of this Act, but not so as to take effect before the commencement of this Act, and shall (subject as herein-after mentioned) be of the same effect as if they were contained in this Act, and shall be judicially noticed.

(4) Any rules made in pursuance of this section shall be laid before both Houses of Parliament, if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the then next session of Parliament, and they shall also be advertised twice in the official journal to be issued by the comptroller.

(5) If either House of Parliament, within the next forty days after any rules have been so laid before such House, resolve that such rules or any of them ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule or to the making of any new rules or rule.

*Annual Reports of Comptroller.*

102. The comptroller shall, before the first day of June in every year, cause a report respecting the execution by or under him of this Act to be laid before both Houses of Parliament, and therein shall include for the year to which each report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act.

INTERNATIONAL ARRANGEMENTS FOR PROTECTION OF INVENTIONS.

103. (1) If Her Majesty is pleased to make any arrangement with the Government or Governments of any foreign State or States for mutual protection of inventions, then any person who has applied for protection for any invention, in any such State, shall be entitled to a patent for his invention under this Act, in priority to other applicants; and such patent shall have the same date as the [date of the protection] obtained in such foreign State.

Provided that his application is made within seven months from his applying for protection in the foreign State with which the arrangement is in force.

Amended c. 42 s. 26 Finance Act [date of the application]

Provided that nothing in this section contained shall entitle the patentee to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification.

(2) The publication in the United Kingdom, or the Isle of Man during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention shall not invalidate the patent which may be granted for the invention.

(3) The application for the grant of a patent under this section, must be made in the same manner as an ordinary application under this Act.

(4) The provisions of this section shall apply only in the case of those foreign States with respect to which Her Majesty shall from time to time by Order in Council declare them to be applicable, and so long only in the case of each State as the Order in Council shall continue in force with respect to that State.

*Provision for Colonies and India.*

104. (1) Where it is made to appear to Her Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions patented in this country, it shall be lawful for Her Majesty from time to time, by Order in Council, to apply the provisions of the last preceding section, with such variations or additions, if any, as to Her Majesty in Council may seem fit, to such British possession.

(2) An Order in Council under this Act shall, from a date to be mentioned for the purpose in the Order, take effect as if its provisions had been contained in this Act; but it shall be lawful for Her Majesty in Council to revoke any Order in Council made under this Act.

OFFENCES.

*Penalty on falsely representing articles to be patented.*

105. (1) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, shall be liable for every offence on summary conviction to a fine not exceeding five pounds.

(2) A person shall be deemed, for the purposes of this enactment, to represent that an article is patented, if he sells the article with the word "patent," "patented," or any word or

words expressing or implying that a patent has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to, the article.

*Penalty on unauthorised Assumption of Royal Arms.*

106. Any person who, without the authority of Her Majesty, or any of the Royal Family, or of any Government Department, assumes or uses in connection with any trade, business, calling, or profession, the Royal arms, or arms so nearly resembling the same as to be calculated to deceive, in such a manner as to be calculated to lead other persons to believe that he is carrying on his trade, business, calling, or profession by or under such authority as aforesaid, shall be liable on summary conviction to a fine not exceeding twenty pounds.

SCOTLAND, IRELAND, ETC.

*Saving for Courts in Scotland.*

107. In any action for infringement of a patent in Scotland the provisions of this Act, with respect to calling in the aid of an assessor, shall apply, and the action shall be tried without a jury, unless the Court shall otherwise direct, but otherwise nothing shall affect the jurisdiction and forms of process of the courts in Scotland in such an action or in any action or proceeding respecting a patent hitherto competent to those courts.

For the purposes of this section "court of appeal" shall mean any court to which such action is appealed.

*Summary Proceedings in Scotland.*

108. In Scotland any offence under this Act declared to be punishable on summary conviction may be prosecuted in the sheriff court.

*Proceedings for Revocation of Patent in Scotland.*

109. (1) Proceedings in Scotland for revocation of a patent shall be in the form of an action of reduction at the instance of the Lord Advocate, or at the instance of a party having interest with his concurrence, which concurrence may be given on just cause shown only.

(2) Service of all writs and summonses in that action shall

be made according to the forms and practice existing at the commencement of this Act.

*Reservation of Remedies in Ireland.*

110. All parties shall, notwithstanding anything in this Act, have in Ireland their remedies under or in respect of a patent as if the same had been granted to extend to Ireland only.

*General Saving for Jurisdiction of Courts.*

111. (1) The provisions of this Act conferring a special jurisdiction on the Court as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Scotland or Ireland in any proceedings relating to patents; and with reference to any such proceedings in Scotland, the term "the Court" shall mean any Lord Ordinary of the Court of Session, and the term "Court of Appeal" shall mean either Division of the said Court; and with reference to any such proceedings in Ireland, the terms "the Court" and "the Court of Appeal" respectively mean the High Court of Justice in Ireland and Her Majesty's Court of Appeal in Ireland.

(2) If any rectification of a register under this Act is required in pursuance of any proceeding in a court in Scotland or Ireland, a copy of the order, decree, or other authority for the rectification, shall be served on the comptroller, and he shall rectify the register accordingly.

*Isle of Man.*

112. This Act shall extend to the Isle of Man, and—

(1) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man, in proceedings for infringement or in any action or proceeding respecting a patent competent to those courts;

(2) The punishment for a misdemeanor under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the Court;

(3) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of any person

aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

REPEAL; TRANSITIONAL PROVISIONS; SAVINGS.

*Repeal and Saving for past Operation of repealed Enactments.*

113. The enactments described in the Third Schedule to this Act are hereby repealed. But this repeal of enactments shall not—

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

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

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

*Former Registers to be deemed continued.*

114. (1) The registers of patents and of proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of patents kept under this Act.

*Saving for existing Rules.*

115. All general rules made by the Lord Chancellor or by any other authority under any enactment repealed by this Act, and in force at the commencement of this Act, may at any time after the passing of this Act be repealed, altered, or amended by the Board of Trade, as if they had been made by the Board under this Act, but so that no such repeal, alteration or amendment shall take effect before the commencement of this Act; and subject as aforesaid, such general rules shall, so far as they are consistent with and are not superseded by this Act, continue in force as if they had been made by the Board of Trade under this Act.

*Saving for Prerogative.*

116. Nothing in this Act shall take away, abridge, or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof.

GENERAL DEFINITIONS.

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

"Person" includes a body corporate;

"The Court" means (subject to the provisions for Scotland, Ireland, and the Isle of Man) Her Majesty's High Court of Justice in England;

"Law officer" means Her Majesty's Attorney-General or Solicitor-General for England;

"The Treasury" means the Commissioners of Her Majesty's Treasury.

"Comptroller" means the Comptroller General of Patents, Designs, and Trade Marks;

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

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

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

In the application of this Act to Ireland, "summary conviction" means a conviction under the summary Jurisdiction Acts, that is to say, with reference to the Dublin Metropolitan Police District the Acts regulating the duties of justices of the peace and of the police for such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act amending it.

## THE FIRST SCHEDULE.

### FORMS OF APPLICATION, &c.

£1 Stamp.

### FORM A.

*Form of Application for Patent.*

I [*here insert name, address, and calling of inventor*], do solemnly and sincerely declare that I am in possession of an invention for [*here insert title of invention*]; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of my knowledge and belief; and I humbly pray that a patent may be granted to me for the said invention.

And I make the above solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

[*Signature of Inventor.*]

Declared at , in the County of , this day of , 18 .

Before me,

[*Signature and title of the officer before whom the Declaration is made.*]

NOTE.—*Where the above declaration is made out of the United Kingdom, the words "and by virtue of the Statutory Declarations Act, 1835," must be omitted; and the declaration must be made before a British consular officer, or where it is not reasonably practicable to make it before such officer, then before a public officer duly authorised in that behalf.*

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£1 Stamp.

[NOTE.—*The following Form A 1 was added by the rules.*]

### FORM A 1.

*Application for Patent for Inventions communicated from abroad.*

I [*here insert name, full address, and calling of applicant*], do solemnly and sincerely declare that I am in possession of an invention for [*here insert title of invention*], which invention has been communicated to me from abroad by [*here insert name, address, and calling of communicant*]; that I claim to be the true and first inventor thereof; and that the same is not in use within this realm by any other person or persons to the best of my knowledge and belief; and I humbly pray that a patent may be granted to me for the said invention.

And I make the above solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

[*Signature of Applicant.*]

Declared at , in the County of , this day of , 18 .

Before me,

[*Signature and title of the officer before whom the Declaration is made.*]

NOTE.—*Where the above declaration is made out of the United Kingdom, the words, "and by virtue of the Statutory Declarations Act, 1835," must be omitted, and the declaration must be made before a British consular officer, or, where it is not reasonably practicable to make it before such officer, then before a public officer duly authorised in that behalf.*

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## FORM B.

*Form of Provisional Specification.*

[*Here insert title as in Declaration.*]

I [*here insert name, address, and calling of inventor as in Declaration*] do hereby declare the nature of my invention for [*here insert title as in Declaration*] to be as follows:—[*here insert short description of invention.*]

[*Signature of Inventor.*]

Dated this day of , 18 .

NOTE.—*No stamp is required on this document.*

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£3 Stamp.

## FORM C.

*Form of Complete Specification.*

[*Here insert title as in Declaration.*]

I [*here insert name, address, and calling of inventor as in Declaration*] do hereby declare the nature of my invention for [*here insert title as in Declaration*], and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement:—[*here insert full description of invention.*]

Having now particularly described and ascertained the nature of my said invention and in what manner the same is to be performed, I declare that what I claim is:—

1. [*Here state distinctly the features of novelty claimed.*]
2.
3. &c.

[*Signature of the Inventor.*]

Dated this day of , 18 .

## Form D.

### *Form of Patent.*

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

Whereas , hath by his solemn declaration represented unto us that he is in possession of an invention for ; that he is the true and first inventor thereof; and that the same is not in use by any other person to the best of his knowledge and belief:

And whereas the said inventor hath humbly prayed that we would be graciously pleased to grant unto him (herein-after together with his executors, administrators, and assigns, or any of them, referred to as the said patentee) our Royal Letters Patent for the sole use and advantage of his said invention:

And whereas the said inventor hath by and in his complete specification particularly described the nature of his invention:

And whereas we being willing to encourage all inventions which may be for the public good, are graciously pleased to condescend to his request:

Know ye, therefore, that We, of our especial grace, certain knowledge, and mere motion do by these presents, for us, our heirs and successors, give and grant unto the said patentee, our especial license, full power, sole privilege, and authority, that the said patentee by himself, his agents, or licensees, and no others, may at all times hereafter during the term of years herein mentioned, make, use, exercise, and vend the said invention within our United Kingdom of Great Britain and Ireland, and Isle of Man, in such manner as to him or them may seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the date hereunder written of these presents: And to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, We do by these presents, for us, our heirs and successors, strictly command all our subjects whatsoever within our United Kingdom of Great Britain and Ireland, and the Isle of Man, that they do not at any time during the continuance of the said term of fourteen years either directly or indirectly make use of, or put in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, licence, or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal command, and of being answerable to the patentee according to law for his damages thereby occasioned: Provided that these our Letters Patent are on this condition, that if at any time during the said term it be

made to appear to us, our heirs, or successors, or any six or more of our Privy Council, that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof within our United Kingdom of Great Britain and Ireland, and Isle of Man, or that the said patentee is not the first and true inventor thereof within this realm as aforesaid, these our Letters Patent shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained: Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these Letters Patent, or in respect of any matter relating thereto at the time or times, and in manner for the time being by law provided; and also if the said patentee shall not supply, or cause to be supplied, for our service all such articles of the said invention as may be required by the officers or commissioners administering any department of our service in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided; then, and in any of the said cases, these our Letters Patent, and all privileges and advantages whatever hereby granted, shall determine and become void notwithstanding anything herein-before contained: Provided also 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 patentee that these our Letters Patent shall be construed in the most beneficial sense for the advantage of the said patentee. In witness whereof we have caused these our Letters to be made Patent this one thousand eight hundred and , and to be sealed as of the one thousand eight hundred and

Seal of Patent Office.

## THE SECOND SCHEDULE.

*Fees on Instruments for obtaining Patents and Renewal.*

*(a) Up to sealing.*

| | £ | s. | d. | £ | s. | d. |
|---|---|---|---|---|---|---|
| On application for provisional protection . . | 1 | 0 | 0 | | | |
| On filing complete specification . . . . | 3 | 0 | 0 | | | |
| | | | | 4 | 0 | 0 |
| *or* | | | | | | |
| On filing complete specification with first application . . | 4 | 0 | 0 | | | |

*(b) Further before end of four years from date of patent.*

| | | | | | | |
|---|---|---|---|---|---|---|
| On certificate of renewal . . . . . | 50 | 0 | 0 | | | |

(c) *Further before end of seven years, or in the case of patents granted after the commencement of this Act, before the end of eight years from date of patent.*

| | £ | s. | d. |
|---|---|---|---|
| On certificate of renewal . . . . . | 100 | 0 | 0 |

*Or in lieu of the fees of* £50 *and* £100 *the following annual fees* :—

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Before the expiration of the | | | fourth | year | from the date of the patent | . | . | 10 | 0 0 |
| ,, | ,, | | fifth | ,, | ,, | | | 10 | 0 0 |
| ,, | ,, | | sixth | ,, | ,, | | | 10 | 0 0 |
| ,, | ,, | | seventh | ,, | ,, | | | 10 | 0 0 |
| ,, | ,, | | eighth | ,, | ,, | | | 15 | 0 0 |
| ,, | ,, | | ninth | ,, | ,, | | | 15 | 0 0 |
| ,, | ,, | | tenth | ,, | ,, | | | 20 | 0 0 |
| ,, | ,, | | eleventh | ,, | ,, | | | 20 | 0 0 |
| ,, | ,, | | twelfth | ,, | ,, | | | 20 | 0 0 |
| ,, | ,, | | thirteenth | ,, | ,, | | | 20 | 0 0 |

## THE THIRD SCHEDULE.

*Enactments repealed.*

| | |
|---|---|
| 21 James I. c. 3. [1623.] | The Statute of Monopolies. In part; namely,— Sections ten, eleven, and twelve. |
| 5 & 6 Will. 4. c. 62. [1835.] In part. | The Statutory Declarations Act, 1835. In part; namely,— Section eleven. |
| 5 & 6 Will. 4. c. 83. [1835.] | An Act to amend the law touching letters patent for inventions. |
| 2 & 3 Vict. c. 67. [1839.] | An Act to amend an Act of the fifth and sixth years of the reign of King William the Fourth, intituled "An Act to amend the law touching "letters patent for inventions." |

| | |
|---|---|
| 7 & 8 Vict. c. 69. [1844.] In part. | An Act for amending an Act passed in the fourth year of the reign of His late Majesty, intituled "An Act for the better administration of justice "in His Majesty's Privy Council, and to extend "its jurisdiction and powers."<br>In part; namely,—<br>Sections two to five, both included.<br>NOTE.—*Sections six and seven of this Act are repealed by the Statute Law Revision (No. 2) Act*, 1874. |
| 15 & 16 Vict. c. 83. [1852.] | The Patent Law Amendment Act, 1852. |
| 16 & 17 Vict. c. 5. [1853.] | An Act to substitute stamp duties for fees on passing letters patent for inventions, and to provide for the purchase for the public use of certain indexes of specifications. |
| 16 & 17 Vict. c. 115. [1853.] | An Act to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of letters patent and specifications to certain offices in Edinburgh and Dublin, and otherwise to amend the said Act. |
| 22 Vict. c. 13. [1859.] | An Act to amend the law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war. |
| 28 & 29 Vict. c. 3. [1865.] | The Industrial Exhibitions Act, 1865. |
| 33 & 34 Vict. c. 27. [1870.] | The Protection of Inventions Act, 1870. |
| 43 & 44 Vict. c. 10. [1880.] | The Great Seal Act, 1880.<br>In part; namely,<br>Section five. |

## A.D. 1623. 21 *James I.*

### CAP. III.

### An Act concerning monopolies and dispensations with penal laws, and the forfeitures thereof.

Forasmuch as your most excellent Majesty, in your Royal Judgment and of your blessed disposition to the weal and quiet of your subjects, did in the year of our Lord God one thousand six hundred and ten, publish in print to the whole Realm and to all posterity, That all grants of Monopolies and of the benefit of any penal laws, or of power to dispense with the law or to compound for the Forfeiture, are contrary to your Majesty's Laws, which your Majesty's Declaration is truly consonant and agreable to the ancient and fundamental Laws of this your Realm (2) And whereas your Majesty was further graceously pleased expresly to command, that no suitor should presume to move your Majesty for matters of that nature (3) Yet nevertheless upon misinformations and untrue Pretences of publick good many such grants have been unduly obtained, and unlawfully put in Execution to the great Grievance and Inconvenience of your Majesty's Subjects contrary to the Laws of this your Realm and contrary to your Majesty's most Royal and Blessed Intention so published as aforesaid (4) For avoiding whereof and preventing of the like in time to come May it please Your Excellent Majesty at the humble suit of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled. That it may be declared and enacted (5) And be it declared and enacted by authority of this present Parliament. That all Monopolies and all Commissions Grants Licences Charters and Letters Patents heretofore made or granted or hereafter to be made or granted to any person or persons Bodies politick or Corporate whatsoever or for the sole Buying Selling Making Working or Using of any Thing within this Realm or the Dominion of Wales (6) or of any other Monopolies or of Power Liberty or Faculty to dispense with any others or to

give License or Toleration to do use or exercise any Thing against the Tenor or Purport of any Law or Statute (7) or to give or make any Warrant for any such Dispensation Licence or Toleration to be had or made or to agree to compound with any others for any penalty or Forfeitures limited by any Statute or of any grant or promise of the Benefit Profit or Comodity of any Forfeiture Penalty or Sum of money that is or shall be due by any Statute before Judgment thereupon had (8) and all proclamations Inhibitions Restraints Warrants of assistance and all other Matters and Things whatsoever any way tending to the Instituting Erecting Strengthening Furthering or Countenancing of the same or any of them (9) are altogether contrary to the Laws of this Realm and so are and shall be utterly void and of none effect and in no wise to be put in use or Execution.

* * * * * *

§ VI.—Provided also and be it declared and enacted That any Declaration before mentioned shall not extend to any Letters Patents and grants of privilege for the Term of fourteen years or under hereafter to be made of the sole Working or Making of any manner of new Manufactures within this Realm, to the true and first Inventor and Inventors of such Manufactures which others at the time of making such Letters Patents, and grants shall not use, so as also they be not contrary to the Law nor mischievous to the State by raising prices of comodities at home, or hurt of Trade, or generally inconvenient: The said fourteen years to be accounted from the date of the first Letters Patents or grant of such privilege hereafter to be made but that the same shall be of such force as they should be if this Act had never been made and of none other.

# GUATEMALA.

## *Decree of 2nd June*, 1864.

### Art. 1.

The author or inventor of any art, manufacture, machine, instrument, preparation of materials, or of any improvement thereof, who wishes to enjoy the exclusive proprietorship of his work or invention, shall present himself at the Ministry of Interior, with a clear and succinct description of the work or invention, swearing that it is his own discovery, unknown in the country, accompanying this with specimens, drawings, or models, as the nature of the case permits, petitioning for a patent that may accredit his proprietorship.

### Art. 2.

The Minister of Interior shall nominate a commission of one or more experts to examine the work or invention, and to inform him as to its originality, they making oath, in the presence of the petitioning inventor, to faithfully discharge their duty, and to guard religiously the secret which he is about to communicate to them, during the whole time prescribed by this law.

### Art. 3.

The originality of the work or invention being established, the President of the Republic shall grant the exclusive privilege, for a term not exceeding ten years, and shall order the patent in question to be issued, which shall be authenticated by his signature and sealed with the seal of the Republic.

Art. 4.

This patent shall be registered in full in a book to be kept for that purpose in the office of the Ministry of the Interior.

Art. 5.

Before the patent is issued to the person soliciting it, he must show by the corresponding receipts, that he has paid into the public treasury the sum of 50 dollars, and also has deposited in the museum of the "Sociedad Económica" the specimens, drawings, or models, and a specification drawn up to the satisfaction of the examining commission, and authenticated by the signature of each one of the members, which shall contain a complete description, sufficiently minute and specific to distinguish the invention or discovery from other things before known and used, and pointing out the method and principles employed in its application, so as to enable any other intelligent person to have constructed or to use the said invention in order that the public may reap the advantage at the expiration of the term of the patent. This specification shall be closed in presence of the commission, the title or object of the privilege being written on its cover; the proprietor shall affirm that he has strictly fulfilled this duty, and the commission shall certify thereto. The proprietor during the term of his privilege shall be allowed to examine this specification whenever he wishes, in order to see that it remains closed and sealed as he delivered it.

Art. 6.

In the museum of the "Sociedad Económica," a room will be set apart for the reception of the specimens, models, or drawings, and a secure safe for the custody of the closed specifications mentioned in the preceding Article, which shall not be opened or published before the expiration of the term of the privilege or patent, except in the cases provided for by Articles 11, 12, and 15.

Art. 7.

The payment of 50 dollars required by Article 5, shall be applied for the preservation and support of the room to be established in the museum.

Art. 8.

The introduction of arts, industries, or machines invented in other countries, and entirely unknown, or not established or used in Guatemala, may be the subject of exclusive privileges on the same terms, and on the same conditions, as new discoveries or inventions; but for a term shorter than for the latter, not exceeding eight years, according to its utility and the difficulties of its employment, in the judgment of the Minister in view of the report of the commission. Simple variations, or changes of form or proportion of machines, or articles already established, shall not be the subjects of a privilege.

Art. 9.

The property in a privilege or patent is transmissible like every other property; but when it is transferred, the Minister of the Interior shall be informed of the reasons which led to the transfer. If he finds them proper, he shall make note of them in the book of transfers; and if not, he will proceed to put in force the provisions of Article 11. For the transmission of the property of privilege, a tax of 2 per cent. upon the amount paid for the transfer shall be paid, which tax shall be paid into the public treasury.

Art. 10.

Any person constructing privileged articles by the same method as that constituting the privilege, shall pay a fine of not less than 100 dollars or more than 1,000 dollars; and shall forfeit the articles which may be found constructed, and the machines, engines, instruments, or tools which he has employed in their construction. The value of the whole shall be applied, half to the exchequer, half to the proprietor of the patent or privilege, without prejudice to an action for damages and injuries which the latter may have suffered.

Art. 11.

A privilege which has been obtained surreptitiously, that is to say, by false testimony, or the petitioner being other than the inventor, or for an industry already established in the country in the same manner, shall immediately be annulled; and the person obtaining it shall pay the costs of the process of

the inquiry, and be punished by a fine of not more than 1,000 dollars, nor less than 100 dollars, or by imprisonment for not more than twelve months, nor less than three.

Art. 12.

If any dispute arises between persons who have obtained privileges for the fabrication of the same products, it shall be decided by arbitration before, in the first instance, a judge, named by either party, and a third named by Minister of Interior.

Art. 13.

Privileges granted may be general, taking effect in the whole Republic; or particular, comprising one, two, or more departments.

Art. 14.

In every privilege granted a proportionate time shall be fixed, which may not exceed two years, for the establishment of the machines, engines, or manufactures, at the conclusion of which the term granted for the privilege shall commence.

Art. 15.

If by the end of the time allowed for the establishment it has not been begun, the privilege shall lapse; and it will be forfeited if, after commencement, it is abandoned for more than a year, or if the products are adulterated, proving inferior to the specimens or models presented.

Art. 16.

The renewal of a patent will only be granted when fortuitous circumstances or extraordinary occurrences render the privileged person worthy of it, and it must be applied for at least six months before the expiration of the privilege.

Art. 17.

The Minister of Interior is charged with the execution of the present decree, of the which he shall give account in the Chambers at its next session.

# HAWAIIAN KINGDOM.

[*From the United States Official Gazette.*]

Patent laws, including all amendments on the same now in use in the Hawaiian Kingdom.

Be it enacted by the King and the Legislative Assembly of the Hawaiian Islands in the Legislature of the King assembled, that section 255 of the civil code be, and the same is hereby amended, so as to read as follows, (laws from 1879:)

The Minister of the Interior, with the approval of his Majesty the King, may issue a patent to the inventor or improver of any machine, manufacture, or work of art calculated to improve the interests of science, agriculture, or manufactures, and may therein grant to such inventor or improver for any term of years, not exceeding ten, that may be specified in such patent; and upon the granting of such patent the sum of one hundred dollars shall be paid by the patentee to the Minister of the Interior for the use of the royal Exchequer.

SEC. 256. Every such inventor or improver shall, before receiving a patent, deliver to the Minister of the Interior a full and clear description in writing of his invention or improvement, together with the mode of using or applying the same to the purpose for which it is intended, and the manner and process of making and constructing or compounding the same; and in case of any machine, he shall also furnish, in addition to the written description, accurate drawings and a complete model thereof, and shall also at the same time, if a citizen of this kingdom, deposit with the Minister of the Interior the sum

of thirty dollars, and if a foreigner the sum of one hundred ($100.00) dollars, for the use of the royal Exchequer.

SEC. 256. (*a*) Any person who shall have invented any new art, machine, or improvement thereof, and shall desire further time to mature the same, may file in the office of the Minister of Interior a caveat, setting forth the design and purpose thereof, its distinguishing characteristics, and praying protection of his right until he shall have matured the same; and such caveat shall, upon payment by the applicant of the sum of thirty ($30.00) dollars to the Minister of Interior, be filed in the confidential archives of the Department of Interior and preserved in secrecy; and within one year thereafter, if the applicant shall desire to avail himself of the benefit of his caveat, he shall file his description, specification, drawings, and model, and pay the fee, as provided in applications for patents.

# HONGKONG.

## *Ordinance No.* 14 *of* 1862.

*Title.*

An Ordinance for granting Patents for Inventions within this Colony.

*Preamble.*

Whereas Patents for Inventions granted in England are not usually extended to the Colonies, and it is expedient that power should be vested in his Excellency the Governor, with the advice of the Executive Council to grant Letters Patent for the exclusive use of Inventions within this Colony, for which Letters Patent have already been granted in England. Be it therefore enacted by his Excellency the Governor of Hongkong, with the advice of the Legislative Council thereof as follows :—

*Authority to Owners of Inventions to petition for Letters Patent.*

I. It shall be lawful for the inventor or for the owner by Assignment or otherwise, from any inventor of any invention or of the exclusive right thereto within this Colony, to petition His Excellency the Governor for Letters Patent for any invention for which Letters Patent have already been granted in England ; and such petition may be in the form set forth in Schedule A hereto. Every such petition shall be accompanied by a Specification of the said invention, identical as far as practicable with the Specification filed on the petition for Letters Patent for the said invention in England, and by a Declaration which may be in the form set forth in Schedule B, or in such

other form not being less specific as to the Governor shall appear proper.

*Petition, Specification and Declaration to be filed in Office of Colonial Secretary, and to be advertised.*

II. Such Petition, Specification and Declaration shall be filed in the Office of the Colonial Secretary, and notice thereof and of any intention to apply for such Letters Patent, and of the time of the sitting of the Executive Council before which the matter of the petition will come for decision, together with such other particulars as the Governor shall require, shall be inserted, twice in the Hongkong Government Gazette, and shall be otherwise advertised as the Governor shall direct.

*Governor in Council to grant Letters Patent.*

III. His Excellency the Governor, with the advice of the said Executive Council, shall, at the sitting to be so appointed for deciding on such petition for Letters Patent as aforesaid, or at any adjournment thereof, determine on such application for Letters Patent, and grant or refuse the prayer of the said petition as shall appear expedient, and for such time or times not exceeding the then duration of the Letters Patent for the said invention or for any less period, and subject to such conditions in all respects as to His Excellency the Governor, with the advice of the said Executive Council shall seem fit. The said Letters Patent may be in such form as is prescribed by the Patent Law Amendment Act, 1852, of the Imperial Parliament, or as near thereto as circumstances will permit.

*Effect of such Grant.*

IV. Letters Patent to be granted under this Ordinance shall confer all the rights and privileges, and shall subject the Grantees thereof to all the provisions affecting Letters Patent in England, as fully as if the same had been granted with an extension thereof to this Colony by Her Majesty under the provisions of the Statutes now in force in England, or as near thereto as the circumstances of this Colony will admit of.

*When and how Letters Patent may be granted for an extended period.*

V. In case Her Majesty shall, by the advice of the Judicial Committee of Her Majesty's Privy Council, extend the privileges

of any Letters Patent in England for any invention for any period, it shall be lawful for His Excellency the Governor, with the advice of the Executive Council, to extend in like manner such Letters Patent, if already granted for this Colony, or otherwise to grant original Letters Patent for a like extended period for the same invention.

## SCHEDULE A.

### Form of Petition.

The humble petition of A. B. [*or as the case may be of C. D. as agent for A. B.*], &c.

That your Petitioner [*or as the case may be, that A. B., of whom your Petitioner is the agent, assignee, executor, or administrator*] has obtained Her Majesty's Letters Patent, dated the day of 18 for [*state the title of the invention as granted*] and that such Letters Patent are to continue in force for years from the day of 18 .

That your Petitioner believes that the said invention is not now and has not hitherto been publicly used in this colony.

That the following is the description of the said invention [*here state the particulars shortly in accordance with the Specification on which the Letters Patent in England were granted*].

Your Petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Ordinance No. 14 of 1862.

And your Petitioner will ever pray, &c.

## SCHEDULE B.

I [*here insert name, condition, and place of residence*] do solemnly and sincerely declare that I am [*or if made by an agent, that A. B. of is*] in possession absolutely [*or if made in respect of a locally confined interest, then within the colony of Hongkong or according to fact*] of an invention for [*state the nature of the invention in terms of the English patent*], and which invention I believe will in all probability be of great public utility within Hongkong; and that the same is not publicly used within the said colony; and that to the best of my knowledge and belief the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention, and in what manner the same is to be performed.

Dated the day of 18 .

(Signed)

# INDIA.

## *Act No.* 15 *of* 1859.

VICTORIA R.

WHEREAS by the 26th section of the Act passed in the 16th and 17th years of Our reign, entitled "An Act to provide for the Government of India," it is provided that "no law or regulation made by the Governor-General in Council shall be invalid by reason only that the same affects any prerogative of the Crown, provided such law or regulation shall have received the previous sanction of the Crown, signified under the Royal Sign Manual of Her Majesty, countersigned by the President of the Board of Commissioners for the Affairs of India:"

And whereas by the 3rd section of an Act passed in the 21st and 22nd years of Our reign, entitled "An Act for the better Government of India," it is enacted that "any warrant or writing under Her Majesty's Royal Sign Manual, which, by the Act of the Session holden in the 17th and 18th years of Her Majesty, chapter 77, or otherwise, is required to be countersigned by the President of the Commissioners for the Affairs of India, shall, in lieu of being so countersigned, be countersigned by one of Her Majesty's Principal Secretaries of State:"

And whereas it is intended to introduce into the Legislative Council of India the draft of a proposed Act "for granting exclusive privileges to inventors," which is of the tenor and effect following; (that is to say),

*Preamble.*

Whereas Act VI. of 1856, entitled "An Act for granting exclusive privileges to Inventors," was passed by the Legislative

Council of India without the sanction of Her Majesty to the passing thereof having been previously obtained and signified in pursuance of the statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India:" And whereas Her Majesty's Law Officers having given it as their opinion that the Legislative Council of India was not competent to pass Act VI. of 1856, without previously obtaining the sanction of the Crown, and the Court of Directors of the East India Company having in pursuance of the power vested in them by law disallowed Act VI. of 1856, and having signified to the Governor General of India in Council their disallowance thereof, the said Act was repealed by Act IX. of 1857; And whereas it is expedient, for the encouragement of inventors of new manufactures, that certain exclusive privileges in their inventions should be granted to them in India, and that exclusive privileges obtained under the said Act should be protected: It is enacted as follows (the sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of the said statute):—

*Inventor may petition for Leave to file Specification.—Form, &c., of Petition.*

I. The inventor of any new manufacture may petition the Governor General of India in Council for leave to file a specification thereof. Every such petition shall be in writing in the form or to the effect mentioned in the schedule hereunto annexed, and shall be signed by the petitioner or (in case the petitioner shall be absent from India), by an authorized agent, and shall state the name, addition, and place of residence of the petitioner, and the nature of the invention.

1*a*. *For the purposes of this Act a new manufacture shall be deemed to include any new and original Pattern or Design, or application of such Pattern or Design to any substance or article of manufacture.*

[NOTE.—This clause was introduced by Act No. 13 of 1872.]

*Order to file Specification.*

II. Upon such petition the Governor General of India in Council may make an order authorizing the petitioner to file a specification of the invention.

*Power to refer Petition for Inquiry and Report.*

III. Before making such order the Governor General of India in Council may refer the petition to any person or persons for inquiry and report, and such person or persons shall be entitled to a reasonable fee for such inquiry and report, to be paid by the petitioner, the amount of such fee, in case of dispute, to be settled by a judge of one of Her Majesty's Courts of Judicature in a summary manner.

*Petitioner entitled to exclusive Privilege for Fourteen Years from the time of filing Specification.—Extension of Term of exclusive Privilege.*

IV. If, within the space of six calendar months from the date of such order the petitioner cause a specification of his invention to be filed in manner herein-after mentioned, the petitioner, his executors, administrators, or assigns, shall be entitled to the sole and exclusive privilege of making, selling, and using the said invention in India, and of authorizing others so to do, for the term of fourteen years from the time of filing such specification, and for such further term (if any) not exceeding fourteen years from the expiration of the first fourteen years, as the Governor General of India in Council may think fit to direct, upon petition to be presented by such inventor, at any period not more than one year, and not less than six calendar months, before the expiration of the exclusive privilege hereby granted.

*4a. Provided that in the case of patterns and designs, or the application thereof to any substances or articles of manufacture, such privilege shall be granted for the term of three years and no more.*

[NOTE.—This clause was introduced by Act No. 13 of 1872.]

*Order to file Specifications may be made subject to Conditions.*

V. An order authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to any such conditions and restrictions as the Governor General of India in Council may think expedient.

*Specification to be in Writing and to describe the Invention.*

VI. Every specification of an invention filed under this Act shall be in writing, and shall be signed by the petitioner, and shall particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed.

*Petition and Specification to be left with Secretary to Government.—Petition, &c., to be accompanied by Declaration.—Date of Delivery to be endorsed on Petition.*

VII. Every petition for leave to file a specification and every specification filed under this Act shall be left with the Secretary to the Government of India in the Home Department, and every petition and specification shall be accompanied by a declaration in writing, signed by the petitioner in the form or to the effect mentioned in the Schedule hereunto annexed, marked A and B respectively; and if the inventor be absent from India, the petition and specification shall also be accompanied by a declaration signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration, purporting to be the declaration of the inventor, was signed by him, and that the contents thereof are true, which declaration shall be in the form, or to the effect mentioned in the said Schedule. The date of the delivery of every such petition and specification shall be endorsed on the same respectively, and shall also be recorded at the office of the said secretary.

*False Statement in Declaration punishable as Perjury.*

VIII. If any person who shall make a declaration under this Act shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

*Specification not to be filed before Payment of Fees.*

IX. No specification shall be filed until the petitioner shall have paid all fees payable under this Act, including the fees (if any) of the person or persons to whom the petition shall have been referred for inquiry and report.

*Copies of Specification to be delivered and distributed.—To be open to Inspection.*

X. At the time of delivering the specification for the purpose of being filed, the petitioner shall cause to be delivered to the said secretary five copies thereof, of which,—

One shall be sent to and filed by one of the Secretaries to the Government of Bengal;

One shall be sent to and filed by one of the Secretaries to the Government of Fort St. George;

One shall be sent to and filed by one of the Secretaries to the Government of Bombay; and

One shall be sent to and filed by one of the Secretaries to the Government of the North-Western Provinces.

A copy of such specification shall be open at all reasonable times at the Office of each of the said Secretaries to public inspection upon payment of a fee of one rupee.

*Books for the Registry of Petitions, Specifications, &c.*

XI. A book shall be kept in the office of the said Secretary to the Government of India, wherein shall be entered and recorded every such petition and specification, and every order made upon such petition or relating to the invention therein mentioned. Every specification shall be numbered according to the order in which it is entered in such book; and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention, and to every petition, memorandum, or amended specification, which shall be filed under the provisions of Section 14.

*Inspection of Registry Book.—Certified Copy of Entry to be given.*

XII. Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person upon payment of a fee of one rupee; and the said Secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same on payment of the expense of copying.

XIII. *Repealed by Act No.* 12 *of* 1876.

*In what Cases Petitioner may apply for Leave to file amended Specification.—Effect of amended Specification.*

XIV. If after the filing of the specification the petitioner shall have reason to believe that, through mistake or inadvertence he has erroneously made any mis-statement in his petition or specification, or included therein something which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor General in Council for leave to file a memorandum, pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged inven-

tion, or in case of any defect or insufficiency of the specification for leave to file an amended specification. The petition shall state how the error, defect, or insufficiency occurred, and that it was not fraudulently intended, and shall be accompanied by a declaration in writing signed by the petitioner, and if he be absent from India, by his agent, stating that the contents of such petition are true, to the best of his knowledge and belief. Upon such petition the Governor General in Council may make an order allowing such memorandum or amended specification to be filed. All the provisions of sections X., XI., XII., and XIII., applicable to the specifications, shall be applicable to the petitions, orders, and memoranda or amended specifications referred to in this section. An amended specification filed under the provisions of this Act shall, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such amended specification, have the same effect as if it had been the specification first filed; provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

*No person entitled to exclusive Privilege in any of the following Cases:—If Invention is of no Utility, or—If Invention not new, or—If Petitioner is not Inventor, or—If Specification does not describe the Invention.—If Petition or Specification contain fraudulent Mis-statement.*

XV. No person shall be entitled to any exclusive privilege under the provisions of this Act—

If the invention is of no utility, or

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention, or within the meaning of this Act, or

If the petitioner is not the inventor thereof, or

If the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed, or

If the original or any subsequent petition relating to the invention or the original or any amended specification contain a wilful or fraudulent mis-statement.

*Exclusive Privilege to cease if Government declare it mischievous, &c., to public—or, if Government, upon breach of Condition proved, declare that it shall cease.*

XVI. Every exclusive privilege under this Act shall cease if the Governor General of India in Council shall declare that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the petitioner shall be authorized to file a specification, or upon which the term of the exclusive privilege shall be extended, shall be proved to the satisfaction of any of Her Majesty's Courts of Judicature, and if the Governor General of India in Council shall thereupon declare that such exclusive privilege shall cease.

*Importer of Invention, if not the actual Inventor, not to be deemed Inventor.*

XVII. The importer into India of a new invention shall not be deemed an inventor within the meaning of this Act, unless he be the actual inventor.

*Foreign Inventor.*

XVIII. A foreigner, whether resident abroad or not, may petition for leave to file a specification under this Act.

*An Invention not publicly used or known in the United Kingdom or in India before the Application for Leave to file a Specification to be deemed a new Invention within this Act.—Knowledge of Invention fraudulently acquired.—Proviso.—Public Use by actual Inventor.*

XIX. An invention shall be deemed a new invention within the meaning of this Act, if it shall not, before the time of applying for leave to file the specification, have been publicly used in India or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in any part of India or of the United Kingdom by means of a publication, either printed or written, or partly printed and partly written. The public use or knowledge of an invention, prior to the application for leave to file a specification, shall not be deemed a public use or knowledge within the meaning of this section, if the knowledge shall have been obtained surreptitiously or in fraud of the inventor, or shall have been communicated to the

public in fraud of the inventor or in breach of confidence: provided the inventor shall, within six calendar months after the commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use; provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his licence in writing, for a period not exceeding one year prior to the date of his petition, shall not be deemed a public use thereof within the meaning of this Act.

*Inventor having obtained English Letters Patent to petition within twelve months from the passing of this Act or from the date of the Letters Patent.—Invention, if not publicly known, or used in India at the time of applying for such Letters Patent, to be deemed new.—What to be stated in such Petition.—Duration of exclusive Privilege.*

XX. If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Act, shall have obtained Her Majesty's Letters Patent for the exclusive use of such invention in the United Kingdom, or any part thereof, shall, within twelve calendar months from the passing of this Act, or within twelve calendar months from the date of such Letters Patent, petition the Governor General of India in Council for leave to file a specification of such invention (which petition shall be in writing, in the form or to the effect mentioned in the schedule), the invention shall be deemed a new invention within the meaning of this Act, if it was not publicly known or used in India at or before the date of the petition for such Letters Patent, notwithstanding it may have been publicly known or used in some part of the United Kingdom or in India before the time of his petitioning, under this Act, for leave to file the specification: Provided the petition for leave to file the specification shall state that such Letters Patent have been granted, and shall also state the date thereof and the term during which the same are to continue in force: Provided also, that an exclusive privilege obtained under the provisions of this Act by an inventor who has obtained Her Majesty's Letters Patent for the exclusive use of such invention, shall cease to have effect, if such Letters Patent be revoked or cancelled; and that no such exclusive privilege shall extend beyond the term granted by such Letters Patent unless the same shall be renewed, in which case the exclusive privilege may be renewed under this Act for the extended term or any part thereof.

*Saving of Rights of Persons who used Invention before 7th of July, 1855.*

XXI. No exclusive privilege obtained under this Act shall entitle the owner of such privilege to exclude any person from using the invention, who, prior to the 7th day of July, 1855, used the same in India.

*Action for Infringement.*

XXII. An action may be maintained by an inventor against any person who, during the continuance of any exclusive privilege granted by this Act, shall, without the licence of the said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same. Provided that no such action shall be maintained in any court other than the principal court of original jurisdiction in civil cases within the local limits of whose jurisdiction the cause of action shall accrue or the defendant shall reside as a fixed inhabitant.

*Defect in Specification or Petition, or want of Novelty in Invention, &c., no Defence to Action for Infringement.—The actual Use of an Invention in India or the United Kingdom before Date of Petition a Defence to such Action.*

XXIII. No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement; nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor, or has obtained a right from him to use the invention either wholly or in part. Any such action may be defended upon the ground that the invention was not new if the person making the defence, or some person through whom he claims shall before the date of the petition for leave to file the specification, have publicly or actually used, in India or in some part of the United Kingdom, the invention, or that part of it of which the infringement shall be proved, but not otherwise.

*Application to Supreme Courts to declare exclusive Privilege not to have been acquired on following grounds:—Invention of no Utility.—Invention not new.—Petitioner not the Inventor.—Invention not described in Specification.—Fraud in Petition or Specification.—Fraudulent Mis-statement in Petition or Specification.—Insufficient Description of Part of Invention in Specification.*

XXIV. It shall be lawful for any person to apply by motion to any of Her Majesty's Courts of Judicature for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this Act by reason of all or any of the objections following (to be specified in the rule); that is to say:—

That the said invention is of no utility, or,

That the said invention was not, at the time of presenting the petition for leave to file the specification a new invention within the meaning of this Act, or,

That the petitioner was not the inventor thereof, or,

That the specification filed, or the amended specification (if any) does not particularly describe and ascertain the nature of the invention, or in what manner the same is to be performed, or,

That the petitioner has knowingly or fraudulently included in the petition or specification, or amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or,

That the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or,

That some part of the invention, or the manner in which that part is to be performed, as described in the specification filed, or the amended specification, is not thereby sufficiently described and ascertained, and that such defect or insufficiency was fraudulent and is injurious to the public.

*Like Application as to part of an Invention.*

XXV. Any person may, in like manner, apply to any of Her Majesty's Courts of Judicature for a rule to show cause why the Court should not declare that an exclusive privilege has not

been acquired under the provisions of this Act in respect of any part of the invention to be specified in the rule by reason of all or any of the objections following (to be specified in the rule), that is to say,—

That such part of the invention is wholly distinct from the other part thereof, and is of no utility, or

That such part of the invention was not, at the date of the petition for leave to file the specification, a new invention within the meaning of this Act, or

That the petitioner was not the inventor of that part of the invention, or

That that part of the invention, and the manner in which it is to be performed, is not sufficiently described and ascertained in the specification filed or the amended specification, and that such defect or insufficiency is injurious to the public.

*Application by Advocate General on Breach of Special Condition.*

XXVI. It shall be lawful for the Advocate General at any of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, or any other person, by order of the Governor General in Council, to apply to any of the said Courts of Judicature for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor General in Council under the power herein-before reserved may, in the judgment of the said Governor General in Council, depend, should not be tried in the form of an issue directed by the said Court; and if the rule be made absolute, the Court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor General in Council; the costs of such trial, and also the costs of any proceedings in any of the said Courts of Judicature under the provisions of this Act, shall be in the discretion of the Court.

*Service of Proceedings on all Persons interested.*

XXVII. Notice of any rule obtained or proceeding taken under either of the last three preceding Sections shall be served on all persons appearing to be proprietors or to have shares or

interests in the exclusive privilege under the provisions of Section XXXV. of this Act, and it shall not be necessary to serve such notice on any other persons.

*Supreme Court may direct Issue for Trial to other Courts.—New Trial.*

XXVIII. Any of the said Courts of Judicature, if it think fit, may direct an issue for the trial, before the same Court or any other Court of Judicature, or any principal Court of original jurisdiction in civil cases of any question of fact arising upon an application under Sections XXIV., XXV., or XXVI., of this Act, and such issue shall be tried accordingly in a summary manner, and if the issue be directed to another Court, the finding shall be certified by the Court before which the same was tried, to the Court directing the issue. If the issue be directed to any Courts of Judicature, the Court by which the issue is tried may, before the finding is certified, direct a new trial of such issue according to the usual course and practice of such Court. If the issue be directed to any Court other than a Court of Judicature, the finding shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge, shall be transmitted, together with any remarks he may think fit to make thereon, to the Court by which the issue was directed; and such Court may either act upon the decision of the Court which tried the issue, or direct a new trial if it should appear necessary.

*Judgment.—Costs.*

XXIX. If it shall appear to any of the said Courts of Judicature at the hearing of any application under the provisions of Sections XXIV. or XXV. of this Act that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall give judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just; and thereupon the petitioner, his executors, administrators, and assigns shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

*Amendment of Specification by Court.—Proviso.*

XXX. If the Court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the descrip-

tion of his invention in the petition or specification, or amended specification (if any) included something which at the date of the petition was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the Court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to part thereof affected by such error, defect, or insufficiency, or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, they may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his executors, administrators, or assigns shall, within the time limited by the said Court for the purpose, file a specification amended according to such order, Provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

*Mis-statement in the Petition, if not fraudulent, not to defeat the Privilege.*

XXXI. An exclusive privilege shall not be defeated upon the ground that the petition contains a mis-statement, unless such mis-statement was wilful or fraudulent.

*Entry in Registry Book of Judgment, &c., declaring Privilege not to have been acquired.*

XXXII. Whenever it shall be adjudged by any of the said Courts of Judicature that an exclusive privilege as to the whole or any part of an invention has not been acquired, the said Secretary to the Government of India shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

*In what case actual Inventor entitled to Assignment of an exclusive Privilege fraudulently obtained.*

XXXIII. If, upon proceedings instituted within two years from the date of a petition to file a specification, the actual inventor shall prove to the satisfaction of the principal Court

having jurisdiction in civil cases, within the local limits of whose jurisdiction the defendant shall reside as a fixed inhabitant, that the petitioner was not the actual inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person, surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him, or to any person through whom he derived such knowledge, the Court may compel the petitioner to assign to the actual inventor any exclusive privilege obtained under this Act, and to account for and pay over the profits thereof.

*Particulars to be delivered.*

XXXIV. In any action for the infringement of such exclusive privilege the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action; and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to any of the said Courts of Judicature under Sections XXIV., XXV., or XXVI. of this Act, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any such action or issue, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such exclusive privilege which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used shall be stated in such particulars. Provided always that it shall be lawful for any Court in which the action or proceeding is pending or in which the issue is tried to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

*Service of Proceedings.*

XXXV. A book shall be kept in the office of the Secretary to the Government of India in the Home Department (such book to be open to inspection without fee) wherein every person filing a specification under this Act, or any person to whom the

exclusive privilege may be assigned, shall cause to be stated some place in India where service of any rule or proceedings for the purpose of cancelling or revoking his exclusive privilege may be made, and shall cause a reference to such entry to be made in the margin of the entry of the specification; and may from time to time cause any other place in India to be substituted by similar entry and reference. All such rules and proceedings as aforesaid shall be deemed sufficiently served if a copy thereof be left at the place entered in such book or (if any other place be substituted for the same by entry in the said book) at the place last substituted, by delivering the same to any person resident at, or in charge of, such place: or, if there be no person resident at, or in charge of, such place, or if such place be not within the local limits of the jurisdiction of the Court, by causing such rule or proceeding to be sent by post, by a registered letter, directed to such person, at such place; and if any such person shall neglect to make or cause to be made such entry, then service of such rule or proceeding may be effected by affixing a copy thereof to some conspicuous part of the Court House, or in such other manner as the Court may direct.

*Act VI. of* 1856 *to have effect in respect of certain Specifications filed and Acts done.*

XXXVI. Act VI. of 1856 shall be of the same force and effect in respect to every petition and specification filed under the provisions thereof before the Act was repealed, and in regard to all proceedings consequent thereon or in relation thereto, and for the purpose of everything done under that Act while it continued in force, as if previously to the passing of the said Act the sanction of Her Majesty to the passing thereof had been obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India," and as if the said Act had not been repealed, and the term of every exclusive privilege obtained under the said Act is hereby extended, and shall continue until the expiration of fourteen years from the time of the passing of this Act. No exclusive privilege obtained under the said Act by an importer, not being the actual inventor, shall cease to have effect by virtue of the provisions of Section XVI. of the said Act, if the invention be put in practice in India

within the period of two years from the time of the passing of this Act.

*Stamp on Petition.*

XXXVII. Every petition for leave to file a specification under the provisions of this Act, or for the extension of the term of an exclusive privilege, shall be written or printed on stamped paper of the value of one hundred rupees.

37a. *Whenever by any law for the time being in force in the United Kingdom, any person shall be entitled in the United Kingdom to an exclusive right in any pattern or design or the application of such pattern or design to any substance or article of manufacture, such person shall be entitled in British India to the sole and exclusive right in such pattern or design or in such application thereof, and shall be entitled in British India to the same civil remedies in respect of infringement thereof in British India as those to which he would be entitled in the United Kingdom in respect of the infringement thereof in the United Kingdom.*

[NOTE.—This clause was introduced by Act No. 13 of 1872.]

*Interpretation.*

XXXVIII. In the construction of this Act, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction.

*Number.*

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

*Gender.*

Words importing the masculine gender shall include females.

"*Invention.*"

The word "invention" shall include an improvement.

"*Manufacture.*"

The word "manufacture" shall be deemed to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture.

"*Printed.*"

The word "printed" shall include "lithographed."

"*Inventor*" *and* "*Actual Inventor.*"

The words "inventor" and "actual inventor" shall include the executors, administrators, or assigns of an inventor or actual inventor, as the case may be.

"*Assigns.*"

The word "assigns" shall include grantees of the sole use or benefit in India of an invention, or of the sole use of an exclusive privilege for a limited time.

"*India.*"

The word "India" shall mean the territories which are or may become vested in Her Majesty by the statute 21 and 22 Vict. c. 106, entitled "An Act for the better Government of India."

"*Governor General in Council.*"

The words "Governor General in Council" shall include the "President in Council."

"*Secretary to the Government of India.*"

The words "Secretary to the Government of India" shall include any Under-Secretary to the said Government.

"*Her Majesty's Courts of Judicature.*"—"*Courts of Judicature.*"

The expressions "Her Majesty's Courts of Judicature" and "Courts of Judicature" shall mean the Courts established by Royal Charter.

# SCHEDULE OF FORMS.

## Form of Petition.

(*See* Section 1.)

To the Governor-General of India in Council.

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

Sheweth,

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

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

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

And your petitioner, &c.

The day of

(Signed)

## Form of Declaration to accompany Petition.

(*See* Section 7.)

I [*here insert name, addition, and place of residence*] do solemnly and sincerely declare that I am in possession of an invention for [*state the title of the invention as in the petition*]; that I believe the said invention will be of public utility; that I am the inventor thereof [*or, as the case may be, the assignee or executor or administrator of the inventor*]; and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said invention is truly described in my petition for leave to file a specification thereof.

The day of

(Signed)

## Form of Declaration to accompany Specification.

(*See* Section 7.)

I [*here insert name, addition, and place of residence*] do solemnly and sincerely declare that I am in possession of an invention for [*state the nature of the invention*], which invention I believe will be of public

utility; that I am the inventor thereof [*or, as the case may be, the assignee or executor or administrator of the inventor*]; and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief; and that, to the best of my belief, the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention and in what manner the same is to be performed.

The day of

(Signed)

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

(*See* Section 7.)

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

The day of

(Signed)

FORM OF PETITION.

(*See* Section 20.)

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

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

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

And your petitioner, &c.

The day of

(Signed)

# ITALY.

[NOTE.—*The Italian Law and Regulations of the 31st January, 1864, extended the Sardinian Law of the 30th October, 1859, to the whole Kingdom of Italy. Certain sections were repealed and all matters concerning patents were placed under the direction of the Minister of Agriculture, Industry and Commerce. The following is the Law thus amended, transitory provisions being omitted.*]

## PART I.

### RIGHTS DERIVED FROM INVENTIONS OR INDUSTRIAL DISCOVERIES AND TITLES THERETO.

### CHAPTER I.

#### *Rights of Inventors.*

##### Art. 1.

The author of a new invention or discovery in industry has the exclusive right of working the same for his own profit during the time, within the limits, and under the conditions prescribed by the present decree.

This exclusive right constitutes a Patent Privilege.

##### Art. 2.

An invention or discovery is said to belong to industry whenever the immediate object is,—

1. A product or result relating to industrial pursuits;
2. An instrument, machine, tool, engine, or any mechanical arrangement;
3. A process or method of manufacture;

4. A motor, or the application of any known power to industrial purposes;
5. Finally, the technical application of a scientific principle, provided immediate results in industry are obtained thereby.

In the latter case the patent is limited solely to those results which are expressly pointed out by the inventor.

Art. 3.

An invention or discovery in industry shall be considered as new when not before known; or even when a general notion of it existed, without the particulars necessary for putting it into practice.

Art. 4.

A new invention or discovery in industry already patented abroad, although it may have been published pursuant to the provisions of foreign legislation, confers on its author, or on his assigns, the right of obtaining a patent in the kingdom, provided such patent be applied for before the expiration of the term of the foreign patent, and before other parties have freely imported and worked the same invention or discovery in the kingdom.

Art. 5.

Any modification of a patented invention or discovery gives the right to a further patent, but without prejudice to the patent which already exists for the original invention.

Art. 6.

The following are not patentable:—

1. Inventions or discoveries relating to trades which are contrary to law, morals, or public safety;
2. Inventions or discoveries not relating to the manufacture of material objects;
3. Inventions or discoveries of a mere theoretical nature;
4. All kinds of medicines.

## CHAPTER II.

*Patents, their Force and Duration, and the Fees to be paid.*

Art. 7.

The legal title to the exclusive use of an invention is contained in a certificate [patent] delivered by the government.

The patent does not guarantee the utility or reality of the invention or discovery as claimed by the petitioner, nor does it prove the existence of those properties which, according to law, an invention or discovery must possess in order to render the patent valid.

Art. 8.

Patents granted for new articles comprise the exclusive right of manufacturing and selling such articles.

Patents obtained for the application to any branch of industry of a chemical agent, process, method, instrument, machine, tool, apparatus, or mechanical arrangement of any kind which has been invented or discovered, confer on their holders the right of preventing others from making a like application.

But whenever the patentee himself has supplied to others the preparations or mechanical means whose exclusive use forms the subject of his patent, it is to be presumed that he has at the same time given to them the permission to use them, provided there exists no agreement to the contrary.

Art. 9.

The patentee, and those interested through him, may obtain a Certificate of Addition for any modification made by them in the original discovery or invention. Such certificate extends the effect of the patent to the modification for the whole term of the patent.

Art. 10.

Patents take effect with respect to third parties from the date and in the order of application.

The duration of a patent can never exceed fifteen years, nor be less than one year, always reckoning from the last day of one of the months of March, June, September, or December, whichever next follows the day whereon the application is made, no account being taken of any fraction of a year.

Art. 11.

The duration of a patent for an invention or discovery already patented abroad shall not exceed that of the foreign patent having the longest term, nor in any case shall the duration exceed fifteen years.

Art. 12.

Patents granted for less than fifteen years may be prolonged for one or more years; the duration, however, of the prolongation added to the duration of the original patent shall in no case exceed fifteen years.

Art. 13.

The prolongation of a patent includes the Certificates of Addition.

Art. 14.

Patents granted in respect of applications made after the publication of the present decree, shall take effect in the whole territory of the kingdom, and be subject to a proportional tax, payable at the time of the application, and to an annual tax.

The proportional tax shall consist of as many times ten lire as there are years in the duration of the patent applied for.

The annual tax shall be 40 lire for the first three years, 65 lire for the following three years, 90 lire for the seventh, eighth, and ninth years, 115 lire for the tenth, eleventh, and twelfth years, and 140 lire for the remaining three years.

Art. 15.

The first annuity and the proportional tax are to be paid at the time of the application for a patent.

The other annuities are to be paid in advance on the first day of each year of the duration of the patent, and shall likewise be subject to the triennial increase in the case of a prolongation of the patent.

Art. 16.

The delivery of a Certificate of Addition shall be subject only to the payment in advance of twenty lire.

Art. 17.

Certificates of Prolongation shall be subject to the payment of 40 lire, besides the proportional tax and annuities. The annuity corresponding to the first year of the prolongation shall be paid at the time of application, and the subsequent annuities shall be paid in advance, conformably to Article 15.

### Art. 18.

In cases of patents of importation, whose term ends with that of the foreign patent, every fraction of a year is to be considered as an entire year with respect to the payment of the tax.

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# PART II.

## Conditions and Formalities attendant on Applications for Patents.

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## Chapter I.

### *The Application and its Conditions.*

### Art. 19.

All matters concerning patents are placed under the direction of the Minister of Agriculture, Industry and Commerce.

### Art. 20.

All applications for patents must be made to the Minister of Agriculture, Industry and Commerce, through the local Prefecture or Subprefecture.

The application must be made by the inventor or his attorney, and must contain,—

1. The name and christian name, as well as the birth-place and residence of the applicant, and of his attorney, if there be one;
2. A statement of the discovery or invention in the form of a title which expresses shortly, but with precision, its characteristics and scope.
3. A statement of the duration which the applicant desires to be assigned to his patent within the limits fixed by law.

An application must be limited to one patent, and to one invention or discovery.

## Art. 21.

Every application must be accompanied by,—

1. The description of the invention or discovery ;
2. The drawings, if any can be made, as well as the models, which the inventor may deem useful for the comprehension of his invention or discovery ;
3. The receipt for the payment into the public treasury of the fees due for the required patent ;
4. In cases of patents of importation, the original foreign patent, or a legalized copy of the same ;
5. If there be an attorney, the power in public or private form ; provided that in the latter case the signature of the principal is certified by a public notary, or by the syndic of his place of residence ;
6. A memorandum of the documents and objects delivered.

## Art. 22.

The description mentioned in the foregoing article is to be written in the Italian or French language, and must contain a clear and complete account of the details necessary for enabling a competent person to put the invention or discovery into operation.

The application must be accompanied by three copies of the description and drawings, the applicant alone being responsible for the conformity of these copies.

Whenever the description is accompanied by a model, the applicant is not exempt from annexing to the application, a drawing, or drawings, in duplicate of the entire model, or at least of those parts which constitute the invention.

## Art. 23.

During the first six months of the duration of a patent, reckoning from the last day of the March, June, September, or December next after the date of application, proprietors of patents may require the same to be reduced to part of the invention forming the subject of the description annexed to the original application, distinctly pointing out those parts they intend to disclaim.

The parts disclaimed shall be considered as having never been comprehended in the patent.

Art. 24.

Applications for Disclaimers must be accompanied by—

1. The receipt for the payment of 40 lire ;
2. The description in triplicate to be substituted for that previously filed ;
3. The drawings in triplicate which it may be necessary to substitute for those previously filed.

Art. 25.

The Certificates delivered on such applications shall be called Certificates of Reduction [Disclaimers], and their duration shall be that of the original patent.

Art. 26.

During the six months mentioned in Art. 23 a patent for a modification shall only be granted to the author of the patented invention or discovery, or to those interested through him. The applications of other persons for such certificates and the accompanying documents are to be delivered under sealed covers, and deposited as hereinafter stated.

At the expiration of the six months the seal shall be broken, and the patent shall be delivered, unless the interested party notifies his intention to withdraw the application, in which case the fees paid shall be returned to him.

The patent thus granted shall take effect relatively to patents of addition, from the day after the expiration of the six months; but with respect to persons not interested in the original patent and applications founded thereon they shall take effect from the date of application.

Art. 27.

An application for a Certificate of Addition shall not mention any term for its duration.

In other respects the provisions of the 20th and following Articles shall be observed.

Art. 28.

Applications for Prolongations must be accompanied by—

1. The deed proving the ownership of the patent sought to be prolonged;

2. The receipt for the payment of the fees mentioned in Art. 17;
3. The power of attorney and memorandum mentioned in paragraphs 5 and 6 of Art. 21.

## CHAPTER II.

*Delivery of the Applications and accompanying Documents.*

### Art. 29.

Applications of all sorts with the documents and objects which may or ought to accompany the same, must be delivered, in Turin, at the office appointed by the Minister, elsewhere at the Prefecture.

### Art. 30.

The public officer appointed to receive the application shall draw up a report, stating the day and hour of the delivery, and the object of the application.

The official report must show the real or elected domicile of the applicant or his attorney in the town where the delivery takes place, otherwise the municipality shall be legally considered as the elected domicile.

### Art. 31.

With regard to the applications mentioned in Art. 26, the official report must contain the statement of the applicant, that he wishes to obtain in due time a patent for a modification in an original invention or discovery, as described in the specification under sealed cover, the title of which original invention shall be mentioned in the official report.

### Art. 32.

Each such official report shall be recorded in a special register and be signed by the applicant or his attorney.

A copy of such official report shall be delivered to the applicant without charge, except for the stamp on the paper on which it is written.

### Art. 33.

Within the five days following, the documents and objects left at the Provincial Offices, shall be transmitted to the Ministry of Agriculture, Industry and Commerce, at the same time there shall be sent an unstamped copy of the official report.

Art. 34.

All official reports from the provinces shall be copied into the registers of the Ministry.

Art. 35.

If the legal formalities have been fulfilled, the applications shall be registered with the date of presentation, and the patents shall be granted.

Art. 36.

Each patent shall be recorded in the register and signed by the chief of the office.

A copy, signed as aforesaid, shall be delivered to the interested party, together with one of the originals of the drawings, description and memorandum, initialled on each sheet by the said officer. This first copy of the patent shall be delivered free of cost; all other copies shall bear the consecutive number of the delivery, and for each 15 lire shall be paid.

Art. 37.

With regard to inventions and discoveries relating to all kinds of beverages or eatables, the said office shall transmit the description and other related documents to the Superior Board of Health, to obtain its advice before delivering a patent.

Art. 38.

If the Board of Health advise that the invention or discovery is injurious to health, or if there be the least doubt about it, the application for a patent shall be rejected.

If the advice be favourable, the following clause shall be inserted in the patent: "The Superior Board of Health having been consulted."

Such patents do not exempt their holders who put in practice the invention from fulfilling all other provisions of the sanitary laws.

Art. 39.

Patents shall be refused:—

1. If the invention or discovery belong to one of the four classes mentioned in Art. 6;

2. If there is no written application, or if, in the application, the title of the invention or discovery is wanting;
3. If there be no description;
4. If a single patent is demanded for different inventions or discoveries, or if several patents of the same nature or of different kinds are demanded in the same application;
5. If the fees paid do not correspond with the kind of patent applied for.

Art. 40.

The grant of the patent shall be suspended in default of the fulfilment of any of the other conditions prescribed by the present decree, or when the description does not present the required features.

Art. 41.

The refusal or suspension, and the reasons which have determined the same, shall be communicated to the applicant or his attorney, through one of the Government officers, and by a notice left at his elected or real domicile, mentioned in the official report of the deposit.

Art. 42.

Within fifteen days after such notice, the applicant, or his attorney, may supply the deficiencies or appeal against the refusal or suspension.

The documents intended to supply such deficiencies, or the notices of appeal, shall be left at the Provincial, or Chief Office. An official report of the same shall be drawn up, and a stamped copy thereof be delivered to the interested party without any other charge than the stamp duty.

If within this term of fifteen days no documents have been deposited, and no appeal been lodged, the application shall be considered as not having taken place, the inventor preserving the right to renew his application.

Art. 43.

The Minister shall submit these appeals to a Commission composed of fifteen members, three of whom shall be magistrates for life, or members of the Faculty of Law at the

Royal University of Turin, and the remaining twelve chosen from :—

1. The members of the Section of Physical and Mathematical Sciences at the Royal Academy of Sciences ;
2. The professors and doctors of the Faculty of said Sciences at the Royal University ;
3. The professors at the Polytechnic schools.

The members of the said Commission shall be nominated every year by the minister.

The Commission shall be divided into three sections (mechanics, physics, and chemistry), each of which sections shall be composed of one legal member and four technical members.

Each appeal shall be heard by that section which corresponds with the nature of the patent applied for.

If the verdict of the section is not obtained unanimously, it shall be revised by the whole Commission.

If it relates to an invention deemed contrary to law, morals, or public safety, the Public Prosecutor shall be consulted, and his opinion shall be submitted to the Commission which hears the appeal.

Art. 44.

Appeals shall be considered as null and void unless they be accompanied by the deposit of 50 lire.

Art. 45.

If the verdict mentioned in Art. 43 is in favour of the applicant, the appointed officer shall deliver the patent and return the deposit mentioned in the foregoing Article.

In the contrary case the patent shall be positively refused, and the deposit shall be paid into the treasury.

## PART III.

### Assignments of Patents.

Art. 46.

Assignments of patents must be registered at the Ministry, and published in the Official Gazette of the kingdom at the expense of the applicant.

Assignments take effect with respect to third parties only from the date of registration.

Art. 47.

To effect this registration, the person in whose favour the assignment has been made must produce the deed and two memoranda on stamped paper, containing—

1. The name, christian name, and domicile of both the assignor and the assignee;
2. The date and nature of the deed presented, and the name of the notary who received it, in case of its being a public act;
3. The date of registry, if any;
4. An exact statement of the rights assigned;
5. The date of delivery of these notes, which shall be that of the registration.

Art. 48.

Such deliveries may be made either at a Provincial Office or at the Chief Office.

In either case the deed shall be returned to its owner after having been visé for registration and signed by the secretary or head of the office.

At the Provincial Office, where delivery takes place, there shall be transcribed in a special register, the contents of the memoranda mentioned in the preceding Article and one memorandum shall be returned and the other shall be transmitted immediately to the Chief Office.

At the latter office all these memoranda, whether received directly or transmitted from the provinces shall be recorded and kept.

Art. 49.

The total assignment of patent rights to a single person obliges the latter to pay the fees; if the assignment is made to several persons collectively, they are conjointly bound to make that payment. In case of a partial assignment to several distinct persons, or a partial alienation of the rights, the deed relating thereto cannot be registered unless it be accompanied by a receipt, proving the payment of the annuities due for the whole duration of the patent.

# PART IV.

## Preservation and Publication of Documents relating to Patents.

### Art. 50.

The registers for recording patents, their progressive stages, annulments, disclaimers, forfeitures, and expirations; and the registers in which are inscribed assignments of patent rights, are public registers.

### Art. 51.

Whoever requires extracts therefrom must make an application on stamped paper; and the extracts shall be written on stamped paper at the expense of the applicant.

### Art. 52.

A copy of the specification and drawings shall be deposited at the Chief Office, but no person shall be allowed to inspect the same before the expiration of three months from the delivery of the patent.

Any person may, after the lapse of three months, inspect the description, drawings, and models, and make, at his own expense, one or several copies, in the manner and under the conditions determined by regulations.

### Art. 53.

Every three months a list of the patents delivered during the preceding quarter shall be published in the Official Gazette.

### Art. 54.

Every six months the specifications and drawings relating to inventions and discoveries patented during the preceding half-year shall be published in full.

The Head of the Office may, nevertheless, order that certain specifications shall be published only in the form of extracts, examined and deemed sufficient by him for the comprehension of the invention to which they relate. The drawings likewise may be reduced to their essential parts.

Art. 55.

A copy of the subject-matter, indexes, descriptions and drawings published, shall be transmitted to each provincial office and chamber of commerce for public inspection.

# PART V.

## NULLITY AND ANNULMENT OF PATENTS.

### CHAPTER I.

*Causes of Nullity and Annulment.*

Art. 56.

The preliminary examination and adjudication does not guarantee validity.

Art. 57.

Patents are null and void,—

1. If they refer to inventions or discoveries mentioned in Art. 6.
2. If they relate to one of the inventions or discoveries mentioned in Art. 37, and the patent has by mistake been delivered against the advice of the Sanitary Authority. If granted in error without consulting the aforesaid Authority, the patent will become void when the advice on being taken is adverse.
3. If by the fraud of the applicant the title of the invention or discovery indicates other than its real object.
4. If the description annexed to the application is insufficient, or conceals some of the means necessary for working the patent invention or discovery.
5. If the invention or discovery is not new, or does not relate to industrial pursuits.
6. If a patent is granted to a third party for a modification in an invention within the six months allowed to the original inventor, and persons interested through him.

7. A Certificate of Addition is also null and void whenever the modification is not connected with the original invention.
8. A Prolongation is likewise null and void whenever it has been applied for after the expiration of the patent, or after its absolute annulment has been pronounced.

Art. 58.

A patent ceases to be valid,—

1. If in a single instance the annual tax is not paid within the term of three months from the date of expiration.
2. If in the case of a patent granted for five years or less the invention or discovery has not been worked within the first year of the grant, or has ceased to be worked during a whole year.
3. If in the case of a patent granted for more than five years it has not been worked before the expiration of the second year, or if the working has been discontinued for two years.

In either case the patentee shall not forfeit his rights if his inaction arose from causes beyond his control. The want of pecuniary means is not included in these causes.

## Chapter II.

### *Actions for Nullity and Annulment.*

Art. 59.

The action to obtain a declaration of nullity or to annul a patent is brought before the provincial tribunal.

The cause is to be proceeded with and decided by summary process.

The documents are to be communicated to the public prosecutor.

Art. 60.

If at the instance of interested parties the partial nullity or annulment of a patent has been twice pronounced, the public prosecutor of the place, or one of the places where the invention or discovery is worked, may demand, *ex officio*, the absolute and peremptory annulment of the patent.

The same power belongs to him without any civil action

having been brought in all cases coming under the provisions of paragraphs 1, 2, 3, and 8 of Articles 57 and 58.

In the two annulments mentioned in the first paragraph of the present Article there shall not be reckoned any that apply to those parts of the invention or discovery which have been cut out by Disclaimer within the term of six months accorded by the present law.

Art. 61.

In each of the two cases mentioned all persons are to be summoned who have a legal interest in the patent, and who are entered in the register of the chief office.

Art. 62.

Except the case mentioned in paragraph 8 of Article 57, the Court, before pronouncing the annulment, must, on the demand of one of the parties, take the advice of three experts; and, in case of appeal, the revision of such an opinion must be ordered whenever one of the parties demands it.

In all cases however the tribunal or court of appeal may order *ex officio* an examination, or the revision of an examination.

Art. 63.

The public prosecutor is to transmit to the Minister of Agriculture, Industry, and Commerce, through the Minister of Justice, an extract on unstamped paper of judgments declaring nullity or pronouncing absolute annulment. The operative part of these judgments shall be entered in a special register, and be published in the Official Gazette.

## PART VI.

*Infringement of Patent Rights and Actions relating thereto.*

Art. 64.

Whoever fraudulently and in contravention to a patent right, manufactures products, uses a machine or any other industrial means, trades in, sells, exposes for sale, or imports into the kingdom infringing articles, commits an offence, which offence shall be punished with a fine not exceeding 500 lire.

Art. 65.

Besides in cases where a civil action is carried on conjointly with a penal action, or where it is carried on separately, all machines and other industrial objects used contrary to the patent right, all infringing objects, and the instruments for producing them, shall be seized, to the loss of the infringing party, and given over to the patentee.

The same shall take place with respect to dealers, traders, sellers, or importers of infringing articles.

Art. 66.

The injured party shall, besides, be entitled to claim damages.

If the owner of the objects mentioned in the preceding article acted with honesty of purpose, he shall only be subject to the loss of these objects to the profit of the injured party.

Art. 67.

Civil actions shall be carried on in the form prescribed for summary process.

Correctional actions against the offenders mentioned in Article 64 can only be carried on at the complaint of the injured party.

Art. 68.

The President of the Provincial Tribunal may, on the demand of the patentee, order the seizure or inventory of the objects supposed to be infringements, or used contrary to the patent right, provided they be not destined for mere personal use.

By the same order the President shall delegate an officer to execute it, and, if required, can nominate one or more experts to assist the officers in drawing up the inventory.

He, moreover, shall cause the plaintiff to give security before proceeding to seizure.

Art. 69.

The plaintiff may, if authorised by the president of the tribunal, be present at the seizure or at the drawing up of the inventory. In all cases he may convert the seizure into the taking of an inventory, on condition that he expresses his wish

to that effect, either in the official report of the seizure, or in a separate document, notified through a public officer both to the adverse party, and to the executive officer.

Art. 70.

A copy of the order of the President, of the deed proving the deposit of the security and of the official report of the seizure or inventory, shall be left with the holder of the objects seized or inventoried.

Art. 71.

In default of the plaintiff pursuing his action within a week the seizure or inventory shall be null and void, and the party against whom the proceeding was brought shall be entitled to damages.

# JAMAICA.

1857. *Cap. XXX.*

## An Act for amending the Law for granting Patents for Inventions.

*Preamble.*

Whereas it is expedient to amend the Law concerning Letters Patent for inventions: Be it enacted by the Governor, Legislative Council, and Assembly of this Island, and by the authority of the same, as follows:

### I.—As to the Manner of Applying for and Obtaining Letters Patent.

*Patents for Invention may be granted by the Governor on Petition.—Proviso.*

First.—From and after the publication of this Act, whenever any person whosoever shall, by himself, or if he be an absentee, by his attorney, apply to the Governor, by way of petition, to be lodged at the office of the Executive Committee, and alleging that he hath invented or discovered some new and useful art, machine, manufacture, or composition of matter, not theretofore known or used within this Island, or some improvement in any such invention or discovery, and praying to obtain an exclusive property in such new invention and discovery or improvement, and that Letters Patent be granted for the same, it shall be lawful for the Governor, in the name, or, and on behalf, of Her

Majesty, her heirs and successors, by and with the advice and consent of the Executive Committee, to direct Letters Patent, under the broad seal of this Island, to be issued, which Letters Patent shall recite the allegations and suggestions of the said petition, so to be referred as aforesaid, and shall therein give a short description of the said invention or discovery or improvement, and thereupon shall grant to such person so applying for the same, his executors, administrators, or assigns, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing, and using, and vending to others to be used, the said new invention or discovery or improvement; and such Letters Patent shall be signed by the Governor, and shall be good and available to the grantee therein named by force of this Act; provided that it shall be lawful for the Governor in Executive Committee, if they should deem it expedient, to insert in any such Letters Patent a provision extending the operation thereof for a further term of seven years.

*Petition to be first referred to the Attorney-General, who shall grant his Fiat, or certify his refusal.*

Second.—Before any Letters Patent shall be signed and issued, the petition, specification, and declaration delivered therewith shall be referred to Her Majesty's Attorney-General of this Island, who shall examine the same, and shall be at liberty to call to his aid such scientific or other person as he may think fit, and to cause to be paid to such person, by the applicant, such remuneration as the Attorney-General shall appoint, not exceeding five pounds; and if the Attorney-General shall be satisfied that the application is such as may properly be granted under the provisions of this Act, and that the specification describes the nature of the invention, discovery, or improvement, he shall allow the same, and give a certificate of his allowance, and return the same petition, specification, and declaration, together with his certificate, into the office of the Executive Committee; and if the Attorney-General shall not allow such application, he shall certify to the Governor his reasons for not so doing.

*Petitioner to make Declaration that he is the true Inventor, &c.*

Third.—Before any person shall obtain or receive any Letters Patent under this Act, such person, or if he be an absentee, his attorney, shall make solemn declaration, in writing, before a

Justice of the Peace in this Island, that he doth verily believe that he is the true inventor or discoverer of the art, machine, composition of matter, or improvement for which he solicits Letters Patent, and that such invention or discovery, or improvement hath not, to the best of his knowledge or belief, been known or used in this Island, which declaration shall be delivered, together with the petition for such Letters Patent.

*And deliver Specification of Invention, &c.—Proviso.*

Fourth.—Before any person shall receive or obtain any Letters Patent as aforesaid, such person, or his attorney, shall also deliver, together with such petition and declaration as aforesaid, a written description or specification of his invention, and of the manner of using, or process, or compounding the same, in such full, clear, and exact terms as to distinguish the same from all other things before known or used in this Island, and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected, to make, compound, and use the same, and in case of any machine shall deliver a model thereof, and shall explain the principle and the several modes in which such person hath contemplated the application of that principle, or character, by which it may be distinguished from other inventions, and shall accompany the whole with drawings and written references where the nature of the case admits of drawings, or with specimens of the ingredient, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter, which description or specification shall be signed by such person, or his attorney, as aforesaid, so applying for such Letters Patent, and attested by two witnesses: Provided that, where from the complicated nature of any machinery the cost of a model thereof may be so great as to prevent any ingenious but poor persons from obtaining patents for their useful inventions, it shall and may be lawful for the Governor, by and with the advice and consent of the Executive Committee, if they shall see fit and proper under all the circumstances so to do, to dispense with the delivery of such model previous to the granting any such patent; and in such case, the requisitions of this Act being in all other respects complied with, the person applying for any patent shall be entitled thereto in the same manner as if such model had been so lodged as aforesaid.

*Five Pounds to be deposited by Petitioner.*

Fifth.—That together with the said petition, the applicant for such Letters Patent shall pay and deposit a sum of five pounds, to be paid by way of fee to the Attorney-General, on such reference of such petition as aforesaid.

*Notice to be given of Application in Gazette.*

Sixth.—No Letters Patent shall be granted under or by virtue of this Act until notice shall be published in the Jamaica Gazette by authority, and one other of the newspapers of this Colony, for at least four weeks, of the intention of the applicant to apply for such Letters Patent; and such notice shall contain, in general terms, the description of invention or improvement for which such Letters Patent shall be desired.

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## II.—Limitation of Time for bringing Letters Patent into Operation.

*Patent must be brought into operation within Two Years.*

Seventh.—If any Letters Patent, which may be taken out under or by virtue of this Act, shall not have been brought into operation within two years next ensuing from and after the date thereof, such Letters Patent shall, at the expiration of the said period of two years, be deemed to be forfeited, and shall thence be and become void and of no effect.

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## III.—As to the Sealing, Date, Time of Issue, and Renewal of Letters Patent.

*Patents to be sealed and dated as of the Day of Application.*

Eighth.—It shall be lawful to cause any Letters Patent to be issued, under this Act, to be sealed, and bear date, as of the day of the application for the same, or where the Attorney General, or the Governor in Executive Committee may think fit, any such Letters Patent as aforesaid may be sealed and bear date as of the day of the sealing thereof, or of any other day, between the day of such application and the day of such sealing.

*And be of Legal Force.*

Ninth.—Any Letters Patent issued under this Act, sealed and bearing date as of any day prior to the day of the actual sealing thereof, shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date.

*They must be applied for within Three Months after Filing of Petition.*

Tenth.—Provided that no Letters Patent, save in the case of Letters Patent destroyed or lost, shall issue, unless the same shall be applied for within three months after the date of the filing of the applicant's petition.

*And in case of Death of Applicant, within Three Months after his Death.*

Eleventh.—Provided that, where the applicant for Letters Patent dies during the pendency of his application, such Letters Patent may be granted to the executors or administrators of such applicant at any time within three months after his death, and the Letters Patent so granted shall be of the like force and effect as if they had been granted to such applicant during his life-time.

*Patents lost or mislaid may be renewed.*

Twelfth.—Provided that in case any Letters Patent to be issued under this Act shall be destroyed or lost, other Letters Patent, of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the Governor in Executive Committee may direct to be issued, under the authority of the grant in pursuance of which the original Letters Patent were issued.

*Patents obtained by Fraud not to invalidate that of true Inventor.*

Thirteenth.—In case of any Letters Patent for any invention being obtained in fraud of the true and first inventor, any Letters Patent granted to the true and first inventor of such invention shall not be invalidated by reason of such other Letters Patent as aforesaid, or of any use or publication of the invention, subsequent to the granting of such other Letters Patent as last mentioned.

## IV.—Mutual Rights in Invention, and in any Improvement therein.

*Patents granted for Improvements; how mutual Rights to be regulated.*

Fourteenth.—Where any Letters Patent shall be obtained by any person under this Act for any new and useful invention or discovery in any art, machine, or composition of matter, and thereafter any other person shall discover or make any improvement in the principle or process of any such art, machine or composition of matter for which such patent hath been granted, and shall make application for and obtain Letters Patent under this Act for the exclusive right of such improvement, it shall not be lawful for the person who shall obtain and procure Letters Patent for any such improvement to make, use, or vend the original invention or discovery, nor for the person who shall have procured Letters Patent for the original invention or discovery to make, use, or vend any such improvement; provided that simply changing the form or the proportions of any machine or composition of matter, in any degree, shall not be deemed a discovery or improvement within the meaning of this Act.

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## V.—Right of Patentee elsewhere to proceed under this Act for Letters Patent.

*Applicant may receive a Patent in this Island although he may possess a Patent elsewhere.—Proviso.*

Fifteenth.—No applicant shall be deprived of his right to a patent in this Colony, upon the like proceedings being had in all respects as in case of an original application for his invention, by reason of his having previously taken out Letters Patent therefor in any other country: Provided that such invention shall not have been introduced into public and common use in this Colony prior to the application for a patent therein, and that the patent granted in this Colony shall not continue in force after the expiration of the patent granted elsewhere, and that where more than one such patent or like privilege is obtained abroad, then, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges, the patents granted in this Colony shall cease to be in force: Provided further, that no

Letters Patent for or in respect of any invention for which any such Patent or like privilege as aforesaid shall have been obtained elsewhere, and which shall be granted in this Colony after the expiration of the term for which such patent or privilege was granted, or was in force, shall be of any validity.

## VI.—Power of Assignment.

*Patentees may assign their Rights.*

Sixteenth.—Any patentee under Letters Patent issued under this Act, his executors, administrators, or assigns, may assign and transfer [the whole or] any part of his right, title and interest in the said invention and discovery in the Letters Patent to him granted, to any person whomsoever, and the assignee thereof, having recorded the said assignment in the office of the Island Secretary, shall thereafter stand in the place and stead of the original patentee, as well as to all or the part assigned of the right, privilege, and advantage, as also in respect of all or proportionate liability or responsibility as to the said Letters Patent, and the invention and discovery thereby secured; and in like manner shall the assignees of any such assignee stand, and be considered to be in the place and stead of the original patentee or inventor.

## VII.—Right of Assignee of Patentee elsewhere to apply under this Act for Letters Patent.

*Rights of Assignees.—Proviso.*

Seventeenth.—Letters Patent may, upon the like proceedings being had in all respects as in the case of an original application, be issued by the Governor in Executive Committee to the assignee of any person who may have taken out Letters Patent for his invention or discovery in any other country, but not for any invention or discovery made abroad for which no Letters Patent have been there obtained: Provided, that the invention or discovery so assigned shall not have been introduced into public and common use into this Colony prior to the application for a patent; and that the assignee of such foreign patent shall file with his application the assignment duly proved, under which he claims a patent in this Colony, and an affidavit setting

forth the date of the patent abroad, that the article thereby patented has not been in public and common use in this Colony, and that he is the assignee for a good consideration.

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## VIII.—As to Claim for larger Invention than actually invented, or defective or insufficient Specification.

*Patents to be valid in Law only for so much as shall be proved to be of new Invention.*

Eighteenth.—If in any suit or action it shall be provod, or specially found by the verdict of a jury, that by mistake, accident, or inadvertence, and without any wilful default or intent to defraud or mislead the public, a patentee under this Act shall in his specification have claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, but of which part he was not the original or first inventor, and shall have no just or legal right to claim the same, his patent in such case shall be deemed good and valid for so much of the invention or discovery or improvement as shall be actually his own, provided it is a material and substantial part of the thing patented, and be plainly distinguishable from other parts patented without right; and every such patentee, and his legal representatives or assignees, whether holding the whole or a particular interest in the patent, may maintain suits at law or in equity for any infringement of such part of the same as is actually the invention or discovery of such patentee, although his specification may embrace more than he has a legal right to claim; but if in such case the plaintiff shall obtain a verdict or judgment, he shall not be entitled to costs, unless before the commencement of the suit he shall have filed in the office of the Island Secretary a disclaimer, attested by one or more than one witness, of that part of the thing patented which was claimed without right: Provided, that no person bringing a suit shall be entitled to the benefits of this section, if he shall, in the opinion of the Court before which any such matter shall be tried, have unreasonably neglected or delayed to record his disclaimer.

*Patents void by defective Description, arising from Error, may be renewed.*

Nineteenth.—If any patent shall become inoperative or invalid by reason of a defective or insufficient description, or

specification, or by reason of the patentee claiming in his specification as his own invention more than he had a right to claim; and the error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the Governor in Executive Committee, upon the surrender of such patent, and upon petition therefor, to cause a new patent to be issued to the patentee for the residue of the term mentioned in the first patent, in accordance with the patentee's amended description and specification; in case of his death, or the assignment by him of the original patent, or any fractional interest therein, the right shall vest in his legal representatives to the extent of their respective interests in such patent; and the patent so re-issued, together with the amended description and specification, shall have the same effect and operation in law as though the same had been originally filed in such amended form before the issuing of the original patent.

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## IX.—As to Mode of Entering Disclaimers and Alterations or adding to Specifications.

*Disclaimers of any Part of Patents may be recorded.—Proviso.*

Twentieth.—Every patentee under this Act, or his legal representative or assignee, whether holding the whole or any particular interest, may conjointly or separately, as the case may require, enter and record at the Island Secretary's Office, having first obtained the leave of Her Majesty's Attorney-General, certified by his fiat and signature, a disclaimer of any part of either the title of the invention or improvement, or of the specification, stating the reason for such disclaimer, or may, with such leave as aforesaid, enter and record at the said office a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said Letters Patent; and such disclaimer or memorandum of alteration being recorded by the said Island Secretary, shall be deemed and taken to be part of such Letters Patent or such specification in all Courts whatever; Provided, that any person may enter a caveat at the said office of the Island Secretary against such disclaimer or alteration, which caveat being so entered, and a copy thereof being left with the Attorney-General, shall give the party entering the same right to have notice of the application being

heard by the Attorney-General: Provided also, that no such disclaimer or alteration shall be receivable in evidence in any action or suit (save and except in any proceeding by scire facias) pending at the time when such disclaimer or alteration was entered; but in every such action or suit the original title and specification alone shall be given in evidence, and deemed and taken to be the title and specification of the invention for which the Letters Patent have been or shall have been granted: Provided also that it shall be lawful for the Attorney-General, before granting such fiat, to require the party applying for the same to advertise his disclaimer or alteration in such manner as to such Attorney-General shall seem right, and shall, if he so require such advertisement, certify in his fiat that the same has been duly made.

*How Costs on Alteration or Disclaimer to be paid.*

Twenty-first.—It shall be lawful for the Attorney-General, if he see fit, by certificate under his hand, to order by or to whom the costs of any hearing or inquiry for any such alteration or disclaimer shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid, be not paid within four days after the amount thereof shall be so ascertained, it shall be lawful for the Attorney-General to make an order for the payment of the same, and every such order may be made a rule of the Supreme Court of this Island.

*Additions may be made to Specification.*

Twenty-second.—If an original patentee shall be desirous of adding a description and specification of an improvement upon his original invention or discovery, made or discovered by him subsequent to the date of his patent, he may upon the like proceedings being had in all respects [as] in the case of an original application, have the same annexed to his original description and specification; and the Island Secretary shall certify, upon such annexed description and specification, the time of its being annexed and recorded, and thereafter it shall have the same effect in law as if it had been embraced in the original description and specification, and had been recorded therewith.

## X.—As to Filing and Recording Proceedings, Office Copies, Drawings, &c.

*How Petitions to be presented and filed.—Proceedings thereon to be recorded.*

Twenty-third.—Every petition for the grant of Letters Patent under this Act, and the declaration and specification required to accompany such petition, and every certificate or warrant thereon, shall be left at the office of the Executive Committee, and the day of the delivery of every such petition, declaration, and specification, certificate, or warrant, and the date of every reference, shall be endorsed or written thereon respectively by the Secretary of the Executive Committee, and an acknowledgment of receipt therefor, either separately or together, as the same may be delivered, shall be given to the petitioner or person delivering the same respectively, or his agent; and all such petitions, declarations, and specifications, references, certificates, or warrants, when Letters Patent shall be granted, and all Letters Patent, disclaimer, and memoranda of alteration and assignments, shall be lodged, filed, and preserved in the office of the Secretary of this Island, and shall be there recorded in or in continuation of the Books of Records of Patents hitherto kept at such office, and a receipt therefor shall be given by the Island Secretary, and a registry of such petitions, declarations, specifications, references, certificates, warrants, Letters Patent, disclaimers, and memoranda of alteration, and of all proceedings thereon, shall be kept at such office; and for recording every such petition, declaration, specification, reference, certificate, or warrant, Letters Patent, disclaimer, and memorandum of alteration, and for every receipt granted therefor, as aforesaid, there shall be paid to the Island Secretary, by the person lodging the same, the like respective fee, or at the like rate, as is payable in the case of every deed recorded in the said office, and as is payable for every receipt granted by the Island Secretary for every deed there recorded.

*Office Copies may be obtained from Island Secretary.*

Twenty-fourth.—It shall and may be lawful for any person to obtain and receive from the office of the Island Secretary, any copy or copies certified by him, of any such Letters Patent, or of the petition, declaration, specification, reference, certifi-

cate, or warrant, wherever the same were granted or issued, or of any disclaimer, memorandum, document, or paper connected therewith, or any drawing relating to the same, on payment for such copy or copies of the like fees as are now payable at the office of the Island Secretary for copies of other documents, and every such certified copy shall be evidence in all Courts.

*Drawings connected with Specifications to be furnished and bound up.*

Twenty-fifth.—In case reference is made to drawings in any specification deposited or filed under this Act, an extra copy of such drawings shall be left with such specification, and the same shall be bound up in a suitable book, to be kept for such purpose, and plain, accurate, and sufficient notes of reference to the specification wherewith such drawing shall have been deposited shall be made on or annexed to such drawings, and bound up with the same, in such manner as that such reference may be easily seen and understood.

*Island Secretary to supply Indexes to the Records of Patents, &c.*

Twenty-sixth.—The Island Secretary shall cause indexes to all petitions, declarations, specifications, Letters Patent, disclaimers, and memoranda of alterations enrolled or recorded as aforesaid, to be prepared in the form of the indexes now used in the said office; and such indexes and the books of record of such documents respectively shall be open to the inspection of the public at the usual times, and on payment of the usual fees, in cases of searches or reference to other records at the said Island Secretary's office.

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## XI.—As to Pleadings and Costs in Actions.

*In Actions for Infringement of Patents, Particulars of Breaches to be delivered; and also Particulars of Objections on Scire Facias to repeal same.—Proviso.*

Twenty-seventh.—In any action for the infringement of Letters Patent, the plaintiff shall deliver with his declaration, concise particulars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his plea, and the prosecutor in any proceedings by scire facias to repeal Letters Patent, shall deliver with his declaration,

concise particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration in the proceedings by scire facias, and at the trial of such action or proceeding by scire facias, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such Letters Patent, which shall not be contained in the particulars delivered as aforesaid: Provided that the place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the Letters Patent shall be stated in such particulars: Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff, or defendant, or prosecutor respectively to amend the particulars delivered as aforesaid upon such terms as to such judge shall seem fit; Provided also, that at the trial of any proceeding by scire facias to repeal Letters Patent, the defendant shall be entitled to begin and to give evidence in support of such Letters Patent; and in case evidence shall be adduced on the part of the prosecutor, impeaching the validity of such Letters Patent, the Defendant shall be entitled to the reply.

*General Issue to be pleaded.—Proviso.*

Twenty-eighth.—In any action for the infringement of Letters Patent, the defendant shall not plead any other plea than the general issue, which shall put the plaintiff to such proof in support of his action, and let in such evidence for the defendant, as in any action under such plea the defendant may, or the plaintiff at present is required to adduce; nevertheless the defendant shall be at liberty, along with such plea, to give notice by endorsement thereon or annexed to such plea of any special defence which he might by the present practice offer under a special plea, and for which he would be required to plead specially: Provided, that the defendant shall at the trial be bound by such notice, and not be at liberty to go into evidence of any other defence which by the present rules of pleading he would be restricted from giving, except under some plea for that purpose specially pleaded; and if the plaintiff would under the present rules of pleading be entitled to set up one of two answers to such special defence, he shall be required to endorse upon his similiter to the defendant's plea the nature of such answer, and shall at the trial be precluded from entering into evidence in support of any other answer: Provided

further, that nothing herein contained shall be construed to prevent any party to an action or suit from filing a general or a special demurrer.

*The Court or a Judge in Chambers may grant Injunctions, &c.*

Twenty-ninth.—In any action in any of Her Majesty's Courts of Record in this Island for the infringement of Letters Patent, it shall be lawful for the Court in which such action is pending, if the Court be then sitting, or if the Court be not sitting, then for a Judge of such Court, on the application of the plaintiff or defendant respectively to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such Court or Judge may seem fit.

*As to Costs in Actions for Infringement of Patent Rights.*

Thirtieth.—In taxing the costs in any action, in any of Her Majesty's Courts of Record in this Island, commenced after the passing of this Act, for infringing Letters Patent, regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particulars, unless certified by the Judge before whom the trial was had, to have been proved by such plaintiff or defendant respectively without regard to the general costs of the cause; and it shall be lawful for the Judge before whom any such action shall be tried, to certify on the record that the validity of the Letters Patent in the declaration mentioned came in question, and the record with such certificate being given in evidence in any suit or action for infringing the said Letters Patent, or in any proceeding by scire facias to repeal the Letters Patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by scire facias, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, taxed as between attorney and client, unless the Judge, making such decree or order, or the Judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

## XII.—Penalty for user or for Imitation or Counterfeit without Consent.

### *Treble Damages to be paid to Patentee for the unlawful Use of his patented Invention.*

Thirty-first.—Whenever in any case any Letters Patent shall be, or shall or may have been granted to any person under and by virtue of this Act, and any person without the consent of the patentee, his executors, administrators, or assigns, first had and obtained in writing, shall make, devise, use, or sell the thing, invention, or discovery whereof the exclusive right is secured to the said patentee by such Letters Patent, such persons so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns, a sum equal to three times the actual damage sustained by such patentee, his executors, administrators, or assigns, from or by reason of such offence, which sum shall and may be recoverable, together with costs of suit, by action on the case founded on this Act in the Supreme Court of this Island.

### *Using the Name of a Patentee for the Sale of an unpatented Invention, declared subject to a Penalty.*

Thirty-second.—If any person shall write, paint, or print, or mould, cast, or carve, or engrave or stamp upon any thing made, used, or sold by him, for the sole making or selling of which he hath not or shall not have obtained Letters Patent, the name, or any imitation of the name, of any other person who hath or shall have obtained Letters Patent for the sole making and vending of such thing, without leave in writing of such patentee, or his assigns; or if any person shall, upon such thing not having been purchased from the patentee, or some person who purchased it from or under such patentee, or not having had the licence or consent in writing of such patentee, or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the words "Patent," the words "Letters Patent," or the words "By the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee or shall in any other manner imitate or counterfeit the stamp, or mark, or other device of the patentee, he shall for every such offence be liable to a penalty of fifty pounds, to be recovered by

action of debt, bill, plaint, process or information in Her Majesty's Supreme Court of this Island, one half to Her Majesty, her heirs and successors, and the other to any person who shall sue for the same; provided that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping, or in any way marking, the words "Patent" upon any thing made for the sole making or vending of which a patent before obtained shall have expired.

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## XIII.—As to Forms and Stamps.

*The Forms of this Act may be varied.*

Thirty-third.—The several forms in the Schedule to this Act may be used for and in respect of the several matters therein mentioned, and the same may be varied as occasion may require.

*Stamps stated in Schedule to be impressed.*

Thirty-fourth.—The respective stamp duties set forth in the Schedule hereunto annexed shall be charged on Letters Patent, and the other instruments therein stated under this Act respectively, and no other stamp duties shall be chargeable thereon respectively.

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## XIV.—As to the Writ of Scire Facias.

*Scire facias for the Repeal of Patents.*

Thirty-fifth.—Provided that the writ of scire facias shall lie for the repeal of any Letters Patent issued under this Act, in the like cases as the same would lie for the repeal of Letters Patent which may now be issued under the Great Seal in England.

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## XV.—Construction of Act.

*Doubts as to Construction to be construed by Analogy.*

Thirty-sixth.—If any doubt should arise in the construction of this Act, the same may be construed by analogy to the laws now or hereafter to be in force in England relating to the granting of Letters Patent for inventions, so far as the provisions of such laws shall be applicable.

## XVI.—Commissioners to be associated.

*The Governor to appoint Commissioners under this Act.*

Thirty-seventh.—It shall be lawful for the Governor from time to time, by warrant under his sign manual, which shall be free from stamp duty, to appoint such persons as he may think fit to be Commissioners under this Act; and every person so appointed shall continue such Commissioner during the Governor's pleasure, and may be summoned to attend any meeting, and take part in any proceedings of the Governor in Executive Committee in any matter or proceeding arising under this Act.

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## XVII.—Miscellaneous Clauses.

*Interpretation of Words.*

Thirty-eighth.—In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context; that is to say, "the expression, invention, discovery, and improvement" respectively, shall mean any manner of new manufacture or new mode of manufacture, the subject of Letters Patent and grant of privilege within the meaning of the Act of the twenty-first year of the reign of King James the First, chapter three; the expressions "petition," "declaration," "reference," "certificate," or "warrant," and "Letters Patent" respectively, shall mean instruments in the form and to the effect in the Schedule hereto annexed, subject to such alterations as may from time to time be made therein, under the powers and provisions of this Act.

*Short Title of Act.*

Thirty-ninth.—In citing this Act in other Acts, instruments, and proceedings, it shall be sufficient to use the expressions "The Patent Law Amendment Act, 1857."

*16th Vict. cap. 12, repealed.*

Fortieth.—A certain Act of the legislature of this Island, made and passed in the sixteenth year of the reign of Her present Majesty, for ascertaining and declaring the law with

regard to Patents, of exclusive privileges in trade, manufacture, and inventions in connection therewith, is hereby repealed.

*No Patents granted in Great Britain for exclusive Privilege to trade to be valid in this Island, unless granted in pursuance of this Act.*

Forty-first.—No Letters Patent heretofore obtained, or hereafter to be obtained, in Great Britain, or elsewhere, for the exclusive privilege of trade or manufacture, or any invention in connection therewith, shall be of any validity or effect in this Island, unless Letters Patent for the Privilege or invention, in respect of which such Foreign Letters Patent may have been obtained, shall be granted and issued in pursuance of this Act, nor until all the provisions and requirements of this Act shall have been complied with in respect to Letters Patent.

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## Schedule of Stamp Duties.

| | £ | s. | d. |
|---|---|---|---|
| Letters Patent . . . . . | 5 | 0 | 0 |
| Petition . . . . . | 0 | 1 | 6 |
| Declaration . . . . . | 0 | 1 | 6 |
| Specification . . . . . | 0 | 5 | 0 |
| Reference . . . . . | 0 | 0 | 0 |
| Certificate or Warrant of Attorney-General . . | 0 | 0 | 0 |
| Disclaimer or Memorandum of Alteration . . | 0 | 1 | 6 |
| Assignment . . . . . | 0 | 10 | 0 |

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## Forms.

### *Petition.*

To his Excellency, &c., &c. [*here insert name and title of Governor.*]

The humble petition of [*here insert name and address of petitioner*], for, &c.

Sheweth,

That your petitioner is in possession of an invention for [*the title of the invention*], which invention he believes will be of great public utility; that he is the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of his knowledge and belief.

Your petitioner, therefore, humbly prays that your Exceliency will be

pleased, in the name and on behalf of Her Majesty the Queen, to grant unto him, his executors, administrators, and assigns, Her Majesty's Letters Patent for this Island, for the term of fourteen years, pursuant to the statute in that case made and provided.

And your petitioner will ever pray, &c.

*Declaration.*

I , of , in the County of , do solemnly and sincerely declare that I am in possession of an invention for, &c., &c. [*the title as in petition*], which invention I believe will be of great public utility; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of my knowledge and belief; and that the instrument in writing, under my hand and seal, hereunto annexed, particularly describes and ascertains the nature of the said invention and the manner in which the same is to be performed; and I make this declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed.

*A. B.*

Declared at , this day of , A.D., before me, , Justice of the Peace.

*Specification.*

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

Know ye, that I, the said , do hereby declare the nature of my invention for [*insert title as in petition*], and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement; (that is to say)—

[*Here describe the invention.*]

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

We attest:—

*C. D.*, of , &c.

*E. F.*, of , &c.

*Reference.*

(To be endorsed on the petition.)

His Excellency is pleased to refer this petition to Her Majesty's Attorney-General, to consider what may be properly done therein.

Secretary to the Executive Committee.

*Warrant.*

In obedience to his Excellency's command, referring to me the petition of , of , to consider what may be properly done therein, I do hereby certify as follows, that the said petition sets forth that the petitioner,

[*Allegations of the petition.*]

And the petitioner most humbly prays

[*Prayer of the petition.*]

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

[*Allegations of the declaration.*]

That there has also been laid before me a specification signed , and attested by two witnesses, and also a certificate of the filing thereof.

That it appears that the said application was duly advertised. Upon consideration of all the matters aforesaid, and as it is entirely at the hazard of the said petitioner whether the said invention is new, or will have the desired success, and as it may be reasonable for his Excellency to encourage all arts and inventions which may be for the public good, I am of opinion that his Excellency may grant Letters Patent unto the petitioner, his executors, administrators, and assigns, for his said invention within this Island, for the term of fourteen years, according to the statute in that case made and provided, if his Excellency shall be graciously pleased so to do, to the tenor and effect following :—

(*See* Forms, Letters Patent.)

Given under my hand this day of , A.D.

Attorney-General, Jamaica.

*Letters Patent.*

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, and of Jamaica, Lady, Defender of the Faith : to all to whom these presents shall come, greeting :—

Whereas hath, by his petition, humbly represented unto Our Captain-General and Governor-in-Chief of Our Island of Jamaica that he is in possession of an invention for [*insert title of invention*], which the petitioner conceives will be of great public utility ; that he is the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of his knowledge and belief. The petitioner, therefore, most humbly prayed that We would be graciously pleased to grant unto him, his executors, administrators, and assigns, Our Royal Letters Patent for the sole use, benefit, and advantage of his said invention within Our said Island of Jamaica for the term of fourteen years, pursuant to the statute in that case made and provided :

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

And We, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the request :

Know ye, therefore, that We, of Our special grace, certain knowledge, and mere motion, have given and granted, and by these presents, for Us, Our heirs and successors, do give and grant unto the said , his executors, administrators, and assigns, Our especial 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, and assigns, shall at any time agree with, and no others, from time to time and at all times hereafter during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within Our said Island of Jamaica, in such manner as to him, the said , his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet, and that he, the said , his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, and enjoy from time to time coming, growing, accruing, and arising by reason of the said invention, for and during the term of years herein mentioned, to have, hold, exercise, and enjoy the said licences, powers, privileges, and advantages herein-before granted or mentioned to be granted unto the said , his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years from the day of , A.D. next and immediately ensuing, and according to the statute in such case made and provided, and to the end that he, the said , his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit, and the sole use and exercise of the said invention, according to our gracious intention herein-before declared, We do by these presents, for Us, Our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other Our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within Our said Island of Jamaica, that neither 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 anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, 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 or may be justly inflicted on such offenders for their contempt of this Our royal command; and further, to be answerable to the said , his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned; and moreover, we do by these presents, for Us, Our heirs and successors, will and command all and singular the justices of the peace, constables, and all other officers and ministers whatsoever, Our heirs and successors for the time being, that they, or any of them, do not nor shall at any time during the said term hereby granted, in anywise molest, trouble, or hinder the said , his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful

use or exercise of the aforesaid invention, or anything relating thereto: Provided always, and these Our Letters Patent are, and shall be upon this condition, that if, at any time during the said term hereby granted, it shall be made appear to Us, Our heirs or successors, or any six or more of Our, or their, Privy Council of Our said Island of Jamaica, that this Our grant is contrary to law or prejudicial or inconvenient to Our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said is not the true and first inventor thereof within this Island as aforesaid, these Our Letters Patent shall forthwith cease, determine, and be utterly void, to all intents and purposes, anything herein-before contained to the contrary thereof in anywise notwithstanding: Provided also, that these Our Letters Patent, or anything herein contained, shall not extend, or be construed to extend, to give privilege unto the said , his executors, administrators, and assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of Our subjects whatsoever, and publicly used or exercised, unto whom Our like Letters Patent or privileges have been already granted for the sole use, exercise, and benefit thereof; it being Our will and pleasure that the said , his executors, administrators, and assigns, and all and every other person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and 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 instrument in writing, filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also, if the said , his executors, administrators, or assigns, shall not supply, or cause to be supplied, for Our service, all such articles of the said invention as he or they shall be required to supply by the Officers or Commissioners administering the department of Our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said Officers or Commissioners requiring the same, that then, and in any of the said cases, these Our Letters Patent, and all liberties and advantages hereby granted, shall utterly cease, determine, and become void, anything herein-before 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 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 as in all Our Courts of Record as elsewhere, and by all and singular the officers and ministers whatsoever of Us, Our heirs and successors, in Our said Island of Jamaica, and amongst all and every the subjects of Us, Our heirs and successors, within Our said Island of Jamaica, notwithstanding the not full and certain describing the nature and quality of the said invention, or of the materials thereunto conducing and belonging: Provided further, that if the said , his heirs, administrators, or assigns, shall, upon petition, presented to Our Captain-General and Governor-in-Chief, or officer administering the government of Our said Island, before the expiration of the term of years hereby granted, show that he or they has or hath been unable to obtain a due remuneration for his or their expense or labour in perfecting the aforesaid invention, and Our Captain-General and Governor-in-Chief, or officer administering the government as aforesaid, in Executive Committee, shall be of opinion that an extension of the term of years aforesaid should be granted, it shall be lawful for Our Captain-General and Governor-in-Chief, or officer administering the government as aforesaid, to extend the term of years aforesaid for any further period not exceeding seven years, and to sign and issue in the name and on the behalf of Us, Our heirs or successors, new Letters Patent, in the form or of the tenor or effect aforesaid, unto the said , his executors, administrators, or assigns, for the aforesaid invention, for any such further period not exceeding seven years as aforesaid accordingly; and to the end aforesaid, We have caused these Our Letters Patent to be sealed with the broad seal of Our said Island of Jamaica.

(Seal.) Witness, his Excellency, &c., &c., &c., Captain-General and Governor-in-Chief [*or administering the government*] of Our said Island of Jamaica, and the territories thereon depending, Chancellor and Vice-Admiral of the same, at Saint Jago de la Vega, this day of annoque domini , and in the year of Our reign.

# JAPAN.

## *Law of May* 25, 1871, *regulating Grants of Exclusive Privileges to Inventors.*

*(From the Commissioners of Patents Journal.)*

Henceforward exclusive permission to trade in newly-invented articles of all kinds whatsoever will be granted to the inventors; in consequence whereof, should any person residing in any part of the country be desirous of obtaining such exclusive permission, the application shall for the present be made to the Home Office, in accordance with the regulations which follow.

Patents shall be granted for a term of years to all persons who increase the conveniences of life, who newly invent any chemical apparatus, machinery, utensils, or furniture, weapons, woven fabrics, et cætera, or who improve existing furniture or utensils.

The term of years shall be fifteen years, ten years, or seven years, according to the value of the invention.

Any person desirous of obtaining a patent shall send in his application to the local authorities of the district in which he resides, accompanied by a description, drawings, &c, which shall be forwarded to the Home Office, and the Home Office shall issue the patent.

The objects of the invention or the improvement shall be carefully drawn in cross-section and plan, and in the case of machinery the parts must be numbered or lettered in accord-

ance with the description, so that everything may be clearly comprehensible at a single glance; and the seals of the inventor and of his surety must be attached to the drawings. Models may be furnished of articles of which drawings cannot easily be made.

When the document containing the patent is issued by the Home Office, the local authorities shall deliver it after having obtained a receipt from the inventor and his surety.

A duty of five rio (1*l.* 1*s.* 3*d.*) shall be paid annually in advance during the period for which the patent is granted into the hands of the local authorities.

The duty may be increased or diminished, according to the nature of the invention. The amount shall be forwarded to the Home Department as soon as it is collected.

No duty shall be paid until six months have elapsed from the granting of the patent, that period being allowed for the inventor to try whether the sale be remunerative, and when he has ascertained that it is remunerative he will pay in one year's duty to the local authorities.

If from the trial made during the first six months the sale turns out to be unremunerative the application may be withdrawn at the option of the patentee, but in case such application be made after the expiration of the six months, the duty for one year already paid in advance will not be returned,

The applications sent into the Home Office will receive consideration according to priority of arrival.

Where the invention of another has simply been improved, the application must distinctly state the name of the original inventor and the nature of the improvement. Where the invention in respect of which an application is made resembles a prior invention by another individual, but actually differs in construction or use, the points of difference must be clearly laid down in the application.

No patent will be granted for articles of general convenience, though the inventor be known beyond the possibility of mistake, and be yet alive, if the invention has been in general use for several years previous to the application.

Separate patents will not be given to each individual who may have combined with others to produce an invention, but a single patent will be issued in the name of all the partners of the company.

The owner of a patent may freely dispose of it for such sum as seems fit, during the period for which it has been granted;

and both parties shall make application to have the fact endorsed upon the patent.

The patentee is at liberty to establish branch shops in his own name, or to teach others how to make the articles patented by him.

Should the patentee die before the patent expires, he may leave the patent to a relation, but application must be made to have the transfer endorsed thereon.

The Home Office shall publicly notify in each case that a patent has been granted to such and such a person, of such and such a place, giving also the names of the department, province, and the seat of the local authority, in consequence of his having invented such and such an article.

Should the patentee incur such losses during the term of years as he is unable to make good, if the article after due inquiry is found to be of indispensable public necessity, an extension may be granted.

Each separate article must bear the words "by Government sanction," together with the name of the inventor.

Fines shall be imposed on persons who fraudulently make use of a patentee's name, or who, not being in the enjoyment of a patent, make use of the term "by Government sanction."

# LEEWARD ISLANDS.

## *Act No.* 12 *of* 1876.

AN ACT for amending the law for granting Patents for inventions.

WHEREAS it is expedient to amend the law concerning Letters Patent for inventions,

Be it enacted by the Governor and General Legislative Council of the Leeward Islands, as follows:

1. *The first section has been repealed—See sections* 1 *&* 5 *of Act No.* 16, 1878, *post.*

*Seal of the Commissioners.*

2. It shall be lawful for the commissioners to cause a seal to be made for the purposes of this Act, and from time to time to vary such seal, and to cause to be sealed therewith all the warrants for Letters Patent under this Act, and all instruments and copies proceeding from the office of the commissioners, and all courts, judges, and other persons whomsoever, shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the Great Seal of the Colony are received in evidence, and shall also take notice of and receive in evidence, without further proof or production of the originals, all copies or extracts certified under the seal of the said office, of or from documents deposited in such office.

*Power to Commissioners to make rules and regulations to be approved by Governor in Council.*

3. It shall be lawful for the commissioners from time to time to make such rules and regulations (not inconsistent with the

provisions of this Act) respecting the business of their office, and all matters and things which under the provisions herein contained are to be under their control and direction, as may appear to them necessary and expedient for the purposes of this Act, and all such rules when approved by the Governor in Council shall have the force and effect of law.

*Office of the Commissioners.*

4. It shall be lawful for the Governor to provide and appoint from time to time a proper place for an office for the purposes of this Act.

*Commissioners with consent of Governor to appoint Clerk.*

5. It shall be lawful for the commissioners with the consent and approval of the Governor, from time to time to appoint a clerk for the purposes of this Act, and it shall be lawful for the commissioners from time to time, with the approval of the Governor, to remove such clerk so appointed.

*Petition and Declaration to be accompanied with a Provisional Specification.*

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

*Every application to be referred to Attorney-General.*

7. Every applicant for Letters Patent made under this Act shall be referred by the commissioners according to such regulations as they may think fit to make, to the Attorney-General.

*Provisional Specification to be referred to Attorney-General, who, if satisfied, may give a certificate of his allowance, which shall be filed.*

8. The provisional specification shall be referred to the Attorney-General, who shall be at liberty to call to his aid such scientific, or other person as he may think fit, and to cause to be paid to such person by the applicant, such remuneration as the Attorney-General shall appoint; and if the Attorney General be satisfied that the provisional specification describes the nature of the invention he shall allow the same, and give a certificate of his allowance, and such certificate shall be filed in the office of the commissioners, and thereupon the invention therein referred to may, during the term of six months from the date of the application for Letters Patent for the said invention be used and published without prejudice to any Letters Patent to be granted for the same, and such protection from the consequences of use and publication is hereinafter referred to as provisional protection. Provided always that in case the title of the invention or the provisional specification be too large or insufficient, it shall be lawful for the Attorney-General to allow or require the same to be amended.

*Inventor may deposit in lieu of a provisional specification, a complete specification, such deposit to confer for a limited time the like rights as Letters Patent.*

9. The applicant for Letters Patent for an invention instead of leaving with the petition and declaration a provisional specification as aforesaid, may, if he think fit, file with the said petition and declaration an instrument in writing under his hand and seal (hereinafter called a complete specification) particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, which complete specification shall be mentioned in such declaration, and the day of the delivery of every such petition, declaration, and complete specification shall be recorded at the office of the commissioners, and endorsed on such petition, declaration, and specification, and a certificate thereof given to such applicant or his agent, and thereupon subject and without prejudice to the provisions hereinafter contained, the invention shall be protected under this Act for the term of six months from the date of the application, and the applicant shall have

during such term of six months the like powers, rights, and privileges, as might have been conferred upon him by Letters Patent for such invention issued under this Act, and duly sealed as of the day of the date of such application, and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any Letters Patent to be granted for the same; and where Letters Patent are granted in respect of such invention, then in lieu of a condition for making void such Letters Patent in case such invention be not described and ascertained by a subsequent specification, such Letters Patent shall be conditioned to become void, if such complete specification filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed; and a copy of every such complete specification shall be open to the inspection of the public as hereinafter provided, from the time of depositing the same, subject to such regulations as the commissioners may make.

*Letters Patent granted to the first Inventor not to be invalidated by protection obtained in fraud of the first Inventor.*

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

*Commissioners to cause protection to be advertised.*

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

*Application for Letters Patent to be advertised, and also oppositions to same.*

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

*Specification and objections to be referred to Attorney-General.*

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

*Power to Attorney-General to order by, or to whom costs shall be paid.*

14. It shall be lawful for the Attorney-General, if he see fit, by certificate under his hand, to order by or to whom the cost of any hearing or enquiry upon any objection or otherwise, in relation to the grant of such Letters Patent, or in relation to provisional (or other) protection acquired by the applicant under this Act shall be paid, and in what manner, and by whom such costs are to be ascertained, and if any costs so ordered to be paid be not paid within four days after the amount thereof shall be so ascertained, it shall be lawful for the Attorney-General to make an order for the payment of the same, and every such order may be made a rule of the Supreme Court to the effect that execution may pass thereupon in common form.

*Power of Attorney-General to cause a Warrant to be made for sealing of Letters Patent.*

15. It shall be lawful for the Attorney-General after such hearing, if any, as he may think fit, to cause a warrant to be made for the sealing of Letters Patent for the said invention, and such warrant shall be sealed with the seal of the commissioners, and shall set forth the tenor and effect of the Letters Patent thereby authorized to be granted, and the Attorney-General shall direct the insertion in such Letters Patent of all such restrictions, conditions, and provisoes as he may deem usual and expedient in such grants, or necessary in pursuance of the provisions of this Act; and the said warrant shall be the warrant for the making and sealing of Letters Patent under this Act according to the tenor of the said warrant.

*Nothing to affect the prerogative of the Crown in granting or withholding grant of Letters Patent.*

16. Provided always that nothing herein contained shall extend to abridge or affect the prerogative of the Crown in relation to the granting or withholding the grant of any Letters Patent, and it shall be lawful for the Governor by warrant under his hand, to direct the Attorney-General to withhold such warrant as aforesaid, or that any Letters Patent for the issuing whereof he may have issued a warrant as aforesaid shall not issue, or to direct the insertion in any Letters Patent to be issued in manner herein provided of any restrictions, conditions, or provisoes, which he may think fit, in addition to, or in substitution for, any restrictions, conditions, or provisoes which would otherwise be inserted therein under this Act, and it shall also be lawful for the Governor by like warrant to direct any complete specification, which may have been filed under the provision hereinbefore contained, and in respect of the invention described, in which no Letters Patent may have been granted, to be cancelled, and thereupon the protection obtained by the filing of such complete specification shall cease.

*Letters Patent to be for 14 years, and to be made subject to avoidance on nonfulfilment of certain conditions.*

17. All Letters Patent for inventions granted under the provisions hereinbefore contained shall be for fourteen years,

and shall be made subject to the condition, that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid before the expiration of the said three and seven years respectively, the sum or sums of money in the schedule to this Act annexed; and the payment of the said sums of money shall be endorsed on the warrant for the said Letters Patent, and the Clerk of the Commissioners shall issue under the seal of the Commissioners a certificate of such payment, and shall endorse a receipt for the same on any Letters Patent issued under the authority of the said warrant; and such certificate duly stamped, shall be evidence of the payment of the several sums respectively.

*Letters Patent to be sealed with the Great Seal of the Colony.*

18. The Commissioners so soon after the sealing of the said warrant as required by the applicant for the Letters Patent, shall cause to be prepared Letters Patent for the invention according to the tenor of the said warrant, and it shall be lawful for the Governor to cause such Letters Patent to be sealed with the Great Seal of the Colony.

*No Letters Patent to be issued after Three Months from date of Warrant.*

19. Provided always that no Letters Patent save as hereinafter mentioned in the case of Letters Patent destroyed or lost, shall issue on any warrant granted as aforesaid, unless application be made to seal such Letters Patent within three months after the date of the said warrant.

*No Letters Patent (except in lieu of those lost, &c.) to be issued after expiration of protection given by this Act.*

20. Provided also that no Letters Patent (save Letters Patent itsued in lieu of others, destroyed or lost) shall be issued or be of any force or effect, unless the same be granted during the continuance of the provisional protection under this Act, or where a complete specification has been deposited under this Act, then unless such Letters Patent be granted during the continuance of the protection conferred under this Act by reason of such deposit, save that where the application to seal such Letters Patent has been made during the continuance of such

provisional or other protection as aforesaid, and the sealing of such Letters Patent has been delayed by reason of a caveat, or an application to the Governor against or in relation to the sealing of such Letters Patent, then such Letters Patent may be sealed at such time as the Governor shall direct.

*Letters Patent may be granted to Personal Representatives of the Applicant during the term of protection or within Three Months of Applicant's decease.*

21. Provided also that where the applicant for such Letters Patent dies during the continuance of the provisional protection, or the protection by reason of the deposit of a complete specification (as the case may be), such Letters Patent may be granted to the executors or administrators of such applicant during the continuance of such provisional or other protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such provisional or other protection, and the Letters Patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such provisional or other protection.

*If Letters Patent be destroyed or lost, other Letters Patent may be issued.*

22. Provided also that in case any such Letters Patent shall be destroyed or lost, other Letters Patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the Commissioners may direct, be issued under the authority of the warrant in pursuance of which the original Letters Patent were issued.

*Letters Patent may be dated as of the day of the application.*

23. It shall be lawful to cause any Letters Patent to be issued in pursuance of this Act to be sealed and bear date as of the day of the application for the same, or where the Attorney-General or the Governor thinks fit, and directs any such Letters Patent as aforesaid may be sealed and bear date as of the day of the sealing of such Letters Patent or of any other day between the day of such application for provisional registration and the day of such sealing.

*Letters Patent where antedated to be of the same validity as if sealed on the day of the date.*

24. Any Letters Patent issued under this Act sealed and bearing date as of any day prior to the day of the actual sealing thereof

shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date. Provided always that save where such Letters Patent are granted for any invention in respect whereof a complete specification has been deposited upon the application for the same under this Act, no proceeding at law or in equity shall be had upon such Letters Patent in respect of any infringement committed before the same were actually granted.

*Letters Patent for patented Foreign Inventions not to continue in force after the expiration of the Foreign Patent.*

25. Where upon any application made after the passing of this Act, Letters Patent are granted in this colony for or in respect of any invention first invented in any foreign country, or by the subject of any foreign Power or State, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any foreign country is there obtained before the grant of such Letters Patent in this colony, all rights and privileges under such Letters Patent shall (notwithstanding any term in such Letters Patent limited) cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such foreign country shall continue in force, or where more than one such patent or like privilege is obtained abroad immediately upon the expiration or other determination of the term which shall first expire or be determined of such several patents or like privileges, provided always that no Letters Patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained in any foreign country, and which shall be granted in this colony after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

*Letters Patent not to prevent the use of Inventions in Foreign Ships resorting to this Colony, except ships of Foreign States in whose Ports British ships are prevented from using Foreign Inventions.*

26. No Letters Patent for any invention (granted after the passing of this Act) shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel, which may be in any port of this colony, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported

from this colony, provided always that this enactment shall not extend to the ships or vessels of any foreign State of which the laws authorise subjects of such foreign State, having patents or like privileges for the exclusive use or exercise of inventions within its territories to prevent or interfere with the use of such inventions in British ships or vessels while in the ports of such foreign State or in the waters within the jurisdiction of its Courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from the territories of such foreign State.

*Specifications to be filed.*

27. All Letters Patent to be granted under this Act (save only Letters Patent granted after the filing of a complete specification) shall require the specification thereunder to be filed in the office of the Commissioners.

*Specification to be filed.*

28. Every specification to be filed in pursuance of the condition of any Letters Patent shall be filed in the office of the Commissioners.

*Copies of Specifications to be open to inspection at Office of Commissioners.*

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

*Specification and other Documents to be printed and published.*

30. The Commissioners shall cause to be printed, published, and sold at such prices and in such manner as they may think fit, all specifications, disclaimers and memoranda of alterations deposited or filed under this Act, and such specifications (not being provisional specifications), disclaimers and memoranda respectively shall be so printed and published as soon as conveniently may be after the filing thereof respectively, and all such provisional specifications shall be so printed and published as soon as conveniently may be, after the expiration of the pro-

visional protection obtained in respect thereof, and it shall be lawful for the Commissioners to present copies of all such publications to such public libraries and museums as they may think fit, and to allow the person depositing or filing any such specification, disclaimer or memoranda of alteration to have such number, not exceeding twenty-five, of the copies thereof so printed and published, without any payment for the same, as they may think fit.

*Copies of Specification, &c., as printed by the Queen's Printer, to be in evidence.*

31. Printed copies, certified by the Commissioners or one of them, of specifications, disclaimers, and memoranda of alterations, shall be admissible in evidence and deemed and taken to be *primâ facie* evidence of the existence and contents of the documents to which they purport to relate, in all Courts and in all proceedings relating to Letters Patent.

*Register of Patents to be kept.*

32. There shall be kept at the office of the Commissioners under this Act a book or books to be called "The Register of Patents," wherein shall be entered and recorded in chronological order all Letters Patent granted under this Act, the deposit or filing of specifications, disclaimers and memoranda of alterations, filed in respect of such Letters Patent, all amendments in such Letters Patent and specifications, all confirmations and extensions of such Letters Patent, the expiry, vacating, or cancelling such Letters Patent, with the dates thereof respectively, and all other matters and things affecting the validity of such Letters Patent, as the Commissioners may direct, and such register or a copy thereof shall be open at all convenient times to the inspection of the public, subject to such regulations as the Commissioners may make.

*Registers of Proprietors to be kept.*

33. There shall be kept at the office of the Commissioners a book or books entitled "The Register of Proprietors," wherein shall be entered in such manner as the Commissioners shall direct the assignment of any Letters Patent, or of any share or interest therein, any license under Letters Patent, and the district to which such license relates, with the name or names of any person having any share or interest in such Letters Patent or license, the date of his or their acquiring such Letters

Patent, share and interest, and any other matter or thing relating to or affecting the proprietorship in such Letters Patent or license, and a copy of any entry in such book, certified under the seal of the Commissioners, shall be given to any person requiring the same on payment of the fees hereinafter provided, and such copies so certified shall be received in evidence in all Courts and in all proceedings, and shall be *primâ facie* proof of the assignment of such Letters Patent or share or interest therein or of the license of proprietorship, as therein expressed, provided always that until such entry shall have been made the grantee or grantees of the Letters Patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such Letters Patent and of all the licenses and privileges thereby given and granted, and any writ of *scire facias* to repeal such Letters Patent may be issued to the Provost Marshal of the Presidency in which the grantee or grantees resided at the time when the said Letters Patent were granted, and in case such grantee or grantees do not reside in the Leeward Islands, it shall be sufficient to file such writ in the usual manner in which writs are filed, and serve notice thereof in writing at the last known residence or place of business of such grantee or grantees, and such register or a copy shall be open to the inspection of the public at the office of the Commissioners, subject to such regulations as the Commissioners may make.

*Falsification or Forgery of Entries a Misdemeanour.*

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

*Entries may be expunged.*

35. If any person shall deem himself aggrieved by any entry made under colour of this Act in the said register of proprietors, it shall be lawful for such person to apply by motion to the Supreme Court or any Judge thereof for an order that such entry may be expunged, vacated or varied, and upon any such application the said Court or Judge may make such order for

expunging, vacating or varying such entry, and as to the costs of such application as to the said Court or Judge may seem fit, and the officer having the care and custody of such register, on the production to him of any such order for expunging, vacating or varying any such entry, shall expunge, vacate or vary the same, according to the requisitions of such order.

*Provisions of 5 & 6 W. 4, c. 83, and of 7 & 8 Vict. c. 69, as to Disclaimers and Memoranda of Alterations to apply to Patents under this Act. Application for Disclaimers and Caveats to be at Office of Commissioners.*

36. All the provisions of the Imperial Acts of the Session holden in the fifth and sixth years of King William the Fourth, Chapter eighty-three, and of the Session holden in the seventh and eighth years of Her Majesty, Chapter sixty-nine, respectively relating to disclaimers and memoranda of alterations in Letters Patent and specifications, except as hereinafter provided, shall be applicable and apply to any Letters Patent granted and to any specification filed under the provisions of this Act, provided always that all applications for leave to enter a disclaimer or memorandum of alteration shall be made, and all caveats relating thereto, shall be lodged at the office of the Commissioners, and shall be referred to the Attorney-General, provided that every such disclaimer or memorandum of alteration shall be filed in the office of the Commissioners with the specifications to which the same relates, provided also that such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the law officer in the first recited Act mentioned certified as therein mentioned shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under the Acts aforesaid and this Act, and no objection shall be allowed to be made in any proceeding upon or touching such Letters Patent, specification. disclaimer or memorandum of alteration, on the ground that the party entering such disclamer or memorandum of alteration had not sufficient authority in that behalf, provided also that no action shall be brought upon any Letters Patent in which or on the specification of which any disclaimer or memorandum of alteration shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the Attorney-General shall certify in his *fiat* that any such action

may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration.

*Provisions of 5 & 6 W. 4. c. 83, 2 & 3 Vict. c. 67, and 7 & 8 Vict. c. 69, as to confirmation and prolongation to apply to Patents under this Act.*

37. All the provisions of the said Act of the fifth and sixth years of King William the Fourth for the confirmation of any Letters Patent and the grant of new Letters Patent, and all the provisions of the said Act, and of the Acts of the Session holden in the second and third years of Her Majesty, chapter sixty-seven, and of the Session holden in the seventh and eighth years of Her Majesty, chapter sixty-nine, respectively relating to the prolongation of the term of Letters Patent and to the grant of new Letters Patent for a further term, shall extend and apply to any Letters Patent granted under the provisions of this Act, and it shall be lawful to grant new Letters Patent as in the said Acts mentioned, provided always that such new Letters Patent shall be sealed and bear date as of the day after the expiration of the term of the original Letters Patent which may first expire.

*Actions for infringement of Letters Patent to be regulated by "Code of Civil Procedure."*

38. All actions for the infringement of Letters Patent granted under the authority of this Act shall be regulated by the provisions of "The Code of Civil Procedure."

*Supreme Court may grant Injunction in case of infringement.*

39. In any action in the Supreme Court for the infringement of Letters Patent, it shall be lawful for the Court if it be then sitting, or if the Court be not sitting for a Judge of such Court, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such Court or Judge may seem fit.

*Fees on Letters Patent to be as in Schedule.*

40. There shall be paid to the clerk of the Commissioners in respect of Letters Patent applied for or issued, as herein mentioned, the filing of specifications and disclaimers, certifi-

cates, entries and searches, and all other matters and things mentioned in the schedule to this Act, such fees as are mentioned in the said schedule, and such fees shall be payable into the public treasury of the Presidency where such Letters Patent shall be applied for or issued, save and except such portions thereof as may be allotted under section 42 of this Act.

*Fees to be paid to Attorney-General in cases of opposition, &c.*

41. In cases of opposition to the granting of Letters Patent, and in case of disclaimers and memoranda of alterations, such fees shall be paid to the Attorney-General as may be appointed by the Commissioners as the fee to be paid on the hearing of such oppositions, and in the case of disclaimers and memoranda of alterations respectively, and such reasonable sums for office or other copies of documents in the office of the Commissioners, as the Commissioners may from time to time appoint to be paid for such copies, and the Commissioners are hereby authorized and empowered to appoint the fees to be so paid in respect of such oppositions, disclaimers and memoranda of alterations respectively, and for such office and other copies.

*Fees of Clerk.*

42. It shall be lawful for the Commissioners to allot to the clerk such portions of the fees received by them as they may deem right.

*Forms in Schedule may be used.*

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

*Interpretation of Terms.*

44. In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context. That is to say:—The expression "Governor" shall mean the officer administering the general Government of the Colony; the expression "the Commissioners" shall mean the Commissioners for the time being acting in execution of this Act; the ex-

pression "invention" shall mean any manner of new manufacture, the subject of Letters Patent and grant of privilege within the meaning of the existing law of England governing this subject; the expressions "petition," "declaration," "provisional specification," "warrant," and "Letters Patent," respectively, shall mean instruments in the form and to the effect in the schedule hereto annexed, subject to such alterations as may from time to time be made therein under the powers and provisions of this Act.

*Short Title.*

45. This Act may be cited as the "Patent Law Act, 1876."

*Commencement of Act.*

46. This Act shall commence and take effect on such day as shall hereafter be fixed by Proclamation under the hand of the Governor, to be published in the "Gazette."

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THE SCHEDULE TO WHICH THIS ACT REFERS.

*Fees to be paid.*

| | £ | s. | d. |
|---|---|---|---|
| On leaving Petition for grant of Letters Patent . . . | 2 | 10 | 0 |
| On notice of intention to proceed with the application . . | 2 | 10 | 0 |
| On sealing of Letters Patent . . . . . | 5 | 0 | 0 |
| On filing Specification . . . . . | 5 | 0 | 0 |
| At or before the expiration of the third year . . . . | 10 | 0 | 0 |
| At or before the expiration of the seventh year . . . | 20 | 0 | 0 |
| On leaving notice of objections . . . . . | 2 | 0 | 0 |
| Every search and inspection . . . . . | 0 | 1 | 0 |
| Entry of assignment or licence . . . . . | 0 | 5 | 0 |
| Certificate of assignment or licence . . . . . | 0 | 5 | 0 |
| Filing application for disclaimer . . . . . | 3 | 0 | 0 |
| Caveat against disclaimer . . . . . | 1 | 0 | 0 |
| The following fees shall be paid to the Attorney-General :— | | | |
| On every application for Letters Patent referred to Attorney-General under section 7 . . . . . | 3 | 0 | 0 |
| Examining provisional specification under section 8 . . . | 5 | 0 | 0 |
| „ amended „ „ . . . | 1 | 0 | 0 |
| „ complete specification under sections 9 and 13 . | 5 | 0 | 0 |
| Perusing particulars of objections under section 13 . . . | 2 | 0 | 0 |
| Certificate of allowance . . . . . | 3 | 0 | 0 |

| | £ | s. | d. |
|---|---|---|---|
| Every Certificate under section 14 . . . . . | 1 | 0 | 0 |
| „ order for costs „ . . . . . | 1 | 0 | 0 |
| „ Warrant for the sealing of Letters Patent under section 15 . . . . . | 5 | 0 | 0 |
| Considering application for disclaimer or memorandum of alteration under section 36 . . . . . | 2 | 0 | 0 |
| Every Certificate or fiat that action may be brought under section 36 . . . . . | 3 | 0 | 0 |

## Forms.

### *Petition.*

No.

To

The humble Petition of [*here insert name and address of Petitioner*] for, &c.

Sheweth,

That your Petitioner is in possession of an invention for [*title of the invention*], which invention he believes will be of great public utility; that he is the true and first inventor thereof, and that the same is not in use by any other person or persons, to the best of his knowledge and belief.

Your Petitioner therefore humbly prays that will be pleased to grant unto him, his executors, administrators, and assigns, Letters Patent for the Leeward Islands for the term of fourteen years pursuant to the statute in that case made and provided.

And your Petitioner will ever pray, &c.

### *Declaration.*

No.

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

*A.B.*

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

### *Provisional Specification.*

No.

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

Dated this day of A.D.

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

*Reference.*

(*To be endorsed on the Petition.*)

The Governor is pleased to refer this Petition to the Attorney-General to consider what may be properly done therein.

Clerk of the Commissioners.

*Warrant.*

In humble obedience to command referring to me the Petition of of to consider what may be properly done therein; I do hereby certify as follows: that the said Petition sets forth that the Petitioner [*allegations of the Petition*] And the Petitioner most humbly prays [*prayer of the Petition*].

That in support of the allegations contained in the said Petition the declaration of the Petitioner has been laid before me, whereby he solemnly declares, that [*allegations of the declaration*].

That there has also been laid before me [*a provisional specification signed and also a certificate* ] or [*a complete specification and a certificate of the filing thereof*] whereby it appears that the said invention was provisionally protected [*or protected*] from the day of A.D. in pursuance of the statute; That it appears that the said application was duly advertised; Upon consideration of all the matters aforesaid and as it is entirely at the hazard of the said Petitioner whether the said invention is new or will have the desired success, and as it may be reasonable for Her Majesty to encourage all arts and inventions which may be for the public good, I am of opinion that the Governor may grant Letters Patent unto the Petitioner, his executors, administrators and assigns, for his said invention within the Leeward Islands, for the term of fourteen years according to the statute in that case made and provided, if his Excellency shall be graciously pleased so to do, to the tenor and effect following [*see next form*].

Given under my hand and seal this day of A.D.

[Seal of the Commissioners.]

*Letters Patent.*

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

To all to whom these presents shall come greeting:

Whereas hath, by his Petition, humbly represented to Us that he is in possession of an invention for

which the Petitioner conceives will be of great public utility; that he is the true and first inventor thereof; and that the same is *not in* use by any other person or persons, to the best of his knowledge and belief; the Petitioner therefore most humbly prayed that We would be graciously pleased to grant unto him, his executors, administrators, and assigns, Our Royal Letters Patent for the sole use, benefit, and advantage of his said invention within Our Leeward Islands, for the term of fourteen years, pursuant to the statutes in that case made and provided:

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

And We being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the Petitioner's request: Know ye, therefore, that We, of Our especial grace certain knowledge, and mere motion, have given and granted and by these presents, for Us, Our heirs and successors, do give and grant unto the said his executors, administrators, and assigns, Our especial 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 said Leeward Islands, in such manner as to him the said his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet, and that he the said his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity and advantage from time to time coming, growing, accruing, and arising, by reason of the said invention for and during the term of years herein mentioned; to have, hold, exercise, and enjoy the said 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 said Leeward Islands, that neither they nor any of them at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly to make, use, or put in practice the said invention, or any part of the same so attained unto by the said as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, 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 or may be

justly inflicted on such offenders, for their contempt of this Our Royal command, and further to be answerable to the said his executors, administrators, and assigns, according to law for his and their damages thereby occasioned: And, moreover, We do by these presents for Us, Our heirs and successors, will and command all and singular the magistrates, justices of the peace, and all other officers and ministers whatsoever of Us, Our heirs, and successors, for the time being, that they or any of them do not nor shall at any time during the said term hereby granted, in any wise molest, trouble, or hinder the said his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always and these Our Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall be made to appear to Our Governor of Our said Leeward Islands in council that this Our grant is contrary to law, or prejudicial or inconvenient to Our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said is not the true and first inventor thereof within the Leeward Islands as aforesaid, these Our Letters Patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein contained to the contrary thereof in anywise notwithstanding; Provided also that these Our Letters Patent, or anything herein contained shall not extend, or be construed to extend, to give privilege unto the said his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of Our subjects whatsoever and publicly used or exercised unto whom Our like Letters Patent or privileges have been already granted for the sole use, exercise and benefit thereof: It being Our will and pleasure that the said his executors, administrators, and assigns, and all and every other person and persons to whom the like Letters Patent and privileges have been already granted as aforesaid, shall distinctly use and 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 of the said instrument in writing filed as aforesaid does not particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed*] and also if the said his executors, administrators, or assigns, shall not pay, or cause to be paid, at the office of Our Commissioners of Patents for inventions the sums following, that is to say, the sum of pounds on or before the day of A.D. and the sum of pounds on or before the day of A.D.;

and also if the said his executors, administrators, or assigns, shall not supply, or cause to be supplied, for Our service, all such articles of the said invention as he or they shall be required to supply by the Officers or Commissioners administering the department of Our service for the use of which the same shall be required in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said Officers or Commissioners requiring the same; that then and in any of the said cases these Our Letters Patent and all liberties and advantages whatsoever hereby granted shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof notwithstanding, Provided that nothing herein contained shall prevent the granting of licenses in such manner and for all such considerations as they may by law be granted; and lastly, We do by these presents for Us, Our heirs and successors, grant unto the said his executors, administrators, and assigns, that these Our Letters Patent on the filing thereof shall be in and by all things good, firm, valid sufficient, and effectual in the law according to the true intent and meaning thereof; and shall be taken, construed, and adjudged in the most 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 said Leeward Islands, and amongst all and every the subjects of Us, Our heirs and successors whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging.

In witness whereof We have caused these Our Letters to be made patent this day of A.D. and to be sealed and bear date as of the said day of A.D. in the year of Our reign.

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*Specification.*

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

Whereas His Excellency , Governor of the Leeward Islands, by Letters Patent, bearing date the day of A.D. in the year of Her Majesty's reign, did for Her Majesty, her heirs and successors, give and grant unto me the said his special license that I the said my executors, administrators, and assigns, or such other as I the said my executors, administrators, and assigns, should at any time agree with and no others, from time to time and at all times thereafter during the term therein expressed, should, and lawfully might make, use, exercise, and vend, within the Colony of the Leeward Islands, an invention for [*insert title as in Letters Patent*] upon the condition (amongst others) that I the said by an instrument in writing under my hand and seal, should particularly describe and ascertain the nature

of the said invention, and in what manner the same was to be performed, and cause the same to be filed in within calendar months next, and immediately after the date of the said Letters Patent: Now know ye, that I, the said do hereby declare the nature of my said invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement (that is to say) [*describe the invention*].

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

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## *No.* 16 *of* 1878.

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An Act to amend the Act No. 12 of 1876, entitled "An Act for amending the Law for granting Patents for Inventions."

1. Certain persons constituted Commissioners of Patents for Inventions, three of whom may act, the Attorney-General being one.
2. Applications for Letters Patent, &c., to be advertised.
3. Copies of Specifications, &c., to be enrolled in each Presidency.
4. Registers of Patents and Proprietors to be kept in each Presidency.
5. Section 1 of Act 12, 1876, repealed.

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Whereas it is expedient to amend the law concerning Letters Patent for Inventions.

Be it enacted by the Governor and General Legislative Council of the Colony of the Leeward Islands as follows:—

*Certain persons constituted Commissioners of Patents for Inventions, three of whom may act, the Attorney-General being one.*

1. Her Majesty's Attorney-General, the Auditor-General, and the Treasurer of the Presidency of Antigua for the time being respectively, together with such other person or persons as may be from time to time appointed by the Governor, shall be Commissioners of Patents for Inventions, and every person so appointed shall continue to hold office during Her Majesty's

pleasure; and all the powers vested in the Commissioners by the Act No. 12 of 1876 may be executed by any three or more of them, of whom the Attorney-General shall be one.

*Applications for Letters Patent, &c., to be advertised.*

2. Every provisional protection, every protection on deposit of a complete specification, and every application for Letters Patent, shall be advertised in the Royal Gazette and in one of the public newspapers in each Presidency of the Colony, or where there shall be no such newspaper, then by being attached to the door of the Court House in the principal town of the Presidency.

*Copies of Specifications, &c., to be enrolled in each Presidency.*

3. In addition to the copies prescribed by the above recited Act to be kept at the office of the Commissioners, true copies of all specifications (other than provisional specifications), disclaimers, and memoranda of alterations filed in pursuance of the said Act, and of all provisional specifications after the expiration of the term of protection, shall be enrolled in the Registrar's Office in every Presidency of the Colony (Antigua excepted), and shall be open to the inspection of the public at all reasonable times, subject to such regulations as the Commissioners may think necessary.

*Registers of Patents and Proprietors to be kept in each Presidency.*

4. A true copy of the "Register of Patents" and of the "Register of Proprietors" prescribed by sections 32 and 33 of the above recited Act, shall be kept at the Registrar's Office in each Presidency of the Colony, and shall be open to the inspection of the public at all reasonable times, subject to such regulations as the Commissioners may think necessary.

*Section 1 of Act 12, 1876, repealed.*

5. The first section of the Act No. 12 of 1876 is hereby repealed.

# LIBERIA.

## *Act of 23rd December, 1864.*

Act of 23rd December, 1864, to promote the progress of the arts, manufactures, agriculture, and commerce (so far as it relates to patents granted to aliens).

*From the United States Official Gazette.*

Section 5.

It is further enacted: That if any alien or aliens shall have invented or discovered any new art, machine, manufacture, process or composition of matter, or any new and useful improvement of any art, machine, or manufacture, process or composition of matter, or has invented or discovered a new and useful application of any known substance or machine, or composition of matter, or any new and useful application of any known article of manufacture, device, or apparatus to any art, manufacture, machine, process, or composition of matter, such invention or discovery of such application not having been known or used by others within the limits of this Republic, or if any alien or aliens shall be the legal owner or owners of such invention or discovery or application, and shall express a desire to introduce the same and put it into active operation in this country, then it shall be the duty of the Secretary of State, on due proceedings, held as provided for in the third section of this Act (*delivery of written description of the invention to Secretary*

*of State, the whole to be accompanied with drawing or drawings and written references, where the nature of the case admits of drawings; furthermore, oath or affirmation that the party is the original and first inventor, &c.)*, to issue Letters Patent therefor. But before Letters Patent can be granted to such applicant, he shall deliver with the description of the invention or discovery claimed, a certificate, signed and sealed by the Mayor or Governor of the City or State in which he resides, or by duly authorized notary public, which certificate, shall set forth that the applicant is the original and first discoverer of the thing claimed, or that he has purchased the right, title and interest in this country to the said invention or discovery.

Sec. 6.

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

Sec. 7.

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

Sec. 8.

(*Patents assignable in Law.*)

Sec. 9.

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

# LUXEMBOURG.

## *Law of the 30th June*, 1880.

### CHAPTER I.

### *General Provisions.*

### Art. I.

Patents will be granted for new inventions capable of being commercially worked, excepting :—

1. Inventions of which the working would be contrary to law or morals.
2. Inventions having for their object food or other articles of consumption, pharmaceutical products or substances obtained by chemical means, unless they relate to definite processes for the manufacture of these articles.

### Art. II.

An invention is not considered as new when, at the time of making the declaration under the present law, it has been described sufficiently clearly in public prints, or it has been sufficiently publicly worked either in the Grand Duchy or in one of the States of the German "Customs Union," for it to be possible for other experts to work it.

### Art. III.

The right of obtaining the patent belongs to him who is the first to declare the invention in accordance with the present law, except as is enacted hereafter by No. 2 of Art. 16.

## Art. IV.

The effect of the patent shall be, that without the authorization of the owner, no one may make on a business scale, commercially deal with, or expose for sale the object of the invention.

If the object of the invention is any process, machine, or industrial apparatus, a tool, or other implement, the effect of the patent shall be besides, that without the authorization of the patentee none may commercially apply the process or make use of the object of the invention.

## Art. V.

The effect of the patent does not extend to locomotive engines which only enter for the purpose of passing through the Grand Duchy.

The effect of the patent does not extend to those who at the time the owner of the patent made his declaration had already worked the invention in the Grand Duchy, or had already made the preparations necessary to that end.

The patent shall cease to have effect from the time that a Royal Grand Ducal Decree by the advice of the Council of State shall have declared that in the interest of the public the invention should be worked. In this case the patentee has the right, at the charge of the State, to compensation, which in default of agreement shall be fixed judicially.

## Art. VI.

The right of obtaining a patent, as well as the rights conferred by the patent itself, passes to the representatives of him having the right. These rights can be transferred wholly or in part either by deed *inter vivos* or testamentary.

The transmission of the patent is free from all taxes. Deeds of assignment *inter vivos* shall be registered, the fixed tax being 1 franc 70 centimes.

## Art. VII.

The term of the patent is fifteen years. It commences from the day after the invention has been declared according to Art. 10 of the present law.

If the invention consists of an improvement on another invention for which the applicant already has a patent in the Grand

Duchy, he can obtain a certificate of addition which expires with the principal patent.

Certificates of addition taken by any person interested inures to the benefit of all the others. The patentee shall have the option of taking a principal patent for the changes or improvements in his invention.

A third party who shall have taken a patent for an invention, or application, relating to the object of a patent, shall have no right to work the invention already patented, and reciprocally the owner of the first patent cannot without licence work the invention which is the object of the new patent.

### Art. VIII.

There shall be paid for each patent an annual and progressive tax as follows :—

| | | | | | |
|---|---|---|---|---|---|
| 1st year | . | . | . | . | 10 francs. |
| 2nd „ | . | . | . | . | 20 „ |
| 3rd „ | . | . | . | . | 30 „ |

and so on up to the fifteenth year, for which the tax shall be 150 francs.

The tax shall be paid in advance to the receiver of the Registry. It will not be returned in any case. Certificates of addition require only one tax of 10 francs.

### Art. IX.

No one can obtain a patent nor exercise rights under a patent unless he has elected domicile in the Grand Duchy. If he is a foreigner, he must elect domicile with someone holding a power to represent him, and to whom all communications may validly be made. The domicile elected determines jurisdiction, and will be valid so long as it is not replaced by a new election of domicile, as provided in Art. 13.

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## Chapter II.

### *The Delivery of Patents.*

### Art. X.

Whoever wishes to take a patent must make his declaration in writing before an officer who will be appointed for that purpose by the Government. A separate declaration is required for

each invention. The declaration shall set out the Christian and surnames, the quality and the real and elected domicile of the declarant, and, when the case arises, that of his representative. It shall set forth a title stating shortly and precisely the object of the invention.

The declaration shall be accompanied by:—

1. A description in French or German of the nature of the invention.
2. Drawings, models, or samples, when necessary to render the description intelligible. The description and drawings must be in duplicate. The description must be written without alteration or interlineation; words erased must be counted and identified, the pages and references being given. It must clearly make known the invention, and must terminate with a precise enunciation of its features.

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

All the papers must be signed by the declarant or by his representative, whose power shall remain annexed to the declaration.

## Art. XI.

No application shall be received without the production of the receipt for the first year's tax.

A memorandum, signed by the declarant, setting out the day and hour of the delivery of the papers, and entered without charge on the register kept for this purpose shall prove the deposit.

A duplicate of the entry shall be given without charge to the depositor.

## Art. XII.

Patents for which applications have been made in due form shall be delivered without previous examination at the risk and peril of the applicant, and without guarantee either of the reality, novelty, or merit of the invention, or of the truth or accuracy of the description.

A certificate of the member of the Government having charge of matters of commerce and industry, certifying the regularity of the application, shall be delivered without charge to the applicant, and shall constitute his patent.

To this certificate shall be affixed the certified duplicates of the description and drawings mentioned in Art. 10.

An extract from the same certificate shall be inserted in the *Memorial.* From the refusal of the Government to deliver the patent there is an appeal to the Judicial Committee of the Council of State.

### Art. XIII.

Changes in the ownership of patents which occur, or in the representatives and elected domiciles of patentees, and also all partial assignments of patents, must be brought, in an authenticated form, to the knowledge of the member of the Government having charge of matters of commerce and industry, and shall be published in the *Memorial.* So long as these formalities are not fulfilled, he who has previously appeared as the patentee (or his representative) remains invested with the rights and liable to the obligations of the present law, and all notices given at the domicile previously elected shall be valid.

### Art. XIV.

The public shall be allowed to see in the Government Offices the specifications of patents which have been issued, and copies of them can be obtained on payment of the cost.

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## Chapter III.

*Extinction of Patents; Annulments and Forfeitures.*

### Art. XV.

The patent lapses:—

1. By the expiration of the time for which it was granted.
2. By being renounced by the owner.
3. By a single default of payment of the annual tax within three months of its being due.
4. If a patent for the same object is not applied for within three months in the States with which the Grand Duchy may be connected by treaties of "Customs Union;" or if, having been applied for within that time, the patent is refused; or if, having been granted, it is withdrawn, annulled, or terminated in any other manner.

Nevertheless, in case the annulment of the patent has been pronounced in a country of this Union because the invention has not been worked, it shall be lawful for the Government to continue the patent in the Grand Duchy.

## Art. XVI.

The patent shall be null and of no effect if it is shown:—

1. That in terms of Arts. 1 and 2 the invention is not patentable.
2. That the essential element of the application has been taken from the descriptions, drawings, models, instruments, tools, or processes of another without his consent.
3. If the title under which the patent was applied for fraudulently indicates an object other than the true object of the invention.
4. If the specification of the patent is not sufficient to enable the invention to be carried out, or if it does not show in a faithful and complete manner the true means employed by the inventor.

## Art. XVII.

An action for nullity can be brought by any person interested.

These actions, and also disputes relating to the ownership of patents, shall be brought before the Civil Tribunal of the arrondissement.

If the petition is directed at the same time against the owner of the patent and against one or more licensees, it shall be brought before the tribunal of the elected domicile of the owner of the patent.

Patent cases shall be proceeded with and decided in the form prescribed for summary cases by Art. 405 and the following Articles of the Code of Civil Procedure. The matter shall be communicated to the Public Prosecutor.

The Public Prosecutor may intervene in the action, and apply to have the patent declared absolutely void. He may also for the same purpose himself bring an independent action.

In the cases mentioned in the two preceding paragraphs, all those interested in the patent whose titles have been registered with the Government in accordance with Art. 13, must be made parties to the cause.

The costs of the intervention of the Public Prosecutor and of the official proceedings shall be taxed, liquidated, and recovered as in a criminal matter.

When the patent has been pronounced absolutely void by a judgment or by final decree, the Government shall be informed of it in view of the publication prescribed by Art. 19.

### Art. XVIII.

The patent may be withdrawn after three years by Royal Grand Ducal Decree, but with an appeal to the Judicial Committee of the Council of State if the patentee neglects to work his invention in the Grand Duchy to a suitable extent, or at least to do all that is necessary to secure this working.

Similarly, after three years it may be declared by a Royal Grand Ducal Decree, on the advice of the Council of State, that the interests of the public require that the right of working a patented invention shall be granted to one or more persons who have made application. In this case the compensation and the guarantees due to the patentee from the new claimants for the working shall in case of non-agreement be fixed by judicial decision.

### Art. XIX.

The extinction of patents, their annulment or withdrawal, shall be brought to public knowledge by means of the *Memorial.*

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## Chapter IV.

### *Infringement, Prosecutions, Penalties.*

### Art. XX.

Anyone who has knowingly made use of an invention contrary to the provisions of Arts. 4 and 5 shall be punished with a fine of from 100 francs to 2000 francs, without prejudice to damages or civil rights if they have arisen.

In case of repetition of the offence he shall be sentenced, in addition to the fine, to imprisonment for from one to six months. It is a repetition when judgment is given against the accused within the five years next following his first conviction for the same offence.

The prosecution shall only be instituted on the complaint of the party aggrieved.

The Tribunal may order either the destruction, or the confiscation for the benefit of the State or of the party aggrieved, as deduction from the damages; of articles used for or intended for the commission of the offence, and of those which are the product of it.

The Tribunal may order the publication of the judgment at the expense of the person convicted. The judgment will fix the mode and time of publication.

### Art. XXI.

The Correctional Tribunal having charge of the action shall remit the parties before a competent Civil Court to decide on pleas raised by the accused, either as to the extinction, the nullity, or the lapsing of the patent, or on questions relating to the ownership of the patent.

### Art. XXII.

A fine of from 20 francs to 200 francs shall be imposed on anyone who, without having a valid patent, shall affix on articles or their envelopes a notice calculated to give rise to the error that the articles are patented under the present law, or who shall use like notices in announcements, posters, advertisements, prospectuses, or sign boards.

### Art. XXIII.

The penalties fixed by the present law are not cumulative. The heaviest of the penalties incurred by reason of acts prior to the commencement of proceedings shall alone be imposed.

### Art. XXIV.

Provisions in force relating to extenuating circumstances may be applied to offences provided for in the preceding paragraphs.

### Art. XXV.

Right of civil action for the infringement of a patent is lost by lapse of time at the end of three years from the date of any matter which might have given rise to it.

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## Chapter V.

### *Transitory Provisions.*

### Art. XXVI.

The Law of the 25th of January, 1817, and all enactments, prior to the present law, relating to patents for inventions, importations, or improvements, are repealed.

Provided that patents already in existence shall continue to be governed by the provisions in force at the time of their issue so long as their owners do not avail themselves of the following provisions.

## Art. XXVII.

The owners of patents actually in existence may convert them into patents governed by the present law by making, within three months from the publication of the present law, a declaration on this head in conformity with what is prescribed in Art. 10, except that it will suffice if they attach to it the original patent and papers annexed thereto.

The term of fifteen years fixed by Art. 7 runs from the date of the original patent.

The annual taxes shall be reckoned to start from the same date from which run also all annual obligations.

The tax paid on the original patent shall be deducted from the annuities due or to become due; if it is not sufficient to cover the annuities already due, the difference must be paid before the deposit of the declaration.

## Art. XXVIII.

Applications for patents deposited prior to the present law but still pending, must be converted by their authors, within three months of the publication of the present law, into declarations in accordance with the provisions of Chapter II., under penalty of the lapse of the original application. The patents which issue in consequence shall be governed by the present law; nevertheless, the time elapsed since the original applications shall be deducted from the term of fifteen years fixed by Art. 7.

## Art. XXIX.

Against those to whom patents shall have been issued according to the preceding Art. 27 and 28, the publication of descriptions and notorious working, as referred to in Art. 2, cannot be adversely raised unless they occurred prior to the date of the original patent or to the date of deposit of a pending application respectively.

## Art. XXX.

A Royal Grand Ducal Administrative Decree shall determine the provisions necessary for the execution of the present law.

# MAURITIUS.

## *Ordinance No* 16 *of* 1875.

AN ORDINANCE enacted by the Governor of Mauritius and its Dependencies, with the advice and consent of the Council of Government thereof, to grant, regulate, and protect certain privileges to inventors.

Whereas it is expedient that certain privileges be granted to inventors, and that the same be regulated and protected: Be it enacted by his Excellency the Governor, with the advice and consent of the Council of Government, as follows:

*Privilege granted to Inventors.*

1. Every inventor of any manufacture shall be entitled, under the conditions and restrictions hereinafter enacted, to the sole exclusive right of and in such new invention.

*Definition of Words.*

2. Within the meaning of the word "invention" are included discoveries, and also the invention of new chemical products; also every new mode of application of known processes or forces whereby a new product or preparation is obtained or made; and also every new process or force whereby an old product or preparation is obtained or made.

Improvements are also included within the word "invention."

The word "manufacture" shall be deemed to include any

art, process, or manner of producing, preparing, or making an article; and also any article prepared or produced by manufacture.

The words "inventor" and "actual inventor" shall include the heirs, executors, administrators, or assigns of an inventor or actual inventor, as the case may be.

The word "assigns" shall include grantees of the sole use or benefit in Mauritius of an invention, or of the sole use of an exclusive privilege for a limited period.

*Financial Schemes not entitled to Privileges.*

3. Financial schemes and operations of credit, whether commercial or industrial, shall not entitle the inventors or promoters thereof, or parties interested therein, to obtain any exclusive right or privilege.

*Patents may be granted and extended, when.*

4. The right and privilege granted to inventors shall be conferred by a patent under the seal of the Colony, whereby the inventor shall be entitled to the sole and exclusive privilege of making, selling, and using his said invention in the Colony of Mauritius, and of authorizing others so to do, for the term of fourteen years from the date of the patent, and for such further term, if any, not exceeding fourteen years from the expiration of the first fourteen years, as the Governor in Executive Council may think fit to direct, upon petition to be presented by such inventor, at any period not more than one year and not less than six calendar months before the expiration of the exclusive privilege first granted.

*Petition and Specification to be filed.*

5. Every inventor desirous of obtaining a Patent as aforesaid shall file in the office of the Colonial Secretary a petition signed by him, or, if he be absent from this Colony, by an authorized agent; such petition shall state the names, additions, place of abode of the petitioner, and the nature of the invention. To the petition shall be annexed a Specification in writing; such Specification shall be signed by the petitioner or authorized agent as aforesaid, and shall particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed. With the Specification shall be filed all diagrams, plans, and drawings whereby the nature of and the

mode of working the invention can be best described and ascertained.

*Declaration to accompany Petition.*

6. Every petition or specification shall be accompanied by a declaration in writing, signed by the petitioner or authorized agent as aforesaid, in the form and to the effect mentioned in Schedule A. hereunto annexed.

*Consequences of wilfully false Statements.*

7. If any person who shall make a declaration under this Ordinance shall wilfully and corruptly make any false statement, he shall be deemed guilty of perjury, and upon conviction be liable to imprisonment not exceeding two years, without prejudice to any action or suit which the injured party or parties may bring against him.

*Procureur General's Certificate and interim protection.*

8. When any applicant has filed his petition and specification with the view of obtaining a patent, the same shall be referred to the Procureur General, and if he approve of them as *primâ facie* entitled to protection, he shall issue his certificate to that effect, and the inventor shall be provisionally protected.

Provided that, should the Procureur General refuse to issue his certificate, the party aggrieved may apply to the Governor in Executive Council, who shall have the power to decree that the certificate do issue; and it shall then be issued by the Secretary of the Executive Council.

It shall then be the duty of the applicant to cause, within two months of the certificate, the application to be advertized in the Government Gazette, with a view of giving persons who have an opposite interest the opportunity of objecting to the patent being granted. If no opposition be made within one calendar month of the advertisement, the patent shall issue; if there be opposition made, the matter will be referred to the Procureur General, who, if the applicant and opposing party or parties are satisfied that his decision shall guide them, shall decide finally; but who shall otherwise refer the matter to the Supreme Court for decision.

The Supreme Court may hear and determine the case upon a motion to show cause why the patent applied for should not issue.

Upon the fiat of the Procureur General, or, as the case may be, the rule of the Supreme Court, the Patent shall issue, or the interim protection cease and determine.

*Opposition how lodged.—Grounds of Objection.*

9. Any party or parties intending to oppose the issuing of the patent shall be bound within the above-mentioned delay to notify his or their opposition to the Colonial Secretary. The opposition shall contain the grounds of objection, and no other objections than those specified in the opposition shall be taken notice of either by the Procureur General or the Supreme Court, as the case may be.

*Form and Cost of Certificate.*

10. The certificate of the Procureur General to entitle the applicant to interim protection shall be in the form in Schedule B. hereunto annexed. When from any cause prevented from acting, the Procureur General may delegate the Substitute Procureur General to act in his stead.

Every certificate shall issue upon payment of a fee of ten pounds sterling to be paid to the Receiver General.

*Government gives no warranty.—Seal.*

11. Every patent shall as heretofore be granted without any warranty of any kind or nature whatsoever on the part of the Government; and every person entitled to a patent shall, before his patent is sealed, pay the sum of two pounds sterling to the Receiver General.

*Printed copies to be filed, and a Book to be kept.*

12. Before the patent is sealed, the person entitled to the patent shall deposit in the office of the Colonial Secretary a printed copy of every such petition and specification.

A book shall also be kept in the office of the said Colonial Secretary wherein shall be filed and recorded every such original petition and specification, and every order made upon such petition or relating to the invention therein related. Every specification shall be numbered according to the order in which it is entered in such book, and a reference shall be made in such book, in the margin of the entry of such specification, to every order relating to the invention, and to every petition, memorandum, or amended specification which shall be filed under the provisions of Article 15.

*Book open to all Persons.*

13. Such book or printed copy as aforesaid shall be open at all convenient times for the inspection of any person, upon payment of a fee of four shillings, and the said Colonial Secretary shall cause a copy of any entry therein, certified under his hand, or the hand of the Assistant Colonial Secretary, to be an examined copy, to be given to any person requiring the same, on payment of the expense of copying, at the rate of fourpence sterling per folio of ninety words.

*Copies to be Evidence.*

14. Printed or manuscript copies, certified to be examined copies by the Colonial Secretary or Assistant Colonial Secretary, of Letters Patent, specifications, disclaimers, memoranda of alterations, and all other documents filed in the Colonial Secretary's office, shall be received in evidence, in all proceedings relating to Letters Patent, in all courts whatever in the Colony of Mauritius, without further proof or production of the originals.

*Amended Specification to be filed, when and how.*

15. If after the filing of the specification the petitioner shall have reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his petition or specification, or included therein something which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor in Executive Council for leave to file a memorandum pointing out such error, defect or insufficiency, or disclaiming any part of the alleged invention; or, in case of any defect or insufficiency in the specification, for leave to file an amended specification. The petition shall state how the error, defect, or insufficiency occurred, and that it was not fraudulently intended, and shall be accompanied by a declaration in writing signed by the petitioner or authorized agent as aforesaid, stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition the Governor in Executive Council may make an order allowing such memoradum or amended specification to be filed. All the provisions of Articles 7, 8, 12, 13, and 14, shall be applicable to petitions, memoranda, amended specifications, or orders

referred to in this Article. An amended specification under the provisions of this Ordinance shall, except as to suits and proceedings relative to the exclusive privilege which shall be pending at the time of such amended specification, have the same effect as if it had been the specification first filed; provided that nothing in an amended specification shall extend or enlarge any exclusive privilege before acquired.

*Patents not to be granted, in what cases.*

16. No person shall be entitled to a patent under this Ordinance,—

(*a*) If the invention is of no utility;

(*b*) If the invention at the time of presenting the petition was not a new invention within the meaning of this Ordinance;

(*c*) If the petitioner is not the inventor thereof;

(*d*) If the specification filed, or the amended specification if any, does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed;

(*e*) If the original or any subsequent petition relating to the invention, or the original or amended specification, contain a wilfully fraudulent statement.

*Patents, if prejudicial to the Public, to be withdrawn.*

17. Every patent for an exclusive privilege under this Ordinance shall be invalid and of no effect if it be proved to the satisfaction of the Governor in Executive Council that the same or the mode in which it is exercised is mischievous to the Colony or generally prejudicial to the public; or if the patentee shall to the satisfaction of the Governor in Executive Council be proved guilty of the breach of any special condition under which the patent originally issued or was extended. Notice of the withdrawal of the patent, and the cause thereof, shall be inserted in the Government Gazette.

*No Patent when Foreign Patent has expired.*

18. No patent shall be granted for an invention in respect whereof a patent has been granted out of this Colony and has expired.

*Assignments to be registered and transcribed.*

19. No patent shall be held as to third parties to have been duly assigned unless the assignment be registered and transcribed at the Mortgage Office.

*Patents in joint Names of several Inventors.*

20. When more persons than one have been concerned in making an invention the patent must be taken out in their joint names.

*Patents, what they may include.*

21. No patent will be allowed to include several distinct and separate inventions, but where one invention is applicable to the improvement of several manufactures, or where several inventions are applicable to the improvement of one and the same manufacture, the whole may be included in one patent.

*No Patent except to actual Inventor for imported Inventions.*

22. The importer into Mauritius of a new invention shall not be deemed an inventor within the meaning of this Ordinance, unless he be the actual inventor.

*Foreigners entitled to Patents.*

23. A foreigner, whether resident abroad or not, may obtain a patent under this Ordinance, provided he comply with the provisions of this Ordinance.

*Inventions deemed new Inventions, when.*

24. An invention shall be deemed a new invention within the meaning of this Ordinance, if it shall not, before the time of filing the petition as aforesaid, have been publicly used in Mauritius or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in Mauritius or the United Kingdom by means of a publication either printed or written, or partly printed and partly written.

The public use or knowledge of an invention prior to the filing of the petition as aforesaid shall not be deemed a public use or knowledge within the meaning of this Article if the knowledge shall have been obtained surreptitiously or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor, or in breach of confidence; provided

the inventor shall, within six calendar months after the commencement of such public use, file his petition for a patent, and shall not previously have acquiesced in such public use.

Provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person with his license in writing, for a period not exceeding one year prior to the date of the petition, shall not be deemed a public use thereof within the meaning of this Ordinance.

*Holders of Letters Patent to take a Patent, when and how.*

25. If an inventor has obtained Her Majesty's Letters Patent for the exclusive use of an invention in the United Kingdom, he may obtain a patent in Mauritius under this Ordinance for such invention, provided the application be made within twelve calendar months from the passing of this Ordinance, or within twelve calendar months from the date of the Letters Patent, although previous to the time of his petitioning such invention may have been publicly known or used in Mauritius; provided such invention was not publicly known or used in Mauritius before the date of the Letters Patent, and provided the patent obtained in Mauritius shall cease to have effect if the Letters Patent are revoked or cancelled, and provided the privilege obtained in Mauritius shall not extend beyond the period assigned to the Letters Patent in the United Kingdom.

*Who can use the Invention nevertheless.*

26. No privilege obtained under this Ordinance shall entitle the owner of such privilege to exclude any person from using the invention who prior to the passing of this Ordinance used the same in this Colony.

*Actions for infringement; writ of injunction.*

27. An action may be maintained by an inventor against any person who, during the continuance of any exclusive privilege granted under this Ordinance, shall without the license of such inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same; provided such action be brought before the Supreme Court, and provided the said Supreme Court or a Judge in Chambers shall have the right, before action brought or pending the action, to issue a writ of injunction restraining the defendant from making use of,

selling or putting in practice, the said invention, for such time and under such conditions as to the said Court or Judge shall seem fit.

*Actions; how they may not be defended.*

28. No such action shall be defended upon the ground of any defect or insufficiency of the invention; nor upon the ground that the original petition, or any subsequent petition relating to the invention, or the original or any amended specification, contains wilful misstatements; nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor, or has obtained the right from him to use the said invention wholly or in part.

But any such action may be defended upon the ground that the invention was not new.

*Motion to be made before infringement to cancel Patent.*

29. It shall, however, be lawful for any person to apply by motion to the Supreme Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect to an invention shall be cancelled or revoked under the provisions of this Article, by reason of all or any of the objections following, to be specified in the Rule; that is to say,

1st. That the said invention is of no utility;

2nd. That the said invention was not at the time of filing the petition a new invention within the meaning of this Ordinance.

3rd. That the patentee was not the inventor thereof;

4th. That the patentee did not in his petition and specification particularly describe and ascertain the nature of the invention, or in what manner the same is to be performed;

5th. That the petitioner has in the petition or specification or amended specification made wilful or fraudulent misstatements;

6th. That some part of the invention, or the manner in which that part is to be performed, as described in the specification filed or the amended specification, is not thereby sufficiently described or ascertained, and that such defect or insufficiency was fraudulent or is injurious to the public;

7th. That some part of the invention is wholly distinct from the other part, and is of no utility or is not new as aforesaid, or that the petitioner was not the inventor of such part.

*Procureur General may move.*

30. It shall be lawful for the Procureur General to make or direct to be made the application in Article 29 mentioned, whenever he shall think it necessary on behalf of the public.

*Notice how served.*

31. Notice of any rule obtained or proceeding taken under Articles 29 and 30 shall be served on the patentee; or. if the patent have been assigned, upon all persons appearing to be proprietors or to have shares or interests in the exclusive privilege conferred by the patent; and it shall not be necessary to serve such notice on any other person.

*What the Supreme Court may not take cognizance of.*

32. It shall not be lawful for the Supreme Court to take cognizance, either in actions for infringement or in motions made to cancel and revoke a patent, of any breaches or grounds of defence but those specified in the declaration and plea, or of any objections but those specified in the rule to show cause.

*Supreme Court to hear and determine.*

33. If it shall appear to the Supreme Court that by any of the objections in Article 29 mentioned the said exclusive privilege in the invention, or any part thereof, ought to be cancelled, the Court shall make the rule absolute, with such order as to costs of and consequent upon the application as it may think just; and thereupon the patentee, his heirs, executors, administrators, or assigns, shall, so long as the judgment continues in force, cease to be entitled to the said exclusive privilege. A copy of the rule certified by the Registrar of the Supreme Court shall be forwarded to the Colonial Secretary, and annexed to the original petition and specification.

*Supreme Court may allow Amendments, when and how.*

34. It shall be lawful for the Court to adjudge that the exclusive privilege shall not be cancelled, save as to the part

thereof affected by error, defect, or insufficiency; and also if satisfied that no fraudulent practices were intended, and that the error, defect, or insufficiency can be amended without injury to the public, to order, upon such terms as to the Court may appear reasonable, the specification or amended specification to be amended in any particular; and the patentee, his heirs, executors, administrators, or assigns, shall, within the time limited by the said court for the purpose, file a specification amended according to such order; provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

*Short Title.*

35. This Ordinance may be cited as "the Patents Ordinance."

*Repeal Clause.*

36. Ordinance No. 11 of 1835 is hereby repealed.

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## SCHEDULE A.

I of in the district of do solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as in petition*], which invention I believe will be of great public 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, hereunto annexed, particularly describes and ascertains the nature of the said invention and the manner in which the same is to be performed."]

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## SCHEDULE B.

In humble obedience to his Excellency's commands referring to me the petition of of , to consider what may be properly done therein, I do hereby certify as follows: That the said petition sets forth that the petitioner [*state briefly the allegations of the petition*].

And the petitioner most humbly prays [*state briefly the prayer of the petition*]. That in support of the allegations contained in the said petition the declaration of the petitioner has been laid before me, whereby he solemnly declares that [*state briefly the allegations of the declaration*].

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

I hereby certify that the petitioner is entitled to interim protection on account of his said invention, provided the said application for Letters Patent be duly advertised according to the Ordinance, and that the petitioner do otherwise comply with the enactments of Ordinance No. 16 of 1875.

Given under my hand, this day of A.D.

# MEXICO.

## *Law of May 7th*, 1832.

### Art. 1.

To protect the right of property of inventors or improvers of any branch of industry, an exclusive right shall be given them, to use the invention or improvement in all the states of the federation for the time and under the conditions that are expressed in this law.

### Art. 2.

The inventor or improver of any industry in the Mexican Republic who wishes the Government to secure to him the possession thereof, shall present to it or to the city council of the place in which he desires to establish his project, or to that of his residence, or to the Governor of the state or territory, to which that place pertains, an exact description, accompanied by drawings, models, and as much more as is judged necessary for the explanation of the proposed object, and the above named authorities shall give him a legal instrument according to form number one.

### Art. 3.

The local authority, in case the applicant does not present himself directly to the Governor of the state shall remit to the latter the papers in the case with all the documents, and the Governor shall decide; and in case the applicant has not done so himself, shall forward the application by the first regular mail to the Minister of the Interior.

Art. 4.

The Government, on receiving a petition to obtain a patent, shall publish it three times in the newspapers, and a term of two months (counting from the day of publication) shall be allowed for opposition to be entered by any who claim priority.

Art. 5.

The Government, through the Secretary of the Interior, shall issue to the improver or inventor a patent according to form number two.

Art. 6.

In granting the patent mentioned in the previous Article, the Government is not to examine whether or not the inventions or improvements are useful, but only if they are contrary to public safety or health, to good morals, or to law, or to the orders and regulations, and if it is not so, they cannot refuse the protection solicited.

Art. 7.

Patents of invention shall remain in force for ten years, and those of improvement for six, counting from the date when the privileged project is established in the Republic.

Art. 8.

A project of invention or improvement is understood to be established from the day the patent is issued.

Art. 9.

When an inventor or improver desires that his privilege should be limited to one state only, he must apply for the concession to the authorities of that state.

Art. 10.

When any one has obtained a privilege for an invention or improvement already established without patent by another, the privilege shall be void, even if it be not claimed by that party as his invention or improvement.

Art. 11.

When the invention or improvement is of such nature that it may be worked in secret, and the inventor or improver obtains a patent, when the term of the patent has expired, he must make the invention or improvement public.

Art. 12.

A patent having been issued for an invention, if a privilege for an improvement is solicited, the privilege granted to the improver shall not affect the rights of the original inventor.

Art. 13.

When the inventor or improver desires the privilege for a longer time than that expressed in Art. 7, he must apply to the Government, which shall report to Congress.

Art. 14.

An inventor or improver shall not use his industry as patented until he has obtained from the Government the patent which establishes his title.

Art. 15.

In case of dispute as to the possession of an invention or improvement, it shall be decided by the common laws.

Art. 16.

When it is proved that a privilege has been obtained by fraud, the applicant representing as an invention or improvement that which is no more than an introduction, the patent which has been obtained shall be void.

Art. 17.

The Government shall publish in the Gazette the grant of each patent immediately it is issued, and shall designate a convenient place where the designs, plans, and models named in Art. 2 may be open to public inspection.

Art. 18.

When the invention or improvement is to remain secret, the designs, plans, &c., shall not be published until the expiration of the term of privilege.

Art. 19.

The fees for a patent will be from 10 to 300 dollars (*pesos*).

Art. 20,

At least one half of the persons employed in mechanical labour by the workers of a patent, must if possible be actually natives of the United Mexican States.

Art. 21.

The introducer of any branch of industry that in the judgment of the Government is of great importance, may obtain an exclusive privilege by applying through the Government to the General Congress.

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FORM NO. I.

*Certificate delivered by the Local Authority or Governor of a Province.*

I, *N.*, mayor or governor of , certify herewith that this day, month, and year, *N. N.* has [*or* have] delivered to me a closed and sealed packet, which he [*or* they] declare to contain all the descriptive documents [*insert the precise object in view*], and for that purpose the packet has been labelled with the number of the inventor or improver, and the day and hour of its delivery. Having declared that he [*or* they] is [*or* are] the inventor [*or* inventors], improver [*or* improvers], he has [*or* they have] signed the present in duplicate with me, keeping one for himself [*or* themselves], and leaving the other at this office.

[Certificates may also be delivered by the secretaries of governors, if the latter should find it convenient.]

FORM NO. II.

*Letters Patent.*

The President of the United States of Mexico informs all those present that having found N. [*or* N. N.] to be an inventor [*or* inventors], or an improver [*or* improvers], according to the documents, plans, drawings, descriptions, or models delivered, he by these presents secures his [*or* their] right of property of his [*or* their] invention [*or* improvement], according to the terms and for the time prescribed by law, the present degree establishing his [*or* their] title.

Dated

## *Decree of September 28th*, 1843.

In every patent which is issued a prudent term shall be fixed, within which the use of the privileged object shall be commenced, and if not accomplished in said time, the privilege will be held to have expired, and free action granted to any other individual to apply for it again.

# NATAL.

## *Law No.* 4, 1870.

"To Provide for the granting in this Colony of Patents for Inventions."

*Preamble.*

WHEREAS it is expedient that the making of new and useful inventions should be encouraged by securing to their inventors, for a limited time, the exclusive enjoyment thereof:

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

*Interpretation Clause.*

1. In the interpretation of this law the term "invention" shall bear and have the same meaning as the term "invention" bears and has in the Act of the Imperial Parliament, the 15th and 16th of Her Majesty, c. 83, entituled "An Act for amending the law for granting patents for inventions,;" and the term "Letters Patent" shall mean authorisations granted by the Lieutenant Governor, under the public seal of the colony; and the term "proceedings in the nature of a *scire facias*," shall mean and have a like signification with, or as nearly as may be, what the same term would mean if used in an Act of the Imperial Parliament.

*Issue of Letters Patent authorised.*

2. It shall be lawful for the Lieutenant Governor, to make and issue, in manner herein-after mentioned, Letters Patent, granting to the true and first inventor of any invention the privilege of the sole and exclusive working, making, and enjoyment of such invention within this colony, for any term not exceeding fourteen years from the date of such Letters Patent.

*Rules and Regulations for carrying out this Law.*

3. It shall be lawful for the Lieutenant Governor, with the advice of his Executive Council, from time to time, to make such rules and regulations, not inconsistent with the provisions hereof, as may appear to be necessary and expedient for the purposes of this law; and all such rules and regulations shall be laid before the Legislative Council within fourteen days after the making thereof, if the Legislative Council be sitting, and if the Legislative Council be not sitting, then within fourteen days after the next meeting thereof.

*Application for Letters Patent—Deposit of Provisional Specification —Fee—Term of Protection—Amendment of Specification.*

4. All applications under this law, for the grant of Letters Patent, shall be made, as near as may be, as follows, that is to say: The applicant shall deposit in the office of the Attorney General, an instrument in writing, under his signature, describing the nature of his invention; and the day of the deposit of every such specification shall be recorded at the said office, and endorsed upon such specification, and a certificate thereof given to such applicant or his agent, who shall thereupon deposit and pay a fee as per Schedule 8 hereunto annexed; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected, under this law for the term of six months next after the said deposit; and the applicant shall have, during such term, the like powers, rights, and privileges as might have been conferred upon him by Letters Patent issued under this law, and duly sealed as of the day of the date of such deposit; and during the continuance of such powers, rights, and privileges, such invention may be used and published, without prejudice to any Letters Patent to be granted for the same; and the contents of such specifications shall not be inspected by any person but

the Attorney General, or such person as he may appoint in that behalf, and its contents shall not be published until after the expiration of the said six months: Provided that in case the title of the invention or the said specification be too large or insufficient, it shall be lawful for the Attorney General, during the said term, and before the grant of Letters Patent, to allow or require such specification to be amended. Such amended specification shall be considered a complete specification, and shall be liable to the conditions imposed upon complete specification by this law.

*Complete Specification—Requirements of same—Fee—Protection—Insufficient description to invalidate Letters Patent.*

5. The applicant for an invention, instead of depositing a "provisional specification," as aforesaid, may, if he think fit, deposit an instrument in writing under his hand and seal (herein-after called a complete specification), particularly describing and ascertaining the nature of the said invention, in what manner the same is to be performed, and also such drawings as may be required to explain the same, and the day of the deposit of every such specification shall be recorded at the aforesaid office and endorsed upon such specification, and a certificate thereof given to such applicant, or his agent, who shall thereupon deposit and pay a fee as provided in Schedule 8 of this law; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this law for the term of six months next after the said deposit, and the applicant shall have during such term the like powers, rights, and privileges; such invention may be used and published without prejudice to any Letters Patent to be granted for the same, and where Letters Patent are granted in respect of such invention, such letters shall be conditioned to become void if such specification does not sufficiently describe and ascertain the nature of the said invention and in what manner the same is to be performed, and in case the invention is an improvement on any existing invention, if such specification does not sufficiently shew in what the improvement consists.

*Deposit of Specification in fraud of true Inventor not to invalidate his Letters Patent.*

6. In case of the depositing of any such specification as aforesaid, in fraud of the true and first inventor, any Letters

Patent granted to the true and first inventor of any such invention shall not be invalidated by reason of such deposit, or of any use or publication of the invention subsequent to such deposit, and before the expiration of the said term of protection.

*Mode of proceeding after deposit of Specification—Notice to Attorney General—Attorney General's appointment—Publication thereof—Filing objections.*

7. The applicant, as soon as he shall think fit after the deposit of such specification as aforesaid, and of the drawings accompanying the same, if any, may give notice in writing, at the office of the Attorney General, of his intention to proceed with his application for Letters Patent for the said invention, stating in such notice the title of the said invention, and the day on which the specification thereof was deposited at the office of the Attorney General, and at the time of giving such notice shall produce the said certificate of deposit and receipt for the said fee or fees, and thereupon the said Attorney General, shall deliver to the applicant, or his agent, an appointment in the form contained in the second schedule to this law, or to the like effect; and such applicant or agent shall cause the said appointment to be published once in the Government Gazette, once in some newspaper published in the city of Pietermaritzburg, and twice in some newspaper published in the town or place at or near which the applicant uses or exercises the said invention, or (in case he does not use or exercise the same) in or near to which he resides; or if there shall be no newspaper published in such town or place, then twice in some newspaper circulating in the neighbourhood where he uses or exercises the said invention, or (in case he does not exercise or use the same) where he resides; and any person having an interest in opposing the grant of Letters Patent for the said invention, shall be at liberty, upon payment therefor of a fee as provided by schedule 8, to leave particulars in writing of the objections to the said application at the office of the Attorney General within such time, not less than one month, as the Attorney General by such appointment may direct.

*Hearing of Application and Objections—Costs—Order for Costs.*

8. At the time and place named in the said appointment, the applicant shall produce the newspapers containing the same,

and the Attorney General shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and may call to his aid scientific or other person or persons, as he may think fit, and the Lieutenant Governor therefor appoint, and may, by writing, under his hand, order to be paid to such person or persons, by the said applicant or objector, some remuneration for his or their attendance, and may also in like manner order that the costs of any hearing upon any objection or otherwise in relation to the grant of such Letters Patent, or the protection acquired by the applicant under this law, shall be paid, and in and by such writing shall fix the amount of such remuneration or costs, and by or to whom the same respectively shall be paid; and every such order shall be in the form contained in the third schedule to this law, or to the like effect, and may be made a rule of the Supreme Court; provided that the applicant, the objectors, and their respective witnesses and evidence, shall be respectively heard, examined, and considered separately and apart from, and in the absence of, the other, and his witnesses and evidence.

*Issue of Warrant for granting Letters Patent.*

9. The Attorney General, if no objections have been made, or after such hearing and consideration, as the case may be, may issue a warrant under his hand for the granting of Letters Patent for the said invention, and by such warrant shall direct the insertion in such Letters Patent of all such restrictions, conditions, and provisoes as he may deem usual and expedient in such grants, or necessary in pursuance of this law, and the said warrant shall be the warrant for the making and sealing of Letters Patent under this law, according to the tenor of the said warrant, and every such warrant shall be in the form contained in the fourth schedule to this law, or to the like effect, and for the granting thereof the applicant shall pay to the Colonial Treasurer, and produce his receipt therefor, a fee as in schedule No. 8 hereunto annexed.

*A Writ of Scire Facias shall lie for repeal of Letters Patent—Governor may order Attorney General to withhold Warrant.*

10. A writ of the Supreme Courts of the nature of a writ of *scire facias* in England, shall lie for the repeal of any Letters Patent granted under this law, and it shall be lawful for the Lieutenant

Governor, with the advice aforesaid, to order such Attorney General to withhold such warrant as aforesaid, or that any Letters Patent, for the granting whereof he has issued a warrant, shall not issue; or to order the insertion in any such Letters Patent of any restrictions, conditions, and provisoes in addition to, or in substitution for, any restrictions, conditions, or provisoes which would otherwise be inserted therein under this law; and it shall also be lawful for the Lieutenant Governor, with the advice aforesaid, to order any specification in respect of the invention described, in which no Letters Patent may have been granted, to be cancelled, and thereupon the protection obtained by the deposit of such specification shall cease.

*Form and condition of Letters Patent.*

11. All Letters Patent granted under this law shall be in the form contained in the fifth schedule to this law, or to the like effect, and be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid to the Colonial Treasurer within the said three and seven years respectively, the sum or sums of money in that behalf hereby required to be paid, and the Colonial Treasurer shall issue under his hand a certificate of such payment, and shall endorse a receipt for the same on the Letters Patent.

*Preparation of Letters Patent—Sealing same.*

12. The Attorney General, so soon after the issue by him of the warrant aforesaid as required by the applicant, shall cause to be prepared Letters Patent of the invention, according to the tenor of the said warrant; and it shall be lawful for the Lieutenant Governor, with the advice of the Executive Council, to cause Letters Patent to be sealed with the public seal of the Colony, and such Letters Patent shall be made applicable to the said Colony, and shall be valid and effectual as to the whole of the same; but, except as hereinafter mentioned, no Letters Patent shall issue on any warrant granted as aforesaid, unless application be made to seal such Letters Patent within three months after the date of the said warrant, nor unless such Letters Patent be granted during the continuance of the protection conferred under this law by reason of such deposit as aforesaid.

*Accidental delay in sealing—Death of Applicant—Destruction or loss of original Letters Patent.*

13. Where the application to seal such Letters Patent has been made during the continuance of such protection as aforesaid, and the sealing of such Letters Patent has been delayed from accident, and not from the neglect or wilful default of the applicant, then such Letters Patent may be sealed at such time, not being more than one month after the expiration of such protection as the Lieutenant Governor, with the advice aforesaid, shall direct; and where the applicant for such Letters Patent dies during the continuance of such protection as aforesaid, such Letters Patent may be granted to the executors testamentary or dative of such applicant during the continuance of such protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the Letters Patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such protection; and in case any Letters Patent shall be destroyed or lost, other Letters Patent, of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the Lieutenant Governor, with the advice aforesaid, may direct, be issued under the authority of the warrant in pursuance of which the original Letters Patent were issued.

*Date of Letters Patent.—After issue thereof Particulars of Appointment not to be enquired into.*

14. All Letters Patent to be issued in pursuance of this law, shall be sealed and bear date as of the day of the deposit of any such specification as aforesaid, and shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date; and after any Letters Patent shall have been granted or issued under this law, it shall not be necessary or admissible to inquire or ascertain whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

*Extension to this Colony of Letters Patent granted elsewhere.*

15. Where, upon any application made under this law, Letters Patent are granted for or in respect of any invention, first in-

vented in parts out of this Colony, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any parts out of this Colony is obtained before the grant of such Letters Patent in this Colony, all rights and privileges under such Letters Patent shall, notwithstanding any term in such Letters Patent limited, cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such part out of such Colony shall continue in force, or where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges: Provided always, that no Letters Patent for or in respect of any invention, for which any such patent or like privilege as aforesaid shall have been obtained abroad, granted in this Colony after the expiration or determination of the term for which such patent or privilege was granted or was in force, shall be of any validity.

*Letters Patent not to apply to Foreign Ships in Port Natal.*

16. No Letters Patent for any invention, granted after the passing of this law, shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of Natal, in case such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the same.

[NOTE.—*See Law No.* 5, 1871.—*Post*, p. 404.]

*Specifications and Drawings, where to be kept.*

17. Every specification deposited at the office of the Attorney General, as aforesaid, and the drawings accompanying the same, if any, shall forthwith, after the grant of the Letters Patent, or if no Letters Patent be granted, then immediately on the expiration of six months from the time of such deposit, be transferred to and kept in such office as the Lieutenant Governor with the advice aforesaid, shall from time to time appoint for that purpose.

*Application for leave to enter Disclaimer—Attorney General's appointment—Publication—Objections—No appointment requisite for Disclaimer of part of Title.*

18. Any person who shall obtain Letters Patent under this law, or in case such person shall part with the whole or any

part of his interest by assignment, such person, together with the assignee (if part only hath been assigned), or the assignee alone (if the whole hath been assigned), may apply to the Attorney General for leave to enter a disclaimer of any part of either the title of the invention or of the specification, or a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration, as shall extend to the exclusive right granted by the said Letters Patent; and thereupon the Attorney General shall deliver to such patentee and assignee, or either of them, or to their or either of their agents, an appointment in the form contained in the sixth schedule to this law, or to the like effect, and such patentee or assignee shall thereupon cause such disclaimer (stating the reason for the same), or such memorandum or alteration to be written at the foot of such appointment, and shall cause the same respectively to be published in the manner hereinbefore required, with respect to the said first-mentioned appointment, and any person having an interest in opposing the said application shall be at liberty to leave particulars, in writing, of their objections to the same, at the office of the Attorney General, within such time, not being less than one month, as the said Attorney General by such appointment may direct: Provided that where such application as aforesaid shall be for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the Attorney General may dispense with such appointment and publication, and in that case shall certify, in the fiat hereinafter mentioned, that he has dispensed with the same.

*Hearing Application and Objections—Powers of Attorney General.*

19. At the time and place named in such appointment, the said patentee and assignee, or one of them, shall produce the newspapers containing the same, and the said disclaimer or memorandum of alteration at the foot thereof; and the Attorney General shall thereupon hear and consider the said application, and all objections to the same, mentioned in the said particulars, if any, and all such power and authority shall and may be exercised on such occasion by the Attorney General, as by virtue of the provisions hereinbefore contained, can and may be exercised in relation to the hearing and considering any application for Letters Patent, and objections to the same, and shall and may be enforced in the same manner.

*Entry of Disclaimer—Attorney General's Fiat.*

20. After such hearing and consideration, or without such hearing and consideration, where the said appointment and publication shall have been dispensed with, as aforesaid, such patentee and assignee, or either of them, may, by leave of the Attorney General, to be certified by a fiat under his hand (to be written at the foot of the same parchment with the said disclaimer or memorandum), enter such disclaimer, stating the reason for the same, or such memorandum of alteration; and at the time of entering such disclaimer or memorandum of alteration, shall deposit a copy thereof in the office next hereinbefore mentioned; and such disclaimer or memorandum of alteration being filed in such office as the Lieutenant Governor, with the advice aforesaid, shall from time to time appoint for that purpose, shall be deemed and taken to be part of such Letters Patent, or such specification, and subject to the several incidents thereof in all courts of this Colony, and shall be valid and effectual in favour of any person in whom the rights under the said Letters Patent may then be, or hereafter become legally vested; and no objection shall be allowed to be made in any proceeding upon, or touching such Letters Patent, specification, disclaimer, or memorandum of alteration, on the ground that the person entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf: Provided always, that no action shall be brought upon any Letters Patent in which, or on the specification of which, any disclaimer or memorandum of alteration shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration (unless the Attorney General shall certify in his said fiat that any such action may be brought), notwithstanding the entry or filing of such disclaimer or memorandum of alteration; and no such disclaimer or alteration shall be receivable as evidence in any action or suit (save and except in any proceeding as aforesaid, in the nature of a *scire facias*), pending at the time when such disclaimer or alteration was filed as aforesaid, but in every such last-mentioned action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the Letters Patent have been or shall have been granted: Provided also, that when any such fiat shall have been granted or issued under this law, it shall not be necessary

or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this law; and such filing of any disclaimer or memorandum of alteration, in pursuance of the leave of the Attorney General, certified as aforesaid, shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this law.

*Copies of Specifications, Drawings, &c., to be open to Public after issue of Letters Patent.*

21. The copies of all specifications, and the drawings accompanying the same, if any, and of all disclaimers and memoranda of alterations, respectively deposited under or in pursuance of this law, shall be open to the inspection of the public at all reasonable times after the grant of Letters Patent, or if no Letters Patent be granted, then immediately on the expiration of six months from the time of such deposit, but subject to such regulations as the Lieutenant Governor, with the advice aforesaid, may make in that behalf.

*Petition to Governor for extension of Term of Letters Patent—May be referred to Supreme Court.*

22. If any person having obtained Letters Patent under this law, or in case such person shall have parted with his whole or any part of his interest by assignment, if such person, together with the assignee (where part only hath been assigned), or if the assignee alone (where the whole hath been assigned), shall, six months before the expiration or other termination of such Letters Patent, present to the Lieutenant Governor a petition for the extension of the term in such Letters Patent mentioned, and shall set forth in such petition that he or they has or have been unable to obtain a due remuneration for his or their expense or labour in perfecting such invention, and that an exclusive right of using and vending the same for some further period to be named in such petition, in addition to the said term, is necessary for his or their reimbursement and remuneration, it shall be lawful for the Lieutenant Governor, with the advice aforesaid, to refer the consideration of the said petition to the Supreme Court.

*Petition to Governor for confirmation or renewal of Letters Patent in certain cases—May likewise be referred to Supreme Court.*

23. If in any suit or action it shall be proved or specially found by the verdict of a jury or by the court, that any person who shall have obtained Letters Patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented or used the same, or some part thereof, before the date of such Letters Patent, or if such patentee or his assigns shall discover that some other person had, unknown to such patentee, invented or used the same or some part thereof before the date of such Letters Patent, such patentee or his assigns may petition the Lieutenant Governor to confirm the said Letters Patent, or to grant new Letters Patent, and it shall be lawful for the Lieutenant Governor, with the advice aforesaid, to refer the consideration of the said petition to the Supreme Court.

*Petition to be advertised—Entering caveats.*

24. Two months at least before the time named for the consideration of any such petition as aforesaid, the petitioner shall cause to be published, in the same manner as is hereinbefore required with respect to the said first-mentioned appointment, an advertisement of the contents of the said petition in the form contained in the seventh schedule to this law, or to the like effect; and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the Attorney General, at any time, not being less than one week before the time named for the consideration of the said petition.

*Hearing petition—Court to report to Lieutenant Governor in case of prayer for extension, and Governor to decide thereon—In case of prayer for confirmation or renewal the Court shall decide thereon, whereupon the Governor may comply with Petition.*

25. The petitioner shall be heard by his counsel and witnesses, to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this law; and the persons entering caveats shall likewise be heard by their counsel and witnesses; and all such witnesses shall be examined upon oath or affirmation, and thereupon, and upon hearing and inquiry of the whole matter, in case such petitioner

shall have prayed for an extension as aforesaid, the said Court may report whether any, and, if any, what further extension of the said term should be granted; and the Lieutenant Governor is hereby authorised and empowered, if he, with the advice aforesaid, shall think fit, to grant to the petitioner new Letters Patent for the said invention, for a term not exceeding fourteen years after the expiration of the first term, anything hereinbefore contained to the contrary thereof notwithstanding; and such new Letters Patent shall be sealed and bear date as of the day after the expiration of the term of the first Letters Patent; or, in case such petitioner shall have prayed for a confirmation or grant as aforesaid, the Court, upon examining the said matter, and being satisfied that such patentee, as aforesaid, believed himself to be the first and original inventor, and being satisfied that such invention, or part thereof, had not been publicly and generally used before the date of such first Letters Patent, shall decide whether the prayer of such petition ought to be complied with, whereupon the Lieutenant Governor may, if he, with the advice aforesaid, shall think fit, grant such prayer; and the said Letters Patent shall be available at law and in equity to give such petitioner the sole right of using, making, and vending such invention, as against all persons whatsoever, anything hereinbefore contained to the contrary thereof notwithstanding: Provided that any person, party to any former action or suit touching such first Letters Patent as last aforesaid, shall be entitled to have notice in writing from the petitioner or his attorney of the time and place fixed for the hearing of the said petition; and after any such decision and order shall have been made, it shall not be material to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner hereinbefore directed in that behalf. The expenses of such hearing and all costs connected therewith, shall be paid as the Court may direct.

*Indices of Specifications, &c.*

26. The Lieutenant Governor, with the advice aforesaid, may cause indices to all specifications, disclaimers and memoranda of alterations heretofore or to be hereafter enrolled or deposited as aforesaid, to be prepared in any such form as may be thought fit, and such indices shall be open to the inspection of the public at

such places as the Lieutenant Governor, with the advice aforesaid, shall appoint, and subject to the regulations to be made as hereinbefore provided.

*The "Register of Patents" Book.*

27. There shall be kept at the office to be appointed, as aforesaid, a book or books to be called "The Register of Patents," wherein shall be entered and recorded in chronological order all Letters Patent granted under this law, the deposit and filing of specifications, disclaimers and memoranda of alterations filed in respect of such Letters Patent, all amendments in such Letters Patent and specifications, all confirmations and extensions of such Letters Patent, the expiry, determination, vacating, or cancelling such Letters Patent, with the dates thereof respectively, and all other matters and things affecting the validity of such Letters Patent as the Lieutenant Governor, with the advice aforesaid, may direct, and such register, or a copy thereof, shall be open at all convenient times to the inspection of the public, subject to such regulations as the Lieutenant Governor, with the advice aforesaid, may make in that behalf.

*"Register of Proprietors."*

28. There shall be kept at the same office a book or books entitled the "Register of Proprietors," wherein shall be entered, in such manner as the Lieutenant-Governor, with the advice aforesaid, shall direct, the assignment of any Letters Patent, or of any share or interest therein, any license under Letters Patent, and the district to which such license relates, with the name or names of any person having any share or interest in such Letters Patent or license, the date of his or their acquiring such Letters Patent, share and interest, and any other matter or thing relating to or affecting the proprietorship in such Letters Patent or license, and a copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same on payment of the fee provided in schedule 8, and shall be *primâ facie* proof of the assignment of such Letters Patent or share or interest therein, or of the license or proprietorship as therein expressed, provided always that, until such entry shall have been made, the grantee or grantees of the Letters Patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such Letters Patent, and of all the licenses and privileges thereby given

and granted, and such register or a copy shall be open to public inspection, subject to such regulations as the Lieutenant Governor, with the advice aforesaid, may make.

*Punishment for making False Entries in the Register or forging entries therefrom.*

29. If any person shall wilfully make, or cause to be made, any false entry in the said register, or shall wilfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in the said book, or shall produce or tender, or cause or suffer to be produced or tendered, in evidence, any such writing, knowing the same to be false or forged, he shall be guilty of the crime of contravening this section of this law, and shall upon conviction be liable to imprisonment, with or without hard labour, for any period not exceeding five years.

*Entries made in Registers—how expunged, vacated or varied.*

30. If any person shall deem himself aggrieved by any entry made under colour of this law in the said register, it shall be lawful for such person to apply by motion to the Supreme Court for an order that such entry may be expunged, vacated, or varied, and upon any such application such Court may make such order for expunging, vacating or varying such entry, and as to the costs of such application as to such Court may seem fit, and the officer having the care and custody of such register, on the production to him of any such order, shall expunge, vacate or vary the said entry according to such order.

*Punishment for imitating a Patentee's Marks or Device.*

31. If any person shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark, upon anything made, used, or sold by him, for the sole making or selling of which he hath not, or shall not, have obtained Letters Patent, the name or any imitation of the name of any other person who hath or shall have obtained Letters Patent for the sole making or vending of such thing, without leave in writing of such patentee or his heirs or assigns, or if any person shall, upon such thing not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having had the license or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark

the word "Patent," the words "Letters Patent," or the words "By the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, he shall for every such offence forfeit and pay the sum of fifty pounds, one half to the Colonial Government, and the other half, with full costs of suit, to any person who shall sue for the said penalty by action of debt.

*Inventor's Action for infringement of Patent.*

32. An action may be maintained in the Supreme Court by an inventor against any person who, during the continuance of the Letters Patent granted under this law, shall, without the license of said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same.

*Grounds of Defence to any such Action.*

33. No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor shall any such action be defended upon the ground of a misdescription of the invention in the petition, nor upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor or derives title from him. Any such action may be defended upon the ground that the invention was not new, if the person making the defence, or some person through whom he claims, shall, before the date of the petition for leave to file any such specification, have publicly or actually used in Natal the invention, or that part of it, of which the infringement shall be proved, but not otherwise.

*Court may in certain cases allow amendment of Specification.*

34. If the Court at the hearing of the cause shall think that the patentee has in the description of his invention in the petition or specifications included something which at the date of the petition was not new, or whereof he was not the inventor, or that the complete specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the Court may adjudge the said exclusive privilege to have been acquired and the Letters Patent to be valid, save as to the part thereof

affected by such error, defect, or insufficiency, or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, they may adjudge the exclusive privilege and Letters Patent in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars, and adjudge and make such further order as to costs or otherwise as may be necessary and expedient, and thereupon the patentee, his executors, administrators, or assigns, shall, within the time limited by said Court for the purpose, file a specification amended according to such order.

*Actions for infringement of Patent.—Requirements of Pleadings.—Proceedings for repeal of Patent.*

35. In any action for the infringement of Letters Patent, the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action, and the defendant, on pleading thereto, shall deliver with his pleas, and the prosecutor in any proceedings in the nature of *scire facias* to repeal Letters Patent, shall deliver with his declaration particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration respectively, and at the trial of such action or proceedings no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such Letters Patent which shall not be contained in the particulars delivered as aforesaid, provided always that the place or places at, or in which, and in what manner, the invention is alleged to have been used or published prior to the date of the Letters Patent, shall be stated in such particulars, provided also that it shall and may be lawful for any Judge at chambers to allow such plaintiff or defendant, or prosecutor respectively, to amend the particulars delivered as aforesaid, upon such terms as to such Judge may seem fit, provided also that at the trial of any proceeding to repeal Letters Patent, the defendant shall be entitled to begin and give evidence in support of such Letters Patent, and in case evidence shall be adduced on the part of the prosecutor, impeaching the validity of such Letters Patent, the defendant shall be entitled to the reply.

*As to Costs in such Action or Proceedings.*

36. In taxing the costs in any action for infringing Letters Patent, regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular unless certified by the Court before which the trial was had to have been proved by such plaintiff or defendant respectively, and it shall be lawful for the Court before which any such action shall be tried to certify on the record that the validity of the Letters Patent in the declaration mentioned came in question, and the record with such certificate being given in evidence in any suit or action for infringing the said Letters Patent, or in any proceeding in the nature of *scire facias*, to repeal the Letters Patent, shall entitle the plaintiff in any such suit or action, or the defendant in any such proceeding, on obtaining a decree or judgment, to his full costs, charges and expenses, to be taxed as between attorney and client, unless the Court making such judgment, decree or order, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

*Payment of Fees specified in Schedule.*

37. There shall be paid in respect of Letters Patent applied for or issued as herein mentioned, the depositing of specifications, disclaimers and memoranda of alterations, warrants, certificates, entries, searches, and other matters and things respectively mentioned in the eighth schedule to this law, such fees as are enumerated in such schedule, and such of the said fees as are thereby made payable shall be payable to the persons and in the manner provided in such schedule, and shall form part of the colonial revenue.

*Letters Patent granted in the United Kingdom after* 1st *of January*, 1871, *shall not extend to Natal.*

38. All Letters Patent which shall be granted in the United Kingdom of Great Britain and Ireland, after the first day of January, in the year of our Lord one thousand eight hundred and seventy-one, for any invention shall, so far as the same relate to this colony, be utterly void and of none effect, and in no wise be put in execution, but all such Letters Patent granted in the said United Kingdom on or before that day,

and which, if this law had not been passed, would have been valid in this colony, shall be deemed and taken to have been granted under this law, and may be dealt with accordingly.

*Effect from promulgation.*

39. This law shall take effect from the promulgation thereof in the Government Gazette.

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SCHEDULE 1.

To all to whom these presents shall come, I, of [*engineer, &c., as the case may be*], send greeting: Whereas I am desirous of obtaining Letters Patent for securing unto me Her Majesty's special license that I, my executors, and assigns, and such others as I or they should at any time agree with, and no others, should and lawfully might, from time to time, and at all times during the term of fourteen years (to be computed from the day on which this instrument shall be left at the office of the Attorney-General), make, use, exercise, and vend, within the colony of Natal, an invention for [*insert the title of the invention*]; and in order to obtain the said Letters Patent, I must, by an instrument in writing under my hand, particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and must also enter into the covenant hereinafter contained: Now know ye, that the nature of the said invention, and the manner in which the same is to be performed, are particularly described and ascertained in and by the following statement, that is to say [*describe the invention*]. And I do hereby, for myself, my heirs and executors, covenant with Her Majesty, her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, and that I do not know or believe that any person other than myself is the true and first inventor of the said invention, and that I will not deposit these presents at the office of the Attorney-General with any such knowledge or belief as last aforesaid.

In witness whereof, I have hereunto set my hand at , this day of 18 .

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SCHEDULE 2.

Patent for [*insert the title as in the specification*].

This is to notify that , of &c., did on the day of instant [or last] deposit at the office of the Attorney-General, Pietermaritzburg, a specification or instrument in writing under his hand, particularly describing and ascertaining the nature of the said invention, and

in what manner the same is to be performed, and that by reason of such deposit the said invention is protected and secured to him exclusively for the term of six months thence next ensuing. And I do further notify that the said has given notice in writing, at my office, of his intention to proceed with his application for Letters Patent for the said invention, and that I have appointed [Thursday] the day of next, at o'clock in the noon, at my office, to hear and consider the said application and all objections thereto; and I do hereby require all persons having an interest in opposing the grant of such Letters Patent to leave before that day, at my office, in Pietermaritzburg, particulars in writing of their objections to the said application, otherwise they will be precluded from urging the same.

Given under my hand, this day of 18 .

Attorney-General.

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## SCHEDULE 3.

Upon hearing the objection of A.B. to the grant to , of Letters Patent for [*insert the title as in the specification*], I do by this writing under my hand order that the said A.B. shall pay to the said , the sum of for the costs of such hearing [or to E. F. the sum of as a remuneration for his attendance at such hearing.]

Given under my hand, this day of 18 .

Attorney-General.

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## SCHEDULE 4.

I have heard and considered the application of , for Letters Patent for [*insert the title as in the specification*]; and also all objections to the same, and, having perused the specification and the usual and necessary advertisements, am of opinion that, as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, Her Majesty's Royal Letters Patent may be issued in the form contained in the fifth schedule of the Patent Law, with the following additional clauses, that is to say [*here set them out, if any*].

Given under my hand, this day of 18 .

Attorney-General.

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## SCHEDULE 5.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to all to whom these presents shall come, greeting: Whereas , of , in the county of

[*engineer, &c., as the case may be*], hath represented that he is desirous of obtaining our Royal Letters Patents for securing unto him our special license that he, his executors and assigns, and such others as he or they should agree with, and no others, should and lawfully might make, use, vend, and exercise within our colony of Natal, an invention for [*insert the title of the invention*], and by an instrument in writing under his hand, deposited in the office of the Attorney-General, the said hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed: And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said the privileges hereinafter mentioned, Know ye, therefore, that we of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents, for us, our heirs and successors, do give and grant, unto the said , his executors and assigns, our especial license, full power, sole privilege, and authority, that he, the said , his executors, administrators, and assigns, and every of them, by himself and themselves, or his and their deputy or deputies, servants or agents, or such others as he or they shall at any time agree with, and no others, during the term herein expressed, shall and lawfully may make use of, exercise, and vend his said invention within our said colony, in such manner as to him, his executors and assigns, or any of them, shall seem meet; and that he, his executors and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention, during the said term; to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages, unto and by the said , his executors and assigns, for and during, and unto the full end and term of years, now next ensuing. And to the end that he, his executors and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention, according to our gracious intention, we do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons whatsoever, of what estate, quality, degree, name, or condition soever they be, within our said colony, that neither they, nor any of them, at any time during the said term, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, license, or agreement of the said , his executors or assigns, in writing under his or their hands first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this our royal command; and further, to be answerable to the said , his executors and assigns, according to law, for his and their damage thereby occasioned; provided always, and

these our Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted, it shall appear that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said is not the first and true inventor thereof within this colony, these our Letters Patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding; provided also, that these our Letters Patent, or anything herein contained, shall not extend, or be construed to extend, to give privilege unto the said , his executors and assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like Letters Patent or privileges have been already granted for the sole use and exercise and benefit thereof within our said colony; it being our will and pleasure that the said , his executors and assigns, and all and every person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and 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 instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said , his executors or assigns, shall not pay at the office of the Colonial Treasurer of our said colony the sum of pounds within three years next after the date of these presents, and the sum of pounds within seven years next after such date, then, and in any of the said cases, these our Letters Patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as may by law be granted: And, lastly, we do by these presents, for us, our heirs and successors, grant unto the said , his executors and assigns, that these our Letters Patent shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favourable and beneficial sense for the best advantage of the said , his executors and assigns.

In witness whereof we have caused these our letters to be made patent, and to be sealed and bear date as of the day of 18 .

## SCHEDULE 6.

*Patent for* [*here insert the title*].

This is to notify to all whom it may concern, that . of, &c. has applied to me for leave to enter a disclaimer of part [or memorandum of alteration, as the case may be] of the said invention, the particulars whereof are stated below; I do therefore appoint [Thursday] the day of next, at o'clock in the noon, to hear and consider the said application and all objections to the same. And I do hereby require all persons having an interest in opposing the said application to leave, before that day, at my office in Pietermaritzburg, particulars in writing of their objection to the same, otherwise they will be precluded from urging such objections.

Given under my hand this day of 18 .

Attorney-General.

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The following is the disclaimer [or as the case may be] which I desire to make in, &c. [The applicant must here set forth what he wishes to enter, and sign it.]

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## SCHEDULE 7.

*Patent for* [*insert the title*].

Notice is hereby given that I have presented a petition to his Excellency the Lieutenant Governor, praying for the confirmation of [or extension of the term in] the said patent, and that the said petition has been referred to the Supreme Court for consideration and decision; and that on the day of next, at o'clock in the noon, or so soon thereafter as counsel can be heard, the said court will be moved thereon. All persons objecting to the said confirmation [or extension] must enter a caveat against the same at the office of the Attorney-General in Pietermaritzburg, otherwise they will be precluded from objecting to it.

Dated this day of 18 .

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## SCHEDULE 8.

*Fees to be paid to Treasurer on account of General Revenue.*

| | £ | *s.* | *d* |
|---|---|---|---|
| On depositing provisional specification . . . . . | 1 | 1 | 0 |
| Notice to proceed . . . . . | 0 | 5 | 0 |
| Alteration of specification . . . . . | 0 | 10 | 6 |
| | 2 | 0 | 2 |

| | £ | s. | d. |
|---|---|---|---|
| For any appointment | 1 | 1 | 0 |
| Fee for warrant (in terms of clause 9) | 1 | 1 | 0 |
| Complete specification | 1 | 1 | 0 |
| Particulars of objection | 1 | 1 | 0 |
| On presenting petition for extension of confirmation | 1 | 1 | 0 |
| Every search and inspection | 0 | 1 | 0 |
| Entry of assignment or license | 0 | 5 | 0 |
| Certificate of assignment or license | 0 | 5 | 0 |
| Filing memorandum of alteration or disclaimer | 1 | 1 | 0 |
| Entering caveat | 1 | 1 | 0 |
| Copy, or extract of any writing, per Common Law folio | 0 | 1 | 0 |
| Sealing letters patent | 1 | 10 | 0 |
| At or before the expiration of three years | 5 | 0 | 0 |
| At or before the expiration of seven years | 10 | 0 | 0 |

## *Law No.* 5, 1871.

To amend and extend the provisions of the 16th Section of Law No. 4, 1870, entituled Law "To provide for the granting in this Colony of Patents for Inventions."

*Preamble.*

Whereas doubts have arisen as to the meaning of the terms "foreign ship or vessel," occurring in the 16th Section of the said Law No. 4, 1870; and it is expedient to remove such doubts, and to amend the said section by defining and extending the meaning of the said terms for the purposes of said section.

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

*Definition of terms "foreign ship or vessel," in Law* 4, 1870, *Sec.* 16.

1. In the said recited 16th Section of Law No. 4, 1870, and for the purposes of said section, the terms "foreign ship or vessel" shall be taken and are hereby declared to mean, comprehend, and include all ships and vessels used in navigation not propelled by oars, not being registered in or hailing from this Colony.

*Effect from promulgation.*

2. This law shall take effect from the promulgation thereof in the Natal Government Gazette.

# NEWFOUNDLAND.

## TITLE XV., CHAP. 54, SEC. 1 OF THE CONSOLIDATED STATUTES ENTITLED "OF PATENTS."

*Patents to be granted in certain cases.*

I. Whenever any person shall apply to the Governor, alleging that he hath invented and discovered any new and useful art, machine, manufacture, or composition of matter not theretofore known or used, and shall, by petition to the Governor, signify his desire to obtain an exclusive property in such new invention and discovery, and shall pray that a patent be granted for the same, the Governor in Council may direct Letters Patent, under the Great Seal of this Island, to be issued, which Letters Patent shall recite the allegations and suggestions of the said petition and shall therein give a short description of the said invention and discovery, and thereupon shall grant to such person, his executors, administrators, or assigns, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing, and using, and vending to others to be used, the said new invention or discovery; which Letters Patent shall be good and available to the grantee therein named, by force of this chapter, and shall be recorded in the office of the Colonial Secretary in a book to be kept for that purpose, and shall be delivered to the patentee: and the Governor in Council may insert in any such Letters Patent a provision extending the operation thereof for a further term of seven years. Before the Great Seal of this Island shall be affixed to any such Letters Patent, or the same shall be issued and signed as aforesaid, such

Letters Patent shall be delivered to Her Majesty's Attorney-General, who shall examine the same, and shall, if he finds the same conformable to this chapter, certify accordingly, and return the same within fifteen days into the office of the Colonial Secretary, to be issued and signed.

*Improvement on Patented Invention.*

II. Where any such Letters Patent shall be obtained by any person, and thereafter any other person shall discover or make any improvement in the principle or process of any such art, machine, or composition of matter, for which such patent hath been granted, and shall make application for and obtain Letters Patent under this chapter for the exclusive right of such improvement, the person who shall obtain and procure Letters Patent for any such improvement, shall not make, use, or vend the original invention or discovery, nor shall the person who shall have procured Letters Patent for the original invention or discovery, make, use, or vend any such improvement: Provided, that simply changing the form or the proportions of any machine or composition of matter, in any degree, shall not be deemed a discovery or improvement within the meaning of this chapter.

*Right to copies.*

III. Any person may obtain from the office of the Colonial Secretary a copy of any such Letters Patent, or of the petition whereon the same were issued, or of any paper connected therewith, or any drawing relating to the same, on payment, for such copy, of such fees as are now payable at the office of the Colonial Secretary for copies of other documents.

*Oath required.*

IV. Before any person shall receive any Letters Patent under this chapter, such person shall make oath, in writing, before one of the Justices of the Supreme Court, a Stipendiary Magistrate, or Commissioner of Affidavits, that he doth verily believe that he is the inventor or discoverer of the art, machine, composition of matter, or improvement for which he solicits Letters Patent, and that such invention or discovery hath not, to the best of his knowledge or belief, been known or used in this Island or in any other country, which oath shall be delivered with the petition for such Letters Patent.

*Description, model, and drawing to be filed.*

V. Together with such petition and oath, before any person shall obtain any Letters Patent as aforesaid, such person shall also deliver into the office of the Colonial Secretary a written description of his invention, and of the manner of using or process of compounding the same in such full, clear, and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected, to make, compound, and use the same, and in case of any machine, shall deliver a model thereof into the office of the Colonial Secretary, and shall explain the principle and the several modes in which such person hath contemplated the application of that principle or character by which it may be distinguished from other inventions, and shall accompany the whole with drawings and written references, where the nature of the case admits of drawings, or with specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter; which description, signed by such person, and attested by two witnesses, shall be filed in the office of the Colonial Secretary, and copies thereof, certified under his hand, shall be evidence in all courts where any matter or thing, touching or concerning the said Letters Patent, shall come into question: Provided, that where, from the complicated nature of any machinery, the cost of a model thereof may be so great as to prevent any ingenious but poor person from obtaining patents for his useful inventions, the Governor in Council may dispense with the delivery of such model into the office of the Colonial Secretary previous to the granting of any such patent; and the requisitions of this chapter being in all other respects complied with, such person shall be entitled to such patent as if such model had been so lodged.

*Patentee may assign.*

VI. Any patentee, his executors or administrators, may assign all his right, title, and interest in the said invention and discovery, in the Letters Patent to him granted, to any person; and the assignee thereof, having recorded the said assignment in the office of the Colonial Secretary, shall thereafter stand in the place and stead of the original patentee, as well as to all

right, privilege, and advantage, as also in respect of all liability and responsibility as to the said Letters Patent, and the invention and discovery thereby secured; and in like manner shall the assignees of any such assignee stand in the place and stead of the original patentee or inventor.

*Forfeiture in case of infringement.*

VII. Whenever, in any case, any Letters Patent shall be, or shall or may have been, granted to any person under and by virtue of this chapter, and any person, without the consent of the patentee, his executors, administrators, or assigns, first had and obtained in writing, shall make, devise, use, or sell the thing, invention, or discovery, whereof the exclusive right is secured to the said patentee by such Letters Patent, such person so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns, a sum equal to three times the actual damage sustained by such patentee, his executors, administrators, or assigns, from or by reason of such offence, which sum may be recovered, together with costs, by action on the case, founded on this chapter, in the Supreme Court.

*Pleading.*

VIII. The defendant in such action may plead the general issue, and give this chapter, and any special matter in evidence, tending to prove that the specification filed by the plaintiff does not contain the whole truth relative to the invention or discovery therein alleged to have been made by the said plaintiff, or that it contains more than is necessary to produce the described effect (which concealment or addition shall fully appear to have been made for the purpose of deceiving the public), or that the thing, invention, or discovery, thus secured by Letters Patent, as aforesaid, was not originally discovered by the patentee, but had been in use, or had been described in some public work, anterior to the supposed invention or discovery of the said patentee, or that he had surreptitiously obtained Letters Patent as aforesaid, for the invention or discovery of some other person; in either of which cases, upon proof thereof, a verdict shall be returned and a judgment shall be entered for the said defendant with costs, and the said Letters Patent shall thereupon be and shall by the said Court be adjudged void.

*Applicant not deprived of right by having obtained Patent elsewhere.*

IX. No applicant shall be deprived of his right to a patent in this Colony for his invention, by reason of his having previously taken out Letters Patent therefor in any other country: Provided, that such invention shall not have been introduced into public and common use in this Colony prior to the application for a patent therein, and the patent granted in this Colony shall not continue in force after the expiration of the patent granted elsewhere, and where more than one such patent or like privilege is obtained abroad, then immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges, the patent granted in this Colony shall cease to be in force: and no Letters Patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained elsewhere, and which shall be granted in this Colony, after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

*Letters issuable to Assignee.*

X. Letters Patent may be issued by the Governor in Council to the assignee of any person who may have taken out Letters Patent for his invention or discovery in any other country, but not for any invention or discovery made abroad for which no Letters Patent have been there obtained: Provided, that the invention or discovery so assigned shall not have been introduced into public and common use in this Colony prior to the application for a patent; and that the assignee of such foreign patent shall file, with his application, the assignment duly proved under which he claims a patent in this Colony, and an affidavit, setting forth the date of the patent abroad, that the article thereby patented has not been in public and common use in this Colony, and that he is the assignee for a good consideration.

*Forfeiture for failure to operate.*

XI. Any Letters Patent which may be taken out under or by virtue of this chapter, and which shall not have been brought into operation within two years next ensuing from and after the date thereof, such Letters Patent shall, at the expiration of the said period of two years, be void.

*Notices.*

XII. No Letters Patent shall be granted under or by virtue of this chapter until notice shall have been published in the Royal Gazette and one other of the newspapers of this Colony, for at least four weeks, of the intention of the applicant to apply for such Letters Patent; and such notice shall contain, in general terms, the description of invention for which such Letters Patent shall be desired.

*Remedy where Patentee takes larger Interest than entitled to.*

XIII. If by mistake, accident, or inadvertence, and without any wilful default, or intent to defraud or mislead the public, a patentee shall in his specification have claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, but of which he was not the original or first inventor, and shall have no just or legal right to claim the same, his patent in such case shall be valid for so much of the invention or discovery as shall be actually his own, provided it is a material and substantial part of the thing patented, and be plainly distinguishable from other parts patented without right; and every such patentee and his legal representatives, whether holding the whole or a particular interest in the patent, may maintain suits at law or in equity, for any infringement of such part of the same as is actually the invention or discovery of the patentee, although his specification may embrace more than he has a legal right to claim; but if in such case the plaintiff shall obtain a verdict or judgment, he shall not be entitled to costs, unless before the commencement of the suit he shall have filed in the office of the Colonial Secretary a disclaimer, attested by a witness, of that part of the thing patented which was claimed without right; and no person bringing a suit shall be entitled to the benefits of this section, if he shall have unreasonably neglected or delayed to record his disclaimer.

*Disclaimer of Surplus when Specification too broad.*

XIV. If through inadvertence, accident, or mistake, a patentee shall have made his specification too broad by claiming more than that of which he was the original or first inventor (some material and substantial part of the thing patented being justly and truly his own), the disclaimer shall

be in writing, and shall state the extent of interest in the patent held by the party making the same; it shall be attested by a witness, and be recorded in the office of the Colonial Secretary; thereafter, such disclaimer shall be considered as part of the original specification, to the extent of the interest possessed by the party making the same, or by those claiming under him; but no such disclaimer shall affect any action or suit pending at the time of its being recorded, except so far as may relate to the question of unreasonable neglect or delay in recording the same.

*Remedy where Patent becomes invalid through want in the description, &c.*

XV. If any patent shall become inoperative or invalid by reason of a defective or insufficient description or specification, or by reason of the patentee claiming in his specification, as his own invention, more than he had a right to claim, and the error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Governor in Council, upon the surrender of such patent, and upon petition therefor, may cause a new patent to be issued to the patentee, for the residue of the term mentioned in the first patent in accordance with the patentee's amended description and specification: In case of his death, or the assignment by him of the original patent or any fractional interest therein, the right shall vest in his legal representatives to the extent of their respective interests in such patent; and the patent so re-issued, together with the amended description and specification, shall have the same effect and operation in law as though the same had been originally filed in such amended form before the issuing of the original patent.

*Right of Patentee to Patent Improvements.*

XVI. If an original patentee shall be desirous of adding a description and specification of an improvement upon his original invention or discovery, made or discovered by him subsequent to the date of his patent, he may, upon the like proceedings being had in all respects as in the case of an original application, have the same annexed to his original description and specification; and the Colonial Secretary shall certify upon such annexed description and specification the time of its being annexed and recorded, and thereafter it shall have the same effect in law as if it had been embraced in the original description and specification, and had been recorded therewith.

*No Patent granted elsewhere valid in Newfoundland till Specification, &c., filed in Colonial Secretary's Office.*

XVII. No patent for any invention or discovery, granted in England or elsewhere out of the Colony, and extending to the Colonies, shall be of force and effect in this Colony, until copies of the original specification and drawings filed, or duplicates of the models lodged, in England or elsewhere out of the Colony, upon which such patent was there obtained, shall be filed or lodged in the office of the Colonial Secretary, who shall grant a certificate of the lodging or filing of the same.

*Affirmations and Oaths.*

XVIII. All oaths required by this chapter, unless otherwise directed, may be taken in this Colony before a Judge of the Supreme Court, or a Commissioner for taking Affidavits in the same; or in Great Britain or Ireland, before the Mayor of a City or Borough, and shall be certified under the corporate seal; or, in a Foreign Country, before a British Consul or Vice-Consul, and shall be certified under his seal of office.

*Patentee to pay Fees of Office and Twenty-five Dollars.*

XIX. Any person who may take out Letters Patent under this chapter shall pay for the same such fees as are charged on documents issued under the Great Seal of this Island, and shall, in addition, deposit with the Colonial Secretary the sum of twenty-five dollars, to be by him paid to the Receiver General for the use of the Colony.

# NEW SOUTH WALES.

*Act No XXIV.*, 6*th December*, 1852.

AN Act to authorise the Governor General, with the advice of the Executive Council, to grant letters of registration for all inventions and improvements in the arts or manufactures, to have the same effect as Letters Patent in England, so far as regards this Colony.

*Preamble.*

Whereas it is expedient that the exclusive benefit of inventions and improvements in the arts or manufactures should be secured for limited periods to the author or authors or designer or designers thereof, or to his or their agents or assignees: And whereas it is doubtful whether the laws of the United Kingdom respecting patents extend to or have effect in the Colony of New South Wales: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, as follows:—

*Governor may grant Letters of Registration for a period of not less than Seven nor more than Fourteen Years for Inventions or Improvements in Arts or Manufactures.*

I. From and after the passing of this Act it shall and may be lawful for his Excellency the Governor of the said Colony, with the advice of his Executive Council, to grant Letters of Registration under his sign manual and the seal of the Colony for the

exclusive enjoyment and advantage, for a period of not less than seven nor more than fourteen years, for all inventions or improvements in the arts or manufactures, to the author or authors, or designer or designers thereof, or to his or their agents or assignees, as soon as such proceedings shall have been taken by such author or authors, or designer or designers respectively as are in that behalf hereinafter mentioned.

*Deposit to be paid to Colonial Treasurer on applying for such Letters, and Mode of Application.*

II. Every person who upon claiming to be the author or designer, by his agent or assignee, of any invention in or improvement to the arts or manufactures shall be desirous of obtaining such a Letter of Registration as is hereinbefore mentioned, shall deposit with the Colonial Treasurer the sum of twenty pounds sterling, and shall, after such deposit, present a petition to his Excellency the Governor, setting forth that he is the author or designer, or the agent or assignee of such author or designer, as the case may be, of a certain invention in or improvement to the arts or manufactures, and specifying the particulars of such invention or improvement, and that he has deposited with the Colonial Treasurer the sum of twenty pounds for defraying the expense of granting the Letters of Registration required by this Act, it shall be lawful for the said Governor for the time being to refer the said petition to one or more competent person or persons, to be appointed by the said Governor, to examine and consider the matters stated in such petition, and to report thereon for the information of his Excellency; and if the report of the person or persons to whom the said petition shall have been referred by the Governor shall be favourable to its prayer, it shall be lawful for his Excellency with the advice of his Executive Council, to grant the Letters of Registration hereinbefore mentioned, and such Letters of Registration shall, within three days after the granting thereof, be registered in the proper office in the Supreme Court, otherwise such Letter of Registration shall be void and of no effect.

*Grantee of any such Letter may assign the same.*

III. Every grantee of such Letter of Registration shall be at liberty to assign the same, and all the benefits and advantages derivable therefrom, to any person or persons, by an instrument

in writing under his hand and seal, to be registered in the Supreme Court in the same manner and within the same period after the execution thereof as the original Letters of Registration are hereinbefore directed to be registered.

*Limit as to Grantee's Liability.*

IV. No grantee of any such Letter of Registration shall be liable in respect thereof for any higher charge than the said sum of twenty pounds, except for such costs and charges as he shall voluntarily incur, after the deposit of the said sum of twenty pounds with the Colonial Treasurer, as hereinbefore mentioned.

*Any such Letter may be repealed for certain causes.*

V. Any Letter of Registration granted by virtue of this Act shall be liable to be repealed by writ of *scire facias* for the same causes and in the same manner as other grants of the Crown are liable to be repealed.

*Commencement of Act.*

VI. That this Act shall come into operation so soon as and not until the same shall have received the royal approbation, and the notification of such approbation shall have been made by order of His Excellency the Governor General in the New South Wales Government Gazette, and that such notification shall be sufficient evidence of such approbation.

# NEW ZEALAND.

*Act of 8th September*, 1883. *To consolidate the Law relating to Letters Patent for Inventions.*

*Short Title.*

1. The short title of this Act is "The Patents Act, 1883."

It shall come into operation on the first day of January One thousand eight hundred and eighty four.

*Division of Act.*

2. This Act is divided into Parts as follows:—

Part I.—Mode of obtaining Letters Patent.

Part II.—Disclaimers and Alterations.

Part III.—Extension of Term and Confirmation of Invalid Patents.

Part IV.—Miscellaneous Provisions.

*Interpretation.*

3. In this Act—

"Invention" means and includes any manner of new manufacture the subject of Letters Patent and grants of privilege within the meaning of the fourth section hereof.

"Patent Office" means the Patent Office appointed under this Act, but does not include any local Patent Office;

"Patent Officer" means the person appointed to be Patent Officer under this Act;

"Regulations" means regulations made under this Act.

# PART I.

## Mode of obtaining Letters Patent.

### 1.—For what Patent may issue.

*Power to grant Patents.—Monopolies forbidden.*

4. It shall be lawful to make and issue, in the manner hereinafter mentioned, Letters Patent and grants of privilege, for any term not exceeding fourteen years from the date thereof, of the sole working or making of any manner of new manufactures within New Zealand, to the true and first inventor of such manufactures, which others, at the time of making such Letters Patent and grants, shall not use, so as also they be not contrary to the law nor mischievous to the State, by raising prices of commodities or hurt of trade, or generally inconvenient.

And all other monopolies, commissions, grants, licenses, charters, and Letters Patent hereafter to be made or granted to any person of or for the sole buying, selling, making, working, or using of anything within New Zealand or of any other monopolies or of power, liberty or faculty to dispense with any others, and all matters and things whatsoever in anywise tending to the instituting, erecting or countenancing of the same or any of them, shall be utterly void and of none effect, and in no wise to be put in execution.

### 2.—Regulations.

*Governor in Council to make Regulations.*

5. The Governor in Council from time to time may make such regulations not inconsistent with the provisions hereof, as may appear to be necessary and expedient for the purposes of this Act, and all such regulations shall be gazetted.

All regulations in force under any Act hereby repealed shall remain in force as if made under this Act until other regulations are made as hereinbefore provided.

*Patent Officer.—Patent Office.*

6. The Governor may from time to time appoint such person as he thinks fit to be Patent Officer, and in like manner may appoint a place to be the "Patent Office."

The person who, at the commencement of this Act, holds the

office of Patent Officer under the Acts hereby repealed, shall be the Patent Officer under this Act, without any further appointment.

The place at the commencement of this Act used as the Patent Office shall be deemed to have been appointed under this Act.

*Deputy Patent Officer.*

7. The Governor at any time may appoint a fit and proper person to be Deputy Patent Officer, to act in case of the death, illness, or unavoidable absence of the Patent Officer, and such deputy shall, during the time he shall so act, have all the powers and privileges, and shall perform all the duties, and be subject to the responsibilities of the Patent Officer.

Whenever the Patent Officer shall die, the Deputy Patent Officer shall act as such from the day of such death, and, in the case of illness or absence, shall act as such from such day as the Patent Officer shall certify under his hand to the Deputy Patent Officer that he is ill and unable to perform his duties, or that he is about to be absent; and such Deputy Patent Officer shall cease to act as such on the day on which he shall receive from the Patent Officer a certificate under his hand to the effect that he has resumed his duties.

## 3.—Procedure to obtain Patent.

*Appointment of local Offices and Officers.—Saving of existing appointments.*

8. The Governor may, for all such purposes as he may deem necessary for the public convenience, appoint local patent offices, and patent office agents in the various centres of population throughout the Colony, and from time to time alter or revoke the appointment of such offices and agents respectively.

The local patent offices and the patent office agents appointed under "The Patents Act Amendment Act, 1882," shall be deemed to have been appointed under this Act without further appointment.

Such agents shall not demand or receive from the applicant, or any one on his behalf, any fees or charges whatever other than such as are payable under this Act.

*Mode of Application.—First Schedule.—Receipt for Documents.—Second Schedule.*

9. Every application under this Act for the grant of Letters Patent for an invention shall be made as follows, that is to say:—

(1) The applicant shall deposit at the Patent Office, or at any local patent office, a specification, written in a plain legible hand or printed in fair legible type upon parchment or paper, and under his hand and seal, in the form or to the effect in the first schedule hereto, particularly describing and ascertaining the nature and details of the said invention with precision, and in what manner the same is to be performed, and containing a distinct claim for the especial novelty thereof, and accompanied by drawings, if necessary, for the full description and understanding of the said invention, and also a copy of such specification and drawings.

(2) The title of the invention must state distinctly and specifically the nature and object of the invention, and every specification must be limited to one invention.

(3) If such deposit be made at any local office the Patent Office Agent shall give the applicant or his agent a receipt therefor in the form contained in the second schedule hereto, or to the like effect, and shall forthwith transmit the documents and a copy of his receipt to the Patent Officer.

*Protection of Invention.—Third Schedule.*

10. (1) The exact time of the deposit of every specification which, upon examination by the Patent Officer, is found to be in accordance with this Act and the regulations shall be recorded at the Patent Office, and indorsed upon such specification, and a certificate thereof, under the hand of the Patent Officer and in the form contained in the third schedule hereto, shall be given or transmitted to such applicant or his agent.

(2) And thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act for the term of twelve months next after the said deposit, and the applicant shall have during such term the like powers, rights and privileges as might have been conferred upon him by Letters Patent for such invention issued under this Act and duly sealed as of the day of such deposit.

(3) During the continuance of such powers, rights and privi-

leges under this provision, such invention may be used and published without prejudice to any Letters Patent to be granted for the same.

*Patent of true Inventor not to be affected by Specification of pretended Inventor.*

11. In case of the deposit of any such specification as aforesaid in fraud of the true and first inventor, any Letters Patent granted to the true and first inventor of such invention shall not be invalidated by reason of such deposit, or of any use or publication of the invention subsequent to such deposit and before the expiration of the said term of protection.

*Hearing of application.—Fourth Schedule—Particulars of objections may be lodged.*

12. The Patent Officer shall make an appointment for the hearing of every application, in the form contained in the fourth schedule to this Act or to the like effect; and shall publish a notification of the said appointment once in the *Gazette*, not less than sixty clear days prior to the day appointed.

Any person having an interest in opposing the grant of Letters Patent shall be at liberty, not less than fourteen clear days before the day so appointed, to leave particulars in writing of his objections to the said application at the Patent Office.

*Patent Officer to hear applications and objections.*

13. At the place and time named in the said appointment the Patent Officer shall hear and consider the said application, and all objections to the same, if any, mentioned in the said particulars, and may call to his aid such scientific or other person as he may think fit.

The applicant, the objectors, and their respective witnesses and evidence shall be respectively heard, examined and considered separately and apart from and in the absence of the other, his witnesses and evidence.

The Patent Officer shall have full power to examine applicant, objectors, and witnesses upon oath, and to administer an oath to any or all of them.

*Hearing may be adjourned.*

14. The Patent Officer may adjourn from time to time the hearing of any application for Letters Patent.

*Patent Officer may award Expenses and Costs.—Fifth Schedule.*

15. The Patent Officer may require that the applicant and the objector shall deposit such sums as the Patent Officer may think fit to meet any costs of or incident to the hearing, and may, by writing under his hand, order to be paid to any person he may call to his aid as aforesaid, some remuneration for his attendance, and may also, in like manner, order that the costs of any hearing upon any objections, or otherwise in relation to the grant of such Letters Patent, or the protection acquired by the applicant under this Act, shall be paid; and, in and by such writing, shall fix the amount of such remuneration or costs, and by or to whom the same respectively shall be paid.

Every such order shall be in the form contained in the fifth schedule, or to the like effect, and may be made a rule of the Supreme Court.

*Patent Officer may issue Warrant for Letters Patent.—Sixth Schedule.*

16. If there shall be no objection to the grant of Letters Patent and he is satisfied that this Act and the regulations have been complied with, the Patent Officer may, on the day appointed, or as soon as may be thereafter, and, when there are objections, after such hearing and consideration, issue a warrant under his hand for the granting of Letters Patent for the said invention; and, by such warrant, shall direct the insertion in such Letters Patent of all such restrictions, conditions, and provisoes, as he may deem usual and expedient in such grants, or necessary in pursuance of this Act.

Such warrant shall be the authority for the making and sealing of Letters Patent under this Act, according to the tenor of the said warrant.

Every such warrant shall be in the form set forth in the sixth schedule or to the like effect.

*Amendments.*

17. In case the title of the invention or the specification be too large or insufficient, or clerical errors exist therein, the Patent Officer, on the hearing of the application for the grant of the Letters Patent, may allow or require such specification to be amended, or another and sufficient specification to be deposited in lieu thereof, and every such amended or new specification

shall have the same force, effect, and operation as if it had been originally deposited in its amended or new state.

When an applicant desires to amend his specification or drawings, or to substitute an amended specification, he must deposit particulars of such amendment or such amended specification at the Patent Office at least fifteen days before the day of hearing.

*Letters Patent to be issued on application and during the protection.*

18. (1) The Patent Officer, after the issue by him of the said warrant, and on application in writing by the applicant or his agent, with payment of the fee thereon, shall cause to be prepared Letters Patent for the invention according to the tenor of the said warrant, and the Governor may cause such Letters Patent to be sealed with the public seal of the Colony.

(2) Such Letters Patent shall be made applicable to the Colony and its dependencies, and shall be valid and effectual as to the whole of the same respectively; but, except as hereinafter mentioned, no Letters Patent shall issue on any warrant granted as aforesaid, unless application be made to seal such Letters Patent during the continuance of the protection conferred under this Act, by reason of such deposit as aforesaid.

*Letters Patent may issue after that time in certain cases.*

19. (1.) When the application to seal such Letters Patent has been made during the continuance of such protection as aforesaid, and the sealing of such Letters Patent has been delayed from accident, and not from the wilful default of the applicant, then such Letters Patent may be sealed at such time after the expiration of such protection as the Governor may direct.

(2.) Where the applicant for such Letters Patent dies during the continuance of such protection as aforesaid, such Letters Patent may be granted to the executors or administrators of such applicant during the continuance of such protection or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the Letters Patent so granted shall be of the like force and effect as if they had been granted to such applicant during the term of such protection.

*Duplicate Letters Patent may be issued.*

20. In case any Letters Patent shall be lost or destroyed, duplicate Letters Patent of the like tenor and effect, and sealed and dated as of the same day as such lost or destroyed Letters Patent, may be issued upon evidence of such loss or destruction being produced to the satisfaction of the Patent Officer.

*Letters Patent to bear date of deposit of Specification, and to be conclusive as to preliminary steps.*

21. Notwithstanding any enactment to the contrary, all Letters Patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such specification as aforesaid, and shall be of the same force and validity as if they had been sealed on the day as of which they are expressed to be sealed and bear date.

After any Letters Patent shall have been issued in pursuance of this Act, it shall not be necessary or material to inquire whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

## 4.—Form and Conditions of Patent.

*Conditions for granting Letters Patent.—Seventh Schedule.*

22. All Letters Patent for inventions granted under this Act shall be in the form contained in the Seventh Schedule, or to the like effect, and shall be made subject to the provisions of this Act, and to the conditions and restrictions that may be inserted in such patent by virtue thereof, or that are imposed by this Act, that is to say:—

(1.) That the powers and privileges thereby granted shall cease and determine at the expiration of five years from the date thereof, unless there be paid within such five years the sum or sums of money required to be paid under this Act, and the Patent Officer shall indorse a receipt for the same on the Letters Patent.

(2.) No Letters Patent shall extend to entitle the Patentee to use or imitate any invention or work which, before the date of such patent, had been found out or invented by any other person, and publicly used or exercised, or to whom like Letters Patent or privileges have been already granted for the sole use, exercise and benefit thereof within the colony.

(3.) The Patentee, and all and every other person and persons to whom like Letters Patent or privileges have been granted 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.

(4.) Nothing contained in any Letters Patent shall prevent the Patentee from granting licenses in such manner and for such considerations as they may by law be granted.

*Matters rendering Letters Patent void.*

23. All Letters Patent and all privileges and advantages whatsoever thereby granted shall utterly cease and become void —

(1.) If the specification does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed.

(2.) If at any time during the term for which such Letters Patent are granted it appears that the grant is contrary to law or prejudicial or inconvenient to the public good, or that the invention therein mentioned is not a new invention, or that the Patentee is not the true and first inventor thereof within this colony.

(3.) If the Patentee shall not supply or cause to be supplied for the Government of the Colony all such articles of the said invention as he is required to supply by the persons administering the department of the public service for the use of which the same are required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said persons requiring the same.

*Invention to be brought into actual and public use.*

24. Every invention protected by Letters Patent issued under this Act shall be brought into actual and public use within the colony within the space of two years from the date of such Letters Patent, or in default thereof such Letters Patent shall at the expiration of such period of two years cease and be of no effect.

### 5.—Repeal of Patent.

*Letters Patent may be repealed, or issued with restrictions, or Specification may be cancelled.*

25. (1.) An action shall lie for the repeal of any Letters Patent granted under this Act, and may be commenced in any district of the Supreme Court, in such form as may be authorised by its rules in substitution for the process by writ of *scire facias*; and in case the grantee does not reside in New Zealand, it shall be sufficient to file the writ in the Supreme Court, and to serve notice of such action in writing at the last known place of residence or business of such grantee.

(2.) The Governor in Council, upon the issue of the writ in such action, may order such Patent Officer to withhold such warrant as aforesaid, or that any Letters Patent, for the granting whereof he may have issued a warrant as aforesaid, shall not issue; or may order the insertion, in any such Letters Patent, of any restrictions, conditions, or provisoes in addition to or in substitution for any restrictions, conditions or provisoes which would otherwise be inserted therein under this Act.

(3.) The Governor in Council may also order any specification in respect of the invention described, in which no Letters Patent may have been granted, to be cancelled, and thereupon the protection obtained by the deposit of such specification shall cease.

*Letters Patent not to prevent the use of Inventions in Foreign Ships in New Zealand ports.*

26. No Letters Patent granted for any invention shall extend to prevent the use of any such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of New Zealand, or in any of the waters within the jurisdiction of any of Her Majesty's Courts in New Zealand, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the same.

But this enactment shall not extend to the ships or vessels of any foreign State the laws of which authorize subjects of such foreign State, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British ships or vessels or in or about the navigation of British ships or vessels

while in the ports of such foreign State, or in the waters within the jurisdiction of its Courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from such foreign State.

### 6.—Letters of Registration.

*Letters of Registration for Foreign Patents.—Effect of Registration. Tenth Schedule.—Copy to be filed.*

27. The Governor in his discretion, on the application of any person being the holder or assignee of any Letters Patent or like protection issued in Great Britain or any other country or colony for an invention or discovery, and upon such proof as the Governor may by regulations require that such person is the *bonâ fide* holder or assignee thereof, and that the same are or is in full force, and upon payment of the sum of ten pounds, may grant Letters of Registration to such applicant.

(2.) Such Letters of Registration shall be in the form contained in the Tenth Schedule or to the like effect, and shall have the same force and effect as Letters Patent granted under this Act, and shall enure to the benefit of the grantee thereof, his executors, administrators, and assigns, during the continuance of the original Letters Patent or other protection in the country or colony where the same was or were granted, and no longer; and all the provisions of this Act shall apply to such Letters of Registration in the same way, *mutatis mutandis*, and as fully as to Letters Patent granted under this Act.

(3.) A copy of all such Letters of Registration shall be filed in the Patent Office.

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## PART II.

### Disclaimers and Alterations.

*Notice of application to disclaim or make alterations.—Procedure thereon.—Eighth Schedule.—Opposition.—Power to dispense with appointments, &c.*

28. (1.) Any person who shall obtain Letters Patent under this Act, his executors or administrators, or, in case he or they shall part with the whole or any part of his or their interest by assignment, he or they together with the assignee if part only

has been assigned, or the assignee alone if the whole has been assigned, may apply to the Patent Officer for leave to enter a disclaimer of any part of either the title to the invention, or the specification, or a memorandum of any alterations in the said title or specification, not being such disclaimer as shall extend the exclusive right granted by the said Letters Patent.

(2.) Thereupon the Patent Officer shall deliver to the person or persons applying, or to their agent, or to one of them, or the agent of one of them, an appointment in the form contained in the Eighth Schedule or to the like effect, and the person or persons so applying shall cause such disclaimer (stating the reason for the same), or such memorandum of alteration, to be written at the foot of the said appointment, and shall cause the same respectively to be published forthwith in the Gazette.

(3.) Any person having an interest in opposing the said application, shall be at liberty to leave particulars, in writing, of his objections to the same at the Patent Office within such time not less than fourteen clear days prior to the day so appointed.

(4.) Where such application shall be for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the Patent Officer may dispense with such appointment and publication, and in that case shall certify in the *fiat* hereinafter mentioned that he has dispensed with the same.

*Application for Disclaimer to be heard.*

29. At the time and place named in such appointment the Patent Officer shall hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and all such powers and authority shall and may be exercised upon that occasion by the Patent Officer as, by virtue of the provisions herein contained, can and may be exercised in relation to the hearing and considering an application for Letters Patent and objections to the same, and shall and may be enforced in like manner.

*How disclaimer may be entered and alterations made.—Effect of Disclaimer.*

30. (1.) After such hearing and consideration, or without such hearing or consideration, where the said appointment and publication shall have been dispensed with as aforesaid, the

person or persons applying, or one of them, may by leave of the Patent Officer, to be certified by a *fiat* under his hand, to be written at the foot of the same paper or parchment with the said disclaimer or memorandum, enter such disclaimer (stating the reason for the same), or such memorandum of alteration, and at the time of entering such disclaimer or memorandum of alteration, shall deposit a copy thereof in the office next hereinafter mentioned.

(2.) Such disclaimer or memorandum of alteration, being filed in the Patent Office, shall be deemed and taken to be part of such Letters Patent or such specification, and subject to the several incidents thereof, in all Courts whatever, and shall be valid and effectual in favour of any person in whom the rights under the said Letters Patent may then be, or thereafter become, legally vested.

*Actions not be brought in certain cases.—Proceedings conclusive.*

31. (1.) No action shall be brought upon any Letters Patent in respect of which, or the specification of which, any disclaimer or memorandum of alteration shall have been filed, in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration (unless the Patent Officer shall certify, in his said *fiat*, that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration), and no such disclaimer or alteration shall be receivable as evidence in any action or suit (save any proceedings for the repeal of Letters Patent) pending at the time when such disclaimer or alteration was filed as aforesaid; but in every such action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the Letters Patent have been or shall have been granted.

(2.) When any such *fiat* shall have been granted under this Act, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act, and such filing of any disclaimer or memorandum of alteration, in pursuance of the leave of the Patent Officer, certified as aforesaid, shall (except in cases of fraud) be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Act.

# PART III.

## Extension of Term.

*Mode of obtaining extension of term.—What Petition to set forth.*

32. (1.) Any person who has obtained Letters Patent under this Act or any other Act relating to Letters Patent heretofore in force in New Zealand, or the executors or administrators of such person, or (in case such person shall have parted with the whole or any part of his interest in such patent by assignment) he or they together with the assignee when part only has been assigned, or the assignee alone when the whole has been assigned, may, six months before the expiration or other determination of such Letters Patent, present to the Governor a petition for the extension of the term in such Letters Patent mentioned.

(2.) Such petition shall set forth that the petitioner has been unable to obtain a due remuneration for his expense and labour bestowed in perfecting such invention, and that an exclusive right of using and vending the same for some further period, to be named in such petition, in addition to the said term, is necessary for his reimbursement and remuneration, and the Governor may refer the consideration of the said petition to one or more Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Appointment of Commissioners.*

33. For the purpose of considering any such petition, the Governor, if he shall think fit, may issue and direct, in the name of Her Majesty, to one or more persons a Commission reciting such petition, and requiring and authorising such person, or some stated number of such persons, to meet at some time, not being less than two months from the publication of such Commission in the Gazette, and at some place to be respectively fixed in the said Commission, and then and there to consider the said petition, and to report to the Governor (in case such petitioner shall have prayed for an extension of the term in the Letters Patent mentioned) whether any, and if any, what, further extension of the said term should be granted, according to the prayer of the said petition.

*Notice of Commission to be published.—Ninth Schedule.—Caveat may be entered.*

34. (1.) Two months at least before the time fixed in the said Commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published, in the same manner as is hereinbefore required with respect to the first-mentioned appointment, an advertisement of the contents of the said Commission in the form contained in the Ninth Schedule, or to the like effect.

(2.) Any person having an interest in opposing the said petition shall be at liberty to enter a *caveat* against the same at the Patent Office, at any time not less than one week before the time named in the said Commission for the consideration thereof.

*Commissioners to hear all Parties, and Report.*

35. (1.) At the time and place fixed in the said Commission the Commissioners, or some of them not less than the said stated number, shall proceed to consider such petition, and the petitioner shall be heard by his counsel and witnesses, to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this Act, and the persons entering *caveats* shall likewise be heard by their counsel and witnesses, and all such witnesses shall be examined upon oath, which oaths such Commissioners are hereby authorised to administer.

(2.) Thereupon, and on hearing and inquiry of the whole matter (in case such petitioner shall have prayed for an extension as aforesaid), the said Commissioners may report whether any, and, if any, what, further extension of the said term should be granted, and the Governor is hereby authorised and empowered, if he shall think fit, to grant to the petitioner new Letters Patent for the said invention, not exceeding three years after the expiration of the first term, anything herein contained to the contrary notwithstanding.

Such new Letters Patent shall be sealed and bear date as of the day after the expiration of the term of the first Letters Patent.

# PART IV.

## Miscellaneous Provisions.

### 1.—Records of Office.

*Specification, &c., of Invention to be kept in Patent Office, and be open to inspection.*

36. Every specification deposited at the Patent Office, and the drawings and models accompanying the same, if any, and all other documents so deposited, shall be kept in the Patent Office, and shall be open to the inspection of the public at all reasonable times, as well before as after the grant of Letters Patent, and whether such Letters Patent be granted or not, but subject to regulations.

*Indices to Specifications, Disclaimers, &c.*

37. Indices to all specifications, disclaimers and memoranda of alterations, heretofore or to be hereafter enrolled or deposited as aforesaid, shall be prepared, and shall be open to the inspection of the public at the Patent Office, subject to regulations.

*Register of Patents to be kept.*

38. There shall be kept at the Patent Office a book, to be called "The Register of Patents," wherein shall be entered and recorded in chronological order—

All Letters Patent and Letters of Registration granted under this Act or "The Patents Act, 1870."

The deposit and filing of specifications, disclaimers and memoranda of alterations, filed in respect of such Letters Patent.

All amendments in such Letters Patent and specifications.

All confirmations and extensions of such Letters Patent.

The expiry, determination, vacating, or cancelling of such Letters Patent, with the dates thereof respectively; and

All other matters and things affecting the validity of such Letters Patent as the Governor may direct.

Such register or a copy thereof shall be open at all convenient times to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

*Register of Proprietors to be kept, and of Assignments of Letters, and of Licenses thereunder.*

39. There shall be kept at the Patent Office a book, entitled "The Register of Proprietors," wherein shall be entered—

The assignment of any Letters Patent or Letters of Registration, or of any share or interest therein.

Any license under Letters Patent or Letters of Registration, and the district to which such license relates, with the name of any person having any share or interest in such Letters Patent or Letters of Registration or license.

The date of his acquiring such Letters Patent or Letters of Registration, share or interest; and

Any other matter or thing relating to or affecting the proprietorship in such Letters Patent or Letters of Registration, or license.

## 2.—ASSIGNMENTS.

*Conditions for registering Assignment.*

40. Before any assignment or license shall be registered, the assignee or licensee shall furnish—

(1) A statutory declaration by one of the attesting witnesses to the said assignment or license of the due execution of the said assignment or license:

Provided that, if it be proved to the satisfaction of the said Patent Officer that the attesting witness to any such assignment or license is dead or cannot be found, the execution of the said assignment or license may be proved by a statutory declaration of any other person capable of declaring to the same:

(2) A certified copy or copies of the assignment or license, and other instruments or documents of title.

*Every assignment or License to be made by separate Deed.*

41. No assignment or license of two or more Letters Patent or Letters of Registration included in one deed or instrument shall be registered, and no certificate of assignment or license shall be granted, unless a fee for such registration or certificate be paid in respect of each such Letters Patent or Letters of

registration in respect of which such registration or certificate is desired.

*Register of Proprietors to be open to Public Inspection, and Copies of Extracts may be made.*

42. (1) A copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be *primâ facie* proof of the assignment of such Letters Patent or letters of registration, or share or interest therein, or of the license or proprietorship as therein expressed.

(2) Until such entry shall have been made, the grantee of the Letters Patent or letters of registration shall be deemed to be the sole and exclusive proprietor thereof, and of all the licenses and privileges thereby given.

(3) Such register, or a copy, shall be open to public inspection subject to regulations.

### 3.—Seal.

*Seal to be made and noticed judicially.—Certified Copies to be Evidence.*

43. (1) The Governor may cause a seal to be made for the purposes hereinafter mentioned, and all Courts, Judges, and other persons whosoever shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the seal of the Supreme Court are received in evidence.

(2) All copies or extracts, certified by the Patent Officer and sealed with such seal, of Letters Patent, letters of registration, specifications, disclaimers, memoranda of alterations, and all other documents or books recorded, filed, and kept in pursuance of this Act, shall be received in evidence in all proceedings relating to Letters Patent for Inventions and letters of registration in all Courts, and by all Judges and other persons whomsoever.

### 4.—Offences.

*Falsification or Forgery of Entries.*

44. If any person shall wilfully make or cause to be made any false entry in any such register, or shall wilfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry therein, or shall produce

or tender, or cause or suffer to be produced or tendered, any such writing, knowing the same to be false, he shall be guilty of a misdemeanour, and shall be liable, on conviction, to be kept in penal servitude for any term not exceeding five years, or to be imprisoned and kept to hard labour for any term not exceeding two years.

*Entries may be expunged.*

45. If any person shall deem himself aggrieved by any entry made under colour of this Act in any such register, such person may apply by motion to the Supreme Court, or by summons to a Judge of such Court, for an order that such entry may be expunged, vacated, or varied; and upon any such application such Court or Judge may make such order for expunging, vacating, or varying such entry, and as to the costs of such application, as to such Court or Judge may seem fit; and the Patent Officer, on the production to him of any such order, shall expunge, vacate, or vary the said entry according to such order.

*Penalty for unauthorized use of the word "Patent."*

46. (1) If any person:—

Shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark upon anything made, used, or sold by him, for the sole making or selling of which he has not or shall not have obtained Letters Patent, the name or any imitation of the name of any other person who has or shall have obtained Letters Patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns; or

Shall upon any such thing, not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having had the license or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "Patent," the words "Letters Patent," or the words "by the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee,

he shall for every such offence forfeit and pay the sum of one hundred pounds, one half to Her Majesty, and the other half,

with full costs of suit, to any person who shall sue for the said penalty.

(2) If any person shall upon any such thing for which no Letters Patent or like protection shall have been obtained write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "Patent," the words "Letters Patent," or the words "by the Queen's Letters Patent," or any words of the like kind, meaning, or import, or by advertisement, or in any other way imply or give reasonable cause to believe that Letters Patent or like protection have been granted for such thing, he shall, for every such offence, be liable to a penalty not exceeding fifty pounds, one half of which shall be paid to any person who shall sue for the said penalty.

(3) But nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "Patent" upon any-thing for the sole making or vending of which Letters Patent before obtained shall have expired or otherwise determined.

### 5.—Procedure in Actions for Infringement.

*In Actions for Infringement Particulars of Breaches and Objections to be delivered.—What shall be stated in Particulars.—Order of Proceedings.*

47. (1) In any action for the infringement of Letters Patent the plaintiff shall deliver with his statement of claim particulars of the breaches complained of in the said action, and the defendant, on pleading thereto, shall deliver with his statement of defence, and the prosecutor in any proceedings by action to repeal Letters Patent shall deliver with his statement of claim, particulars of any objections on which he means to rely at the trial in support of the said action, or of the suggestions of the statement last mentioned respectively. At the trial of any such action no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such Letters Patent, which shall not be contained in the particulars delivered as aforesaid.

(2) The place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the Letters Patent shall be stated in such particulars, and any Judge at chambers may allow such plaintiff or defendant or prosecutor respectively to amend the particulars

delivered as aforesaid upon such terms as to such Judge shall seem fit.

(3) At the trial of any proceeding to repeal Letters Patent, the defendant shall be entitled to begin and to give evidence in support of such Letters Patent; and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such Letters Patent, the defendant shall be entitled to the reply.

*Particulars to be regarded in taxing Costs.—Effect of Record and Certificate.*

48. (1) In taxing the costs in any action for infringing Letters Patent regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particulars, unless certified by the Judge, before whom the trial was had, to have been proved by such plaintiff or defendant respectively without regard to the general costs of the cause; and the Judge before whom any such action shall be tried may certify on the record that the validity of Letters Patent in the statement mentioned came in question.

(2) The record, with such certificate, being given in evidence in any action for infringing the said Letters Patent, or in any proceeding in an action to repeal the Letters Patent, shall entitle the plaintiff in any such action, or the defendant in such proceeding, on obtaining a decree, order, or final judgment, to his full costs, charges, and expenses, to be taxed as between solicitor and client, unless the Judge making such decree or order, or the Judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

6.—Fees.

*Fees to be paid.—Eleventh Schedule.—Governor may reduce Fees.*

49. There shall be paid, in respect of the several matters and things respectively mentioned in the Eleventh Schedule, such fees as are therein enumerated, and all such fees shall be paid into the public account and form part of the Consolidated Fund.

The Governor may reduce any of such fees respectively from time to time by notification in the Gazette.

### 7.—Repeals.

*Repeal.—Twelfth Schedule.—Saving.*

50. (1) The Acts enumerated in the Twelfth Schedule are hereby repealed.

(2) But such repeal shall not affect any proceedings or things lawfully taken or commenced, or any Letters Patent, or Letters of Registration granted, or any protection or right conferred under the said repealed Acts before the commencement of this Act; and all such proceedings and things shall be as valid, and all such Letters Patent, Letters of Registration, protections, and rights shall have the same force and efficacy as if this Act had not passed.

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## SCHEDULES.

### First Schelule.

*Specification for Patent.*

Whereas I, , of , in the [*Engineer*] am desirous of obtaining Letters Patent for securing unto me Her Majesty's Special License that I and such others as I should at any time agree with, should, from time to time during the term of fourteen years (to be computed from the day on which this instrument shall be left at the Patent Office) make, use, and vend within the Colony of New Zealand, and its dependencies an invention for [*insert the title of the specification*], and in order to obtain the said Letters Patent I must by an instrument in writing under my hand and seal particularly describe the nature of the said invention, and in what manner the same is to be performed, and make a distinct claim for the especial novelty thereof; Now therefore, the nature and details of the said invention, and the manner in which the same is to be performed are particularly described in the following statement [*describe the invention and the especial novelty thereof either in instrument or in attached Schedule*]. And I do hereby for myself, my heirs, executors, and administrators, covenant with Her Majesty, her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, that I do not know or believe that any other person than myself is the true and first inventor of the said invention, that I will not deposit these presents at the Patent Office with any such knowledge or belief as last aforesaid.

In witness whereof, I have hereunto set my hand and seal this day of 18 .

Witness to signature.

SECOND SCHEDULE.

*Receipt for Specification.*

Received from A.B., specification for an invention for [*insert the title*] for transmission to the Patent Officer, Wellington, at the hour of [*insert the time*] on this day of 18 .

Local Patent Office. *O. A.*, Patent Office Agent.

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THIRD SCHEDULE.

*Deposit of Specification.* No.

I hereby certify that being the applicant for the grant to of Letters Patent for an invention the name whereof is ha this day under the provisions in that behalf contained in the Patents Act, 1883, deposited at this office an instrument in writing under hand and seal particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed; and also a copy of such instrument, and of the drawings accompanying the same, and the day of the deposit of such Specification has been recorded in this office and indorsed on such Specification.

Dated this day of 18 .

Patent Office, Wellington, *P. O.*, Patent Officer.
New Zealand.

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FOURTH SCHEDULE.

*Hearing Application.*

Patent Office, Wellington, 18 .

Patent for [*insert title of Specification*] A.B., of , has deposited at this office a specification of the said invention, and I have appointed the day of next at o'clock in the forenoon, at this office, to hear the said application and all objections thereto; and I require all persons having an interest in opposing the grant of such Letters Patent to leave on or before the day of next, at this office, particulars in writing of their objections to the said application; otherwise they will be precluded from urging the same.

*P. O.*, Patent Officer.

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FIFTH SCHEDULE.

*Order for Expenses.*

Upon hearing the objection of A.B. to the grant to C.D. of Letters Patent for [*insert the title as in the Specification*], I do by this writing under my hand order that the said A.B. shall pay to the said C.D. the sum of for the costs of such hearing [*or* to E. F. the sum of as a remuneration for his attendance at such hearing].

Given under my hand this day of 18 .

*P. O.*, Patent Officer.

SIXTH SCHEDULE.

*Warrant for grant of Letters Patent.*

I have [*heard and*] considered the application of A.B. for Letters Patent for [*insert the title as in the Specification*] [and also all objections to the same], and, having perused the Specification, am of opinion that, as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, Her Majesty's Royal Letters Patent may be issued in the form contained in the Seventh Schedule to the Patents Act, 1883 [with the following additional clauses, that is to say (*here set them out, if any*)].

Given under my hand this day of 18 .

*P. O.*, Patent Officer.

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SEVENTH SCHEDULE.

*Form of Letters Patent.*

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

To all to whom these presents shall come, greeting:

Whereas A.B. of in the of [*Engineer*] (who with his executors, administrators, and assigns, is and are hereinafter included in the term "Patentee"), hath represented that he is desirous of obtaining Letters Patent for securing unto him our special license for an invention for [*insert the title of the invention*], and by an instrument in writing under his hand and seal deposited in the office of the Patent Officer under the provisions of the Patents Act, 1883, the patentee hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed; Now, therefore, know ye that we have given and granted, and by these presents for us, our heirs and successors, do give and grant unto the patentee our special license and authority that the patentee by himself or his servants or agents, or such others as he shall at any time agree with during the term herein expressed, shall and lawfully may make, use, and vend, his said invention within our said colony and its dependencies, in such manner as to him shall seem meet; To have, hold, and enjoy the said license, privilege, and advantage, unto and by the patentee, for and during the term of fourteen years now next ensuing; and that he shall and lawfully may have and enjoy the whole profit, benefit, and advantage from time to time coming, accruing, and arising by reason of the said invention during the said term: subject, however, in all things to the provisions of the Patents Act, 1883, and to the conditions and restrictions thereby imposed [and inserted herein, *if any*].

In witness whereof we have caused these our letters to be made patent, and to be sealed and bear date as of the day of one thousand eight hundred and .

## Eighth Schedule.

### *Disclaimer.*

Patent for [*insert the title*]. This is to notify to all whom it may concern that C.D. of, &c., has applied to me for leave to enter a disclaimer of part [*or*, memorandum of alteration, *as the case may be*] of the said invention, the particulars whereof are stated below. I do therefore appoint [*Thursday*] the day of next at o'clock in the noon, to hear and consider the said application, and all objections to the same. And I do hereby require all persons having an interest in opposing the said application, to leave on or before the day of at my office in particulars in writing of their objections to the same; otherwise they will be precluded from urging such objections.

Given under my hand this day of 18 .

*P.O.*, Patent Officer.

The following is the disclaimer [*or, as the case may be*] which I desire to make in, &c. [*The applicant must here set forth what he wishes to enter, and sign it.*]

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## Ninth Schedule.

### *Extension of Patent.*

Patent for [*insert the title*]. Notice is hereby given that I have presented a Petition to His Excellency, the Governor, praying for the confirmation of [*or*, extension of the term in] the said patent, and that a Royal Commission has issued authorizing and requiring certain Commissioners therein named to consider and report upon the subject to Her Majesty, which said Commissioners will meet for that purpose on the day of next at o'clock in the noon at

All persons objecting to the said confirmation [*or* extension] must enter a caveat against the same at the office of the Patent Officer in Wellington, otherwise they will be precluded from objecting to it.

Dated this day of 18 .

*A. B.*

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## Tenth Schedule.

### *Form of Letters of Registration.*

Know all men by these presents that:

Whereas by an Act of the General Assembly of New Zealand, intituled "the Patents Act, 1883," it is enacted that the Governor in his discretion, on the application of any person being the holder or assignee

of any Letters Patent or like protection, and upon such proof as the Governor may by regulations require that such person is the *bonâ fide* holder or assignee thereof, and that the same are or is in full force, may grant letters of registration to such applicant; and that such letters of registration shall have the same force and effect as Letters Patent granted under the said Act, and shall enure to the benefit of the grantee thereof, his executors, administrators, and assigns, during the continuance of the original Letters Patent or other protection in the country or colony where the same was, or were, granted, and no longer; and all the provisions of the said Act shall apply to such letters of registration in the same way, *mutatis mutandi*, and as fully as to Letters Patent granted under this Act; And whereas A.B. has represented to me the Governor of the Colony of New Zealand, that letters sealed and dated as of the day of one thousand eight hundred and have been issued in the to for an invention or discovery for And whereas the said A.B. has applied to me, the Governor, as aforesaid, for the grant to him of letters of registration of the said invention or discovery in pursuance of the said recited power, and has proved to my satisfaction that he the said A.B. is the *bonâ fide* holder (*or* assignee) of the said letters and that the same are in full force in the said Now know ye that I, the Governor as aforesaid of the said Colony of New Zealand, in pursuance of the said recited power and authority conferred upon me by the said "Patents Act, 1883," do hereby grant unto the said A.B., his executors, administrators, and assigns, letters of registration of the said letters with all the rights, powers, and privileges thereto belonging.

Given under my hand at the at and issued under the seal of the said Colony this day of in the year of our Lord one thousand eight hundred and

Governor of New Zealand.

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## Eleventh Schedule.

*Fees.*

| | £ | *s.* | *d.* |
|---|---|---|---|
| On depositing Specification | 0 | 10 | 0 |
| On depositing amended Specification, or application for amendment to Specification | 0 | 10 | 0 |
| On obtaining Letters Patent, or any duplicate thereof | 2 | 0 | 0 |
| At or before the expiration of the fifth year | 7 | 0 | 0 |
| On lodging particulars of objections | 2 | 0 | 0 |
| On presenting petition for extension | 2 | 0 | 0 |
| Search and inspection. For each book or Specification | 0 | 1 | 0 |
| Entry of assignment or license | 0 | 10 | 0 |
| Certificate of assignment or license | 0 | 10 | 0 |

| | £ | s. | d. |
|---|---|---|---|
| Filing of memorandum of alteration or disclaimer . . . | 2 | 10 | 0 |
| Entering any caveat . . . . . | 2 | 10 | 0 |
| Copy or extract of any writing per common law folio . . | 0 | 0 | 6 |
| On obtaining letters of registration . . . . . | 10 | 0 | 0 |

## TWELFTH SCHEDULE.

*Acts repealed.*

1870.—No. 89. The Patents Act, 1870.
1881.—No. 22. The Patents Act Amendment Act, 1881
1882.—No. 18. The Patents Act Amendment Act, 1882.

# NORWAY.

*From the Commissioners of Patents Journal.*

The only legal stipulation existing in this country with regard to patents is contained in the law concerning handicrafts, of 15th July, 1839, in the 82nd paragraph of which it says: "Patents for inventions in arts and manufactures are granted by the King for a period not exceeding ten years, and on condition of the party concerned, before obtaining the patent, giving a satisfactory account of the date when the invention was made, and in what it consists, so that others may thereby have an opportunity fully to apply the invention after expiration of the term of the patent. If the invention has been made simultaneously by more persons than one, and they all desire exclusive right, then they may expect to obtain patent on conditions as above, in such a manner, however, that any one of them may renounce this exclusive right, to the same effect as if renounced by all. The receiver of a patent must, if he makes use of it in a market town, become a citizen and otherwise invest himself with the same rights and duties as masters in trades, but is, under all circumstances, exempt from performing master-proof."

The Royal Decree of 30th November, 1841, added to this some further stipulations, enacting that the description furnished by the inventor shall be accompanied by drawings in all cases where the nature of the invention requires them, in order to make the description intelligible, and that such drawings shall be delivered in duplicate; that when one-half of the term for which the patent is granted shall have

expired, the description is to be published in extenso by the authorities, provided it has not previously been done by the patentee himself, in the Norwegian Government Gazette, or now, in pursuance of a Royal Decree of 7th January, 1856, in the "Polytechnic Periodical" published in Christiana, and that a fee to the State Treasury of ten specie dollars shall be paid for every patent.

Petitions for patents have to be addressed to the Department for the Interior, which, having first taken the opinion of experts concerning the matter, submits the petition for His Majesty's decision. When patents are granted, the condition is usually annexed that they will become null and void unless the patentee puts his invention into practical use in this country within a period of two years.

By the Royal Decree of 25th October, 1873, no notice will be taken of the petition until the fee has been paid. The fee will be returned if the patent is not granted.

# PORTUGAL.

## CIVIL CODE.

### CHAPTER III.

### PROPERTY IN INVENTIONS.

#### SECTION 1.

*General Provisions.*

Mar 17. 1864

Article 613.

Anyone who invents any manufacture, product, or article of commerce, who perfects and improves any known product or manufacture of the same nature, or discovers any easier and less expensive means of obtaining it, shall enjoy the property in his invention or discovery for a period of fifteen years, on the terms hereinafter set forth in this chapter.

1. An inventor who has obtained a privilege in a foreign country can only obtain a patent in the kingdom on the conditions of this Code, and for the term which has still to run in the foreign country before the invention falls into the public domain.

Article 614.

The property in the invention gives the exclusive right of producing or manufacturing the articles which constitute or embody the said invention.

Article 615.

Inventions or discoveries relating to unlawful industries or articles cannot be patented.

Article 616.

The duration of the exclusive property in inventions commences from the date of the grant of the patent.

Article 617.

The exclusive property is limited to the article specified, and can never be interpreted as extending to others, under pretext of intimate relation or connection.

Article 618.

The appropriation of inventions can only be decreed by law, in cases wherein it may be necessary for the public good.

## Section II.

### *Additions to Inventions.*

Article 619.

The patentee or his representatives may, during the existence of the patent, add to the invention any improvements and modifications which they may conceive.

Article 620.

The person making additions enjoys, so far as concerns the additional improvements, the same rights as those conferred by the principal patent; but only for the time that this may last.

Article 621.

The person making additions may, however, apply for a new patent for the improvements, providing he submits himself to the provisions regulating principal patents.

Article 622.

The grant of a patent for an improvement cannot be made during the first year of the patent granted for the principal invention, save to the person who obtained that patent.

Article 623.

Third parties who solicit such a patent may, before the end of the year, deliver their petition closed and sealed, to the proper department, and thereupon note shall be taken of such delivery.

1. The deposit mentioned in this article serves to confer on the depositor priority over all others, not being the patentee, who may subsequently present themselves. The patentee has in every case the preference, provided he applies within the year.

Article 624.

Third parties who apply for a patent of improvement are deemed, for the issue of their titles, to be principal inventors.

Article 625.

The exclusive property in inventions is authenticated and secured by the laws and administrative regulations.

## Section III.

### *Transmission of Property in Inventions.*

Article 626.

Property in inventions is governed by the general laws which regulate movable property, except as is hereinafter provided.

Article 627.

The transfer of the patent, whether gratuitously, or for a consideration, can only be effected by notarial deed.

Article 628.

Licensees under a principal patent shall enjoy additions granted to the inventor or his representatives, and so reciprocally if the case arises, unless there exists any agreement to the contrary.

## Section IV.

### *The Publication of Inventions.*

Article 629.

The descriptions, designs, models and specifications required for the grant of a patent shall be shewn gratuitously to all persons who may apply for them, and copies thereof shall be supplied on payment of the cost.

It pertains to the Government to make the necessary regulations respecting this matter.

### Article 630.

On the expiration of the second year of the patent the designs and descriptions shall be published in full or by extract.

### Article 631.

It is the duty of the Government to announce officially those inventions which have become public property.

## SECTION V.

### *The nullity and loss of Patents.*

### Article 632.

Patents granted in the following cases are null:

1. If the inventions or discoveries were known to the public, practically or theoretically, through any technical description divulged in home or foreign documents, or by any other means:

2. If a patent had already previously been granted for the same object: [Art. 635.]

3. If the invention or discovery should be found prejudicial to public security or health, or contrary to the laws:

4. If the title given to the invention fraudulently comprises a different object:

5. If the description lodged of the invention does not indicate everything which is necessary for working the invention or the real means of the inventor:

6. If the patent was obtained contrary to the formalities prescribed by law.

7. If a patent for a modification or improvement does not relate to something which facilitates the working, or increases the utility of the invention, but merely to a change of form or of proportions, or to mere ornament.

### Article 633.

Anyone who fails to carry out his invention within two years counted from the date of the signature of the patent, or who ceases to use it for two consecutive years, without proving a legitimate impediment, shall forfeit the said patent.

## Section VI.

### *Actions for nullity and withdrawal of the Patent.*

#### Article 634.

Either the Public Prosecutor or persons having a direct interest in the withdrawal of the patent, may bring suitable actions. If the action is brought by the Public Prosecutor, the interested party shall be allowed to intervene therein as assistant, but the public administration must always intervene in actions brought by interested parties. [Civil Code. Art. 329.]

#### Article 635.

The right of action for nullity, in the case of No. 2 of Article 632, lapses on the expiration of a year without opposition by the parties interested: in other cases it shall exist as long as the exclusive privilege of invention lasts.

## Section VII.

### *The Responsibility of Infringers.*

#### Article 636.

Whosoever, during the exclusive privilege of invention, injures the patentee in the exercise of his rights by reproducing, without his authorization, the object of the said invention, or by selling, concealing, or introducing with deliberate intent, any similar article manufactured abroad, is responsible for the reparation of the damage caused, besides being subject to the penalties of the criminal code.

#### Article 637.

Patentees or their representatives may require, in case of suspected infringement, and on their first giving security, the seizure of the infringing articles, or of implements that can only serve for their manufacture. [Civil Code. Art. 363.]

1. In this case, however, if the party seizing should not commence his action within fourteen days, the seizure becomes void at law, and the holder may sue the party making the seizure for losses and damages.

Article 638.

If the action for infringement is brought to final judgment at criminal or civil law, the articles seized shall be awarded to the complainant, on account of the compensation due to him; but if the matter is tried by a criminal suit, the plaintiff can only sue by civil action for anything that may be wanting for his complete indemnification.

Article 639.

The party injured by the infringement may proceed either by criminal action, or merely by civil action for losses and damages; in either case the Public Prosecutor shall be heard.

Article 640.

The tribunal which tries criminally the infringement shall pronounce on the objections the defendant may raise as to the nullity of the patent or the loss of the rights of the plaintiff.

# QUEENSLAND.

On the separation of Queensland from New South Wales, the Act 16 Victoria, No. XXIV. (*see* New South Wales), was continued in force in the Colony by an Order in Council, dated the 6th November, 1859.

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## *Act No. 26 of 28th December*, 1867.

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An Act to amend the Law relating to Letters of Registration for Inventions and Improvements in the Arts or Manufactures by granting Provisional Certificates of Registration for a limited period.

WHEREAS it is expedient to grant greater facilities to inventors in obtaining the registration and protection of their inventions: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland, in Parliament assembled, and by the authority of the same, as follows:—

1. Any inventor who shall be desirous of claiming temporary protection for an invention or discovery shall deposit plans and specifications, with the description of his invention or discovery, with the Colonial Secretary, and on the payment of a fee of two pounds shall receive a provisional certificate of registration for the space of six months from the date

thereof, and at the expiration of the time such inventor, upon payment of a further sum of three pounds and the deposit of further specifications which may include any addition that does not alter the original design of the invention, may claim a second provisional certificate for the space of six months from the date thereof.

2. This Act shall be styled and may be cited as the "*Provisional Registration for Inventions Act of* 1867."

[NOTE.—*A new Bill is now before the Queensland Parliament. It will probably pass and come into operation on the* 1st *of January*, 1885.]

# RUSSIA.

VOL. XI., PART II., OF CODE OF LAWS OF THE RUSSIAN EMPIRE.—STATUTE OF MANUFACTURING INDUSTRY, SECTION 3RD.

*Patents for New Inventions and Discoveries.*

## CHAPTER I.

*Nature of Patents for Inventions and Discoveries.*

### Art. 73.

Every discovery or invention of any new and useful art, machine, manufacture, or composition of matter, and every improvement on any art, machine, manufacture, or compostion of matter, is the property of the person or persons by whom such discovery, or invention, or improvement has been made, and that person, in order to secure his rights to such property, may make application to the Government for an exclusive privilege or patent for it.

### Art. 74.

A patent is therefore a document granted by the Government to certify that the individual or individuals specified therein has or have laid the description of the discovery, invention, or improvement before the Government, and conveys to the aforesaid individual or individuals the sole right to make, use, or dispose of the new invention, discovery, or improvement described, for a certain specified period.

### Art. 75.

In granting such patent, the Government neither guarantees that the discovery, invention, or improvement described actually belongs to the individual or individuals specified therein, nor answers for the utility of the said discovery, invention, or improvement, but merely certifies that such discovery, invention, or improvement has actually been laid before the Government, stating the time and the name or names of the individual or individuals applying for the patent.

### Art. 76.

Consequently a patent granted by the Government does not deprive any person or persons of the right of proving, by legal process, that the discovery, invention, or improvement belongs to him or them, or has been in use prior to the grant of the patent.

### Art. 77.

Until it shall have been proved, however, before a court of law that the person to whom the patent has been granted was not the inventor and has no right to it, he enjoys the following privileges :—

1. He has the sole right during the time specified to take the benefits of the discovery, invention, or improvement as property belonging exclusively to him, to make, use, sell, dispose of, bequeath, or make over by any other lawful means, the object for which the patent was granted, as well as the patent itself, or to allow any other person to make use of it, during the whole term for which it was granted, or for a shorter period.
2. To prosecute by law all infringements, and to seek for redress for the losses he may have sustained by such.

### Art. 78.

An exact imitation of all the essential parts of the discovery, invention, or improvement for which the patent was granted, notwithstanding there may be some slight alterations in it, not affecting its individuality, or even should there be improvements on it, but in which the essential parts remain, is considered an infringement.

Art. 79.

Patents may be taken out for discoveries, inventions, or improvements made in foreign countries, and for which the term of the patent granted in those countries has not expired; in such case, however, the term of the patent granted in Russia cannot extend beyond the term for which the patent was taken out by the inventor abroad. A patent for the introduction of an invention previously known and in use in foreign countries, and for which no patent has been taken out in those countries, can only be granted by way of exception and by special favour of the Government, with a view to the advantages and utility to be derived from such introduction. Patents granted for foreign inventions have the same force and effect as patents taken out for inventions made in Russia.

Art. 80.

Patents cannot be granted for fundamental or elementary principles, as, for instance, distilling brandy by steam, or boiling sugar by means of steam in a vacuum, unless their application or combination produces some new result in the arts, presenting a special and new apparatus.

Art. 81.

Patents shall not be granted for trifling or unimportant discoveries, inventions, or improvements indicative only of inventive genius, without offering any real advantage or utility, nor for such inventions as may become dangerous to society, or detrimental to the Government revenues.

Art. 82.

No patents shall be granted for inventions and improvements relating to implements of war and the defence of the state, such as cannons, shells, fuses, and other appurtenances of ordnance, armour for ships, torpedoes, powder magazines, revolving turrets, &c., the exclusive use of which belongs to the Government. But patents shall be granted for inventions and improvements the objects of which, though applicable to military purposes, are useful also to private persons, such as small fire-arms, metallic cartridges, bullets, and other appurtenances of hand weapons. Patents for these inventions shall, however, be granted solely on the condition that the same shall not hinder the army and navy administrations in the

trial and use of such inventions and improvements for military purposes.

Art. 83.

Patents are granted to aliens, who are allowed to construct manufactories, mills, &c., without turning Russian subjects, as well as to Russian subjects.

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## Chapter II.

### *Order of Grant of Patents.*

Art. 84.

The application for a patent for any new discovery, invention, or improvement in the arts, manufactures, and trades, must be made by petition to the Department of Manufactures and Home Trade, praying for the exclusive right to the invention, discovery, or improvement, specifying the term for which the patent is solicited, and there shall be annexed the necessary drawings and plans, together with a written description of the invention or discovery, and of the manner and process of making, constructing, using, and compounding the same, in such full, clear, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same, without having recourse to conjecture, or filling up omissions in the defective specification.

In this description the applicant must particularly specify and point out the part, improvement, or combination which he claims as his own invention or discovery. The description must be written in Russian, and in the event of its having been translated from a foreign language, the original must be annexed for the purpose of verification. The description of the discovery, invention, or improvement in a foreign language may be presented without a Russian translation, in order to obtain an official certificate of the applicant's right of property in the invention, but not for the purpose of taking out a patent; the grant of a patent can only be obtained by supplying a description, or translation of it, in the Russian language. In the event of non-fulfilment of the above by the petitioner, or his agent,

within three months from the date on which the description in a foreign language was presented, the petition will be null and void. The applicant shall deliver a model of his invention, discovery, or improvement, when the same admits of a model, and should it be necessary for the better understanding of it. On presenting the petition, drawings, and description, the applicant shall pay into the treasury of the department the amount of duties according to the following scale:—

(1.) For discoveries, inventions, or improvements of the discoverers, inventors, and improvers themselves:

| | S. Rs. |
|---|---|
| For 3 years . . . . . | 90 |
| „ 5 „ . . . . . | 150 |
| „ 10 „ . . . . . | 450 |

(2.) For the introductions of inventions, discoveries, or improvements already existing and known abroad:

| | S. Rs. |
|---|---|
| For 1 year . . . . . | 60 |
| „ 2 „ . . . . . | 120 |
| „ 3 „ . . . . . | 180 |
| „ 4 „ . . . . . | 300 |
| „ 6 „ . . . . . | 360 |

## Art. 85.

On the filing of such an application (consisting of petition, specification, model, or drawings), and on payment of the duty, the Department of Trade and Manufactures will, on the same day, hand the applicant a receipt for the same, signed by the Director of the Department, with the Government seal affixed. To persons living in other towns, the Department may send such receipt by post. This certificate, or receipt, shall specify the year, month, day, and hour when the application was received by the Department.

## Art. 86.

Petitions for the grant of patents for any discovery, invention, or improvement in arts, manufactures, and crafts, shall be examined by the Council of Trade and Manufactures, at the session of which the Director of the Department of the Ministry to whose province the application pertains shall be invited to attend. The examination is only made with a view of ascer-

taining whether a patent has already been granted to another for the same invention or discovery, and whether the description delivered by the applicant is sufficiently exact, clear, and full; and finally, whether the invention or discovery for which the patent is solicited offers any advantage or utility. Special attention shall be paid by the Council of Trade and Manufactures to the investigation of the invention, discovery, or improvement, with a view of ascertaining whether it contains anything unhealthy, or likely to endanger the lives of people. When necessary, and in order to decide with the more certainty on this latter question, the Council of Trade and Manufactures may confer with the Medical Board.

Art. 87.

Should the Council of Trade and Manufactures, on examination of such application, decide that the invention, discovery, or improvement for which a patent has been solicited has been described with sufficient accuracy, clearness, and fulness; that no patent has been granted for such to any other person prior to the alleged invention or discovery thereof by the applicant; and that it does not contain anything unhealthy or likely to endanger the lives of people, or be in any way detrimental to the Government revenues; they shall then, having first fixed the term of the patent according to the condition of the branch of industry to which it belongs, recommend to the Minister of Finance that a patent be granted, and one shall then be issued under the hand of the Minister. If, on the contrary, it be known to the Council of Trade and Manufactures that the invention for which a patent is solicited has already been described, or has been made use of anywhere, they shall refuse the patent: moreover, should the applicant's alleged invention or improvement be considered dangerous to the health and lives of people, he shall be bound by an undertaking signed by him not to put it into action, under penalty of the rigour of the law. The Council shall publish the reasons for the refusal of a patent in the Official Gazette, in the newspapers of both capitals, and in the Warsaw Gazette.

Art. 88.

An applicant who has been refused the grant of a patent by reason of or on account of defective or insufficient description or drawings, may again make application by presenting an amended specification containing the necessary explanations

and amplifications; and should such be found satisfactory the issue of patent will be effected according to the rules herein contained.

Art. 89.

Should there be more than one applicant for the same invention or discovery, pending the examination, the patent shall not be granted at all; an exception to this rule is made, however, in the event of one of the applicants proving by legal process that the other has appropriated his invention.

Art. 90.

In case of the refusal of a patent, the money paid in by the applicant will be repaid to him without delay.

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## CHAPTER III.

### *Term of Patents.*

Art. 91.

Patents for discoveries, inventions, and improvements are granted to the discoverer, inventor, and improver himself, as he may wish, and according to the discrimination of the Government, for three, five, or ten, years, but not for longer. The term of patents for the introduction of inventions already known in foreign countries shall not exceed six years, or as is provided for in Art. 79.

Art. 92.

No extension of a patent can be granted after the expiration of the term for which it was originally issued.

Art. 93.

The term of a patent commences from the day on which it is signed, but the power of taking legal proceedings for infringement of a patent dates from the day of issue of the certificate of filing the application for the patent. A publication of each certificate delivered is made in the newspapers of both capitals and in the Warsaw Gazette.

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## Chapter IV.

### *Form of Patents and their Public Notification.*

#### Art. 94.

A patent must always be headed by the words "By order of His Imperial Majesty."

The patent contains:—

1. The name of the applicant.
2. The day on which the application was made.
3. A full and detailed description of the discovery, invention, improvement, or introduction.
4. The term of the patent.
5. The amount of duty paid for the same into the treasury.
6. A certificate, to the effect that no privilege has been granted for the same discovery, invention, or improvement, to any other than the person who holds it.
7. A notice that the Government does not guarantee that the discovery, invention, or improvement for which the applicant has solicited a patent actually belongs to him, or that it is a success.
8. The signature of the Minister to whose province the granting the patent belongs.
9. The countersignature of the Director of the Department.

#### Art. 95.

Patents shall be written on parchment.

#### Art. 96.

A full and detailed account of the discovery, invention, or improvement, shall be published immediately on delivery, in the publications of the Ministry to which it appertains, in the Senate Gazette, in the newspapers of both capitals, and in the Warsaw Gazette. Independently of the above, the departments that have granted the patent are bound to show the register of new inventions for which patents have been granted to any one who may wish to see it.

## Chapter V.

### *The Rights and Duties of Patentees.*

#### Art. 97.

The holder of a patent is bound to put into complete practice or execution, during the first quarter of the term specified, the discovery, invention, or improvement for which the patent was granted, and before the expiration of the six months after this to present to the department from which the patent was issued a certificate from the local authorities, to the effect that it has actually been put into execution, *i.e.* that the patented invention or improvement has been put into practical use.

#### Art. 98.

Should the patentee wish to transfer the patent to another person, or to enter into partnership in respect to such patent, such matters must be effected through the proper Courts, and according to the laws. On making such transfer, or on entering into partnership, the original patentee must communicate the same to the Department, and the latter shall publish it in the newspapers.

#### Art. 99.

A patentee has not the right of forming a joint stock company for the purpose for which the patent was taken out, nor of transferring his patent to such a company without special permission from the Government.

#### Art. 100.

Should a patentee make any new improvement on his invention or discovery, or introduce any important alteration in it, readjusting and simplifying his process, he is at liberty to take out a patent for it, but in any case he is bound to give notice of such improvement or alteration to the Department, together with a detailed and accurate description of the said improvement or alteration.

#### Art. 101.

Should any other person than the original patentee make an improvement on the patentee's invention or discovery, the former cannot take out a patent for it unless he can prove

that he has entered into an agreement with the original patentee, by which the latter has consented to his making use of his improvement. At the expiration of the term of the first patent, however, he may take out a patent for his improvement on the first patentee's invention.

Art. 102.

In the cases provided for in the preceding Articles (100 and 101), the following rules must be observed:—

1. In applications for patents for improvements made by the inventor himself, the term specified for the patent must be shorter than that of the patent for the original invention.
2. That the effects of such patent is entirely independent of the patent granted for the principal invention, so that the term of the latter cannot be extended, though the term of the patent granted for the improvement may not have expired.
3. That the term of a patent taken out for an improvement made by any other person on the original patentee's invention shall not be more than half the term granted to the original patentee.

Art. 103.

Patents shall cease:—

1. At the expiration of the term for which they are issued.
2. When it shall be proved before a Court of Law that the same discovery, invention, or improvement for which the patent was granted, was, before the patentee presented his petition, already introduced in the Russian empire, or was known by descriptions or specifications, by which the same apparatus or process in essential respects could be produced or carried out without the new description or specification.
3. When it shall be proved before a Court of Law that the discovery, invention, or improvement for which a patent has been granted was already in use somewhere without being patented, with the exception, however, of the introduction of inventions, discoveries, and improvements from foreign countries admitted by special favour, as provided for in Art. 79.

4. When it shall be proved by judgment of a Court of Justice that the person to whom a patent has been granted appropriated the discovery, invention, or improvement of another person, and the real inventor petitions for the repeal of such patent.
5. When it shall be proved that the description or specification is not complete, that the details of some of the essential parts or properties of the discovery or invention, without which the expected results could not possibly be obtained, have been left out or kept back; or that essential alterations and improvements have been made, without which it is impossible to obtain the desired result, or generally that the specification does not disclose the real mode of procedure.
6. Should the patentee not present, within the time specified, to the Department to which it pertains, the certificate from the local authorities, as provided for in Art. 97.

Art. 104.

In any and all of the cases referred to in Art 103, the Department from which the patent was issued shall publish an advertisement in the newspapers of both capitals, and in the Warsaw Gazette, that the patent no longer exists, and after such publication every one has the right to make use of the discovery, invention, or improvement for which the patent was granted.

# ST. HELENA.

## *Ordinance No.* 3 *of* 1872.

AN ORDINANCE

Made by the Governor of St. Helena for the extension to this Island of Letters Patent granted under the Great Seal of the United Kingdom of Great Britain and Ireland.

*Preamble.*

Whereas it is expedient that Letters Patent granted under the Great Seal of the United Kingdom of Great Britain and Ireland should have the same force and effect within the Island of St. Helena as such Letters have in the said United Kingdom; be it enacted as follows:

*Privileges granted by Letters Patent in the United Kingdom extended to St. Helena.*

1. The grantee of any such Letters Patent and the executors, administrators and assigns of the said grantee shall be entitled to the sole and exclusive privileges of making, selling and using in the Island of St. Helena, the invention patented by such Letters, and of authorising others so to do, for and during the unexpired residue of the term granted in and by such Letters, and if the said Letters Patent shall by competent authority be renewed in and for the United Kingdom, the term of the privileges granted in respect of the inventions comprised in such Letters which may be so renewed, shall *ipso facto* thereupon be

also prolonged in and for the Island of St. Helena for and during such renewed term subject to the following conditions and provisions:

*Grantee to file Copy of such Letters in the Supreme Court.*

2. The grantee or grantees of such Letters Patent shall file in the Registry of the Supreme Court a copy of such Letters Patent and specification, or in case of a renewal a copy of the renewal thereof, such copy of the Letters Patent and specification or of the renewal thereof, to be signed and certified as a true copy by one of the officers to whose custody the original is entrusted, and if such filing be not so effected, the privileges granted by this ordinance in respect of the inventions comprised in such Letters shall cease to have effect.

*Letters to be open to Inspection.*

3. Every such copy so filed shall, if purporting to be so signed and certified, be *prima facie* evidence of the document of which it purports to be a copy, and shall be open at all reasonable times at the office of the Registrar of the Supreme Court for the inspection of any person; and the said Registrar shall permit to be made by any person a copy of the whole or any part of such copy of the said Letters Patent and specification, and shall on application certify the same to be a true copy.

*Fees payable to the Registrar.*

4. The following fees shall be payable to and accounted for by the Registrar of the Supreme Court, viz.:

| | £ | s. | d. |
|---|---|---|---|
| 1. For filing copy of Letters Patent and Specification . . | 1 | 1 | 0 |
| 2. For inspection and permission to copy the same . . | 0 | 2 | 6 |
| 3. For Registrar's certificates to copy . . . . . | 0 | 5 | 0 |

*All Cases of Doubt to be settled by Law of England.*

5. In all cases of doubt or difficulty not provided for by this ordinance, or by the local laws of this Island, the same shall be guided and governed, so far as practicable, by the law in force in England.

# SOUTH AUSTRALIA.

*Act No. 78 of 21st December, 1877.*

An Act to consolidate and amend the laws relating to patents for inventions.

[NOTE.—The words in italics in sections 4, 6, 25, and schedule B are alterations made by Act No. 101, 1878, and Act No. 201, 1881.]

*Preamble.*

WHEREAS it is expedient to amend the law relating to the grant of patents for inventions in the province of South Australia: Be it therefore enacted by the Governor of the province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

*Repeal.*

1. From and after the passing hereof "The Patent Act, 1859," being Act No. 18 of 1859, and "The Provisional Registration of Patents Act, 1875," being Act No. 3 of 1875, are hereby repealed; but this repeal shall not affect the validity of any letters of registration or any provisional registration granted, made, or entered under the said repealed Acts or either of them, nor the rights, remedies, or liabilities of any parties or persons in respect of any such letters of registration, or of such provisional registration, nor affect or prevent the grant of any letters of registration under "The Patent Act, 1859," pursuant

to any application therefor made before the passing of this Act, but such application shall be proceeded with and granted, and the letters of registration when granted shall have the same effect as if this Act had not passed, provided that the applicant may at any time before the granting of letters of registration to him, in pursuance of such application, apply for and obtain a patent under this Act in place of such letters of registration, without any further payment than he shall have made under "The Patent Act, 1859."

*Short Title.*

2. This Act may be cited for all purposes as "The Patent Act, 1877."

*Division of Act.*

3. This Act is divided into seven parts, relating to the following subject-matters:—

Part I.—Patent Office, sections 4 to 8:
Part II.—Who may obtain patents, sections 9 to 13:
Part III.—How patents obtained, sections 14 to 29:
Part IV.—Effect, conditions, and extension of patents, sections 30 to 37:
Part V.—New patents, disclaimers, alterations, and confirmations, sections 38 to 45:
Part VI.—Caveats; and revocation and assignment of patents, sections 46 to 52:
Part VII.—Miscellaneous provisions, section 53 to 72.

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## PART I.

### PATENT OFFICE.

*Establishment of Patent Office.*

4. There shall be attached to the Department of the *Attorney General* or to a branch of such Department, an office to be called the Patent Office, and the Commissioner of Patents under this Act shall receive and have the custody of all applications, papers, documents, models, machines, books, and records relating to patents, and shall receive all fees, and perform all acts and things incidental to the grant, issue, or renewal of patents under this Act.

*Seal of Patent Office to be received in Evidence.*

5. The Commissioner of Patents shall have a seal, to be called "the Seal of the Patent Office," and such seal and any impression thereof shall be taken judicial notice of by all courts, judges, and magistrates, tribunals, and persons authorised to receive evidence in the said province, who shall receive in evidence any document bearing an impression of the said seal, and purporting to be a copy of or extract from any document or book deposited or kept in the said Patent Office under the the provisions hereof, without the production of the original.

*Commissioner.*

6. The *Secretary to the Attorney General* for the time being shall be Commissioner of Patents.

*Governor may make Rules and prescribe Forms.*

7. The Governor may from time to time, by proclamation in the Government Gazette, make, prescribe, repeal, and alter such regulations and forms as he shall deem necessary or expedient for the purposes of this Act.

*Governor may appoint Clerks and Officers.*

8. The Governor may from time to time appoint and remove such clerks and officers as he may deem expedient for carrying out the purposes of this Act, and no Commissioner of Patents, nor any clerk or officer appointed as aforesaid shall, unless he shall be the original inventor or the legatee of the rights of the original inventor, buy, sell, acquire, or otherwise deal in any patent or right to a patent, and every purchase, sale, acquisition, or other dealing contrary to the provisions of this section, shall be null and void.

## PART II.

### WHO MAY OBTAIN PATENTS.

*Power to Issue Patents.*

9. The true and first inventor of any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement on any art, machine, manufacture, or

composition of matter, not publicly used or offered for sale within the said province prior to the date of the patent for the same, may, on petition to the Commissioner, and on complying with the requirements of this Act, obtain a patent under the hand of the Commissioner and the seal of the Patent Office for the sole making, using, exercising, and vending of any such art, machine, manufacture, or composition of matter, or improvement within the said province.

*Inventions in respect of which Foreign Patents have been obtained.*

10. An inventor shall not be entitled to a patent for his invention if a patent or other similar privilege therefor shall have been in existence in any country other than the said province, and shall have expired before a patent shall be granted to him under this Act; and whenever a patent or other similar privilege in any other country than the said province in respect of any invention is in existence, at the time when a patent is granted for the same invention under this Act, such last-named patent shall not confer any rights for any period beyond the earliest date at which the patent or other similar privilege in such other country shall expire.

*Inventor's Representatives may obtain Patent.*

11. A patent may be granted by the Commissioner to any person to whom any inventor, entitled to obtain a patent, has assigned or bequeathed the right of obtaining it, or in default of such assignment or bequest, to the executor or administrator of any deceased inventor.

*Patent for Improvement on Patented Invention.*

12. A patent may be granted under this Act in respect of any improvement on or modification of any previously patented or registered invention, but shall not be deemed to confer any right to make, use, exercise, or vend such last named invention.

*Patents to several Persons jointly.*

13. Where several persons shall make a joint application for a patent it shall be granted to them jointly, and any assignment from one or more of them to the other or others, or to any other person, shall be registered like any other assignment of a patent.

## Part III.

### How Patents obtained.

#### *Petition for Patent.*

14. *Repealed. See Sections* 3 *and* 7 *of Act of* 1881.

*Petition for Patent to be accompanied by Specification.*

15. The petition shall contain the name or title of the invention, and shall state an address within the city of Adelaide, to which notices in respect of such petition may be sent, and shall be accompanied by a specification in duplicate of the invention for which the patent is sought. The petition and specification shall be filed in the Patent Office, and the day of such filing shall be recorded at the said office, and endorsed on the petition, and a certificate thereof, under the Seal of the Patent Office, given to the applicant, or his agent, and thereupon, except in case of application for a patent by any person to whom the Commissioner shall have already refused to grant a patent for an invention substantially the same as that for which such application for a patent is made, and subject to the provisions hereinafter contained, the invention shall be protected under this Act for the term of six months next after such filing, and the applicant shall during such term have the like powers, rights, and privileges as would have been conferred upon him by a patent for such invention issued under this Act, and duly sealed, as of the day of such filing: Provided that in case the specification be too large or insufficient, the Commissioner may, during the said term of six months, and before the grant of the patent, allow or require the specification to be amended, or another and sufficient specification to be filed in lieu thereof, and every such amended or new specification shall have the same force and effect as if it had been filed in its amended or new form on the day of the filing of the original specification.

*Requisites of Specification.*

16. Every such specification shall correctly and fully describe and ascertain the nature and principle of the invention, and in what manner it is to be made, used, worked, or performed, and shall be signed by the inventor if he be alive, and if not by the applicant, which signature shall be attested by two witnesses, who shall specify when and where the same was

signed; and in any case where the invention admits of a model or drawing, illustration or explanation by means of drawings, the specification shall contain or be accompanied by a model or by drawings in duplicato, showing clearly all parts of the invention, which drawings, if not comprised in the specification, shall be signed and attested in the same manner as the specification: Provided that in any case the Commissioner may in his discretion dispense with any such drawings.

[NOTE.—*See section 4 of Act of* 1881.]

*Commissioner to publish Notice in Gazette.*

17. The Commissioner shall cause to be published in the Government Gazette a notice that the applicant has applied for a patent in respect of the specified invention, giving the name or title thereof, and stating that the specification thereof may be inspected at the Patent Office; and that any person may within one month, or within such longer period not exceeding three months to be specified in such notice as the Commissioner may determine, object to the grant of the patent by lodging at the Patent Office notice in writing, stating his name and address and the nature and grounds of his objection, and also an address within the city of Adelaide, to which notices in respect of such objection or of the application for the patent may be sent.

*Applicant to publish Notice.*

18. The applicant shall, within one week after the filing of his petition, cause notice to be given by advertisement to be inserted three times in at least two of the daily newspapers published in Adelaide, stating that he has applied for a patent for the invention, giving its title or name, and stating that the specification may be inspected at the Patent Office.

*If no Objections lodged, Commissioner to grant Patent.*

19. If there shall be no objection lodged within the period limited for that purpose by the notice in the Government Gazette, the Commissioner shall, on the expiration of such period, determine upon the application for the patent, and no person shall be entitled to object to such application.

*If Objections lodged Commissioner to give Notice.*

20. If during the period limited as aforesaid any objection to the grant of the patent shall have been duly lodged in the

Patent Office under the provisions of this Act, the Commissioner shall, immediately on the expiration of such period, send through the General Post Office, or otherwise, to the applicant and to every objector at the respective addresses given as hereinbefore prescribed for that purpose, a notice in writing that he will, at a time and place to be specified in the notice, such time to be not less than ten nor more than thirty days from the time of posting or otherwise sending such notice, attend to hear and determine upon the application and the objections.

*Commissioner may summon Witnesses.*

21. The Commissioner shall, at the request of the applicant or of any objector, issue summonses under the seal of the Patent Office for the attendance of witnesses, and every witness so summoned shall be bound to attend at the time and place mentioned in such summons on being paid his expenses according to the scale for the time being allowed to witnesses on trials in local courts, and to continue in attendance until the matter shall be disposed of, and to produce any documents which he shall by any such summons be required to produce, if they are in his possession, power, custody, or control.

*Penalty for Non Attendance of Witness.*

22. Any witness neglecting to attend, or to continue to attend, or to produce any documents in accordance with such summons, shall be liable to a penalty of twenty pounds, in addition to the costs of service of the summons upon him, and the amount paid him for expenses, which penalty, costs, and amount may be recovered by the person on whose behalf such summons shall be issued by information before any two justices of the peace in a summary way, together with the costs of, and incidental to, and resulting from such information.

*Commissioner to determine Application.*

23. At the time and place appointed the Commissioner shall attend and hear the applicant and the objectors either personally or by their respective solicitors or agents, and any evidence adduced either by declaration or *viva voce* in support of the application and objections respectively, and may adjourn or postpone any such hearing, and shall at such hearing or some adjournment or postponement thereof either grant or in his discretion refuse the application for the patent.

*Cost of Application or Objection.*

24. The Commissioner may, by writing under his hand, order the applicant or any objector to pay to any objector or to the applicant such costs of and attending the application or objection as the Commissioner shall think fit, and every such order may be made a rule of the Supreme Court.

*Commissioner may refer to Examiners.*

25. The Commissioner may at any time, if he shall think fit, refer any petition for a patent, whether opposed or not, to one or more competent person or persons to be appointed by him to examine and consider the matters stated in such petition, and to report thereon to the Commissioner for his information; and the applicant for such patent shall, prior to such reference, pay to the Commissioner such sum not exceeding *five pounds five shillings*, as the Commissioner shall in each case direct, such sum to be paid by the Commissioner to the person or persons so appointed as aforesaid as a recompense for his or their trouble.

*Determination of Commissioner final.*

26. The determination of the Commissioner upon any such application shall be final, but any applicant whose application has been refused may, on giving not less than four weeks' previous notice in the Government Gazette of his intention so to do, make one or more fresh applications for a patent in respect of the same invention.

*When Patent to issue.*

27. When the Commissioner has determined to grant a patent, he shall, upon payment of the proper fee, cause the same to be sealed and issued accordingly; but except as hereinafter mentioned no patent shall be sealed after the expiration of the six months' term of protection conferred under this Act by reason of the filing of the petition and specification, nor unless the applicant shall pay the fee for the sealing of the patent within ten days after the Commissioner has sent to the applicant notice of his intention to grant the same: Provided that where the sealing of any patent shall have been delayed by reason of opposition to the grant thereof, such patent may be sealed at such time as the Commissioner shall direct.

*Patent may issue after prescribed Time in certain Cases.*

28. When the sealing of the patent has been delayed from accident and not from the neglect or wilful default of the applicant, then the patent may be sealed at such time not being more than one month after the expiration of the six months' term of protection herein-before referred to as the Governor shall direct; and where the applicant for the patent dies during the continuance of such protection, the patent may be granted to his executors or administrators during the continuance of such protection, or at any time within three months after the death of the applicant, notwithstanding the expiration of the term of such protection, and the patent so granted shall be of the like force and effect as if it had been granted to the applicant during the continuance of such protection.

*Patent to relate back to filing of Petition.*

29. Every patent to be issued in pursuance of this Act shall be signed and sealed and bear date as of the day of the filing of the petition and specification as aforesaid, and shall be of the same force and validity as if it had been signed and sealed on the day of which it is expressed to be signed and sealed and bear date; and after any patent shall have been signed and sealed, it shall not be necessary or material to inquire or ascertain whether any advertisement or notice directed by this Act shall have been published, given, or sent as herein directed.

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## PART IV.

### EFFECT, CONDITIONS, AND EXTENSION OF PATENTS.

*Rights conferred by Patent.*

30. Every patent granted under this Act shall be in duplicate, and shall contain the title or name of the invention, with a reference to the specification, and shall be in the form in the Schedule A. hereto, or as near thereto as the circumstances will permit, and shall, subject to the provisions of this Act and to all such restrictions, conditions, and provisoes as the Commissioner shall deem necessary or expedient, and shall insert in such patent, confer upon the patentee, his executors, administrators, and assigns, for the term of fourteen years, and for such

further term, not exceeding seven years, as the Governor may grant under section 37 of this Act, the sole right of making, using, exercising, and vending such invention: Provided that no patent shall be construed to prohibit the subsequent use or sale of any article once lawfully obtained.

*Duplicate Patent to be filed.*

31. One duplicate part of every patent issued under this Act shall be delivered to the patentee or his agent, and the other duplicate part shall be filed in the Patent Office.

*Prerogative of Crown preserved.*

32. Nothing herein contained shall extend to abridge or affect the prerogative of the Crown in relation to granting or withholding the grant of any patent or Letters Patent; and it shall be lawful for the Governor to direct the Commissioner to grant or withhold the grant of any patent or Letters Patent as aforesaid, or to direct the insertion in any patent issued under this Act of any restrictions, conditions, or provisoes which the Governor may think fit, in addition to or in substitution for any restrictions, conditions, or provisoes which would otherwise be inserted therein under this Act; and it shall also be lawful for the Governor to direct any specification filed under this Act, and in respect of the invention described in which no patent shall at the time of such direction have been granted, to be cancelled, and thereupon the protection obtained by the filing of such specification shall cease.

*Conditions of Patent.*

33. All patents granted under this Act shall be made subject to the conditions that the same shall be void if at any time during the term thereby granted it shall appear that the grant of the patent was contrary to law or prejudicial or inconvenient to the general public, or that the said invention was not a new and useful art, machine, manufacture, or composition of matter, or a new and useful improvement on any art, machine, manufacture, or composition of matter, or that the said invention had been publicly used or offered for sale within the said province prior to the date of such patent, or that the patentee was not the true and first inventor of the patented invention; or if the patent shall have been granted to him as assignee, legatee, executor, or administrator, then that he was not the assignee,

legatee, executor, or administrator, as the case may be, of the true and first inventor of the patented invention, or if the specification does not correctly and fully describe and ascertain the nature and principle of the invention, and in what manner it is to be made, used, worked or performed.

*Patent to cease on Nonpayment of Fees.*

34. All patents under this Act shall also be made subject to the condition that the same shall be void, and that the rights and privileges thereby granted shall cease and determine at the expiration of three years from the date thereof, unless the patentee, his executors, administrators, or assigns, shall pay at the Patent Office the sum of five pounds before the expiration of such three years from the date thereof, and at the expiration of seven years from the date thereof, unless the patentee, his executors, administrators, or assigns, shall pay at the Patent Office the sum of five pounds before the expiration of such seven years.

*Patented Invention may be used in Foreign Vessels.*

35. No patent for any invention granted after the passing of this Act shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of South Australia or its dependencies, or in any of the waters within the jurisdiction of any of the Courts of the said province, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the said province or its dependencies: Provided that this enactment shall not extend to the ships or vessels of any foreign state of which the laws authorise subjects of such foreign state having patents or the like privileges for the exclusive use or exercise of inventions within its territories to prevent or interfere with the use of such inventions in British ships or vessels, or in or about the navigation of British ships or vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its Courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from the territories of such foreign state.

*Government may use Patented Invention.*

36. The Government may use any invention patented under this Act, paying to the patentee such sum for the use thereof as shall be

agreed upon between the Government and the patentee, or, in case of dispute, such sum as may be fixed by two arbitrators, one of whom shall be appointed by the Government. and one by the patentee: or, in case of disagreement between the arbitrators, by an umpire to be named by them before entering upon the consideration of the matter referred to them.

*Government may extend Term of Patent.*

37. The Governor, on petition by any patentee, or his executors, administrators, or assigns, presented at least six months before the expiration of any patent, and on being satisfied that the patentee, his executors, administrators, or assigns, have been unable to obtain due remuneration for the expense and labour of perfecting the invention, the subject of the patent may, by order under his hand, to be filed in the Patent Office, grant an extension of the term of such patent for any term not exceeding seven years from the expiration of the term for which the patent was originally granted: Provided that the Governor may require such petition to be advertised in such manner as he shall think fit, and may hear any person desirous of opposing such extension.

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## PART V.

### NEW PATENTS, DISCLAIMERS, ALTERATIONS, AND CONFIRMATIONS.

*In certain Cases of Error, &c., Commissioner may grant new Patent.*

38. Whenever any patent shall be deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee having claimed as new more than he had a right to claim, the Commissioner may, upon petition by the patentee, and upon being satisfied that the error arose from inadvertence, accident, or mistake, without any fraudulent intention, and upon the surrender of such patent and payment of the fee for that purpose specified in the Schedule B. hereto, and the filing of an amended description and specification, to be filed in the like manner as hereinbefore provided with respect to applications for patents, grant to the patentee, his executors, administrators, or assigns, a new patent for the same invention, for any part or the whole of the then unexpired term for which the original patent was granted.

*Disclaimer or Memorandum of Alteration may be filed.*

39. Any patentee, his executors, administrators, or assigns, may, on payment of the fee for that purpose specified in the Schedule B. to this Act, and on obtaining the leave of the Commissioner, file in the Patent Office a disclaimer of any part, either of the title or the specification of the invention in respect of which he is the patentee, or the executor, administrator, or assignee of the patentee, stating the reasons for such disclaimer, or a memorandum of any alteration in such title or specification, not being such disclaimer or alteration as shall extend the exclusive right granted by the patent. Such disclaimer or memorandum of alteration shall be attached to the patent or specification filed in the Patent Office, and a memorandum thereof shall be entered upon the patent in the possession of the patentee, his executors, administrators, or assigns, and thereupon such disclaimer or memorandum of alteration shall be deemed and taken to be part of the patent or specification in all Courts in the said province: Provided that no such disclaimer or alteration shall, except in proceedings by *scire facias*, be receivable in evidence to support any patent in any action or suit pending at the time that such disclaimer or alteration was filed, or brought in respect of any infringement of any patent committed prior to the filing of such disclaimer or memorandum of alteration; but in every such action or suit, except as aforesaid, the original title and specification alone shall be given in evidence, and deemed to be the title and specification of the invention for which the patent shall have been granted.

*Commissioner may require Notices to be given.*

40. The Commissioner may require any patentee, his executors, administrators, or assigns, applying for a new patent, or for leave to file a disclaimer or memorandum of alteration, to give such notices by advertisement or otherwise of his application as the Commissioner shall think fit, and may hear any person in opposition to such application. The filing of any disclaimer or memorandum of alteration in pursuance of the leave of the Commissioner obtained under the last preceding section shall, except in cases of fraud, be conclusive as to the right of the party to file such disclaimer or memorandum of alteration under this Act, and no objection shall be made in any proceeding upon or touching such patent, specification, disclaimer, or

memorandum of alteration on the ground that the party filing such disclaimer or memorandum of alteration had not sufficient authority in that behalf.

*Mode of obtaining Confirmation of Invalid Patent.*

41. If in any suit or action it shall be proved, or specially found by the verdict of a jury, that any person who shall have obtained a patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented the same, or some part thereof, before the date of such patent, or if such patentee, his executors, administrators, or assigns, shall discover that some other person had unknown to such patentee invented the same, or some part thereof, before the date of such patent, such patentee, his executors, administrators, or assigns, may petition the Governor to confirm the said patent, or to grant a new patent in respect of such invention; and it shall be lawful for the Governor to refer the consideration of the said petition to Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Appointment of Commissioners.*

42. The Governor may issue to three or more persons, of whom one shall be a judge of the Supreme Court, a commission reciting such petition, and requiring and authorising such persons, or any three of them, of whom the said judge shall be one, to meet at some time, not being less than two months from the publication of the said commission in the Government Gazette, and at some place to be respectively fixed in the said commission, and then and there to consider the said petition, and to report to the Governor whether such confirmation should or should not be made.

*Notice of Commission to be Published.—Caveat may be entered.*

43. Six weeks at least before the time named in the said commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published twice in the Government Gazette, and three times in some daily newspaper published in Adelaide, an advertisement of the contents of the said commission; and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the Commissioner of Patents at any time

not being less than one week before the time named in the said commission for the execution thereof.

*Commissioners to hear all Parties and report.*

44. At the time and place fixed in the said commission for that purpose, the Commissioners shall meet and proceed to consider such petition, and the petitioner shall be heard in person, or by his solicitor or agent, and may call witnesses to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this Act; and the persons entering caveats shall likewise be heard in person, or by their solicitors or agents, and may also call witnesses; and all witnesses shall be examined upon oath or affirmation (which oath or affirmation such Commissioners as aforesaid are hereby authorised and required to administer); and thereupon, and upon hearing and inquiry of the whole matter, such Commissioners, upon being satisfied that such patentee as aforesaid believed himself to be the first and original inventor, and being satisfied that the invention, or part thereof, has not been publicly and generally used, or offered for sale within the said province prior to the date of such patent, may report to the Governor their opinion that the prayer of such petition ought to be complied with; whereupon the Governor may, if he shall think fit, grant such prayer; and the confirmed or new patent (as the case may be) shall thereupon be available at law and in equity to give to such petitioner the sole right of making, using, exercising, and vending such invention as against all persons whomsoever, anything hereinbefore contained to the contrary notwithstanding: Provided that any person party to any former suit or action touching the first patent shall be entitled to have notice in writing of the time and place fixed as aforesaid for the first meeting of the said Commissioners to consider the said petition; and after any such report shall have been made it shall not be material or necessary to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner herein-before directed.

*Where Patent only partly assigned.*

45. When a patentee, his executors, administrators, or assigns, shall have assigned a part only of his or their interest in any patent, no petition or application under any of the preceding

sections numbered respectively 37, 38, 39, and 41, shall be allowed unless joined in by all persons having any legal interest in the patent.

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## PART VI.

## CAVEATS AND REVOCATION AND ASSIGNMENT OF PATENTS.

### *Caveat may be filed.*

46. Any intending applicant for a patent may file in the Patent Office, on payment of the fee specified for that purpose in the Schedule B. hereto, a document to be signed by him and containing a description of any invention claimed by him as his own (with or without plans at his option), and giving an address within the city of Adelaide to which any notice by the next following clause required to be sent to him may be addressed; such document, which shall be called a caveat, may be amended by the caveator, at any time within one year from the filing thereof, and shall, until the expiration of such year, be preserved in secrecy in the Patent Office, the Commissioner being at liberty, however, to furnish copies of the same to the caveator on payment of the proper charges for such copies.

### *In certain Cases Commissioner to send Notice.*

47. If at any time before the expiration of one year from the filing of any caveat an application shall be made by any person other than the caveator for a patent for any invention, and the Commissioner shall consider that the granting of such application may interfere with or affect the right of the caveator to obtain a patent for the invention described in the caveat, the Commissioner shall forthwith send notice thereof through the General Post Office to the caveator at the address given by him for that purpose.

### *Patent may be revoked by Governor.*

48. Every patent shall be liable to be revoked by the Governor upon the application of any person after the expiration of three years from the granting thereof, if it shall be made to appear to the Governor that neither the patentee nor his assignee or licensee has, before the time of such application, used the patented invention to a reasonable extent for the public benefit:

Provided that the Governor may in his absolute discretion refuse any such application upon such terms and conditions as he may see fit.

*Proceedings to revoke Patent.*

49. The Supreme Court of the said province shall have jurisdiction to revoke and cancel any patent issued under this Act, upon a writ of *scire facias*, issued out of the said Court; and in case any person having an interest in such patent shall not reside in the said province at the time of the issue of such writ, it shall be sufficient as against such person to file such writ in the office of the Supreme Court, and serve notice of such filing at his last known place of business or residence within the said province (if any), and if no such place can be found, then to give notice of such filing by advertisement, or otherwise, as the said Court may in each case direct.

*Patent may be filed in the Supreme Court.*

50. Any person desiring to impeach a patent issued under this Act may obtain from the Patent Office a copy of the patent, and of the petition, declaration, specification, and drawings thereunto relating, certified under the seal of the Patent Office and the hand of the Commissioner, and may file the same in the office of the said Supreme Court to be held of record therein.

*Certificate of Judgment to be filed.*

51. A certificate of the judgment voiding any patent shall be filed in the Patent Office by the prosecutor on the suit of *scire facias*, and shall be noted on the duplicate patent in the Patent Office, and thereupon the patent shall be and be held to have been void and of no effect from the time of the grant thereof.

*Assignment of Patent.*

52. Every patent shall be assignable either as to the whole interest of the patentee, his executors, administrators, or assigns, or as to any part of such interest by instrument in writing under the hand of the assignor or his agent thereunto authorised in writing; and every such assignment shall be in duplicate, and shall be registered by deposit of one duplicate part in the Patent Office. Every assignment shall be deemed null and void against any subsequent assignment for valuable consideration, unless such prior assignment shall be registered before the registration of the subsequent assignment.

## PART VII.

### MISCELLANEOUS PROVISIONS.

*Patents, &c., to be open to Public Inspection.*

53. All patents, specifications, drawings, models, disclaimers, and other papers, except caveats, filed in the Patent Office, shall be open to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

*Fees.*

54. The fees mentioned in Schedule B. to this Act shall be paid in respect of the several matters and things therein respectively referred to. Such fees shall form part of the general revenue of the said province, and be paid, applied, and disposed of accordingly.

*Commissioner may correct clerical Errors.*

55. No patent or other instrument under this Act shall be invalidated by any clerical error in the framing or copying thereof, but any such error may be corrected by or under the authority of the Commissioner.

*Lost Patent.*

56. In case any patent be lost or destroyed, any person entitled to such patent may obtain from the Patent Office, on payment of the proper fee, a copy of such lost or destroyed patent, to be certified under the seal of the Patent Office.

*Declarations, before whom to be made.*

57. Every declaration under this Act may be made before the Commissioner or any justice of the peace or notary public in South Australia; or if the declaration shall be made out of the said province, then before any person who, in the country in which the declaration is made, shall be authorised to administer an oath.

*Licensed Patent Agents.*

58. It shall be lawful for the Commissioner, with the sanction of the Governor, to license fit and proper persons to be patent agents for transacting business under the provisions of this Act, and upon proof to his satisfaction of the malfeasance or incapacity of any such licensed patent agent, or on nonpayment of any annual fee for any such license, as prescribed by Schedule B. hereto, and with such sanction as aforesaid, to revoke any such license. Before granting any such license the Commissioner shall receive bond from the person to be licensed in the sum of

five hundred pounds, with two sureties each in the sum of two hundred and fifty pounds, conditioned that such person shall duly and faithfully act in the capacity of a licensed patent agent, in accordance with the provisions of this Act, and shall also administer to such person the oath following:—

I, A. B., do solemnly swear that I will faithfully and to the best of my abili'y execute and perform all such business or duties as may be entrusted to or imposed upon me as a licensed patent agent. So help me God.

*Certificate of Correctness.—Penalty for False and Negligent Certificate.*

59. The Commissioner shall not receive any petition, disclaimer, memorandum of alteration, caveat, assignment, or other instrument under this Act, unless there shall be endorsed thereon a certificate that the same is correct for the purposes of this Act, signed by the applicant or the principal party filing such instrument, or by his solicitor, or by a patent agent licensed under this Act, or by a land broker licensed under the provisions of the "Real Property Act of 1861," or any Act substituted therefor; and any person who shall falsely and negligently certify to the correctness of any such instrument shall incur a penalty therefor not exceeding fifty pounds, to be recovered by any person before two or more justices of the peace in a summary manner.

*In Actions for Infringement, Particulars of Breaches and Objections to be delivered.*

60. In any action for the infringement of a patent the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his pleas, and the prosecutor in any proceedings by *scire facias* to revoke and cancel any patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration in the proceedings by *scire facias* respectively; and at the trial of such action or proceeding by *scire facias* no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such patent, which shall not be contained in the particulars delivered as aforesaid: Provided always, that the place or places at or in which and in what manner the invention is alleged to have been used or

offered for sale in the said province prior to the date of the patent shall be stated in such particulars: Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff, or defendant, or prosecutor, respectively, to amend the particulars delivered as aforesaid upon such terms as to such judge shall seem fit: Provided also, that at the trial of any proceedings by *scire facias* to revoke and cancel a patent the defendant shall be entitled to begin and to give evidence in support of such patent; and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such patent the defendant shall be entitled to the reply.

*Particulars to be regarded in taxing Costs.*

61. In taxing the costs in any action commenced after the passing of this Act for infringing any patent, regard shall be had to the part of such case which has been proved at the trial, which shall be certified by the judge before whom the case shall be tried, and the costs of each part of the case shall be given according as either party has succeeded or failed therein, regard being had to the particulars of objections and breaches as well as the counts in the declaration, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular unless certified by the judge before whom the trial was had to have been proved by such plaintiff or defendant respectively, without regard to the general costs of the cause; and it shall be lawful for the judge before whom any such action shall be tried to certify on the record that the validity of the patent in the declaration mentioned came in question; and the record with such certificate being given in evidence in any suit or action for infringing the said patent, or in any proceeding by *scire facias* to revoke and cancel the patent, shall entitle the plaintiff in any such suit or action, or the defendant in any such proceeding by *scire facias*, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, to be taxed as between attorney and client, unless the judge making such decree or order, or the judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

*Register of Patents.*

62. There shall be kept at the Patent Office a book or books to be called the "Register of Patents," wherein shall be entered and recorded, in chronological order, all patents granted under

this Act, the deposit and filing of specifications, disclaimers, and memoranda of alterations filed in respect of patents, all amendments in specifications and patents, all assignments, confirmations, and extensions of patents, the expiry, determination, vacating, revoking, or cancelling of patents, with the dates thereof respectively, and all other matters and things affecting the validity of patents as the Governor may direct; and such register or a copy thereof shall be open at all convenient times to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

*Register of Proprietors to be kept.*

63. There shall also be kept at the Patent Office a book or books entitled "The Register of Proprietors," wherein shall be entered every assignment of a patent, or of any share or interest therein, every license under a patent, and the place or district to which such license relates, with the name or names of every person having by assignment any patent, or any share or interest in any patent, or, having any license, the date of his or their acquiring such patent, share, interest, or license, and any other matter or thing relating to or affecting the proprietorship in such patent or license; and a copy of any entry in such book, certified under the seal of the Patent Office, shall be given to any person requiring the same, and shall be *primâ facie* evidence of the proprietorship or assignment of such patent, or share or interest therein, or license as therein expressed: Provided always, that until such entry shall have been made the grantee or grantees of the patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such patent, and of all the licenses and privileges thereby given and granted, and such register, or a copy thereof, shall be open to public inspection, subject to such regulations as the Governor may make.

*Expungement, &c., of Entries in Register.*

64. If any person shall deem himself aggrieved by any entry made under colour of this Act in any such register as aforesaid, he may apply to the Supreme Court, or any judge thereof, for an order that such entry may be expunged, vacated, or varied, and such Court or judge may thereupon make such order as to the expunging, vacating, or varying of such entry, and as to the costs of such application, as to such Court or judge shall

seem fit; and the officer having the custody of such register shall, on the production of any such order, expunge, vacate, or vary such entry in accordance with the order.

*Falsification or Forgery of Entry.*

65. If any person shall wilfully make or cause to be made any false entry in any such register, or shall wilfully make or forge or cause to be made or forged, any writing falsely purporting to be a copy of any entry in any such register, or shall produce or tender, or cause to be produced or tendered in evidence, any such writing or any such false entry, knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall be liable to be imprisoned for any term not exceeding five years.

*Punishment on false Oath or Declaration.*

66. Every person who shall make any false oath or declaration under this Act shall be guilty of a misdemeanor, and shall on conviction be liable to imprisonment, with or without hard labour, for any period not exceeding five years.

*Penalty for unauthorised use of Name of Patentee, &c.*

67. If any person shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark upon anything made, used, or sold by him, for which he has not or shall not have obtained a patent, the name or any imitation of the name of any other person who has or shall have obtained a patent for such thing without leave in writing of such patentee, his executors, administrators, or assigns, or if any person shall, upon such thing not having been purchased from the patentee, his executors, administrators, or assigns, or some person who purchased it from or under such patentee, his executors, administrators, or assigns, or not having had the license or consent in writing of such patentee, his executors, administrators or assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "Patent," the words "Letters Patent," or the words "By the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, his executors, administrators, or assigns, or shall in any other manner imitate or counterfeit the stamp, mark, or other device of the patentee, his executors, administrators, or

assigns, he shall for every such offence forfeit and pay the sum of one hundred pounds, one-half to Her Majesty, her heirs and successors, and the other half with full costs of suit to any person who shall sue for the said penalty by action of debt, or in a summary manner before any two justices of the peace of the said province: Provided always, that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "Patent" upon anything in respect of which the patent before obtained shall have expired or otherwise determined.

*Proceedings before Justices.*

68. The proceedings before justices shall be conducted as appointed by and shall be regulated under the Ordinance No. 6 of 1850, intituled "An Ordinance to facilitate the performance of the duties of Justices of the Peace out of Sessions with respect to summary convictions and orders."

*Nonpayment of Penalty.*

69. In every case of the adjudication of a fine or pecuniary penalty or amends under this Act, and of the nonpayment of such fine or pecuniary penalty or amends, any justice of the peace may commit the offender or person making default in payment to any gaol in the said province for any time not exceeding three calendar months, the imprisonment to cease on payment of the sum and costs due; but this section shall not affect any remedy for the recovery of any fine or pecuniary penalty or amounts under the said Ordinance No. 6 of 1850, or any other Ordinance or Act.

*Appeal.*

70. There shall be an appeal from any order of justices of the peace made under the provisions herein-before contained, or from any order of justices of the peace dismissing any information laid under this Act, or from any conviction by justices for any offence against this Act, which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only, and the proceedings in such appeal shall be conducted in manner appointed by the said Ordinance No. 6 of 1850 for Appeals to Local Courts, but the Local Court of Adelaide aforesaid may make such order as to payment of costs of appeal as such Court shall think fit, although such costs may exceed ten pounds.

*Local Court of Adelaide may state a Case for Opinion of Supreme Court.*

71. It shall be lawful for the Local Court of Adelaide, upon the hearing of any appeal under the last proceding section, to state one or more special case or cases for the opinion of the Supreme Court, and the Supreme Court shall hear and decide such special case or cases according to the practice of the Supreme Court on special cases; and the Supreme Court shall make such order as to the costs of any such special case as to the said Court shall appear just; and any two or more justices, or the Local Court of Adelaide, shall make an order in respect of the matters referred to the Supreme Court, in conformity with the certificate of the said Supreme Court, or of any judge thereof, which order of the justices of the peace or Local Court shall be enforced in manner provided by this Act for the enforcement of orders of justices of the peace; and, save as herein provided, no order or proceeding of justices or of any Local Court made under the authority of this Act shall be appealed against or removed by *certiorari* or otherwise into the Supreme Court of the said province.

*Definition Clause.*

72. In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meaning shall be repugnant to or inconsistent with the context: "patent" shall mean Letters Patent granted under this Act; "patentee" shall mean a person to whom a patent shall have been granted under this Act; "Commissioner" shall mean the Commissioner of Patents.

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SCHEDULE A.

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

Whereas , of , hath, by his petition, represented unto us that he is [*or* , of , is or was] the true and first inventor of a certain invention for , and that the same has not been publicly used

or offered for sale within the province of South Australia more than twelve months prior to the date of the said petition [and that the said is the assignee, legatee, executor, or administrator, *as the case may be*, of the said ], and hath, therefore, humbly prayed for letters patent for the sole making, using, exercising, and vending of the said invention within our said province for the term of fourteen years, pursuant to "The Patent Act, 1877;" And whereas the said hath correctly and fully described and ascertained the nature and principle of the said invention, and in what manner the same is to be made, used, worked, or performed, by a specification in writing under his hand, and has caused the same to be duly filed in the Patent Office of our said province on the day of , 18 : And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioner's request: Know ye, therefore, that we of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents for us, our heirs and successors, do give and grant unto the said , his executors, administrators, and assigns, our especial license, full power, sole privilege, and authority, that he the said , his executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as the said , his executors, administrators, or assigns, shall at any time agree with, and no others, from time to time, and at all times hereafter during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within our said province, in such manner as to him the said , his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet; and that he the said , his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage from time to time coming, growing, accruing, and arising by reason of the said invention for and during the term of years herein mentioned, to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages herein-before granted or mentioned to be granted to the said , his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years from the day of , A.D. , according to the statute in such case made and provided; and to the end that he the said , his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit and sole use and exercise of the said invention, according to our gracious intention herein-before declared, we do by these presents for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within our said province, that neither they nor any of them at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, exercise, or vend the said invention, or any part of the same, so attained unto by the said as aforesaid, nor in anywise counterfeit,

imitate, or resemble the same, nor make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisers thereof, without the consent, license, or agreement of the said , his executors, administrators, or assigns, in writing under his or their hands or seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this our royal command, and further to be answerable to the said , his executors, administrators, and assigns, according to law for his and their damages thereby occasioned: And, moreover, we do by these presents, for us, our heirs and successors, will and command all and singular the justices of the peace, sheriffs, bailiffs, constables, and all other officers and ministers of us, our heirs and successors for the time being, that they or any of them do not nor shall at any time during the said term hereby granted in anywise molest, trouble, or hinder the said , his executors, administrators, and assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always, and these our Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall appear that this our grant is contrary to law, or prejudicial or inconvenient to the general public, or that the said invention is not a new and useful art, machine, manufacture, or composition of matter, or a new and useful improvement on any art, machine, manufacture, or composition of matter, or that the said invention has been publicly used or offered for sale within our said province prior to the date of these our Letters Patent, or that the said petitioner is not the true and first inventor thereof [*or* the assignee, legatee, executor, or administrator, *as the case may be*, of the true and first inventor thereof], or if the said specification, filed as aforesaid, does not correctly and fully describe and ascertain the nature and principle of the said invention, and in what manner the same is to be made, used, worked, or performed, or if the said , his executors, administrators, or assigns, shall not supply or 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 or upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same, then and in any of the said cases these our Letters Patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein-before contained to the contrary thereof in anywise notwithstanding: Provided also, that these our Letters Patent or anything herein contained, shall not extend or be construed to extend to give privilege unto the said , his executors, administrators, and assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like Letters Patent or privileges have been

already granted for the sole use, exercise, and benefit thereof, it being our will and pleasure that the said , his executors, administrators, and assigns, and all and every other person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and 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, and these our Letters Patent are upon this express condition, that the same shall be void, and that the rights and privileges hereby granted shall cease and determine at the expiration of three years from the date hereof, unless the said , his executors, administrators, or assigns, shall pay at the said Patent Office the sum of five pounds before the day of , A.D. 18 , and further upon condition that the same Letters Patent shall be void, and the said rights and privileges cease and determine at the expiration of seven years from the date hereof, unless the said , his executors, administrators, or assigns, shall pay at the said Patent Office the sum of five pounds before the day of , A.D. 18 : Provided that nothing herein contained shall prevent the granting of licenses in the manner and for the considerations in and for which they may by law be granted; and lastly we do by these presents for us, our heirs and successors, grant unto the said , his executors, administrators, and assigns, that these our Letters Patent or the filing thereof shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most 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 this our said province, and amongst all and every the subjects of us, our heirs and successors, whatsoever and wheresoever. In witness whereof we have caused these our Letters Patent to be made patent this day of , A.D. , and to be sealed with the seal of the said Patent Office, and bear date as of the said day of , A.D., in the year of our reign.

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## SCHEDULE B.

(*As amended by Act of* 1881.)

*Fees to be paid in respect of the several matters hereunder specified :—*

| | £ | s. | d. |
|---|---|---|---|
| On filing every petition . . . . . | 2 | 10 | 0 |
| On grant of patent . . . . . | 1 | 1 | 0 |
| On every patent before the expiration of three years from its date . . . . . | 2 | 10 | 0 |
| And before the expiration of seven years . . | 2 | 10 | 0 |
| For taking any declaration . . . . . | 0 | 2 | 6 |

| | £ | s. | d. |
|---|---|---|---|
| For every certificate of filing | 0 | 2 | 6 |
| On filing every amended or substituted specification | 1 | 0 | 0 |
| On lodging objections against grant of patent | 0 | 10 | 6 |
| On every summons to witnesses | 0 | 5 | 0 |
| On hearing of every opposed application | 1 | 0 | 0 |
| On filing duplicate patent | 0 | 5 | 0 |
| On extension of patent | 20 | 0 | 0 |
| On granting new patent under Part V. | 10 | 0 | 0 |
| On filing every disclaimer or memorandum of alteration | 2 | 10 | 0 |
| On confirmation of invalid patent | 50 | 0 | 0 |
| On filing caveat under Part VI. | 1 | 0 | 0 |
| On amending any caveat | 0 | 10 | 6 |
| For every office copy (including the seal) per folio of 72 words | 0 | 0 | 6 |
| On filing every certificate voiding a patent | 0 | 5 | 0 |
| On deposit of any assignment of patent | 1 | 0 | 0 |
| On every search, including inspection | 0 | 2 | 6 |
| Annual fee for license to patent agent | 5 | 0 | 0 |

## *Act No.* 201, 1881.

An Act to amend "The Patent Act, 1877."

### *Preamble.*

WHEREAS it is desirable to amend "The Patent Act, 1877," by affording greater facilities for the obtaining of patents—Be it therefore enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

### *Short Title.*

1. This Act may be for all purposes cited as "The Patent Act Amendment Act, 1881."

*Incorporation.*

2. This Act and "The Patent Act, 1877," except so far as the same is altered by this Act, shall be incorporated and read and construed together.

*Petition for Patent.*

3. Every petition for a patent shall be addressed to the Commissioner, and shall be accompanied by a declaration by the applicant, or his duly authorised attorney or agent, that the several allegations contained in the petition are true, and stating that the person making the declaration verily believes that the inventor mentioned in the petition is the true and first inventor of the invention for which the patent is sought.

*Requisites of Specifications.*

4. For the purposes of Section 16 of the said Act, it shall be sufficient, whether the inventor be alive or not, if the specification therein mentioned be signed by the applicant, or his duly authorised attorney or agent, and if such signature be attested as provided in the said section.

*Exhibiting Patent not to be deemed Ground for Refusing Patent.*

5. The mere fact of any inventor having exhibited or tested his invention, either publicly or privately, shall not in itself be deemed any ground for refusing him a patent, or justify any other person in using such invention, provided that such exhibiting must have been within six months of the date of the inventor filing his petition for a patent.

*Schedule of Fees.*

[NOTE.—See end of 1877 Act.]

6. The fees mentioned in the Schedule of this Act shall be paid in respect to the several matters and things therein respectively referred to, in lieu of the fees mentioned in Schedule B of the Patent Act, 1877. Such fees shall form part of the general revenue of the said province, and be paid, applied, and disposed of accordingly.

*Repeal.*

7. Section 14 of the said Act is hereby repealed.

# SPAIN.

## *Law of* 30*th July*, 1878.

### Section I.

### *General Provisions.*

#### Art. 1.

Every Spaniard or foreigner who intends to establish or has established in the Spanish dominions a new branch of industry shall have the exclusive right to work the same during a certain number of years, subject to the rules and conditions laid down by the present law.

#### Art. 2.

The right referred to in the preceding article shall be acquired by obtaining from the Government a patent of invention.

#### Art. 3.

The following objects shall be patentable:—

Machinery, apparatus, instruments, processes, or mechanical or chemical operations, being entirely or partly a new and original (i.e. *the applicant's own*) invention, or which, *without fulfilling these conditions*, have not been established or executed in the same way or form in the Spanish dominions.

New industrial products or results obtained by new or known means, provided their working tends to establish a new branch of industry in the country.

Art. 4.

Patents having for their objects products or results mentioned in the second paragraph of the previous article shall not prevent other patentees of objects mentioned in the first paragraph from obtaining the same products or results.

Art. 5.

Objects which are not known, nor have been executed, or worked in the Spanish dominions or abroad, shall be considered as new according to Art. 3 of this law.

Art. 6.

The right which is conferred by the Patent of Invention, or as the case may be, the right derived from the application, can be transferred entirely or partly by the various ways established by our laws relating to private property.

Art. 7.

A patent of invention can be granted to one person or to several, or to a society, whether they be natives or foreigners.

Art. 8.

All patents shall be considered as granted, not only for the Peninsula and adjacent islands, but also for the provinces beyond the sea.

Art. 9.

The following shall not be the objects of patents :—

1. The result or product of the machines, apparatus, instruments, processes or operations mentioned in the first paragraph of Art. 3, unless they are contained in the second paragraph of the same article.
2. The use of natural products.
3. Scientific principles or discoveries, so far as they are of a mere speculative nature, and are not likely to be applicable to machinery, apparatus, instruments, processes, or mechanical or chemical operations of a practical industrial nature.
4. Pharmaceutical or medical preparations of all sorts.
5. Schemes or combinations of credit or finance.

Art. 10.

No patent shall be delivered for more than one object of industry.

Art. 11.

Patents of invention shall be delivered without previous examination as to novelty or utility, and must not therefore be considered in any case as a declaration or certificate of the novelty or utility of the object to which they refer. Qualifications of this nature concern the person interested, who must act on his own responsibility, and will be subject to the consequences resulting from the provisions of the present law.

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## SECTION II.

*The Duration of Patents and the Government Fees.*

Art. 12.

The duration of Patents of Invention shall be twenty years without prolongation, if they have for their object new and original inventions. The duration of patents for all objects that are not original inventions, or being so, are not new, shall only be five years without prolongation.

Nevertheless, patents shall be granted for ten years for all original inventions, even when the inventor has obtained a patent for the same object in one or more foreign countries, provided he applies therefor in Spain before the expiration of two years from the obtaining of the first foreign patent.

Art. 13.

For working a patent there must be paid in Government paper an annual and progressive tax, as follows :—

10 pesetas for the first year.
20 pesetas for the second year.
30 pesetas for the third year.

and so on to the fifth, tenth, or twentieth year, when the tax will be respectively 50, 100, and 200 pesetas.

Art. 14.

The annual taxes mentioned in the previous article shall be paid in advance, and they will in no case be dispensed with.

## Section III.

### *Formalities for the Grant of Patents.*

### Art. 15.

Every person who desires to obtain a patent shall deliver at the office of the Secretary of the Civil Government of the province in which he is domiciled, or at that of any other province where he elects domicile for this purpose :—

1. A petition to the Minister of Commerce, in which he indicates a single object for the patent, stating whether the said object is a new and original invention, or not, and the domicile of the applicant, or his attorney. In the latter case the power must be annexed to the petition. It must contain neither conditions, restrictions, nor reservations.
2. A specification in duplicate, in which shall be described the machine, apparatus, instrument, process, or mechanical or chemical operation forming the object of the patent, all with the greatest possible clearness, so that there can at no time be the least doubt as to the object or the particular represented to be a new and original invention, or as to its not having been practised or established in the same mode or form in Spain. At the foot of the specification there must be a note expressing clearly, distinctly, and particularly which part, piece, movement, mechanism, operation, process, or matter is claimed as the object of the patent. The patent will depend entirely on the contents of the said note.

   The specification must be written in Spanish, without abbreviations, corrections, or erasures of any kind, on sheets folded and numbered. References to weights and measures must be given according to the metrical decimal system.

   The specification must not contain conditions, restrictions, or reservations.
3. The drawings, samples, or models which the interested party thinks necessary for the comprehension of the descriptive specification, all in duplicate.

   The drawings must be made on cloth-paper in ink, and according to the metrical decimal scale.

4. The receipt for the payment to the state of the first annual tax.
5. A signed list of all the documents and objects presented, which latter must also be signed by the applicant or his attorney.

Art. 16.

The Secretary of the Civil Government upon receiving the documents and objects mentioned in the preceding article, shall enter, in a special register, the day, the hour, and the minute of the presentation; sign the list jointly with the interested party or his representative, and deliver a proper receipt. The same secretary shall close and seal the box or packet containing the two copies of the specification, and of the drawings, samples, or models, and write underneath the inscription on the box or packet "Presented on such a month, day, hour, and minute," signing the same, and affixing the official seal.

The entry in the register of presentation indicating the day, hour, and minute of presentation shall establish the right of priority of the applicant.

Art. 17.

Within a term not exceeding five days from the date of the presentation of the application, and of the aforesaid documents and objects, the civil governor shall remit to the Director of the Conservatory of Arts at Madrid the application, together with the documents and objects, also a certificate of the Secretary, countersigned by the Governor, of the entry in the register, and the contents of the box or packet. The cost of remittance shall be borne by the interested party.

Art. 18.

The Secretary of the Conservatory of Arts shall examine the contents of the box or packet, and shall sign and seal, at the foot of the certificate mentioned in the preceding article, a statement as to their completeness or defects.

Art. 19.

The Secretary of the Conservatory shall at once compare the two copies of the specification and drawings or models for the sole purpose of satisfying himself of their identity, and having found them consistent and that the specification has written at

the end the note mentioned in the second paragraph of Art. 16 (*query* 15), he shall sign and seal both copies, in proof of the compliance with this formality.

If he discovers any defects in the documents, he shall point them out in his dispatch, and they must be corrected by the interested parties themselves, or their attorneys; for which purpose they shall be allowed a term of two months, counting from the day of the presentation of the petition to the Government of the province, if it is in the Peninsula or the adjacent islands, and of four months if in the Canaries or Antilles, and of eight months for the Philippine Islands.

These terms cannot be prolonged, and when once expired without the defects pointed out having been amended, such application shall not proceed, and the petition for the patent shall be considered as of no effect.

Art. 20.

When the requirements mentioned in the two preceding articles have been observed, the Director of the Conservatory of Arts, bearing in mind the provisions of Art. 11, shall send the petition to the Minister of Commerce, together with a report stating—

1. Whether the form of the petition is in conformity with the provisions of Art. 15.
2. Whether the specification and the above-mentioned drawings, samples and models, all in duplicate, and the receipt for the Government tax for the first year, have been delivered.
3. Whether there is perfect conformity between the duplicates of the specifications, drawings, samples or models and the originals.
4. Whether the object of the patent is comprised among one of the cases of Art. 9.
5. Whether, taking all circumstances into consideration, it is advisable to grant or refuse the petition.

Art. 21.

If the application results favourably, the Minister of Commerce shall inform the Director of the Conservatory of Arts thereof, who shall publish this decision by means of the Madrid Gazette; and within a term, which cannot be prolonged, of one month from the date of publication, the interested party or his

representative shall appear at the Conservatory of Arts to pay in Government paper the value of the stamp, which must be put on the patent document. Should this not be done within the prescribed term, the proceedings shall be stayed and the petition for the patent shall be considered as of no effect.

Art. 22.

When the payment mentioned in the preceding article has been made, the Director of the Conservatory of Arts shall inform the Minister of Commerce thereof, who shall immediately issue the patent of invention, and send it to the Conservatory of Arts, whose Director shall communicate it to the governor of the province where the application was originally made, for the purpose of having it duly entered in the register mentioned in Art. 16, and of having it copied by the Secretary of the Conservatory in a special register, after which it shall be delivered by him to the interested party or his representative, against a receipt which shall be attatched to the documents.

Art. 23.

At the head of the patent there shall be printed in letters of a larger type than the largest employed in the body of the same the following words:—

"Patent of invention without guarantee of the Government as to the novelty, fitness, or utility of the object for which it is granted."

Art. 24.

The Secretary of the Conservatory of Arts shall likewise deliver to the interested party or his representative, against a receipt, at the same time as the patent, one of the copies of the specification and of the drawings, samples and models accompanying it, and the whole shall be considered as an integral part of the patent and so designated therein.

Art. 25.

The special register of patents at the office of the Secretary of the Conservatory of Arts shall remain at the disposition of the public during the hours fixed by the director. The dates in this register shall be considered as evidence in the courts.

## Section IV.

### *The Publication of Patents and the Publicity of Specifications, Drawings, Samples, or Models.*

#### Art. 26.

The Director of the Conservatory of Arts shall deliver to the Madrid Gazette, within the second half of the months of January, April, July, and October, for immediate publication in that official periodical, a report of all patents granted during the preceding quarter, clearly expressing their objects.

The Provincial Governors shall have these reports reproduced in the official bulletins in the same form as in the Gazette.

#### Art. 27.

The specifications, drawings, samples, and models relating to the patents shall be open for public inspection at the office of the Secretary of the Conservatory of Arts during the hours fixed by the Director of the same.

Anyone wishing to make copies thereof may do so at his own expense, after previous consent of the Director of the Conservatory, who will fix the place, days, and hours at which they can be made.

#### Art. 28.

After the expiration of patents, the specifications, drawings, samples, and models shall remain at the Conservatory of Arts, in the museum of which shall be placed those which appear worthy of being exhibited there.

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## Section V.

### *Certificates of Addition.*

#### Art. 29.

The owner of a patent of invention, or those interested through him, shall during the term of the grant have the right of making any alterations, modifications, or additions to the object of the patent, they may think proper in preference to all others applying at the same time for a patent for an object similar to the alterations, modifications, or additions.

Such alterations, modifications, or additions shall be established by certificates of addition, delivered in the same way and with the same formalities as the original patent, and after application and proceedings as prescribed by Art. 15.

Art. 30.

The applicant for a certificate of addition shall pay a single tax of 25 pesetas in Government paper,

Art. 31.

Certificates of addition shall form part of the original patent, and shall have from the respective dates of the application and grant the same effect. The time for working a certificate of addition terminates at the same time as that for the original patent.

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SECTION VI.

*Cession and Transfer of Patent Rights.*

Art. 32.

All total or partial cessions of the rights conferred by a patent of invention or certificate of addition, whether gratuitously or for a consideration, and every other act involving a modification of the original right must indispensably be made by deed on which there shall be a certificate of the Secretary of the Conservatory of Arts, signed by the Director, proving the payment up to date of the taxes prescribed by this law, and that the assignor is the real owner of the patent or certificate of addition according to the entries in the records.

Art. 33.

No assignment or other deed involving a modification of the right can prejudice a third party, unless it has been registered at the office of the Secretary of the Civil Government of the province where the original deposit took place.

Art. 34.

The registration of cessions and of all deeds involving a modification in the right shall be effected by the presentation and delivery to the Secretary of the Provincial Government of

an attested copy of the deed or contract of cession or modification.

On this copy the secretary shall mark the day and the page of the register.

Art. 35.

The civil governor of the province where the assignment or other deed or contract involving a modification in the right is registered, shall, within five days after it has been entered in the register, transmit to the Director of the Conservatory of Arts a copy, certified by the Secretary and countersigned by the Governor, both of the deed or contract of cession or modification, and of the entry on the register made by the secretary.

Art. 36.

The Secretary of the Conservatory of Arts shall note in the special register of patents all modifications occurring in the right of each of them, after having taken cognizance of the certified copy of the deed or contract of cession annexed to the records.

Art. 37.

The Director of the Conservatory of Arts shall transmit to the Gazette with the report mentioned in Art. 26 all modifications of rights that have taken place in the patents.

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## Section VII.

### *Liabilities of Patentees.*

Art. 38.

The owner of a patent or certificate of addition shall be required to prove before the Director of the Conservatory of Arts, within a term of two years counting from the date of the patent or of the certificate of addition, that they have put it in practice on Spanish territory, establishing a new industry in the country.

The above-mentioned term of two years can only be prolonged by a law on equitable ground, and for a term not exceeding six months.

Art. 39.

The Director of the Conservatory of Arts shall ascertain the fact, either by himself or through a practical engineer, or any competent person appointed for that purpose, by means of steps the least onerous he considers necessary, and for this end he may demand the assistance of all authorities and corporations, who are bound to aid him in the most efficacious manner with their influence and all means they can employ for that purpose.

Art. 40.

When the Director of the Conservatory of Arts thinks that the report concerning the working of the patent is sufficiently proved, he shall transmit the same, together with his report, to the Minister of Commerce for final decision.

Art. 41.

The costs caused by the enquiries necessary to prove that the object of a patent or of a certificate of addition has been worked, establishing a new industry in the country, shall be borne by the interested party, who need only pay them when approved by the Director of the Conservatory of Arts.

Art. 42.

The Director of the Conservatory of Arts shall cause the Secretary to make on the register of patents a note of the decision recognizing the working, and communicate the same to the governor of the proper province.

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## Section VIII.

### *Nullity and Annulment of Patents.*

Art. 43.

Patents of invention are void:—

1. Whenever it is proved, with respect to the object of the patent, that the circumstances; of originality and novelty; of not having been established or practised in essentially the same mode and form within the dominions; or any other circumstance, alleged as fundamental in the application; are not borne out.

2. Whenever it is found that the object of the patent is contrary to public order, or safety; to morals, or to the laws of the country.
3. Whenever the object for which the patent was applied for is different from that which is worked in virtue of it.
4. Whenever it is shown that the specification does not contain all that is required for the complete understanding and working of the object of the patent, or when it does not completely indicate the real means of manufacturing or working.

Art. 44.

Actions for annulment can only be instituted by an interested party.

The public prosecutor, however, may demand the annulment when the patent comes under the second paragraph of Art. 43.

Art. 45.

Where the provisions mentioned in Art. 43 apply, all certificates of alterations, modifications, or additions to the original patent shall equally be null and void.

Art. 46.

Patents of invention shall be annulled :—

1. At the expiration of the term of the grant.
2. When the owner does not pay the annual tax before the beginning of each year of the duration of the patent.
3. When the object of the patent has not been worked in the Spanish dominions within the time mentioned in Art. 38.
4. When the owner has ceased to work for one year and one day, unless he can show good cause for such interruption.

Art. 47.

The declaration of annulment of patents coming under the first, second, and third paragraphs of Art. 46, belongs to the Minister of Commerce, on the previous advice of the Director of the Conservatory of Arts. Against the decision of the Minister there may be lodged an appeal to the Council within 30 days. The declaration of annulment of a patent coming under the fourth paragraph of the same Art. 46, belongs to the courts of justice on the application of an interested party.

Art. 48.

The Director of the Conservatory of Arts, after having caused the required entries to be made in the register of patents, shall transmit to the Madrid Gazette, together with the report mentioned in Art. 26, a further list of the patents annulled by the Minister of Commerce.

The civil governors shall cause such lists to be published in the official bulletins of their provinces, and have copies made in the registers of patents at the offices of their Secretaries.

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## Section IX.

*Infringements and Falsification of Patents, and the Penalties to which they are subject.*

Art. 49.

Infringers of patents are those who knowingly encroach on the rights of the legal owner by manufacturing or executing the object of the patent by the same means.

Accomplices are those who knowingly assist in the manufacture, execution, and sale or expedition of the counterfeit patent articles.

Art. 50.

Infringement shall be punished by a fine of from 200 to 2000 pesetas.

In case of a second offence the fine shall be from 2001 to 4000 pesetas.

It is a second offence when the infringer has been convicted of the same offence within the five preceding years.

Complicity in infringement shall be punished by a fine of from 50 to 200 pesetas, and a second offence by a fine of from 201 to 2000 pesetas.

All products obtained by infringement shall be delivered to the patentee, besides damages for the loss he may have sustained. Insolvents shall suffer, in both cases, imprisonment, as proscribed by Art. 50 of the Criminal Code.

Art. 51.

Falsifiers of patents of invention shall suffer the penalties mentioned in the first section of chapter 4, book ii., of the Criminal Code.

Art. 52.

Actions for the offence of infringement provided for and punishable by the present section can only be entered by the public prosecutor on the complaint of the injured party.

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## Section X.

### *Jurisdiction in Patent Matters.*

Art. 53.

Civil and criminal actions concerning patents of invention shall be instituted before industrial juries. Until the organization of the industrial juries, such actions shall be brought before the ordinary courts.

Art. 54.

Whenever the action is brought at the same time against the grantee and against one or more licensees, the competent tribunal shall be that of the domicile of the grantee.

Art. 55.

Civil actions shall be governed by the rules prescribed for them by the laws relating to ordinary justice; and criminal actions shall be regulated by the criminal procedure.

Art. 56.

The public prosecutor shall be a party to all actions having for their object the annulment of a patent of invention.

Art. 57.

In the case of the preceding article, all parties interested in the grant according to the register of the Conservatory of Arts shall be summoned.

Art. 58.

As soon as a patent of invention has been judicially declared null or extinct, the tribunal shall communicate the judgment to the Conservatory of Arts for entry, and the annulment or expiry shall be published in the Madrid Gazette in the manner prescribed by this law for the publication of patents.

The civil governors shall republish such annulments or expiries in the official bulletins of their provinces, and make in the registers of their offices the corresponding entries.

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## Section XI.

### *Transitory Dispositions.*

#### Art. 59.

From the day the present law comes into force, all anterior dispositions relating to patents of invention, of importation, and of improvement shall be abrogated.

#### Art. 60.

Existing patents of invention, importation, and improvement, obtained under the old law, shall continue to be in force during the term for which they were granted.

#### Art. 61.

Applications made before the publication of the present law shall be regulated in accordance with the old law; the applicants, however, may choose the terms and mode of payment of the present law.

#### Art. 62.

All actions for infringement, counterfeiting, annulment, or extinction of patents, which were not begun before the commencement of the present law, shall be pursued according to the provisions of the same.

# STRAITS SETTLEMENTS.

## *Ordinance No. XII. of* 1871.

## An Ordinance for Granting Exclusive Privileges to Inventors.

## PART I.

### Preliminary Rules.

*Short Title.*

1. This Ordinance may be cited as the Inventions Ordinance, 1871.

*Interpretation Clause.*

2. In the construction of this Ordinance, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

The word "invention" shall include an improvement.

The word "manufacture" shall include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture.

The word "inventor," when not used in conjunction with the word "actual," shall include the importer of an invention not publicly known or used in the colony.

The words "inventor" and "actual inventor" shall include the heirs, executors, administrators, or assigns of an inventor, or actual inventor, as the case may be.

The word "assigns" shall include grantees of the sole use or

benefit in the colony of an invention, or of the sole use of any exclusive privilege for a limited time.

*Invention.*

3. An invention shall be deemed a new invention within the meaning of this Ordinance, if it shall not, before the time of applying for leave to file the specification, have been publicly used in the United Kingdom, in this colony, or in any British Possession. The public use of an invention prior to the application for leave to file a specification shall not be deemed a public use within the meaning of this section, if the knowledge thereof shall have been obtained surreptitiously, or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor, or in breach of confidence. Provided that the inventor shall, within six months after the commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use. Provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing, shall not be deemed a public use thereof, within the meaning of this Ordinance.

*When Exclusive Privilege does not Attach.*

4. No person shall be entitled to any exclusive privilege under the provisions of this Ordinance;

If the invention is of no utility; or,

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention within the meaning of this Ordinance; or,

If the petitioner is not the inventor thereof; or,

If the specification filed, or the amended specification (if any), does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be carried out, with the particulars required by Section 11 of this Ordinance; or,

If the original or any subsequent petition relating to the invention, or the original or any amended specification, contain a wilful or fraudulent misstatement.

*Prerogative in respect of Letters Patent saved.*

5. Nothing in this Ordinance contained shall abridge or affect the prerogative of the Crown, in relation to the granting or

withholding the grant of any Letters Patent for inventions, or otherwise, or affect or interfere with any Letters Patent for an invention heretofore granted, or hereafter to be granted, by the Crown.

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## Part II.

### Acquisition of Exclusive Privileges.

*Inventor may petition for Leave to File Specification.—Form, &c., of Petition.*

6. The inventor of any new manufacture may petition the Governor in Council for leave to file a specification thereof. Every such petition shall be in writing, in the form or to the effect mentioned in the Schedule A, and shall be signed by the petitioner, or in case the petitioner shall be absent from the colony, by an authorised agent, and shall state the name, condition, and place of residence of the petitioner, and the nature of the invention.

*An Alien ami may petition.*

7. An *alien ami*, whether resident in the colony or not, may petition for leave to file a specification under this Ordinance.

*Order for Filing Specification.—Power to refer Petition for Inquiry and Report.—Fee for Report. — Governor in Council may refuse Order.*

8. Upon such petition the Governor in Council may make an order authorising the petitioner to file a specification of the invention. Provided always, that at any time before such order is made, the Governor may, if he think fit, refer the petition to any person or persons for inquiry and report, and such person or persons shall be entitled to a reasonable fee for such inquiry and report, to be paid by the petitioner, the amount of fee, in case of dispute, to be settled by a Judge of the Supreme Court in a summary manner.

And provided further, that it shall be lawful for the Governor in Council to refuse to make any order under this section in any case in which it may appear to him that the granting of exclusive privileges under this Ordinance would be prejudicial to the public interests, or of doubtful public utility.

*Petition and Specification to be left with the Colonial Secretary, and to be accompanied by Declaration by Petitioner, or if absent, by Agent.—To be recorded.*

9. Every petition for leave to file a specification, and every specification filed under this Ordinance, shall be left with the Colonial Secretary, and shall be accompanied by a declaration in writing, signed by the petitioner, in the form in the Schedules B and C respectively; and if the inventor be absent from the Colony, the petition and specification shall also be accompanied by a declaration in the form in the Schedule D, signed by the agent, who shall present or file the same, to the effect that he verily believes that the declaration, purporting to be the declaration of the inventor, was signed by him, and that the contents thereof are true. The date of the delivery of every such petition and specification shall be endorsed on the same respectively, and shall also be recorded in the office of the Colonial Secretary.

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*Order to file Specification may be made subject to Conditions.*

10. An order, authorising the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made, subject to such conditions and restrictions as the Governor in Council may think expedient.

*Specification to describe Invention and Manner of Working, &c.—Plans and Further Particulars.*

11. Every specification of an invention filed under this Ordinance shall be in writing, and shall be signed by the petitioner, and shall clearly and minutely describe and define the nature and purpose of the invention, and how and in what manner it is to be worked and carried into practical operation, and shall be accompanied by such explanatory plans, and shall contain such further or other particulars and information as the Governor in Council may require.

*Petitioner to be entitled to Exclusive Privilege for 14 Years.—Extension of Term.*

12. If, within the space of six months from the date of such order, the petitioner cause a specification of his invention to be filed in manner required by this Ordinance, the Governor in

Council may, in the form E in the Schedule, under the Public Seal of the Colony, grant to the petitioner, his heirs, executors, administrators, and assigns, the sole and exclusive privilege of making, selling, and using the said invention in the Colony, and authorising others so to do, for the term of fourteen years from the time of filing such specification; and for such further term, if any, not exceeding fourteen years from the expiration of the first fourteen years, as the Governor in Council may think fit to direct, upon petition to be presented by such inventor at any period, not more than one year, and not less than six months, before the expiration of the exclusive privilege hereby granted.

*Petitions for Disclaimer.—Petitions how drawn.—Order of Governor in Council.—Provisions of Part III. to be applicable.—Petitions to be published.—Notice to be given.—Person opposing.—Memorandum to form part of Specification.—Proviso.*

13. If, after the filing of the specification, the inventor or his assignees shall have reason to believe that through mistake or inadvertence he has erroneously made any misstatement in his petition or specification, or included therein something which at the date of his petition was not new, or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor in Council for leave to file a memorandum, pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or for leave to file an amended specification, in case of any defect or insufficiency of the specification.

The petition shall state how the error, defect, or insufficiency occurred, and that it was not fraudulently intended, and shall be accompanied by a declaration in writing, signed by the petitioner, or, if he be absent from the colony, by his agent, stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition, the Governor in Council may make an order, allowing such memorandum or amended specification to be filed.

All the provisions of the 3rd part of this Ordinance applicable to petitions and to specifications shall be applicable to the petitions, orders, and memoranda, or amended specifications, referred to in this section, but the stamp fee chargeable on the petition shall be five dollars, in lieu of fifty dollars.

Every petition under this section shall be published in the

Government Gazette of the Colony, and at the same time notice shall be given in the said Gazette of the time when the petition will be taken into consideration by the Governor in Council, and any person interested in opposing the prayer of the petition may serve on the Colonial Secretary a notice, on a stamp paper of the value of one dollar, of his intention to oppose, and every person so serving a notice may be heard by the Governor in Council, in opposition to the prayer of the said petition.

Every memorandum of alteration filed under the provisions of this section shall be added to and form part of the original specification, and, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such memorandum of alteration, or of the filing of an amended specification, the memorandum of alteration, or the amended specification, shall have the same effect as if it had formed part of or had been the specification first filed; provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

*Inventor having obtained Patent in England may petition for Extension here.—Proviso.*

14. If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Ordinance, shall have obtained Her Majesty's Letters Patent for the exclusive use of such invention in any part of the United Kingdom, or shall have obtained a grant of exclusive privileges in any British Possession, but not extending to this Colony, shall petition the Governor in Council for leave to file a specification of such invention, it shall be competent to the Governor in Council to make an order authorising the petitioner to file a specification of the invention and exemplification of the Letters Patent or grant of exclusive privileges granted to him. On this being done, the petitioner shall be entitled to the sole and exclusive privilege of making, using, and selling the said invention in this Colony, during the remainder of the term for which the said Letters Patent or grant of exclusive privileges or any renewal of the same may be in force, or for the term or terms mentioned in Section 12. Provided that the petition for leave to file the specification shall state that such Letters Patent or grant of exclusive privileges have been granted, and shall also state the date thereof, and the term during which the same are to continue in force.

*Rule for Indian Patents before 1st April 1867.—Stamp Fee.*

15. Every person who, before the 1st day of April, 1867, shall have obtained from the Governor General of India in Council a grant of exclusive privileges under the Indian Act No. 15 of 1859 for India, as defined in the said Act, shall be entitled to use and exercise in the Colony after the 1st day of April, 1867, all the rights and privileges conferred by such grant on registering at the office of the Colonial Secretary a certified copy of such grant, and of the specification filed in India on which such grant was made.

For every such register a fee of 5 dollars shall be paid, by a stamp or stamps impressed on the said copy.

*Disclaimer or Memorandum of Alterations made elsewhere, and Amendments under Section 3, how to be filed.—Proviso.*

16. Whenever it shall be made to appear to the Governor in Council that a disclaimer or memorandum of alterations relating to any invention as to which privileges have been obtained in the Colony under section 14 of this Ordinance, or under the provisions of the Electric Telegraph Exclusive Privileges Ordinance, 1870, has been entered according to the law of England, or the law of the British Possession in which the exclusive privilege may have been granted, and whenever any amendments are made under section 35 of this Ordinance, it shall be lawful for the Governor in Council to order that a copy of such disclaimer or memorandum of alteration or amendment shall be filed in the office of the Colonial Secretary, with and as part of the specification of the invention and exemplification of the Letters Patent, or of grant of exclusive privileges to which the same relates; whereupon the said specification of invention and exemplification of Letters Patent, or of grant of exclusive privileges, shall be read as if such disclaimer or memorandum of alterations or amendment had formed a part thereof when filed in the office of the Colonial Secretary. Provided that no such disclaimer, memorandum of alteration, or amendment shall be held to extend the exclusive rights granted by such Letters Patent, or grant of exclusive privileges.

# PART III.

## General Rules.

### *Stamp on Petition.*

17. Every petition for leave to file a specification under the provisions of this Ordinance, or for the extension of the term of an exclusive privilege, shall be written or printed on a stamped paper of the value of fifty dollars.

### *All Fees to be paid before filing.*

18. No specification shall be filed until the petitioner shall have paid all fees and stamp duties payable under this Ordinance.

### *Specification to be open to inspection.—Fee for inspection.*

19. The specification, or a copy thereof, shall be open at all reasonable times at the Office of the Colonial Secretary to public inspection, upon payment of a fee of one dollar.

### *Register for the registry of Petitions, Specifications, &c.*

20. A register shall be kept in the office of the Colonial Secretary, wherein shall be entered every such petition and specification, and every order made upon such petition, or relating to the invention therein mentioned, and every grant of exclusive privilege. Every specification and every grant as aforesaid shall be numbered according to the order in which they are entered in such book, and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention.

### *Inspection of Register.—Fee.—Certified Copy of Entry to be given.*

21. Such register, or a copy thereof, shall be open at all convenient times for the inspection of any person, upon payment of a fee of one dollar, and the Colonial Secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

*Certified Copy to be primâ facie Evidence.*

22. Every copy of a document filed in the office of the Colonial Secretary under the provisions of this Ordinance, purporting to be certified as a true copy under the hand of the Colonial Secretary, shall be *primâ facie* evidence of the document of which it purports to be a copy.

*Book of Specifications.—Place for service of Notices, &c.—Names and Addresses of Proprietors.—Sufficient Service.—Substituted Service.*

23. A book shall be kept in the office of the Colonial Secretary (such book to be open to inspection without fee), wherein every person filing a specification under this Ordinance shall cause to be stated, under a number corresponding with the number of the specification, some place in the Settlement where service of any rules or proceedings for the purpose of cancelling or revoking his exclusive privilege, or of any other process may be made. Any person, partnership, or company, from time to time, being proprietors of, or having shares or interests in, such exclusive privilege, shall cause to be entered in such book, under such numbers as aforesaid, their names, together with the name of some place for the service of such proceedings and process as aforesaid. All such rules, proceedings, and process shall be deemed sufficiently served on any such person, partnership, or company, if a copy thereof be left at the place entered in such book, or (if any other place be substituted for the same by entry in said book) at the place last substituted, by delivering the same to any person resident at or in charge of such place; or if there be no person resident at or in charge of such place, and if such person, partnership, or company shall neglect to make or cause to be made such entry, then service of such rule, proceeding, or process may be effected by affixing a copy thereof to a conspicuous part of the Supreme Court House, or in such other manner as the Court may direct.

*Governor may determine exclusive Privilege.*

24. Every exclusive privilege under this Ordinance shall cease if the Governor in Council shall declare by notification in the Government Gazette, that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition,

on which the petitioner shall have been authorized to file a specification, or upon which the term of the exclusive privilege shall have been extended, shall be proved to the satisfaction of the Supreme Court, and if the Governor in Council shall thereupon declare that such exclusive privilege shall cease.

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## PART IV.

### LEGAL PROCEEDINGS.

*Actions for Infringements.*

25. An action may be maintained in the Supreme Court by an inventor against any person who, during the continuance of any exclusive privilege granted by this Ordinance, shall, without the license of the said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same.

*Particulars to be delivered by Plaintiff.—Ditto by Defendant.—Evidence at Trial.—Court may amend particulars.*

26. In any such action the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action; and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to the Supreme Court under sections 30 and 31 of this Ordinance, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any action or issue, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such exclusive privilege, which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where, and the manner in which the invention was so publicly known or used, shall be stated in such particulars. Provided always, that it shall be lawful for the Court to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

*Action for Infringement not to be defended for defect in Specification or Petition, or for want of novelty in Invention.*

27. No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a misdescription, nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he, the defendant, is the actual inventor, or has obtained a right from the actual inventor to use the invention, either wholly or in part.

*The actual use of an Invention in the Colony, or the United Kingdom, or British Possession before date of Petition, a defence to such Action.*

28. Any such action may be defended upon the ground that the invention was not new if the person making the defence, or some person through whom he claims, shall, before the date of the petition for leave to file the specification, have publicly or actually used in the Colony or in some part of the United Kingdom, or in any British possession, the invention or that part of it of which the infringement shall be proved, but not otherwise.

*In what case actual Inventor entitled to assignment of an exclusive Privilege fraudulently obtained.*

29. If, upon proceedings instituted by a person claiming to be the inventor, within two years from the date of a petition to file a specification, he shall prove to the satisfaction of the Supreme Court that the petitioner was not the inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived such knowledge, the Court may compel the petitioner to assign to the inventor any exclusive privilege obtained under this Ordinance, and to account for and pay over the profits thereof.

*Application by Attorney-General on breach of special Conditions.—Costs.*

30. It shall be lawful for the Attorney-General or Solicitor-General to apply to the Supreme Court, calling upon any petitioner under this Ordinance, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition, upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor in Council, under the power reserved in section 24, may, in the judgment of the said Governor in Council, depend, should not be tried in the form of an issue directed by the said Court, and if the rule be made absolute, the Court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and shall certify the result of such trial to the Governor in Council. The costs of such trial, and also the costs of such proceedings, shall be in the discretion of the said Court.

*Application to Supreme Court to declare exclusive Privilege not to have been acquired.*

31. It shall be lawful for any person to apply by motion to the Supreme Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention or part of an invention has not been acquired under the provisions of this Ordinance, by reason of all or any of the objections following (to be specified in the rule); that is to say:—

That the said invention or part of invention was not at the time of presenting the petition for leave to file the specification a new invention; or,

That the petitioner was not the inventor thereof, and, in addition thereto, either that the applicant was the inventor, or that the inventor has dedicated or made known the invention or part of invention to the public, or has acquiesced in the public use thereof; or

That the specification filed does not particularly describe and define the nature of the invention or part of invention, or in what manner the same is to be carried out; or,

That the petitioner has fraudulently inserted in the petition or specification, as part of his invention, something which was not new, or whereof he was not the inventor; or,

That the petitioner has wilfully made a false statement in his petition or specification; or,

That some part of the invention, or the manner in which that part is to be carried out as described in the said specification, is not thereby sufficiently described and defined, and that such defect or insufficiency was fraudulent, and is injurious to the public.

*Service of Proceedings on all Persons interested.*

32. Notice of any rule obtained or proceeding taken under either of the last three preceding sections shall be served on all persons appearing to be proprietors, or to have shares or interests in the exclusive privilege under the provisions of section 23 of this Ordinance, and it shall not be necessary to serve such notice on any other persons.

*Court may direct Issue for Trial.*

33. The Supreme Court may, if it think fit, direct an issue for trial of any question of fact arising upon an application under sections 30 or 31 of this Ordinance, and such issue shall be tried in the usual manner for trying issues of fact in the said Court.

*Judgment.—Costs.*

34. If it shall appear to the Supreme Court, at the hearing of any application under the provisions of sections 30 or 31 of this Ordinance, that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention, or in any part thereof, has not been acquired, the Court shall give judgment accordingly, and shall make such order as to the costs of, and consequent upon, the application, as it may think just; and thereupon the petitioner, his heirs, executors, administrators, and assigns, shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

*Amendment of Specification by Court.—Proviso.*

35. If the Court, at the hearing of any application under this Ordinance, shall think that the petitioner has, in the description of the invention given in his petition or specification, included something which at the date of the petition was not new, or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect,

or insufficiency was not fraudulently intended, the said Court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency; or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, it may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his heirs, executors, administrators, or assigns, shall, within the time limited by the Court for the purpose, file a specification amended according to such order.

Provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

*Misdescription in the Petition, if not fraudulent, not to defeat the Privilege.*

36. An exclusive privilege shall not be defeated upon the ground that there is any misdescription of the invention in the petition, unless such misdescription was fraudulent.

*Entry in Registry Book of Judgment declaring Privilege not to have been acquired.*

37. Whenever it shall be adjudged by the said Court that an exclusive privilege as to the whole or any part of an invention has not been acquired, the Colonial Secretary shall, upon the production of a certified copy of the judgment or order of the Court, cause an entry thereof to be made in the register hereinbefore in section 20 directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such register.

*Appeal to Privy Council.*

38. Nothing in this Ordinance contained shall be held to affect the right of appeal to Her Majesty in Her Privy Council. Every such appeal may be had, and proceedings therein shall be subject to the Rules, Orders, and Regulations in force, or to be in force, in the Colony for appeals to Her Majesty in Her Privy Council from decisions of the Supreme Court of the Colony.

## SCHEDULE.

### A.

*Form of Petition.*

To His Excellency the Governor of the Colony of the Straits Settlements in Council:—

The Petition of [*here insert name, addition, and place of residence*], for leave to file a specification under the Inventions Ordinance, 1871, showeth,—

That your Petitioner is in possession of an invention for [*state the title of the invention*], which invention he believes will be of public utility; that he is the inventor or owner of the said invention [*or, as the case may be, the assignee, or the executor, or administrator, or heir of the inventor or owner of the said invention*]; and that the same is not publicly known or used in the Colony, to the best of his knowledge and belief [*or, as the case may be, that he is the first importer into the Colony of the said invention, and that the same is not publicly known or used in the Colony*].

N.B.—*If Letters Patent have been obtained for the invention, state according to the requirements of Section* 14.

The following is a description of the invention [*here describe it as required by Section* 11].

Your Petitioner therefore prays for leave to file a specification of the said invention, pursuant to the provisions of the Inventions Ordinance, 1871. And your Petitioner, &c.

(Signed)

The day of

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### B.

*Declaration to accompany a Petition.*

I [*here insert name, addition, and place of residence*], do solemnly and sincerely declare that I am in possession of an invention for [*state the title of the invention as in the petition*]; that I believe the said invention will be of public utility; that I am the inventor [*or owner*] of the said invention [*or, as the case may be, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention, or that I am the first importer of the said invention into this Colony*], and that the same is not publicly known or used in the Colony to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said

invention is truly described in my Petition for leave to file a specification thereof.

(Signed)

The day of

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C.

*Declaration to accompany a Specification.*

I [*here insert name, addition, and place of residence*], do solemnly and sincerely declare that I am in possession of an invention for [*state the title of the invention*], which invention I believe will be of public utility; that I am the inventor or owner of the said invention [*or, as the case may be, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention, or that I am the first importer of the said invention into this Colony*], and the same is not publicly known or used in this Colony to the best of my knowledge and belief; and that, to the best of my belief, the instrument in writing under my hand, hereunto annexed, particularly describes and defines the nature of the said invention, and in what manner the same is to be carried out.

(Signed)

The day of

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D.

*Declaration by Agent.*

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

(Signed)

The day of

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E.

*Form of Grant.*

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

(Signed) [*Signature of Governor.*]

To all to whom these presents shall come,
Greeting:

Whereas *A. B.*, of *C. D.*, has presented to [*insert name of Governor*], Governor of the Colony of the Straits Settlements, a petition (numbered

in the book of petitions for exclusive privileges in inventions in the Office of the Colonial Secretary) praying for leave to file a specification of a certain invention intituled [*here insert the title of invention*], and an order in Council, dated the day of , 18 , was made thereon, authorising the said *A. B.* to file a specification of the said invention: And whereas the said *A. B.* did on the day of , 18 , file a specification in accordance with the said order, and the same is entered in the Book of Specifications of the Colonial Secretary, and bears the number therein: And whereas all things have been done to entitle him to exclusive privilege in the invention in the said petition and specification instituted, mentioned, and described for the term of years: It is hereby ordered that the said *A. B.*, his heirs, executors, administrators, and assigns, shall have the exclusive privilege of making, selling, and using (as the case may be) the said invention in the said specification described in the Colony of the Straits Settlements for the term of years, in terms of and subject to the provisions of the Inventions Ordinance, 1871 [*here insert any condition under which the grant is made*].

(Signed)

*Colonial Secretary.*

# SWEDEN.

*Law of* 16*th May*, 1884, *which will take effect from the* 1*st January*, 1885.

§ 1.

Patents may, under the conditions hereinafter prescribed, be granted for inventions of industrial productions or of special methods of manufacturing such productions.

Inventors only, Swedish or foreign, or the legal representatives of inventors, are entitled to obtain patents.

§ 2.

Patents shall not be granted for inventions the working of which would be contrary to law or morals. With regard to inventions relating to provisions or medicines, patents shall not be granted for the commodity itself, only for special methods for its manufacture.

§ 3.

An invention shall not be considered as new, if it has, prior to filing the application for a patent with the patent authorities, been described in any published journal, or is so openly worked that any person conversant with the subject may, guided by the information thus gained, work the invention, or if the object of the invention does not essentially differ from products or methods of manufacture which have before become known in such a way.

The publication of an invention in print by foreign patent

authorities or the exhibition of the same in any international exhibition shall not be an obstacle to the granting of a patent, provided the application is filed within six months from the date of publication or the day the exhibition commenced.

§ 4.

1. Whoever wishes to obtain a patent shall lodge a written application with the patent authorities or send it prepaid by post. The application must be accompanied by a duplicate description of the invention and the drawings in duplicate which are required to explain the description; and when necessary, also by models, samples or the like.

The application shall contain the name, profession and postal address of the applicant, likewise the title of the invention.

The description must be given in so explicit and complete a manner that any person conversant with the subject may, thus guided, work the invention.

The description must also state what the inventor considers to be novel in the invention.

When the applicant does not reside in the country he must also deposit a power of attorney to an agent, residing in the country, authorising him to represent the inventor in everything pertaining to the patent.

If patents are applied for for several inventions, separate applications must be lodged for each.

2. If the applicant names another person as the inventor he shall produce papers authorising him to represent the inventor.

3. The applicant is also required to pay a fee amounting to fifty crowns according to § 11.

§ 5.

If the patent authorities find that the applicant has not fulfilled the provisions of § 4 (1.) a written notice to that effect will be kept at the office for him; or, if a full postal address is furnished, the notice will be sent to him by post. Should the applicant not supply the deficiency within the date fixed by the patent authorities the application will be considered abandoned.

§ 6.

Should it be deemed that the object of the invention is of such a character that a patent may not be granted, or that the invention evidently is not new, or if the applicant upon stating

that another person is the inventor has not proved himself to be the legal representative of the inventor, or if the applicant has failed to pay the fee prescribed by § 4 (3); the patent authorities shall immediately reject the application.

Notice of such a decision together with the reasons for rejection will be communicated to the inventor in accordance with § 5.

§ 7.

If the several documents for application are complete, and there is no cause for immediate rejection of the application as provided in § 6, the patent authorities shall give notice of the application in the newspapers stating the main features thereof, likewise it shall be the duty of the said authorities to keep the documents of application accessible to every person desiring to obtain knowledge of the same. And every one intending to contest the application for the patent shall, within a period of two months from the date of the announcement of the application, be permitted to file with the patent authorities a written protest.

At the end of that period the patent authorities shall take up the case under consideration.

If there is nothing to impede the granting of the application the patent may be granted and Letters Patent be issued, saving however the right of contest provided for in § 18. It shall be the duty of the patent authorities to enter the grant in a register kept for that purpose and to make it public by notices in the newspapers and to have the description, with the necessary supplements in their essential parts, printed and published in a suitable way.

If the application is rejected the decision shall be communicated to the applicant in the form enacted by § 6.

§ 8.

In cases where an application for a patent has been rejected in pursuance of §§ 6 and 7, and the applicant declares himself dissatisfied with this decision, he may appeal to the King before twelve o'clock upon the sixtieth day after the date of the decision or the privilege of appeal shall be lost.

§ 9.

When several persons desire to obtain a patent for the same or a similar invention, the right of preference will be granted to the inventor whose documents for application, prepared in conformity to law, were earliest lodged with the patent authorities.

§ 10.

Letters Patent shall, except in the case hereinafter stated, be issued for a period of fifteen years from the day the application was filed.

Any person desiring to obtain a patent of addition for improvements upon inventions patented before as his own, without applying for a new patent, may upon complying with the conditions hereinbefore stated, have this granted for the same period as that for which the prior patent is valid.

§ 11.

On each application for a patent a fee amounting to fifty crowns shall be paid to the patent authorities as provided in § 4. Should the application be rejected or forfeited half that sum will be returned to the applicant.

Upon each patent granted, with the exception of patents of addition, the patentee shall pay to the patent authorities an annual fee amounting for the second, third, fourth and fifth years of the patent to twenty-five crowns, each year, and for each of the following five years fifty crowns, and for each of the remaining five years seventy-five crowns. The fee may be sent prepaid by post, and shall for each year of the patent be paid before the commencement of that year, under penalty of the fee for that year being increased by one fifth. Should the payment of the increased fee be afterwards neglected, then at the end of the first ninety days of the new year of the patent, the patent shall be considered as forfeited. The patentee has not to pay, over and above the fees here prescribed, the expenses of publishing the patent or the description.

§ 12.

If the patent is assigned to another person, notice of such proceeding, together with the documents proving the assignment shall be presented to the patent authorities. Unless such notice is given, the patentee latest entered in the records shall be considered by the patent authorities as patentee.

§ 13.

In case a patentee is about to reside abroad, or the patent has been assigned to a person who does not live within the country,

it shall be the duty of the patentee to deposit with the patent authorities a power of attorney to a legal representative as provided under § 4 (1). Should the agent of the patentee go away to reside abroad, or his charge be otherwise discontinued, the patentee must deposit a power of attorney to another agent. If these provisions are not observed, the judge of the Court shall upon being duly notified of the matter appoint an agent for the patentee.

§ 14.

If the fees are paid and the proceedings completed as provided by §§ 12 and 13, the patent authorities shall register the payment in the records pursuant to § 7.

§ 15.

It shall be the duty of the patentee within three years from the date at which the patent was granted to have the invention worked within the country to an adequate extent. But the patent authorities may allow at the time the patent is granted, or afterwards, should it be requested, and having regard to the character and extent of the invention, a prolongation of the period up to four years. They may also determine in exceptional cases what measures, taken by the patentee, shall be considered to have complied with the conditions of working the invention.

If the patentee has within the period prescribed failed to comply with the conditions required for working the invention, or if the working of the invention is subsequently abandoned and not afterwards resumed within a year, the patent shall be forfeited.

§ 16.

Claims in relation to patents shall not be valid against any person who at the time the application for the patent was filed had worked the patented invention or made extensive preparations for such working.

§ 17.

If the King considers it necessary that a patented invention shall be open to the free use of the public, or appropriated on account of the State, the patent shall be no obstacle, the

patentee shall however be entitled to full compensation. If the amount of compensation cannot be agreed upon it shall be fixed by a special jury, appointed by the Court, according to the provisions for expropriation of land or homesteads required for public purposes.

§ 18.

Should a patent have been obtained contrary to the provisions of §§ 1, 2 and 3 any person who considers his rights violated through the patent granted, and also the Public Prosecutor, when the interest of the public demands such proceedings, may contest before the Court the validity of the patent.

§ 19.

All and every one who alleges that a patentee through negligence in complying with the regulations prescribed by § 15 has forfeited his patent, may proceed before the Court.

§ 20.

The Court before whom it shall be lawful to proceed in cases coming under §§ 17, 18 and 19, shall be the Court of the City of Stockholm.

§ 21.

If the validity of a patent has been contested, and the contest has been decided, the decision shall, through the Court, be transmitted to the patent authorities.

§ 22.

Any person who without the permission of the patentee, except in cases coming under §§ 16 and 17, manufactures goods in the country with an intent to sell, or for such manufacture employs a method of which he knows another person to be the lawful patentee; or who sells in the country or imports into the country for sale, goods patented here or made according to methods of manufacturing which he knows to be patented here, which methods he appropriates without permission of the patentee, shall be liable to a fine varying from twenty to two thousand crowns, and he shall be also liable to all the damages. No one but the patentee has the right to take proceedings for these penalties.

Goods unlawfully manufactured or unlawfully imported into the country shall, when the complainant so demands, be de-

livered up to him against compensation for the value, or against deduction therefor from the damages due to the complainant. Implements exclusively applicable for the unlawful manufacture may, when the complainant requires it, be destroyed to prevent further mischief.

Persons accused under this section (§ 22) who continue the offence during the proceedings shall, when legally convicted be called to account for each separate time a warrant has been issued and served.

Money fines according to this section go to the crown. In cases of destitution when the fine cannot be fully paid, imprisonment may be substituted according to the general penal code.

§ 23.

Should any person be accused of interfering with the rights of another person under a patent, and in the course of the proceedings the patent be found invalid, forfeited, or the claim unfounded, the person under prosecution shall be acquitted.

§ 24.

When a patent has ceased to be valid, either in consequence of the provisions prescribed by this law, or when the patentee has notified to the patent authorities his intention to give up the patent, it shall be the duty of the patent authorities to cause the same to be cancelled in the register, and also to have notices of the cancellation published in the newspapers.

§ 25.

With regard to patents granted in a foreign state, where patents granted in this country are treated with corresponding consideration, be it enacted that persons, who within seven months from the day the application was filed in the foreign state, apply for a patent for the same invention in this country, shall with regard to this application in relation to earlier applications for patents, be considered as if the application was filed in this country at the same date as the application was filed in the foreign state.

§ 26.

More detailed provisions relating to the character of the documents required when an application is lodged, to the entering of patents, and to the publication of the descriptions of patents, will be issued by the King.

§ 27.

The regulations contained in this law shall take effect from the first day of January, 1885, and applications for patents filed prior to that date shall be proceeded with in accordance with the provisions hitherto observed, also any court, where the validity of a patent has been contested prior to the said date, may, notwithstanding the provisions of § 20, proceed with the case.

If Letters Patent have been issued according to prior laws and a patentee desires the same to be exchanged for another, granted pursuant to this Law, he may lodge an application for that purpose with the patent authorities, when the provisions stated in this law shall be observed relative to the application, questions as to the novelty of the invention being decided with regard to the period when the former patent was granted. If a second patent is granted the period of its validity shall be considered to commence at the same date as that of the patent previously issued, and the annual fees to be paid shall be according to the date of the first patent.

# TASMANIA.

## *Act No. XXII., 5th November*, 1858.

### An Act to Regulate the Granting of Letters Patent for Inventions.

[Note.—The words "Registrar of Patents" in italics are alterations made by the Amending Act of 1883.]

*Preamble.*

Whereas it is expedient to promote and encourage the discovery and use of new manufactures, and to afford greater facilities for obtaining for a limited period the exclusive enjoyment thereof by means of Letters Patent: Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

*Interpretation.*

1. In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meanings are repugnant to or inconsistent with the context:

"Law Officer" shall mean Her Majesty's Attorney-General or Solicitor-General for the time being of the Colony of Tasmania:

"Invention" shall mean any manner of new manufacture the subject of Letters Patent and Grant of Privilege within the meaning of this Act:

"Petition," "Declaration," "Specification," "Appointment to hear Application," "Warrant," and "Letters Patent," respectively, shall mean instruments in the form and to the effect in the Schedule, subject to such alterations as may, from time to time, be made therein under the powers and provisions of this Act.

*Power to grant Letters Patent for Inventions.*

2. It shall be lawful for the Governor, with the advice of the Executive Council, in the name and on behalf of Her Majesty the Queen, to make and issue, in the manner hereinafter mentioned, Letters Patent and Grants of Privilege for any term not exceeding fourteen years from the date thereof of the sole working or making of any manner of new manufactures within this Colony to the true and first Inventor of such manufactures, which others at the time of making such Letters Patent and Grants do not use, so as also they be not contrary to law nor mischievous to the community by raising prices of commodities, or hurt of trade, or generally inconvenient.

*Governor to make Rules for executing Act.*

3. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time, to make such rules and regulations, not inconsistent with the provisions of this Act, as may appear to be necessary and expedient for the purposes of this Act; and all such rules and regulations shall be laid before both Houses of the Parliament of Tasmania within fourteen days after the making thereof if Parliament is then sitting, and if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

*Mode of applying for Letters Patent for Inventions.*

4. Every application for the Grant in this Colony, under this Act, of Letters Patent for inventions, shall be made by petition to the Governor, the allegations of which petition shall be supported by a declaration, to be made and subscribed by the applicant, that he is the true and first Inventor, and that the article has not to his knowledge or belief been before made or used in this Colony; and such petitions and declarations shall be lodged at the office of the *Registrar of Patents*, and shall be in the form in the Schedule, or to the like effect.

*On application for Letters Patent Inventor to deposit Specification.—Specification may be amended before Patent issues.*

5. The applicant for Letters Patent for an invention shall, at the time of lodging such petition and declaration as aforesaid, deposit at the said office of the *Registrar of Patents* an instrument in writing under his hand and seal, hereinafter called a specification, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, which specification shall be mentioned in and annexed to the declaration; and shall also then deposit at the said office a copy of such instrument, and of the drawings accompanying the same, if any; and the day of the deposit of every such specification shall be recorded at the said office and endorsed on such specification, and a certificate thereof given to such applicant or his agent; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act for the term of six months from the day of such deposit, and the applicant shall have during such term the like powers, rights, and privileges as might have been conferred upon him by Letters Patent for such invention issued under this Act, and duly sealed as of the day of such deposit; and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any Letters Patent to be granted for the same; and where Letters Patent are granted in respect of such invention, such Letters Patent shall be conditioned to become void if such specification does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed: Provided always, that in case the title of the invention or the said specification is too large or insufficient, it shall be lawful for the law officer during the said term of six months, and before the grant of the Letters Patent, to allow or require the same to be amended, or another and sufficient specification to be deposited in lieu of such specification as aforesaid; and every such amended or new specification shall have the same force, effect, and operation as if it had been originally deposited in its amended or new state.

*Forms and size of Specification and Copy.*

6. Every such specification shall be in the form in the Schedule, or to the like effect, and shall be written upon parch-

ment upon both sides, and every page thereof shall be of the exact size of twenty inches in length by fifteen inches in breadth, leaving a margin of at least one inch and a-half on each side of every such page in order and to the intent that the same may be bound into books for safe custody, but the drawings accompanying such specification, if any, may be made upon larger sheets of parchment, leaving a margin of the size and for the purpose aforesaid; and every copy of any such specification as aforesaid, and of the drawings accompanying the same, if any, shall in like manner be written upon paper of the size and with the margins aforesaid.

*Petition of true Inventor not to be affected by protection obtained in fraud of true Inventor.*

7. In case of any application for Letters Patent for an invention, and the obtaining of protection for the same by reason of the deposit of any such specification as aforesaid in fraud of the true and first inventor, any Letters Patent granted to the true and first inventor of such invention shall not be invalidated by reason of such application or of such protection as aforesaid, or of any use or publication of the invention subsequent to such application and before the expiration of the said term of protection.

*Mode of Proceeding after deposit of Specification.*

8. The applicant, so soon as he thinks fit after the deposit of such specification as aforesaid, and of the drawings and models accompanying the same, if any, may give notice in writing at the office of the law officer of his intention to proceed with his application for Letters Patent for the said invention, stating in such notice the title of the said invention, and the day on which the specification thereof was deposited at the office of the *Registrar of Patents*, and shall at the time of giving such notice produce the said certificate of deposit; and thereupon the law officer shall deliver to the applicant or his agent an appointment to hear the application in the form in the schedule, or to the like effect; and such applicant or agent shall cause the said appointment to be published once in the Gazette and twice in some newspaper published in Hobart Town and in Launceston; and any persons having an interest in opposing the grant of Letters Patent for the said invention shall be at liberty to leave particulars in writing of their objections to the said application at

the office of the law officer within such time, not being less than one month, as the law officer by such appointment may direct.

*Law Officer to hear Application and Objections.*

9. At the time and place named in the said appointment the applicant shall produce the Gazette and newspapers containing the same; and the law officer shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and for that purpose shall obtain from the office of the *Registrar of Patents* the copy of the specification and of the drawings and models accompanying the same, if any; and the law officer may call to his aid such scientific or other person as he may think fit, and may cause such remuneration to be paid to such person as he thinks proper: Provided always, that the applicant, the objectors, and their respective witnesses and evidence, shall be respectively heard, examined, and considered separately and apart from and in the absence of the other and his witnesses and evidence.

*Law Officer may order by and to whom Costs to be paid.*

10. It shall be lawful for the law officer, if he sees fit, by certificate under his hand, to order by and to whom the costs and expenses of any hearing or inquiry upon any objection, or otherwise in relation to the grant of such Letters Patent, shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid are not paid within four days after the amount thereof is so ascertained, it shall be lawful for such law officer to make an order for the payment of the same; and every such order may be made a rule of the Supreme Court.

*Law Officer may issue Warrant for sealing Letters Patent.*

11. It shall be lawful for the law officer, after such hearing and consideration as he may think fit, to issue a warrant under his hand and seal for the sealing of Letters Patent for the said invention, and such warrant shall set forth the tenor and effect of the Letters Patent thereby authorized to be granted, and shall direct the insertion in such Letters Patent of all such restrictions, conditions, and provisoes as the law officer may deem usual and expedient in such grants, or necessary in pursuance of the provisions of this Act; and the said warrant shall be the

warrant for the making and sealing of Letters Patent under this Act according to the tenor of the said warrant; and every such warrant shall be in the form in the schedule or to the like effect.

*Writ of Scire Facias.*

12. The writ of *scire facias* shall lie for the repeal of any Letters Patent issued under this Act in the like cases as the same would lie in England for the repeal of Letters Patent which may now be issued under the Great Seal; and in case the grantee does not reside in this colony, it shall be sufficient to file such writ in the proper office of the Supreme Court, and serve notice thereof in writing at the last known residence or place of business of such grantee.

*Nothing to affect Prerogatives of Crown in granting or withholding Letters Patent.*

13. Nothing herein contained shall extend to abridge or affect the prerogatives of the Crown in relation to the granting or withholding the grant of any Letters Patent; and it shall be lawful for the Governor in Council to direct such law officer to withhold such warrant as aforesaid, or that any Letters Patent for the issuing whereof he may have issued a warrant as aforesaid shall not issue, or to direct the insertion in any such Letters Patent of any restrictions, conditions, or provisoes, in addition to or in substitution of any restrictions, conditions, or provisoes which would otherwise be inserted therein under this Act; and it shall also be lawful for the Governor in Council to direct the specification in respect of the invention described to be cancelled in any case in which Letters Patent may have been refused to be granted, and thereupon the protection obtained by the deposit of such specification shall cease.

*Letters Patent to be void on Non-Performance of Conditions.*

14. All Letters Patent for inventions granted under this Act shall be in the form in the schedule or to the like effect, and be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine, at the expiration of three years and seven years respectively from the date thereof, unless there is paid before the expiration of the said three and seven years respectively the sum or sums of money in that behalf by this Act

required to be paid; and the Colonial Treasurer shall issue under his hand a certificate of such payment, and shall endorse a receipt for the same on the Letters Patent.

*Registrar of Patents to issue Letters Patent.*

15. The *Registrar of Patents*, so soon after the receipt by him of the said warrant as he is required by the applicant, shall cause to be prepared Letters Patent for the invention according to the tenor of the said warrant; and it shall be lawful for the Governor in Council to cause such Letters Patent to be sealed with the seal of the colony; and such Letters Patent shall be made applicable to this colony, and shall be valid and effectual within the same.

*Letters Patent to be issued within certain time.*

16. Save as hereinafter mentioned, no Letters Patent shall issue on any warrant granted as aforesaid unless application is made to seal such Letters Patent within three months after the date of the said warrant, nor shall any Letters Patent be issued or be of any force or effect unless such Letters Patent are granted during the continuance of the protection conferred under this Act by reason of such deposit as aforesaid.

*Letters Patent may issue after that time in certain cases.*

17. Where Letters Patent have not been sealed during the continuance of such protection as aforesaid, and the delay in such sealing has arisen from accident and not from the neglect or wilful default of the applicant, it shall be lawful for the Governor, if he thinks fit, to seal such Letters Patent at any time, not being more than one month after the expiration of such protection; and where the applicant for Letters Patent dies during the continuance of such protection as aforesaid, such Letters Patent may be granted to the executors or administrators of such applicant during the continuance of such protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the Letters Patent so granted by virtue of this section shall be of the like force and effect as if they had been granted to such applicant during the continuance of such protection; and in case any Letters Patent are destroyed or lost, other Letters Patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations

as the Governor in Council may direct, be issued under the authority of the warrant in pursuance of which the original Letters Patent were issued.

*Letters Patent to bear date of the deposit of Specification, and to be conclusive as to preliminary steps and Proceedings.*

18. Notwithstanding any law to the contrary, all Letters Patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such specification as aforesaid; and such Letters Patent shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date; and after any Letters Patent have been issued under this Act it shall not be necessary or material to inquire or ascertain whether such appointment to hear the application as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

*Letters Patent for foreign Inventions not to continue after expiration of foreign Patent.*

19. Where upon any application made under this Act Letters Patent are granted for or in respect of any invention first invented in parts out of this Colony, and a patent or the like privilege for the monopoly or exclusive use or exercise of such invention in any part out of this Colony is there obtained before the grant of such Letters Patent in this Colony, all rights and privileges under such Letters Patent shall, notwithstanding any term in such Letters Patent limited, cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such part out of this Colony continues in force, or where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which first expires or is determined of such several patents or like privileges: Provided always, that no Letters Patent for or in respect of any invention for which any such patent or like privilege as aforesaid has been obtained abroad, granted in this Colony after the expiration or determination of the term for which such patent or privilege was granted or was in force, shall be of any validity.

*Letters Patent not to prevent the use of Inventions in foreign Ships resorting to Ports of this Colony.*

20. No Letters Patent for any invention granted in pursuance of this Act shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of this Colony, or in any of the waters within the jurisdiction of any of Her Majesty's Courts in this Colony, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from this Colony: Provided always that this enactment shall not extend to the ships or vessels of any foreign state, the laws of which authorize subjects of such foreign state having patents or like privileges for the exclusive use or exercise of inventions within its territories to prevent or interfere with the use of such inventions in British ships or vessels, or in or about the navigation of British ships or vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its Courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from the territories of such foreign state.

*Specifications, &c., to be filed.*

21. Every specification deposited at the office of the *Registrar of Patents* as aforesaid, and the drawings and models accompanying the same, if any, and all such petitions and declarations as aforesaid, shall forthwith after the grant of the Letters Patent, or if no Letters Patent are granted then immediately on the expiration of six months from the time of such deposit, or upon the specification being so cancelled as aforesaid, be transferred to, kept, and filed in such office as the Governor in Council from time to time appoints for that purpose; and the copies of such specifications, and the drawings and models, if any, accompanying the same, shall also be forwarded to and kept at the same office.

*Applications to disclaim or make Alterations.*

22. Any person who obtains Letters Patent under this Act, or in case such person departs with the whole or any part of his interest by assignment, such person together with the assignee if part only has been assigned, or the assignee alone if the whole

has been assigned, may apply to the law officer for leave to enter a disclaimer of any part of either the title of the invention or of the specification, or a memorandum of any alteration in the said title or specification, not being such a disclaimer or such an alteration as extends the exclusive right granted by the said Letters Patent; and thereupon the law officer shall deliver to such applicant or his agent an appointment to hear such application in the form in the schedule or to the like effect; and such applicant or his agent shall thereupon cause such disclaimer, stating the reason for the same, or such memorandum of alteration, to be written at the foot of the said appointment, and cause the same respectively to be published in the manner hereinbefore required with respect to the publication of the appointment to hear an application for Letters Patent; and any person having an interest in opposing the said application shall be at liberty to leave particulars in writing of their objections to the same at the office of the law officer, within such time not being less than one month as the law officer, by such appointment, may direct: Provided always, that where such application as aforesaid is for leave to enter a disclaimer of any part of the title of the said invention or a memorandum of any alteration in such title, the law officer may dispense with such appointment and publication, and in that case shall certify in the fiat hereinafter mentioned that he has dispensed with the same.

*Law Officer to hear Applications for leave to Disclaim.*

23. At the time and place named in such appointment the said applicant shall produce the Gazette and newspapers containing the same, and the said disclaimer or memorandum of alteration at the foot thereof; and the law officer shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and all such power and authority shall and may be exercised upon that occasion by the law officer as by virtue of the provisions hereinbefore contained can and may be exercised in relation to the hearing and considering an application for Letters Patent and objections to the same, and shall and may be enforced in like manner.

*Disclaimers and Alterations to be entered and filed.*

24. After such hearing and consideration, or without such hearing and consideration where the said appointment and

publication have been dispensed with as aforesaid, such applicant may, by leave of the law officer, to be certified by a fiat under his hand to be written at the foot of the same parchment with the disclaimer or memorandum, enter such disclaimer, stating the reason for the same, or such memorandum of alteration; and such disclaimer or memorandum of alteration and fiat shall be filed in the office in which specifications are appointed to be filed as aforesaid, with the specification of the invention to which the same relate; and such disclaimer or memorandum of alteration, being so filed in such office, shall be deemed and taken to be part of the Letters Patent or the specification, and subject to the several incidents thereof, in all courts whatever, and shall be valid and effectual in favour of any person in whom the rights under the said Letters Patent may then be or thereafter become legally vested; and such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the law officer certified as aforesaid shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Act, and no objection shall be allowed to be made in any proceeding upon or touching such Letters Patent, specification, disclaimer or memorandum of alteration, on the ground that the person entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf: Provided always, that no action shall be brought upon any Letters Patent in which or on the specification of which any disclaimer or memorandum of alteration has been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the law officer certifies in his said fiat that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration; and that no such disclaimer or memorandum of alteration shall be receivable in evidence in any action or suit, save and except in any proceeding by *scire facias* pending at the time when such disclaimer or alteration was filed as aforesaid, but in every such last-mentioned action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the Letters Patent have been granted: Provided also, that when any such fiat has been issued under this Act, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act.

*Specifications, &c., to be open to Inspection.*

25. All specifications, and the drawings and models accompanying the same, if any, and all petitions, declarations, disclaimers, and memoranda of alterations filed in the office appointed for filing specifications under and in pursuance of this Act, and also the copies of the specifications, and drawings and models accompanying the same, if any, kept at the said office, shall be open to the inspection of the public at all reasonable times, subject to such regulations as the Governor in Council may appoint in that behalf.

*Mode of obtaining Extension of the Term.*

26. If any person having obtained Letters Patent under this Act, or in case such person has departed with his whole or any part of his interest by assignment, if such person, together with the assignee where part only has been assigned, or if the assignee alone where the whole has been assigned, six months before the expiration or other determination of such Letters Patent, presents to the Governor a petition for the extension of the term in such Letters Patent mentioned, and sets forth in such petition that he has been unable to obtain a due remuneration for his expense and labour in perfecting such invention, and that an exclusive right of using and vending the same for some further period to be named in such petition, in addition to the said term, is necessary for his reimbursement and remuneration, it shall be lawful for the Governor in Council to refer the consideration of the said petition to Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Mode of obtaining Confirmation of Invalid Patent.*

27. If in any suit or action it is proved or specially found by the verdict of a jury that any person who has obtained Letters Patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented or used the same or some part thereof in this Colony, before the date of such Letters Patent, or if such patentee or his assigns discover that some other person had, unknown to such patentee, invented or used the same or some part thereof in this Colony before the date of such Letters Patent, such patentee or his assigns may petition the

Governor to confirm the said Letters Patent, or to grant new Letters Patent, and it shall be lawful for the Governor in Council to refer the consideration of the said petition to Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Appointment of Commissioners.*

28. For the purpose of considering any such petition as aforesaid, it shall be lawful for the Governor in Council, if he thinks fit, to issue and direct a commission in the name of Her Majesty to five or more persons, of whom the Judges of the Supreme Court shall be two, reciting such petition and requiring or authorising such persons or any three of them, of whom one of the said Judges shall be one, to meet at some time, not being less than two months from the publication of the said commission in the Gazette, and at some place to be fixed in the said commission, and then and there to consider the said petition, and to report to the Governor, in case the petitioner prays for an extension of the term in the Letters Patent mentioned, whether any, and if any what, further extension of the said term should be granted, or in case the petitioner prays for a confirmation of the Letters Patent or for a grant of new Letters Patent, whether such confirmation or grant should be made, and upon what, if any, conditions the prayer of any such petition should be complied with.

*Notice of Commission to be published and Caveats entered.*

29. Two months at least before the time named in the commission for the consideration of any such petition as aforesaid, the petitioner shall cause an advertisement of the contents of the said commission, in the form in the schedule or to the like effect, to be published in the same manner as is hereinbefore required with respect to the publication of the appointment to hear an application for Letters Patent; and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the *Registrar of Patents*, at any time not being less than one week before the time named in the commission for the execution thereof.

*Commissioners to hear all Parties and report.*

30. At the time and place fixed in the Commission for that purpose the Commissioners shall meet and proceed to consider

such petition; and the petitioner shall be heard by his counsel and witnesses to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this Act; and the persons entering caveats shall likewise be heard by their counsel and witnesses; and all such witnesses shall be examined upon oath, which oath any one of the Commissioners is hereby authorized and required to administer; and the proceedings before the said Commissioners may be adjourned from time to time as may be necessary.

*Extension of Term may be granted.—Invalid Patents may be confirmed.—Parties to Actions to have notice of Petitions.*

31. If upon hearing and inquiry of the whole matter the Commissioners, in case the petitioner prays for an extension as aforesaid, are of opinion, and so report, that a further extension of the said term should be granted, it shall be lawful for the Governor in Council, if he thinks fit, to grant to the petitioner new Letters Patent for the said invention for any term not exceeding fourteen years after the expiration of the term of the first Letters Patent, anything hereinbefore contained to the contrary in anywise notwithstanding; and if the Commissioners, in case the petitioner prays for a confirmation or grant as aforesaid, upon examining the said matter, and being satisfied that such patentee as aforesaid believed himself to be the first and original inventor, and that such invention, or part thereof, had not been publicly and generally used in this colony before the date of the first Letters Patent, report their opinion that the prayer of such petition ought to be complied with, the Governor in Council may, if he thinks fit, grant such prayer; and the said Letters Patent shall be available at law and in equity to give to such petitioner the sole right of using, making, and vending such invention as against all persons whatsoever, anything hereinbefore contained to the contrary notwithstanding: Provided, that any person, party to any former suit or action touching any such first Letters Patent as in this section are mentioned, shall be entitled to have notice in writing of the time and place fixed as aforesaid for the first meeting of the said Commissioners to consider the said petition; and that after any such report has been made it shall not be material or necessary to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such

notice as last aforesaid has or has not been given in the manner hereinbefore directed in that behalf.

*Conditions may be inserted in new Patents.—Date of new Patents.*

32. It shall be lawful for the Governor in Council to insert in any such new Letters Patent as in the preceding section are mentioned any restrictions, conditions, and provisions which may be recommended by the Commissioners in their report, or which to the Governor in Council may seem proper; and such new Letters Patent shall be sealed and bear date as of the day after the expiration of the term of the first Letters Patent.

*Index to Specifications, etc.*

33. The Governor may cause indexes to all specifications, petitions, declarations, disclaimers, and memoranda of alterations, deposited and filed as aforesaid, to be prepared in such form as may be thought fit; and such indexes shall be open to the inspection of the public, subject to the regulations to be made by the Governor.

*Register of Patents to be kept.*

34. There shall be kept at the office appointed for filing specifications as aforesaid a book, to be called "The Register of Patents," wherein shall be entered and recorded in chronological order all Letters Patent granted under this Act,—the deposit and filing of specifications, disclaimers and memoranda of alterations filed in respect of such Letters Patent,—all amendments in such Letters Patent and specifications,—all confirmations and extensions of such Letters Patent, the expiry, determination, vacating, or cancelling of such Letters Patent, with the dates thereof respectively,—and all such other matters and things affecting the validity of such Letters Patent as the Governor in Council may direct; and such register, or a copy thereof, shall be open at all convenient times to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

*Register of Proprietors to be kept.*

35. There shall be kept at the same office a book, entitled "The Register of Proprietors," wherein shall be entered, in

such manner as the Governor directs, the assignment of any Letters Patent, or of any share or interest therein,—any licence under Letters Patent, and the district to which such licence relates, with the name or names of any person having any share or interest in such Letters Patent or Licence,—the date of his or their acquiring such Letters Patent, share, and interest,—and any other matter or thing relating to or affecting the proprietorship in such Letters Patent or licence; and a copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be *primâ facie* proof of the assignment of such Letters Patent, or share or interest therein, or of the licence or proprietorship, as therein expressed; and such register or a copy thereof shall be open to public inspection, subject to such regulations as the Governor may make: Provided always, that until such entry has been made, the grantee of the Letters Patent shall be deemed and taken to be the sole and exclusive proprietor of such Letters Patent, and of all the licences and privileges thereby given and granted.

*More than Twelve Persons may be interested in Patent.*

36. It shall be lawful for a larger number than twelve persons to have a legal and beneficial interest in Letters Patent granted under this Act.

*Certified Copies to be Evidence.*

37. The Governor may cause a seal to be made for the purposes hereinafter mentioned; and all courts, judges, and other persons whomsoever shall take notice of such seal, and receive impressions thereof in evidence in like manner as impressions of the seal of the colony are received in evidence; and copies or extracts, certified and sealed with such seal, of Letters Patent, specifications, disclaimers, memoranda of alterations, and all other documents or books recorded, filed, and kept in pursuance of this Act, shall be received in evidence in all proceedings relating to Letters Patent for inventions in all courts, and by all judges and other persons whomsoever.

*Falsification or Forgery of Entries.*

38. If any person wilfully makes, or causes to be made, any false entry in the said register of proprietors, or wilfully makes or forges, or causes to be made or forged, any writing falsely

purporting to be a copy of any entry in the said book, or produces or tenders, or causes or suffers to be produced or tendered in evidence, any such writing knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years, or be fined and imprisoned at the discretion of the court.

*Entries may be expunged from Register of Proprietors.*

39. If any person deems himself aggrieved by any entry made under colour of this Act, in the said register of proprietors, it shall be lawful for such person to apply by motion to the Supreme Court in term time, or by summons to a judge of such court in vacation, for an order that such entry may be expunged, vacated, or varied; and upon any such application, such court or judge respectively may make such order for expunging, vacating, or varying such entry, and as to the costs of such application, as to such court or judge may seem fit; and the officer having the care and custody of such register, on the production to him of any such order, shall expunge, vacate, or vary the said entry according to the requisition of such order.

*Penalty for unauthorised use of word "Patent."*

40. If any person writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks upon anything made, used, or sold by him, for the sole making or selling of which he has not obtained Letters Patent, the name or any imitation of the name of any other person who has obtained Letters Patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns, or if any person upon such thing, not having been purchased from the patentee, or some person who purchased it from or under such patentee, or not having had the licence or consent in writing of such patentee or his assigns, writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks the word "Patent," the words "Letters Patent," or the words "by the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, he shall for every such offence forfeit and pay the sum of one hundred pounds, one half to Her Majesty, and the other half with full costs of suit to any person who sues for the said penalty by action of debt: Provided always, that nothing herein contained shall be construed to extend to subject

any person to any penalty in respect of stamping or in any way marking the word "Patent" upon anything made for the sole making or vending of which Letters Patent before obtained have expired or been otherwise determined.

*In Actions for Infringement, particulars of breaches and objections to be delivered.*

41. In any action for the infringement of Letters Patent the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his pleas, and the prosecutor in any proceeding by *scire facias* to repeal Letters Patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration in the proceeding by *scire facias* respectively; and at the trial or proceeding by *scire facias* no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such Letters Patent which are not contained in the particulars delivered as aforesaid: Provided always, that the place at or in which and in what manner the invention is alleged to have been used or published prior to the date of the Letters Patent shall be stated in such particulars: Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid, upon such terms as to such judge seems fit. Provided also, that at the trial of any proceeding by *scire facias* to repeal Letters Patent the defendant shall be entitled to begin and to give evidence in support of such Letters Patent; and in case evidence is adduced on the part of the prosecutor impeaching the validity of such Letters Patent, the defendant shall be entitled to the reply.

*Court may grant Injunction in case of Infringement.*

42. In any action for the infringement of Letters Patent, it shall be lawful for the court, if the court is then sitting, or if the court is not sitting then for a judge, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such court or judge may seem fit.

*Particulars to be regarded in taxing Costs.*

43. In taxing the costs in any action for infringing Letters Patent, regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular unless certified by the judge before whom the trial was had to have been proved by such plaintiff or defendant respectively, without regard to the general costs of the cause; and it shall be lawful for the judge before whom any such action is tried to certify on the record that the validity of the Letters Patent in the declaration mentioned came in question: and the record with such certificate being given in evidence in any suit or action for infringing the said Letters Patent, or in any proceeding by *scire facias* to repeal the Letters Patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by *scire facias*, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, taxed as between attorney and client, unless the judge making such decree or order, or the judge trying such action or proceeding, certifies that the plaintiff or defendant respectively ought not to have such full costs.

*Fees on obtaining Patents.*

44. There shall be paid in respect of Letters Patent applied for or issued under or in pursuance of this Act, the depositing of specifications, the filing of disclaimers and memoranda of alterations, certificates, entries, and searches, and other matters and things respectively mentioned in the schedule, such fees as are enumerated in the schedule; and such of the said fees as are hereby made payable to the law officer shall and may be received and retained by such law officer for his own proper use; and the residue of the said fees shall form part of the general revenue, and shall be forthwith paid into the colonial treasury by the persons receiving the same in pursuance of this Act.

*English Patents.*

45. All Letters Patent which are granted in the United Kingdom of Great Britain and Ireland after the 30th day of June, 1859, for any invention, shall, so far as the same relate to this colony, be utterly void and of none effect, and in no wise

be put in execution; but all such Letters Patent granted in the said United Kingdom on or before that day, and which if this Act had not been passed would have been valid in this colony, shall be deemed and taken to have been granted under this Act, and may be dealt with accordingly.

*Forms in Schedule may be varied.*

46. The Governor in Council may, if he thinks fit, vary and alter the several forms in the schedule as occasion may require.

*Short title.*

47. In referring to this Act it shall be sufficient to use the expression the Patent Law Act.

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## SCHEDULE.

### Forms.

*Petition.*

No.

To His Excellency the Governor of the Colony of Tasmania.

The humble petition of [*here insert name and address of Petitioner,*] for, &c.

Showeth,—

That your petitioner is in possession of an invention for [*the title of the invention*], which invention he believes will be of great public utility; that he is the true and first inventor thereof; and that the same has not been before made or used in this Colony by any other person or persons, to the best of his knowledge and belief.

Your petitioner therefore humbly prays that Your Excellency will be pleased to grant unto him, his executors, administrators, and assigns, Letters Patent for the term of fourteen years, pursuant to the provisions of the Patent Law Act.

And your petitioner will ever pray, &c.

*Declaration.*

No.

I, *A. B.*, of , in Tasmania, do hereby solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as*

*in petition*], which invention I believe will be of great public utility; that I am the true and first inventor thereof; and that the same has not been before made or used in this Colony by any other person or persons, to the best of my knowledge and belief; and that the instrument in writing under my hand and seal, hereunto annexed, particularly describes and ascertains the nature of the said invention, and the manner in which the same is to be performed; all which matters I conscientiously believe to be true; and I make this declaration under the provisions of the Act of Council, intituled *An Act for the abolition of extra-judicial and unnecessary Oaths.*

*A. B.*

Taken before me, this day of , 18 .

*C. D.,*
*Justice of the Peace.*

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*Specification.*

No.

To all to whom these presents come,

I, *A. B.*, of , in Tasmania, Engineer, send greeting:—

Whereas I am desirous of obtaining Letters Patent for securing unto me Her Majesty's special Licence that I, my executors, administrators, and assigns, or such others as I or they should at any time agree with, and no others, should and lawfully might from time to time, and at all times during the term of fourteen years, to be computed from the day on which this instrument is left at the Office of the *Registrar of Patents* at Hobart Town, make, use, exercise, and vend within the Colony of Tasmania, an invention for [*insert the title of the invention*]; and in order to obtain the said Letters Patent, I must by an instrument in writing under my hand and seal particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed: Now know ye, that I, the said *A. B.*, do hereby declare the nature of the said invention, and the manner in which the same is to be performed, to be particularly described and ascertained in and by the following statement; that is to say [*describe the invention*].

In witness whereof I, the said *A. B.*, have hereunto set my hand and seal this day of , 18 .

*A. B.* (L. S.)

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*Appointment to hear Application for Letters Patent.*

Patent for [*insert the title as in the specification*]. This is to notify that *A. B.*, of , in Tasmania, Engineer, did on the day of instant [*or last*] deposit at the Office of the *Registrar of Patents* at Hobart Town a specification or instrument in writing under his hand and seal particularly describing and ascertaining the nature of the said

invention, and in what manner the same is to be performed, and that by reason of such deposit the said invention is protected and secured to him exclusively for the term of six months then next ensuing: And I do further notify that the said *A. B.* has given notice in writing at my office of his intention to proceed with his application for Letters Patent for the said invention, and that I have appointed [*Thursday*] the day of next, at o'clock in the noon, at my office, to hear and consider the said application, and all objections thereto; and I do hereby require all persons having an interest in opposing the grant of such said Letters Patent, to leave before that day at my office at Hobart Town particulars in writing of their objections to the said application, otherwise they will be precluded from urging the same.

Given under my hand this day of , 18 .

*F. S.*, [*Attorney*] *General*,
*Macquarie Street, Hobart Town.*

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*Warrant.*

I have heard and considered the application of *A. B.*, of , in Tasmania, Engineer, for Letters Patent for [*insert the title as in the specification*], and [*also all objections to the same, if any*], and having perused the specification and the usual and necessary advertisements, am of opinion that as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, Letters Patent may be issued to the said *A. B.*, in the form contained in the Schedule to the Patent Law Act; [with the following additional clauses; that is to say, *here set them out, if any.*]

Given under my hand and seal, this day of , 18 .

*F. S.* (L. S.),
[*Attorney*] *General.*

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*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 come, greeting :—

Whereas *A. B.*, of , in , Tasmania, Engineer, has represented that he is desirous of obtaining Letters Patent for securing unto him Our special Licence that he, his executors, administrators, and assigns, and such others as he or they should agree with, and no others, should and lawfully might, make, use, exercise, and vend within Our Colony of Tasmania an invention for [*insert the title of the invention*]; and by an instrument in writing under his hand and seal deposited in the Office of the *Registrar of Patents*, the said *A. B.* has particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed:

And We, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon

the said *A. B.* the privileges herein-after mentioned: Know ye, therefore, that We, of Our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents, for Us, Our heirs, and successors, do give and grant unto the said *A. B.*, his executors, administrators, and assigns, Our especial licence, full power, sole privilege, and authority that he the said *A. B.*, his executors, administrators, and assigns, and every of them, by himself and themselves, and his or their deputy or deputies, servants or agents, or such others as he or they at any time agree with, and no others, during the term herein expressed, shall and lawfully may, make, use, exercise, and vend his said invention within Our said Colony, in such manner as to him, his executors, administrators, and assigns, or any of them, seems meet, and that he, his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention during the said term; to have, hold, exercise, and enjoy the said licences, powers, privileges, and advantages unto and by the said *A. B.*, his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years now next ensuing: And to the end that the said *A. B.*, his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit, and the sole use and exercise, of the said invention according to Our gracious intention, We do by these presents, for Us, Our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other Our subjects whatsoever of what estate, quality, degree, name, or condition soever they be, within Our said Colony, that neither they nor any of them at any time during the said term, either directly or indirectly, do make, use, or put in practice the said invention or any part of the same so attained unto by the said *A. B.* as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor make or cause to be made any addition thereunto or subtraction from the same whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, licence, or agreement of the said *A. B.*, his executors, administrators, or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this Our Royal command, and further to be answerable to the said *A. B.*, his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned: Provided always, and these Our Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted it appears that this Our grant is contrary to law or prejudicial or inconvenient to Our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said *A. B.* is not the true and first inventor thereof within this Colony, these Our Letters Patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein-before contained to the contrary thereof in anywise notwithstanding: Provided also, that

these Our Letters Patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said *A. B.*, his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which has heretofore been found out or invented by any other of Our subjects whatsoever and publicly used or exercised, unto whom Our like Letters Patent or privileges have been already granted for the sole use, exercise, and benefit thereof, within Our said Colony: It being Our will and pleasure that the said *A. B.*, his executors, administrators, and assigns, and all and every other person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and 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 instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said *A. B.*, his executors, administrators, and assigns, shall not pay at the Office of the Colonial Treasurer of Our said Colony the sum of fifteen pounds within three years next after the date of these presents, and the sum of twenty pounds within seven years next after such date, and also if the said *A. B.*, his executors, administrators, or assigns, shall not supply or cause to be supplied for Our service all such articles of the said invention as he or they are required to supply by the persons administering the department of Our service for the use of which the same are required, in such manner, at such times, and at and upon such reasonable prices and terms as are settled for that purpose by the said persons requiring the same, that then and in any of the said cases these Our Letters Patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything herein-before contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted: And lastly We do by these presents, for Us, Our heirs and successors, grant unto the said *A. B.*, his executors, administrators, and assigns, that these Our Letters Patent shall be in and by all things good, firm, valid, sufficient and effectual in the law according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favourable and beneficial sense for the best advantage of the said *A. B.*, his executors, administrators, and assigns, as well as in all Our Courts of Record as elsewhere, and by all and singular the officers and ministers whatsoever of Us, Our heirs and successors, in Our said Colony, and amongst all and every the subjects of Us, Our heirs and successors, whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging. In witness whereof We have caused these Our Letters Patent to be made Patent, and to be sealed and bear date as of the day of , 18 .

*Appointment to hear Application for Leave to enter Disclaimer.*

Patent for [*insert title*]. This is to notify that *C. D.*, of , in Tasmania, has applied to me for leave to enter a disclaimer of part of [*or* a memorandum of alteration in] the title of the said invention [*or, as the case may be*] the particulars whereof are stated below; I do therefore appoint [*Thursday*], the day of next, at o'clock in the noon, at my office, to hear and consider the said application, and all objections to the same; and I do hereby require all persons having an interest in opposing the said application to leave before that day, at my office at Hobart Town, particulars in writing of their objection to the same, otherwise they will be precluded from urging such objections.

Given under my hand, this day of , 18 .

*F. S.*, [*Attorney*] *General,*
*Macquarie Street, Hobart Town.*

The following is the disclaimer [*or, as the case may be*] which I desire to make in, &c. [*The applicant must here set forth what he wishes to enter, and the reasons for the disclaimer, and sign it.*]

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*Notice of Appointment of Commission.*

Patent for [*insert the title*]. Notice is hereby given that I have presented a petition to His Excellency the Governor, praying for the confirmation of [*or* extension of the term in, *or, as the case may be*] the said Patent; and that a Commission has issued authorising and requiring certain Commissioners therein named to consider and report upon the subject to His Excellency the Governor, which said Commissioners will meet for that purpose on the day of next, at o'clock in the noon, at : All persons objecting to the said confirmation [*or* extension, *or, as the case may be*] must enter a caveat against the same at the Office of the *Registrar of Patents* at Hobart Town, not less than one week before the time named for the said meeting, otherwise they will be precluded from objecting to the said petition.

Dated this day of , 18 .

*A. B.*

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FEES.

*Fees on obtaining Patents.*

| | £ | s. | d. |
|---|---|---|---|
| On depositing specification . . . . . | 2 | 10 | 0 |
| To the law officer for any appointment . . . . | 2 | 4 | 6 |
| On obtaining Letters Patent . . . . . | 2 | 10 | 0 |

| | £ | s. | d. |
|---|---|---|---|
| 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 disclaimer or memorandum of alteration . . . | 2 | 10 | 0 |
| Entering any caveat . . . . . | 2 | 10 | 0 |
| Copy or extract of any writing, per common law folio . . | 0 | 1 | 0 |

# TRINIDAD.

## *Ordinance, No. 25, 2nd September*, 1867.

An Ordinance enacted by the Governor of Trinidad, with the advice and consent of the Legislative Council thereof, for amending the Law for granting Patents for Invention.

Be it enacted by his Excellency the Governor, with the advice and consent of the Legislative Council, as follows :—

*On delivery of Declaration and Specification, the Registrar-General to issue Certificate to Inventor.*

I. The Registrar-General, on an application by or on behalf of any person claiming to be the inventor within this Colony of any invention, and on the delivery to such Registrar-General of a declaration in writing according to the form in the schedule to this Ordinance, together with a specification signed by the applicant or his agent, particularly describing and ascertaining the nature of the invention and in what manner the same is to be performed, shall deliver to such person or his agent a certificate according to the form in the schedule to this Ordinance, and a copy of such certificate shall be inserted by the Registrar-General in the Royal Gazette.

*Specification may be opened or closed, and, if closed, to be opened in Six Months.*

II. Any specification of an invention may be delivered to the Registrar-General, open or closed, in an envelope, with a

note of the name of the invention to which the specification refers endorsed on such envelope, and signed by the applicant or his agent, and where any such specification shall be so delivered closed, the Registrar-General shall, on the expiration of six calendar months from the day of granting the certificate, or at any earlier day, on the request of the applicant, his executors, administrators, or assigns, break the seal of such envelope and enregister the specification.

*Inventions to be duly recorded, and Specifications numbered.*

III. The Registrar-General shall number with a distinguishing number, and shall, in a book to be kept by him for that purpose, to be called "The Book of Inventions," enter and record in its chronological order every such invention, and the christian and surnames of the inventor, and the day of the date of the certificate of such invention, and shall cause every specification to be marked with the distinguishing number of the invention to which the specification refers, and such Book of Inventions and such specifications shall be open to the inspection of the public.

*Certificate to vest exclusive Right for Fourteen Years.*

IV. Every certificate granted under this Ordinance shall vest in the applicant, his executors, administrators, or assigns, the sole right and benefit of using within this island the invention mentioned in such certificate for and during the space of fourteen years next after the granting of such certificate.

*Disclaimer may be entered.*

V. Any person who, as grantee, assignee, or otherwise, shall obtain a certificate under this Ordinance, may, if he think fit, enter with the Registrar-General a disclaimer or disclaimers of any part or parts of either the title of the invention or of the specification, stating the reason for such disclaimer, or may enter a memorandum of any alteration in such title or specification, not being such disclaimer or such alteration as shall extend the exclusive right vested by such certificate; and such disclaimer or memorandum of alteration, being filed by the said Registrar-General, shall be deemed and taken to be part of such specification in all courts whatever; provided always, that no action shall be brought on any certificate in any case where

any disclaimer or memorandum shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration.

*Where the Invention assigned, who may enter Disclaimer.*

VI. In case any person obtaining such certificate shall part with his or their whole or any part of his or their interest by assignment to any other person or persons, it shall be lawful for the person obtaining such certificate, together with such assignee or assignees, if part only hath been assigned, and for the assignee or assignees, if the whole hath been assigned, to enter a disclaimer and memorandum of alteration under the powers of this Ordinance; and such disclaimer and memorandum of such alteration, having been so entered and registered as in this Ordinance mentioned, shall be valid and effectual in favour of any person or persons in whom the rights under the said certificate may then be or thereafter become legally vested; and no objection shall be made in any proceeding whatsoever on the ground that the party making such disclaimer or memorandum of such alteration had not sufficient authority in that behalf.

*Disclaimer to be recorded, and a Note thereof to be endorsed on the Specification.*

VII. The Registrar-General shall cause every such disclaimer and memorandum to be entered in a book to be kept by him for that purpose, and to be marked with the distinguishing number of the invention and specification to which such disclaimer or memorandum shall refer, and shall endorse on the declaration and specification to which such disclaimer or memorandum shall refer a memorandum in writing of the date and entry of every such memorandum and disclaimer.

*Penalties for Infringement of exclusive Right.*

VIII. If any person shall, during the said term of fourteen years from the granting of a certificate for an invention, directly or indirectly make, use, or put in practice the said invention, or any part of the same, or in anywise counterfeit or imitate the same, or make or cause to be made any addition or subtraction from the same, whereby to pretend himself the inventor thereof, without the licence in writing of the inventor,

his executors, administrators, or assigns, the inventor, his executors, administrators, or assigns, shall have and be entitled to such and the like remedies against such persons, both in law and in equity, as the grantee of any Letters Patent for any invention would be entitled to in the like case by the law of England.

*Exclusive Right to cease in certain cases.*

IX. Provided always, that if at any time during the said term of fourteen years, it shall be made to appear that the said invention is not a new invention as to the public use and exercise thereof in this Colony, or that the said invention is prejudicial or inconvenient to the subjects of our Lady the Queen in general, then all privileges and advantages hereby granted to the inventor, his executors, administrators, and assigns, in respect of such invention, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary in anywise notwithstanding.

*Fees to be paid.*

X. There shall be paid to the Registrar-General the several fees mentioned in the schedule to this Ordinance, and such fees shall be paid over monthly by the Registrar-General to the Receiver-General for the use of the Colony.

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*Form of Declaration.*

I of declare that I am in possession of an invention for (state the title of the invention), which invention I believe will be of great public utility, and that the same is not in use by any person or persons in the Island of Trinidad to the best of my knowledge and belief, and that the instrument in writing under my hand herewith delivered particularly describes and ascertains the nature of the said invention and the manner in which the same is to be performed.

Signature.

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*Form of Certificate.*

I, J. B., Registrar General of the Island of Trinidad, do hereby certify that on the day of has been delivered to me by (or on behalf of the name and place of abode of the inventor), a declaration in writing, signed by the said of a certain invention whereof

the said claims to be the inventor in this island, being an invention (state the name of the invention), together with a specification (open or under seal, as the case may be,) describing the nature of the said invention, and the manner in which the same is to be performed.

In witness whereof, I have hereunto put my hand at Port of Spain, in the Island of Trinidad, this day of in the year one thousand eight hundred and

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*Fees to be paid to the Registrar-General.*

| | £ | s. | d. |
|---|---|---|---|
| On leaving any declaration of invention and specification . | 10 | 0 | 0 |
| Every disclaimer . . . . . | 2 | 0 | 0 |
| Publication in the Royal Gazette of any declaration, disclaimer, or memorandum of alteration . . . . | 0 | 10 | 0 |
| Every search or inspection of the book of inventions . . | 0 | 1 | 0 |
| Every inspection of any specification . . . . . | 0 | 2 | 0 |
| For every copy of any specification, for every 120 words . | 0 | 1 | 0 |

# TURKEY.

*Law of the 20th Day of the Month of Rabia I., A. H. 1297, (18th February, 1879).*

## SECTION I.

GENERAL PROVISIONS.

### Art. 1.

Every new discovery, invention, or improvement in any branch of industry, confers on its author, under the conditions and for the time hereinafter mentioned, the right to work the said discovery, invention, or improvement for his own benefit. This right is confirmed by a *Berat* (patent) delivered by the Government.

### Art. 2.

The following shall be considered as new inventions:—

The invention of new industrial products.

The invention of new means, or a new application of known means, for obtaining an industrial result or product.

### Art. 3.

The following are not patentable:—

1. Pharmaceutical compounds and medicines of all kinds.
2. Devices or combinations relating to banking or finance.

### Art. 4.

The duration of patents delivered in accordance with Art. 1 will be five, ten, or fifteen years. Every patent shall be subject to the payment of a fixed tax, as follows :—

Ten Turkish pounds for a patent for five years.

Twenty Turkish pounds for a patent for ten years.

Thirty Turkish pounds for a patent for fifteen years.

This tax shall be paid in instalments of two Turkish pounds, payable at the commencement of each year, under penalty of forfeiture if the patentee omits the payment of any annuity.

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## SECTION II.

## The Formalities in Relation to the Delivery of Patents.

### Chapter I.

### *Applications for Patents.*

### Art. 5.

Whoever shall desire to obtain a patent shall deposit, in a sealed envelope, if in Constantinople, at the Ministry of Commerce and Agriculture, and if in the provinces at the office of the Provincial Government, or, if he prefers it, at the said Ministry :—

1. His application for a patent.
2. A specification of the discovery, invention, or appliance forming the subject of the application.
3. The drawings or samples which may be necessary to the understanding of the description.
4. A memorandum of the papers deposited.

If the applicant complies with these formalities in a place in which he has no domicile, he must elect domicile there.

### Art. 6.

The application shall be limited to a single main subject with its details. It shall mention the duration which the applicant wishes to assign to his patent, within the limits fixed

by Art. 4, and shall contain neither restrictions, conditions, nor reservations. It shall have a title giving a short and precise designation of the object of the invention. The application and the specification shall be written without erasures, alterations, or interlineations. The drawings shall be made in ink, to a metrical scale. A duplicate of the specification and drawings shall accompany the application. All the papers shall be signed by the applicant or by his attorney, whose power shall be annexed to the application.

Art. 7.

No deposit will be accepted unless accompanied by a receipt showing that the applicant has paid to the authorities, to whom he presented his application, the sum of two Turkish pounds on account of the tax on the patent. An official memorandum shall be drawn up, in Constantinople, at the Ministry of Commerce and Agriculture, or in the provinces at the office of the provincial government. This memorandum will authenticate each deposit, showing the date of the remission of the application papers, and shall be signed by the applicant. A copy of the said memorandum will be sent to the depositor on prepayment of postage.

Art. 8.

The term of the patent will begin from the date of the deposit prescribed in Art. 5.

## Chapter II.

### *The Delivery of Patents.*

Art. 9.

After the application has been filed and the deposits made in the province, in accordance with Art. 5, the Governor-General will transmit the application to the Ministry of Commerce and Agriculture within five days, accompanied by a letter, a certified copy of the memorandum, the receipt for the tax, the power of attorney (if there be one), and the memorandum of the pieces deposited, all under the seal of the applicant. If the applicant is at Constantinople, these formalities must be complied with at the Ministry of Commerce and Agriculture.

Art. 10.

The papers sent from the provinces and those remitted directly to the Ministry of Commerce and Agriculture will be filed in the order of their reception on a special file, and the patent applied for will be delivered.

Art. 11.

Patents applied for in due form shall be delivered without previous examination, at the risk and peril of the applicant and without guarantee either of the reality, novelty, or merit of the invention, or of the accuracy or exactness of the specification.

Art. 12.

In case of the invention of arms, tools, or apparatus of war, which may be used by the army and navy of the State, the inventors and their applications are directed at once to the Grand Master of Artillery and to the Imperial Admiralty. A patent will be given for any invention which is shown after examination to be useful and advantageous to the State, and will be bought, in conformity with a contract with the inventor, and paid for, in proportion to its usefulness, by that department of the army or navy which the invention chiefly concerns. A modal of invention is also conferred upon the inventor in accordance with Art. 14. Inventions not found useful or advantageous will be rejected.

Art. 13.

The *Berat* (patent) is the official document confirming the regularity of the application, and is delivered to the applicant. It will bear at the top the imperial arms, and at the bottom the seal of the Ministry of Commerce and Agriculture. This document will be accompanied by a certified copy of the specification and drawings mentioned in Art. 6. Subsequent copies of the patent asked for by the patentee or parties interested require the payment of a fee of one Turkish pound for expenses, the cost of the drawings, if any, being borne by the applicant.

Art. 14.

Gold, silver, and copper medals will be ordered. Ottoman subjects and foreigners who shall invent articles useful to the

State and to the country will receive as a recompense for and according to the importance of their inventions, gold, silver, or copper medals. They will be required to use the design of the medal as a trade-mark for the object invented.

Art. 15.

The first copy of a patent is delivered without charge.

Art. 16.

Every application not in conformity with the formalities prescribed by numbers 2 and 3 of Art. 5 and by Art. 6 will be rejected. Half of the sum prepaid will remain in the treasury, but it will be placed on account of the sum payable by the applicant if he repeats his application within three months, counting from the date of the notification of the rejection of the application.

Art. 17.

When an application is rejected in accordance with Art. 3 the tax prepaid will be returned.

Art. 18.

A list of the patents issued by the Ministry of Commerce and Agriculture with a description of the inventions will be published officially every six months. This publication will be in the usual form of the proclamations of the laws of the empire.

Art. 19.

The duration of patents can be prolonged only by special law.

## Chapter III.

### *Certificates of Addition.*

Art. 20.

Patentees or parties interested will have the right during the whole term of the patent to make changes, improvements or additions in the invention by complying with the formalities laid down in Arts. 5, 6, and 7. These changes, improvements, or additions will be confirmed by certificates, which will have

from the date of their delivery, the same effect as the original patents, and will expire with them. Every application for a certificate of addition requires the payment of one Turkish pound. Certificates of addition taken by any person interested inures to the benefit of all the others.

Art. 21.

Every patentee who, instead of a certificate of addition, wishes to take out a new patent for a change, improvement, or addition, shall comply with the formalities prescribed in Arts. 5, 6, and 7, and pay the fees mentioned in Art. 4.

Art. 22.

Those who have transferred their patents to others lose the right of applying for a certificate of addition according to Art. 20.

Art. 23.

No one besides the patentee or persons interested through him may, during one year from the date of the patent, apply for a patent for a change, improvement or addition to the invention which was the subject of the original patent. Nevertheless, if such an application is received in the course of the aforesaid year, the application and the papers annexed will remain deposited under seal at the Ministry of Commerce and Agriculture. When the year has expired the seal will be broken and the patent issued. In all cases the original patentee will have the preference in the matter of changes, improvements, or additions for which he himself shall during the year apply for a certificate of addition or a patent.

Art. 24.

Any one having taken out a patent for a discovery, invention, or appliance connected with the object of another patent shall have no right to work the invention already patented, and, reciprocally, the owner of the original patent shall not have the right to work the object of the new patent.

## Chapter IV.

### *Assignment and Transfer of Patents.*

#### Art. 25.

The right of ownership of a patent for an invention is divisible. Every patentee may assign the whole or a part of his patent. The assignment, total or partial, of a patent, either gratuitously or for a consideration, can only be made by notarial deed, or by an Act passed before a civil tribunal of first instance in localities where there are no notaries. This formality requires the payment of all the fees mentioned in Art. 4. No assignment will be valid until registered at Constantinople, at the Ministry of Commerce and Agriculture, or in the provinces at the office of the local authorities of the place in which the Act was passed. The entry of assignments or transfers shall be accomplished by the deposit of a certified copy of the act of assignment or transfer. A copy of each official entry made in the provinces shall be sent by the local authorities to the Ministry of Commerce and Agriculture within five days from the date of the official report. This copy will be accompanied by an extract of the act aforementioned.

#### Art. 26.

Every patentee may, in accordance with a contract, assign in part the right to work his patent for the manufacture or preparation of the article invented in any quantities, and for any time agreed upon. The owner of a patent for any object dangerous to the community can only work it with caution and under surveillance of the government. The assignee of such a patent is subjected to the same conditions.

#### Art. 27.

The Ministry of Commerce and Agriculture will keep a register of the assignments and transfers of all patents. Every six months an official publication will announce in a form laid down in Art. 18, the assignments and transfers that have occurred during the half-year just expired.

Art. 28.

Licensees under a patent and all who have acquired from a patentee or his agents the right to work a patent shall have the full benefit of certificates of addition issued to the original patentee or to persons interested through him. In the same way the patentee and persons interested through him will profit by certificates of addition issued to the licensees. All those who have the right to profit by a certificate of addition may obtain a copy of it from the Ministry of Commerce and Agriculture on payment of a fee of one Turkish pound.

## Chapter V.

### *Inspection and Publication of the Specifications and Drawings of Patents.*

Art. 29.

The specifications, drawings, samples, and models of patents issued will remain until the expiration of the patents deposited at the Ministry of Commerce and Agriculture, where they may be inspected without expense by any applicant. Any one may obtain, at his own expense, copies of the said specifications and drawings.

Art. 30.

After payment of the second annual fee the specifications and drawings will be published either entire or by extract only. Besides, there will be published every year a catalogue of the patents issued during the preceding year.

Art. 31.

The specifications and drawings and the catalogue, when published, will be deposited at Constantinople, at the Ministry of Commerce and Agriculture, and in the provinces, at the office of the Secretary of the Administrative Council, where they can be consulted without charge.

Art. 32.

At the expiration of the patents the original specifications and drawings will be deposited at the conservatory of the School of Arts and Trades at Constantinople.

## SECTION III.

### Rights of Foreigners.

#### Art. 33.

Foreigners may obtain patents in Turkey.

#### Art. 34.

The formalities and conditions prescribed by the present law are applicable, without exception, to foreigners applying for patents.

#### Art. 35.

The author of an invention already patented in a foreign country may obtain a patent in Turkey; but the duration of this patent shall not exceed that of the patent previously obtained in the foreign country.

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## SECTION IV.

### Annulments and Forfeitures and Matters relating thereunto.

### Chapter I.

*Annulments and Forfeitures.*

#### Art. 36.

Patents issued in the following cases will be null and void:

1. If the discovery or invention is not new.
2. If in accordance with Art. 3 the discovery or invention is not patentable.
3. If the patents relate to theoretical principles, methods, systems, discoveries, and conceptions, without indication of their industrial application.

4. If the discovery or invention is contrary to public order or safety, to morals, or to the laws of the empire.
5. If the title under which the patent was applied for gives a false or fraudulent indication of the real object of the invention.
6. If the specification annexed to the patent is insufficient for the execution of the invention or if it does not indicate completely and faithfully the true means employed by the inventor.
7. If the patent was obtained contrary to the provisions of Art. 23.

The manufacture and sale of articles prohibited by paragraphs 3 and 4 of this article incur the penalties enacted by the laws of the empire.

All certificates for alterations, improvements, and additions which do not relate to the subject of the original patent are likewise null and void.

Art. 37.

No invention will be considered new which, up to the date of the application, has received, either in Turkey or elsewhere, sufficient publicity to enable the same to be worked.

Art. 38.

The following persons shall be deprived of all rights:—

1. Patentees who neglect to pay the yearly tax before the beginning of each year of their patent's duration.
2. Any patentee who has not worked his invention in Turkey within two years from the date of the issue of the patent or who has at any time ceased to work the same for any consecutive period of two years, unless in either case he can give a sufficient reason for his inaction.
3. Any patentee who shall have introduced into Turkey articles of foreign manufacture and similar to those forming the subject of his patent.

Nevertheless, the Minister of Commerce and Agriculture may authorise the introduction into the empire of models of machines, and of articles manufactured abroad intended for public exhibitions or for experiments made with the consent of the government.

Art. 39.

Whoever shall in a sign, announcement, prospectus, advertisement, trade-mark, or stamp, pretend to the possession of a patent according to law without really possessing one, or after the same has expired, or shall, while having a patent, mention the same without adding the words "without guarantee of the government," shall be punished by a fine of not less than two nor more than forty-five Turkish pounds. For the second offence the fine shall be doubled.

## Chapter II.

### *Actions for Annulment and Forfeiture.*

Art. 40.

Actions for annulment or forfeiture may be brought by any person having an interest in the matter, or who can be injured by the act of the defendant. These actions, as well as all disputes relating to the ownership of patents, shall be brought before a civil tribunal of first instance.

Art. 41.

If the action is brought at the same time against the owner of a patent and against a licensee, it shall be brought before the tribunal of the domicile of the owner.

Art. 42.

Whenever the annulment or forfeiture of a patent has been pronounced, notice of the same shall be sent to the Ministry of Commerce and Agriculture, and it shall be published in the form prescribed by Art. 18 for the proclamation of patents.

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## SECTION V.

### Infringements, Prosecutions, and Penalties.

Art. 43.

Every interference with the rights of a patentee, either by the manufacture of articles or by the use of means forming the subject of his patent, constitutes the offence of infringe-

ment. Every person who shall be judged guilty of this offence shall be punished by a fine of not less than five nor more than a hundred Turkish pounds.

Art. 44.

All persons who shall have knowingly received, sold, or exposed for sale or introduced into Ottoman territory, infringing articles shall be considered guilty of infringement.

Art. 45.

Any person who shall, without authority from the government, sell or expose for sale arms, tools, or apparatus of war, mentioned in Art. 12, and that could be used to the detriment of the country, shall be amenable to the penalties imposed by the appendix to Art. 166 of the penal code, without regard to the fact of these inventions having been accepted or rejected by the Army and Navy departments.

Art. 46.

The penalties established by the present law are not cumulative. The heaviest penalty only can be inflicted for all acts committed prior to the prosecution.

Art. 47.

For a second offence, in addition to the fine imposed by Arts. 42 and 43, there shall be inflicted a penalty of imprisonment for not less than one nor more than six months. Any act will be considered as a second offence when the accused shall have at any time during the previous five years been found guilty of any offence provided for by the present law. An imprisonment of not less than one month, nor more than six months, may likewise be inflicted upon any infringer who is or has been employed in any capacity in the shops or establishments of the patentee, or who has been associated with any one so employed in such a manner as to obtain knowledge from him of the processes described by the patent. In the latter case the employé from whom the knowledge was derived may be prosecuted as an accomplice.

Art. 48.

At the request of the patentee and on presentation of the patent the president of the tribunal may issue an order pro-

viding that an officer of the court shall, assisted, if need be by an expert, make an inventory of articles alleged to be infringements. When a seizure is to be made, the order may require security of the person making the requisition. Security shall always be required of foreigners. The owner of the articles seized shall be provided with copies both of the Ordinance and of the order requiring security, if there be one, under pain of annulment of the proceedings and of damages against the officer to the profit of the party injured.

Art. 49.

In default of the party making the requisition presenting himself before the tribunal within a period of seven days, in addition to the time necessary to travel the distance between the place in which the objects seized or inventoried were found and the place of residence of the infringer, receiver, importer, or retailer, the seizure or inventory shall be void without prejudice to any damages that may be claimed.

Art. 50.

The objects declared infringements must, and the implements and tools intended specially for the manufacture of the said objects may, at the discretion of the tribunal, be confiscated, even in case of the acquittal of the infringer, receiver, importer, or retailer. The objects, implements, and tools so confiscated shall, at the discretion of the judge, be delivered to the owner of the patent without prejudice to further damages or to the publication of the judgment.

# UNITED STATES.

*Revised Statutes, Forty-third Congress, approved June 22, 1874, so far as they relate to Patents for Inventions.*

(As amended by Acts of Congress.)

## ORGANIZATION OF THE PATENT OFFICE.

TITLE XI. Rev. Stat., p. 80.

### *Establishment of the Patent Office.*

SEC. 475. There shall be in the Department of the Interior an office known as the Patent Office, where all records, books, models, drawings, specifications, and other papers and things pertaining to patents shall be safely kept and preserved.

### *Officers and Employés.*

SEC. 476. There shall be in the Patent Office a Commissioner of Patents, one Assistant Commissioner, and three examiners-in-chief, who shall be appointed by the President, by and with the advice and consent of the Senate. All other officers, clerks, and employés authorized by law for the office shall be appointed by the Secretary of the Interior, upon the nomination of the Commissioner of Patents.

*Salaries.*

SEC. 477. The salaries of the officers mentioned in the preceding section shall be as follows:

The Commissioner of Patents, four thousand five hundred dollars a year.

The Assistant Commissioner of Patents, three thousand dollars a year.

Three examiners-in-chief, three thousand dollars a year each.

TITLE XI. Rev. Stat., p. 75:

SEC. 440. There shall be in the Department of the Interior—

* * * * *

In the Patent Office:

One chief clerk, at a salary of two thousand five hundred dollars a year.

One examiner in charge of interferences, at a salary of two thousand five hundred dollars a year.

One examiner in charge of trade-marks, at a salary of two thousand five hundred dollars a year.

Twenty-four principal examiners, at a salary of two thousand five hundred dollars a year each.

Twenty-four first assistant examiners, at a salary of one thousand eight hundred dollars a year each.

Twenty-four second assistant examiners (two of whom may be women), at a salary of one thousand six hundred dollars a year each.

Twenty-four third assistant examiners, at a salary of one thousand four hundred dollars a year each.

One librarian, at a salary of two thousand dollars a year.

One machinist, at a salary of one thousand six hundred dollars a year.

Three skilled draughtsmen, at a salary of one thousand two hundred dollars a year each.

Thirty-five copyists of drawings, at a salary of one thousand dollars a year each.

One messenger and purchasing clerk, at a salary of one thousand dollars a year.

One skilled labourer, at a salary of one thousand two hundred dollars a year.

Eight attendants in the model-room, at a salary of one thousand dollars a year each.

Eight attendants in the model room, at a salary of nine hundred dollars a year each.

*One examiner of designs, two thousand four hundred dollars.*

[NOTE.—The words in italics were added by the Act of June 15, 1880.]

TITLE XI. Rev. Stat., p. 80:

*Seal.*

SEC. 478. The seal heretofore provided for the Patent Office shall be the seal of the office, with which the Letters Patent and papers issued from the office shall be authenticated.

*Bonds of Commissioner and Chief Clerk.*

SEC. 479. The Commissioner of Patents and the chief clerk, before entering upon their duties, shall severally give bond, with sureties, to the Treasurer of the United States, the former in the sum of ten thousand dollars, and the latter in the sum of five thousand dollars, conditioned for the faithful discharge of their respective duties, and that they shall render to the proper officers of the Treasury a true account of all money received by virtue of their offices.

*Restrictions upon Officers and Employés.*

SEC. 480. All officers and employés of the Patent Office shall be incapable, during the period for which they hold their appointments, to acquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by the office.

*Duties of Commissioner.*

SEC. 481. The Commissioner of Patents, under the direction of the Secretary of the Interior, shall superintend or perform all duties respecting the granting and issuing of patents directed by law; and he shall have charge of all books, records, papers, models, machines, and other things belonging to the Patent Office.

*Duties of Examiners-in-Chief.*

SEC. 482. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and

determine upon the validity of the adverse decisions of examiners upon applications for patents, and for reissues of patents, and in interference cases; and, when required by the Commissioner, they shall hear and report upon claims for extensions, and perform such other like duties as he may assign them.

*Establishment of Regulations.*

SEC. 483. The Commissioner of Patents, subject to the approval of the Secretary of the Interior, may from time to time establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.

*Arrangement and Exhibition of Models, &c.*

SEC. 484. The Commissioner of Patents shall cause to be classified and arranged in suitable cases, in the rooms and galleries provided for that purpose, models, specimens of composition, fabrics, manufactures, works of art, and designs, which have been or shall be deposited in the Patent Office; and the rooms and galleries shall be kept open during suitable hours for public inspection.

*Disposals of Models on rejected Applications.*

SEC. 485. The Commissioner of Patents may restore to the respective applicants such of the models belonging to rejected applications as he shall not think necessary to be preserved, or he may sell or otherwise dispose of them after the application has been finally rejected for one year, paying the proceeds into the Treasury, as other patent moneys are directed to be paid.

*Library.*

SEC. 486. There shall be purchased for the use of the Patent Office a library of such scientific works and periodicals, both foreign and American, as may aid the officers in the discharge of their duties, not exceeding the amount annually appropriated for that purpose.

*Patent-Agents may be refused recognition.*

SEC. 487. For gross misconduct the Commissioner of Patents may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the approval of the Secretary of the Interior.

### *Printing of Papers filed.*

SEC. 488. The Commissioner of Patents may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed at the cost of the party filing them.

### *Printing Copies of Claims, Laws, Decisions, &c.*

SEC. 489. The Commissioner of Patents may print, or cause to be printed, copies of the claims of current issues, and copies of such laws, decisions, regulations, and circulars as may be necessary for the information of the public.

### *Printing Specifications and Drawings.*

SEC. 490. The Commissioner of Patents is authorized to have printed, from time to time, for gratuitous distribution, not to exceed one hundred and fifty copies of the complete specifications and drawings of each patent hereafter issued, together with suitable indexes, one copy to be placed for free public inspection in each capital of every State and territory, one for the like purpose in the clerk's office of the district court of each judicial district of the United States, except when such offices are located in State or territorial capitals, and one in the Library of Congress, which copies shall be certified under the hand of the Commissioner and seal of the Patent Office, and shall not be taken from the depositories for any other purpose than to be used as evidence.

[See Sect. 894.]

### *Additional Specifications and Drawings.*

SEC. 491. The Commissioner of Patents is authorized to have printed such additional number of copies of specifications and drawings, certified as provided in the preceding section, at a price not to exceed the contract price for such drawings, for sale, as may be warranted by the actual demand for the same; and he is also authorized to furnish a complete set of such specifications and drawings to any public library which will pay for binding the same into volumes to correspond with those in the Patent Office, and for the transportation of the same, and which shall also provide for proper custody for the same, with convenient access for the public thereto, under such regulations as the Commissioners shall deem reasonable.

*Lithographing and Engraving.*

SEC. 492. The lithographing and engraving required by the two preceding sections shall be awarded to the lowest and best bidders for the interest of the Government, due regard being paid to the execution of the work, [the work] to be done under the supervision of the Commissioner of Patents, who shall receive competitive bids therefor.

*The work of said photographing, or otherwise producing plates and copies, referred to in this and the two preceding paragraphs, to be done under the supervision of the Commissioner of Patents, and in the city of Washington, if it can be there done at reasonable rates; and the Commissioner of Patents, under the direction of the Secretary of the Interior, is authorized to make contracts therefor.*

[NOTE.—The words in italics were added by the Act of June 15, 1880.]

*Price of Copies of Specifications and Drawings.*

SEC. 493. The price to be paid for uncertified printed copies of specifications and drawings of patents shall be determined by the Commissioner of Patents, within the limits of ten cents as the minimum and fifty cents as the maximum price.

*The Commissioner may print or cause to be printed copies of the specifications of all Letters Patent and of the drawings of the same, and copies of the claims of current issues, and copies of such laws, decisions, rules, regulations, and circulars as may be necessary for the information of the public.*

[NOTE.—The words in italics were added by the Act of July 8th, 1870.]

*Annual Report of the Commissioner.*

SEC. 494. The Commissioner of Patents shall lay before Congress, in the month of January, annually, a report, giving a detailed statement of all monies received for patents, for copies of records or drawings, or from any other source whatever; a detailed statement of all expenditures for contingent and miscellaneous expenses; a list of all patents which were granted during the preceding year; designating under proper heads the subjects of such patents; and alphabetical list of all the patentees, with their places of residence; a list of all patents which have been extended during the year; and such other information of the condition of the Patent Office as may be useful to Congress or the public.

*Custody of Collections of Exploring Expedition.*

SEC. 495. The Collections of the Exploring Expedition, now in the Patent Office, shall be under the care and management of the Commissioner of Patents.

*Disbursements for Patent Office.*

SEC. 496. All disbursements for the Patent Office shall be made by the disbursing clerk of the Interior Department.

TITLE XIII. Rev. Stat., p. 168:

*Copies of Records, &c., of Patent Office.*

SEC. 892. Written or printed copies of any records, books, papers, or drawings belonging to the Patent Office, and of Letters Patent authenticated by the seal and certified by the Commissioner or Acting Commissioner thereof, shall be evidence in all cases wherein the originals could be evidence; and any person making application therefor, and paying the fee required by law, shall have certified copies thereof.

*Copies of foreign Letters Patent.*

SEC. 893. Copies of Specifications and drawings of foreign Letters Patent certified as provided in preceding section, shall be primâ facie evidence of the fact of the granting of such Letters Patent, and of the date and contents thereof.

*Printed Copies of Specifications and Drawings of Patents.*

SEC. 894. The printed copies of specifications and drawings of patents, which the Commissioner of Patents is authorized to print for gratuitous distribution, and to deposit in the capitols of the States and territories, and in the clerks' offices of the district courts, shall, when certified by him and authenticated by the seal of his office, be received in all courts as evidence of all matters therein contained.

[See Sect. 490.]

TITLE XV. Rev. Stat., p. 261:

*Patented Articles connected with Marine Engines.*

SEC. 1537. No patented article connected with marine engines shall hereafter be purchased or used in connection with

any steam vessels of war until the same shall have been submitted to a competent board of naval engineers, and recommended by such board, in writing, for purchase and use.

Title XVII. Rev. Stat., p. 292:

*No royalty to be paid by United States to its Officers for a certain Patent.*

SEC. 1673. No royalty shall be paid by the United States to any one of its officers or employés for the use of any patent for the system, or any part thereof, mentioned in the preceding section (*Springfield breech-loading system*), nor for any such patent in which said officers or employés may be directly or indirectly interested.

PATENTS.

TITLE LX. Rev. Stat., chap. 1, p. 953.

*Patents, how issued, attested, and recorded.*

SEC. 4883. All patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Secretary of the Interior and countersigned by the Commissioner of Patents, and they shall be recorded, together with the specifications, in the Patent Office, in books to be kept for that purpose.

*Contents and Duration.*

SEC. 4884. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the invention or discovery throughout the United States and the territories thereof, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

*Date of Patent.*

SEC. 4885. Every patent shall bear date as of a day not later than six months from the time at which it was passed and allowed and notice thereof was sent to the applicant or his agent; and if the final fee is not paid within that period the patent shall be withheld.

*What Inventions are patentable.*

SEC. 4886. Any person who has invented or discovered any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application, unless the same is proved to have been abandoned, may upon payment of the fees required by law, and other due proceedings had, obtain a patent therefor.

*Patents for Inventions previously patented abroad.*

SEC. 4887. No person shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid, by reason of its having been first patented or caused to be patented in a foreign country, unless the same has been introduced into public use in the United States for more than two years prior to the application. But every patent granted for an invention which has been previously patented in a foreign country shall be so limited as to expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest term, and in no case shall it be in force more than seventeen years.

*Requisites of Application, Description, Specification, and Claim.*

SEC. 4888. Before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the Commissioner of Patents, and shall file in the Patent Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle, so as to distinguish it from other inventions; and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery.

The specification and claim shall be signed by the inventor and attested by two witnesses.

*Drawings, when requisite.*

SEC. 4889. When the nature of the case admits of drawings, the applicant shall furnish one copy signed by the inventor or his attorney in fact, and attested by two witnesses, which shall be filed in the Patent Office; and a copy of the drawing, to be furnished by the Patent Office, shall be attached to the patent as a part of the specification.

*Specimens of Ingredients, &c.*

SEC. 4890. When the invention or discovery is of a composition of matter, the applicant, if required by the Commissioner, shall furnish specimens of ingredients and of the composition, sufficient in quantity for the purpose of experiment.

*Model, when requisite.*

SEC. 4891. In all cases which admit of representation by model, the applicant, if required by the Commissioner, shall furnish a model of convenient size to exhibit advantageously the several parts of his invention or discovery.

*Oath required from Applicant.*

SEC. 4892. The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent, holding commission under the Government of the United States, or before any notary public of the foreign country in which the applicant may be.

*Examination and issuing Patent.*

SEC. 4893. On the filing of any such application and the payment of the fees required by law, the Commissioner of Patents

shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the Commissioner shall issue a patent therefor.

*Limitation upon time of completing Applications.*

SEC. 4894. All applications for patents shall be completed and prepared for examination within two years after the filing of the application, and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable.

*Patents granted to Assignee.*

SEC. 4895. Patents may be granted and issued or reissued to the assignee of the inventor or discoverer; but the assignment must first be entered of record in the Patent Office. And in all cases of an application by an assignee for the issue of a patent, the application shall be made and the specification sworn to by the inventor or discoverer; and in all cases of an application for a reissue of any patent, the application must be made, and the corrected specification signed by the inventor or discoverer, if he is living, unless the patent was issued and the assignment made before the eighth day of July, eighteen hundred and seventy.

*When and on what Oath Executor or Administrator may obtain Patent.*

SEC. 4896. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall have left a will, disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when the application is made by such legal representatives, the oath or

affirmation required to be made shall be so varied in form that it can be made by them.

*Renewal of Application in cases of failure to pay Fees in Season.*

SEC. 4897. Any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but who fails to make payment thereof within six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application. But such second application must be made within two years after the allowance of the original application. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent was ordered to issue under such renewed application prior to the issue of the patent. And upon the hearing of renewed applications preferred under this section, abandonment shall be considered as a question of fact.

*Assignments of Patents.*

SEC. 4898. Every patent or any interest therein shall be assignable in law by an instrument in writing; and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent to the whole or any specified part of the United States. An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof.

*Persons purchasing of Inventor before application, may use or sell the thing purchased.*

SEC. 4899. Every person who purchases of the inventor, or discoverer, or with his knowledge and consent constructs any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, or who sells or uses one so constructed, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor.

*Patented Articles must be marked as such.*

SEC. 4900. It shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented; either by fixing thereon the word "patented," together with the day and year the patent was granted; or when, from the character of the article, this cannot be done, by fixing to it, or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damages shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make, use, or vend the article so patented.

*Penalty for falsely marking or labelling Articles as patented.*

SEC. 4901. Every person who, in any manner, marks upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor, without the consent of such patentee, or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any such patented article the word "patent," or "patentee," or the words "Letters Patent," or any word of like import, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any unpatented article the word "patent" or any word importing that the same is patented, for the purpose of deceiving the public, shall be liable, for every such offence, to a penalty of not less than one hundred dollars, with costs; one-half of said penalty to the person who shall sue for the same, and the other to the use of the United States, to be recovered by suit in any district court of the United States within whose jurisdiction such offence may have been committed.

*Filing and Effect of Caveats.*

SEC. 4902. Any citizen of the United States who makes any new invention or discovery, and desires further time to mature

the same, may, on payment of the fees required by law, file in the Patent Office a caveat setting forth the design thereof, and of its distinguishing characteristics, and praying protection of his right until he shall have matured his invention. Such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof; and if application is made within the year by any other person for a patent with which such caveat would in any manner interfere, the Commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confidential archives of the office, and give notice thereof, by mail, to the person by whom the caveat was filed. If such person desires to avail himself of his caveat, he shall file his description, specifications, drawings, and model within three months from the time of placing the notice in the post office in Washington, with the usual time required for transmitting it to the caveator added thereto; which time shall be endorsed on the notice. An alien shall have the privilege herein granted, if he has resided in the United States one year next preceding the filing of his caveat, and has made oath of his intention to become a citizen.

### *Notice of Rejection of Claim for Patent to be given to Applicant.*

SEC. 4903. Whenever, on examination, any claim for a patent is rejected, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant persists in his claim for a patent, with or without altering his specifications, the Commissioner shall order a re-examination of the case.

### *Interferences.*

SEC. 4904. Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct the primary examiner to proceed to determine the question of priority of invention. And

the Commissioner may issue a patent to the party who is adjudged the prior inventor, unless the adverse party appeals from the decision of the primary examiner, or of the board of examiners-in-chief, as the case may be, within such time, not less than twenty days, as the Commissioner shall prescribe.

*Affidavits and Depositions.*

SEC. 4905. The Commissioner of Patents may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorised by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

*Subpœnas to Witnesses.*

SEC. 4906. The clerk of any court of the United States, for any district or territory wherein testimony is to be taken for use in any contested case pending in the Patent Office, shall, upon the application of any party thereto, or of his agent or attorney, issue a subpœna for any witness residing or being within such district or territory, commanding him to appear and testify before any officer in such district or territory authorised to take depositions and affidavits, at any time and place in the subpœna stated. But no witness shall be required to attend at any place more than forty miles from the place where the subpœna is served upon him.

*Witness Fees.*

SEC. 4907. Every witness duly subpœnaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States.

*Penalty for failing to attend or refusing to testify.*

SEC. 4908. Whenever any witness, after being duly served with such subpœna, neglects or refuses to appear, or after appearing refuses to testify, the judge of the court whose clerk issued the subpœna may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience, as in other like cases. But no witness shall be guilty of contempt for disobeying such subpœna, unless his fees and travelling expenses in going to, returning from, and one day's attendance

at the place of examination, are paid or tendered him at the time of the service of the subpœna; nor for refusing to disclose any secret invention or discovery made or owned by himself.

*Appeals from Primary Examiners to Examiners-in-Chief.*

SEC. 4909. Every applicant for a patent, or for the reissue for a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in charge of interferences in such case, or to the board of examiners-in-chief; having once paid the fee for such appeal.

*From Examiners-in-Chief to Commissioner.*

SEC. 4910. If such party is dissatisfied with the decision of the examiners-in-chief, he may, on payment of the fee prescribed, appeal to the Commissioner in person.

*From the Commissioner to the Supreme Court, District of Columbia.*

SEC. 4911. If such party, except a party to an interference, is dissatisfied with the decision of the Commissioner, he may appeal to the Supreme Court of the District of Columbia, sitting in banc.

*Notice of such Appeal.*

SEC. 4912. When an appeal is taken to the Supreme Court of the District of Columbia, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing.

*Proceedings on Appeal to Supreme Court.*

SEC. 4913. The court shall, before hearing such appeal, give notice to the Commissioner of the time and place of the hearing, and on receiving such notice the Commissioner shall give notice of such time and place in such manner as the court may prescribe, to all parties who appear to be interested therein. The party appealing shall lay before the court certified copies of all the original papers and evidence in the case, and the Commissioner shall furnish the court with the grounds of his decision, fully set forth in writing, touching all the points involved by

the reasons of appeal. And at the request of any party interested, or of the court, the Commissioner and the examiners may be examined under oath, in explanation of the principles of the thing for which a patent is demanded.

*Determination of such Appeal, and its effect.*

SEC. 4914. The court, on petition, shall hear and determine such appeal, and revise the decision appealed from in a summary way, on the evidence produced before the Commissioner, at such early and convenient time as the court may appoint; and the revision shall be confined to the points set forth in the reasons of appeal. After hearing the case the court shall return to the Commissioner a certificate of its proceedings and decisions, which shall be entered of record in the Patent Office, and shall govern the further proceedings in the case. But no opinion or decision of the court in any such case shall preclude any person interested from the right to contest the validity of such patent in any court wherein the same may be called in question.

*Patents obtainable by Bill in Equity.*

SEC. 4915. Whenever a patent on application is refused, either by the Commissioner of Patents or by the Supreme Court of the District of Columbia upon appeal from the Commissioner, the applicant may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favour of the right of the applicant, shall authorise the Commissioner to issue such patent on the applicant filing in the Patent Office a copy of the adjudication, and otherwise complying with the requirements of law. In all cases, where there is no opposing party, a copy of the bill shall be served on the Commissioner; and all the expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favour or not.

*Reissue of Defective Patents.*

SEC. 4916. Whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of

the patentee claiming as his own invention or discovery more than he had a right to claim as new, if the error has arisen by inadvertence, accident or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected specification, to be issued to the patentee, or, in the case of his death or of an assignment of the whole or any undivided part of the original patent, then to his executors, administrators, or assigns, for the unexpired part of the term of the original patent. Such surrender shall take effect upon the issue of the amended patent. The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued Letters Patent. The specifications and claim in every such case shall be subject to revision and restriction in the same manner as original applications are. Every patent so reissued, together with the corrected specifications, shall have the same effect and operation in law, on the trial of all actions for causes thereafter arising, as if the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

*Disclaimer.*

SEC. 4917. Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of such parts of the thing patented as he shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent

of his interest in such patent. Such disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office; and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

*Suits touching interfering Patents.*

SEC. 4918. Whenever there are interfering patents, any person interested in any one of them, or in the working of the invention claimed under either of them, may have relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent; and the court, on notice to adverse parties, and other due proceedings had according to the course of equity, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the right of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

*Suits for infringement; Damages.*

SEC. 4919. Damages for the infringement of any patent may be recovered by action on the case, in the name of the party interested, either as patentee, assignee, or grantee. And whenever in any such action a verdict is rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

*Pleading and Proof in Actions for Infringement.*

SEC. 4920. In any action for infringement the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney, thirty days before, may prove, on trial, any one or more of the following special matters:

First. That for the purpose of deceiving the public the description and specification filed by the patentee in

the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same; or,

Third. That it had been patented or described in some printed publication prior to his supposed invention or discovery thereof; or,

Fourth. That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

Fifth. That it had been in public use or on sale in this country for more than two years before his application for a patent, or had been abandoned to the public.

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names of patentees, and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented, or to have had the prior knowledge of the thing patented, and where and by whom it had been used; and if any one or more of the special matters alleged shall be found for the defendant, judgment shall be rendered for him with costs. And the like defences may be pleaded in any suit in equity for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect.

*Power of Courts to grant Injunctions and estimate Damages.*

SEC. 4921. The several courts vested with jurisdiction of cases arising under the patent laws shall have power to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for an infringement, the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby; and the court shall assess the same, or cause the same to be assessed under its direction. And the court shall have the same power to increase such

damages, in its discretion, as is given to increase the damages found by verdicts in actions in the nature of actions of trespass upon the case.

*Suit for infringement where Specification is too broad.*

SEC. 4922. Whenever, through inadvertence, accident, or mistake, and without any wilful default or intent to defraud or mislead the public, a patentee has, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer, every such patentee, his executors, administrators, and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was *bonâ fide* his own, if it is a material and substantial part of the thing patented, and definitely distinguishable from the parts claimed without right, notwithstanding the specifications may embrace more than that of which the patentee was the first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff no costs shall be recovered unless the proper disclaimer has been entered at the Patent Office before the commencement of the suit. But no patentee shall be entitled to the benefits of this section if he has unreasonably neglected or delayed to enter a disclaimer.

*Patent not void on account of previous use in foreign country.*

SEC. 4923. Whenever it appears that a patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented or described in a printed publication.

*Extension of Patents granted prior to March 2, 1861.*

SEC. 4924. Where the patentee of any invention or discovery, the patent for which was granted prior to the second day of March, eighteen hundred and sixty-one, shall desire an extension of this patent beyond the original term of its limitation, he shall make application therefor in writing to the Commissioner of Patents, setting forth the reasons why such extension should

be granted; and he shall also furnish a written statement under oath of the ascertained value of the invention or discovery, and of his receipts and expenditures on account thereof, sufficiently in detail to exhibit a true and faithful account of the loss and profit in manner accruing to him by reason of the invention or discovery. Such application shall be filed not more than six months nor less than ninety days before the expiration of the original term of the patent; and no extension shall be granted after the expiration of the original term.

*What notice of application for Extension must be given.*

SEC. 4925. Upon the receipt of such application and the payment of the fees required by law, the Commissioner shall cause to be published in one newspaper in the city of Washington, and in such other papers published in the section of the country most interested adversely to the extension of the patent as he may deem proper, for at least sixty days prior to the day set for hearing the case, a notice of such application, and of the time and place when and where the same will be considered, that any person may appear and show cause why the extension should not be granted.

*Applications for Extension, to whom to be referred.*

SEC. 4926. Upon the publication of the notice of an application for an extension, the Commissioner shall refer the case to the principal examiner having charge of the class of inventions to which it belongs, who shall make the Commissioner a full report of the case, stating particularly whether the invention or discovery was new and patentable when the original patent was granted.

*Commissioner to hear and decide the question of Extension.*

SEC. 4927. The Commissioner shall, at the time and place designated in the published notice, hear and decide upon the evidence produced both for and against the extension; and if it shall appear to the satisfaction of the Commissioner that the patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention or discovery a reasonable remuneration for the time, ingenuity, and expense bestowed upon it, and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be extended, the Commis-

sioner shall make a certificate thereon, renewing and extending the patent for the term of seven years from the expiration of the first term. Such certificate shall be recorded in the Patent Office; and thereupon such patent shall have the same effect in law as though it had been originally granted for twenty-one years.

*Operation of Extensions.*

SEC. 4928. The benefit of the extension of a patent shall extend to the assignees and grantees of the right to use the thing patented, to the extent of their interest therein.

FEES.

SEC. 4934. The following shall be the rates for patent fees:

On filing each original application for a patent, fifteen dollars.

On issuing each original patent, twenty dollars.

On filing each caveat, ten dollars.

On every application for the reissue of a patent, thirty dollars.

On filing each disclaimer, ten dollars.

On every application for the extension of a patent, fifty dollars.

On the granting of every extension of a patent, fifty dollars.

On an appeal for the first time from the primary examiners to the examiners-in-chief, ten dollars.

On every appeal from the examiners-in-chief to the Commissioner, twenty dollars.

For certified copies of patents and other papers, including certified printed copies, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making them.

*Mode of Payment.*

SEC. 4935. Patent fees may be paid to the Commissioner of Patents, or to the Treasurer or any of the assistant treasurers of the United States, or to any of the designated depositaries

national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose; and such officer shall give the depositor a receipt or certificate of deposit therefor. All money received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the Treasury as received, without any deduction whatever.

*Refunding.*

SEC. 4936. The Treasurer of the United States is authorised to pay back any sum or sums of money to any person who has through mistake paid the same into the Treasury, or to any receiver or depositary, to the credit of the Treasury, as for fees accruing at the Patent Office, upon a certificate thereof being made to the Treasurer by the Commissioner of Patents.

OFFICIAL GAZETTE.

*Act, May* 18, 1872.

PATENT OFFICE.—To provide for the plates of an Official Gazette of the Patent Office abstracts of the drawings of patents issued, thirteen thousand three hundred and thirty-three dollars, to be expended under the direction of the Commissioner of Patents: Provided, That one copy of said Gazette shall be furnished to each senator, representative, and delegate in Congress; and one copy each shall be sent to eight such public libraries as may be designated by each senator, representative, and delegate, and two copies to the library of Congress: Provided further, That a subscription-price of not less than five dollars per annum for said Gazette shall be charged to each subscriber; and all sums received from such subscription shall be, on or before the first day of each month, paid into the Treasury.

FOR THE PUBLIC PRINTING.—For the additional expense of printing and stitching the Patent Office Official Gazette with the abstracts of specifications and drawings, five thousand four hundred and twenty-five dollars.

REPEAL PROVISIONS.

TITLE LXXIV. Rev. Stat. p. 1091:

*What revised Statutes embrace.*

SEC. 5595. The foregoing seventy-three titles embrace the statutes of the United States general and permanent in their

nature, in force on the 1st day of December, one thousand eight hundred and seventy-three, as revised and consolidated by commissioners appointed under an act of Congress, and the same shall be designated and cited, as the Revised Statutes of the United States.

*Repeal of Acts embraced in revision.*

SEC. 5596. All acts of Congress passed prior to said first day of December, one thousand eight hundred and seventy-three, any portion of which is embraced in any section of said revision, are hereby repealed, and the section applicable thereto shall be in force in lieu thereof; all parts of such acts not contained in such revision, having been repealed or superseded by subsequent acts, or not being general and permanent in their nature: *Provided*, That the incorporation into said revision of any general and permanent provision, taken from an act making appropriations, or from an act containing other provisions of a private, local, or temporary character, shall not repeal, or in any way affect any appropriation, or any provision of a private, local, or temporary character, contained in any of said acts, but the same shall remain in force; and all acts of Congress passed prior to said last-named day, no part of which are embraced in said revision, shall not be affected or changed by its enactment.

*Accrued rights reserved.*

SEC. 5597. The repeal of the several acts embraced in said revision shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before the said repeal, but all rights and liabilities under said acts shall continue, and may be enforced in the same manner, as if said repeal had not been made; nor shall said repeal in any manner affect the right to any office, or change the term or tenure thereof.

*Prosecutions and Punishments.*

SEC. 5598. All offences committed, and all penalties or forfeitures incurred under any statute embraced in said provision prior to said repeal, may be prosecuted and punished in the same manner and with the same effect as if said repeal had not been made.

*Acts of limitation.*

SEC. 5599. All acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offences, or for the recovery of penalties of forfeitures, embraced in said revision and covered by said appeal, shall not be affected thereby, but all suits, proceedings, or prosecutions, whether civil or criminal, for causes arising or acts done or committed prior to said repeal, may be commenced and prosecuted within the same time as if said repeal had not been made.

*Arrangement and Classification of Sections.*

SEC. 5600. The arrangement and classification of the several sections of the revision have been made for the purpose of a more convenient and orderly arrangement of the same, and therefore no inference or presumption of a legislative construction is to be drawn by reason of the Title under which any particular section is placed.

*Acts passed since Dec.* 1, 1873, *not affected.*

SEC. 5601. The enactment of the said revision is not to affect or repeal any act of Congress passed since the 1st day of December, one thousand eight hundred and seventy-three, and all acts passed since that date are to have full effect as if passed after the enactment of this revision, and so far as such acts vary from, or conflict with, any provision contained in said revision, they are to have effect as subsequent statutes, and as repealing any portion of the revision inconsistent therewith.

# URUGUAY.

## *Law of the 20th June*, 1853.

Art. 1.

The executive Government is authorized to issue patents conferring exclusive rights for inventions, for improvements on inventions, and for importations of inventions.

Art. 2.

The nation does not guarantee either the merit or the novelty of the inventions or improvements.

Art. 3.

All questions which may arise as to whether or not an invention or improvement was already public property at the time of the grant shall be determined by the tribunals.

Art. 4.

The exclusive patent right referred to in the preceding articles shall be limited to ten years for the author, eight years for the introducer, and six years for the improver of an invention.

Art. 5.

The executive Government shall fix the term within which the inventions for which patents are granted shall be worked.

Art. 6.

In case of accident, or force of circumstances beyond control, the executive Government may grant an extension of the term of patent, if the person interested applies for it at least six months before the expiration of the original term. The extension shall never be longer than one-third part of the terms specified in Article 4.

Art. 7.

Any person wishing to obtain a patent must deliver to the executive Government a clear and succinct description of his invention, together with the samples, drawings, and models necessary to explain the same, swearing that the property in it belongs to him, and making application for a patent to establish his title.

Art. 8.

No patent shall be issued to an applicant without proof of his having previously paid into the general treasury the sum of 100 piastres, which shall be paid to a fund for providing a room in the National Museum, in which to deposit the specifications, drawings, and models required for obtaining the patents.

Art. 9.

Any patent obtained by false or improper statements, or relating to an invention which is already public property, shall be immediately annulled, and the cost of this proceeding shall be borne by the patentee, who shall also be liable to a fine of one thousand dollars, or to imprisonment for six months.

Art. 10.

In case of a declaration by the tribunals that any person has infringed the rights of a patentee, the infringer shall be subject to a fine of five hundred dollars, or three months imprisonment, in addition to the payment of indemnity for loss or damages sustained.

Art. 11.

The executive Government will regulate the form and manner of the issuing of the patent, taking especial care, however, that the whole of the requirements of Art. 7 remain unaltered.

Art. 12.

Upon the lapsing of the patent by the expiration of the term, or default of working within the period provided for by Art. 5, the executive Government shall publish the fact in the public papers.

# VENEZUELA.

## *Law of 23rd May*, 1878.

### Chapter I.

### General Provisions.

#### Art. 1.

Every new discovery or invention in all classes of industry confers upon its author, under the conditions and for the time fixed by this law, the exclusive right of working for his own profit the said discovery or invention. This right is certified by a document issued by the Government under the name of a *patent*.

#### Art. 2.

The following shall be considered as new inventions or discoveries under this law:—

1. The invention of new industrial productions.
2. The invention of new methods, or the new application of known methods for obtaining a hitherto unknown result.

#### Art. 3.

The following shall not be patentable:—

1. Pharmaceutical compositions or medicines of all kinds which are subjected to special laws on the subject.
2. Schemes and combinations relating to credit and finance.

### Art. 4.

To obtain a patent for any object it is necessary that it should be a lawful one, that is to say, that it should not be contrary to the security of the State, to morals, or public order, and that it should be for an improvement applicable to industry.

### Art. 5.

A patent or privilege granted by the Government confers no honorary position nor any recompense or favour. It simply means that the author of a discovery wishes, before giving it publicity, to reserve to himself for a certain time the exclusive right to work it for his own benefit.

### Art. 6.

The duration of patents shall be five, ten, or fifteen years.

Every patent shall be subject to the following payments :—

For five years, twenty venezolanos (4*l.*).

For ten years, forty venezolanos (8*l.*).

For fifteen years, fifty venezolanos (10*l.*).

These sums shall be paid to the Treasury by yearly instalments of four venezolanos (16 shillings), under penalty of forfeiture if the patentee allows any year to elapse without payment of the tax.

The National Executive may exempt from this payment such inventors as may, in their opinion, deserve it.

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## Chapter II.

### Formalities respecting the Delivery of Patents.

### Art. 7.

Any person who shall wish to obtain a patent must deposit, under a sealed cover, at the Ministry of the Interior :—

1. A petition to the Minister.
2. A specification of his discovery or invention.
3. The drawings or specimens which may be necessary for the comprehension of the specification.
4. A list of the papers deposited.

Art. 8.

The application must be limited to a single principal object, with such details of its application as may be necessary. It must mention the term for which the privilege is desired within the limits fixed by Art. 6, and shall contain neither restrictions, conditions, or reservations. It must set forth a title containing a short and precise designation of the object of the invention. The specification must not be written in a foreign language; it must be without alterations or interlineations; words erased must be counted and verified, the pages and references being initialed.

It must not contain denominations of weights and measures which are not those of the Republic.

The drawings must be in ink, to a metrical scale.

A duplicate of the specification and drawings must accompany the petition. All the documents must be signed by the petitioner or his attorney, and in the latter case the power must be affixed to the petition.

Art. 9.

No petition shall be received without a certificate from the Treasury of the receipt of the first annual payment; as soon as this is done, the Director of the Patent Branch shall enter in a book the day and hour of the delivery of the petition and a list of the papers received. This shall be signed by the Director and the petitioner. A copy shall be given, if desired.

Art. 10.

The term of the patent shall count from the date of the deposit.

Art. 11.

As soon as the above requisites have been complied with the patents shall be delivered in the order of the entries in the book.

Art. 12.

Patents applied for in due form shall be delivered, without previous examination, at the risk and peril of the petitioner, without guarantee by the Government of the reality, novelty, or merit of the invention, or the accuracy or exactitude of the description. A decree of the Minister, certifying the regularity

of the application, shall be delivered to the applicant and shall constitute the patent. To this decree shall be annexed a certified duplicate of the specification and drawings mentioned in Art. 8.

Art. 13.

All applications in which the formalities prescribed by Nos. 2 and 3 of Art. 7 and by Art. 8 have not been observed shall be rejected. One-half of the sum paid shall be forfeited to the Treasury, but shall be allowed to the petitioner if the application be amended within three months.

Art. 14.

A list of patents granted shall be inserted in the Official Gazette every three months.

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## Chapter III.

### Assignment and Transfer of Patents.

Art. 15.

Every patentee may transfer a part or the whole of the ownership of his patent. This can only be done by due form of law and after payment of the whole fees required by Art. 6.

Art. 16.

The document proving the transfer shall be presented to the Minister who shall register it. Such transfers shall be published in the Gazette every three months.

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## Chapter IV.

### Publication of Specifications and Drawings.

Art. 17.

The specifications, drawings, samples, and models of the patents delivered shall remain at the Ministry of the Interior until the expiration of the patent, where they may be inspected free of charge by any applicant. Copies can also be made at the expense of the applicant.

### Art. 18.

After the payment of the second annuity, the specifications and drawings shall be published either in full or by extracts. At the beginning of each year a catalogue shall be published of the patents granted during the past year.

### Art. 19.

At the expiration of patents, the original specifications and drawings shall be deposited in a special place annexed to the National Museum.

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## Chapter V.

## Rights of Foreigners.

### Art. 20.

Foreigners can obtain in Venezuela patents in conformity with the present law.

### Art. 21.

The author of an invention or discovery already patented abroad may obtain a patent in Venezuela, but its duration shall not exceed that of the patents previously obtained abroad.

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## Chapter VI.

## Annulments, Forfeitures, and Offences.

### Art. 22.

Patents granted in the following cases shall be null and void:—

1. If the discovery, invention, or application is not new.
2. If it is not patentable according to Art. 3 of this law.
3. If it refers only to theoretical principles, methods, systems, or conceptions, the practical application of which is not specified.
4. If it is contrary to public security or order, to morals, or to the laws of the Republic, and this without preju-

dice to the penalties attached to the introduction or sale of prohibited articles.

5. If it fraudulently alleges an object which is not the real object of the invention; and
6. If the specification is not sufficiently clear and precise.

Art. 23.

No invention, discovery, or application shall be considered as new if it has been published in Venezuela or abroad in such manner as to admit of its practical execution.

Art. 24.

The rights of the privilege are cancelled—

1. When the proper annual payments have not been made.
2. When the patentee shall not have commenced to work the invention in Venezuela within two years from the date of the patent, or when he shall have ceased to work it during two consecutive years; unless, in such cases he shall explain the delay to the satisfaction of the Executive; and
3. When the patentee shall have introduced into Venezuela articles manufactured abroad similar to those which are protected by his patent.

Art. 25.

Any person who in his signboards, advertisements, prospectuses, placards, marks, or stamps, shall call an invention patented without having obtained a patent, or after the expiration of one duly granted, or who, there being a patent, omits the words *without Guarantee of the Government*, shall be subject to a fine of from 10 to 100 venezolanos (2*l.* to 20*l.*), as the Executive shall determine. In case of a second offence the fine may be doubled.

Art. 26.

Any person interested in the matter may demand the annulment or forfeiture of a patent. These actions shall be brought before the Tribunal of First Instance of the State or of the Federal District.

Art. 27.

If the suit be brought at the same time against the patentee and one or more of his licensees, it shall be brought before the tribunal of the domicile of the patentee.

Art. 28.

The matter shall be heard and decided in conformity with the requirements of the Civil Code. The sentence shall be communicated to the Minister of the Interior.

Art. 29.

In all proceedings for the nullity or forfeiture of a patent, whatever stage they may be in, the Public Prosecutor shall have the right to intervene.

Art. 30.

Whenever the sentence in such cases shall have acquired the force of res-adjudicator, notice shall be given to the Ministry and shall be published in the form prescribed by Art. 14.

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INFRINGEMENTS.

Art. 31.

Any interference with the rights of a patentee, whether they be the manufacture of the object or the employment of the means for which his patent has been granted constitute the offence of infringement, this shall be punished by a fine of from 25 to 150 venezolanos (5*l.* to 30*l.*)

Art. 32.

Those who have knowingly received, sold, or exposed for sale or introduced into Venezuela one or more infringing articles shall be liable to the same penalty, to be doubled for a second offence.

Art. 33.

Proceedings for these penalties shall only be taken on the complaint of an interested party.

Art. 34.

The tribunal before which an action for infringement is brought shall decide, in the first place, on pleas raised by the accused for the nullity or forfeiture of the patent, and also upon all questions relating to the ownership of the patent.

Art. 35.

The confiscation of articles held to be infringements, and also of the instruments or utensils used in their manufacture, shall be pronounced against the maker, importer, or seller. Such objects shall be delivered to the patentee, who may claim, in addition, such damages as may be deemed equitable.

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REGULATIONS.

Art. 36.

The National Executive shall order to be framed the Regulations necessary for the execution of this law.

# VICTORIA.

*Act No. CCXL., 9th May,* 1865.

## An Act to consolidate the Law concerning Letters Patent for Inventions.

(Note.—The words "Registrar-General" in italics are alterations made by the Act, No. 432, 17th Dec., 1872.)

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria, in this present Parliament assembled, and by the authority of the same, as follows:

*Title.*

1. This Act shall come into operation on the first day of June, in the year of our Lord one thousand eight hundred and sixty-five, and shall be called and may be cited as "The Patents Statute, 1865." Its sections are divided into parts as follow:

Part I.—Mode of obtaining Letters Patent, ss. 4–19.

Part II.—Disclaimers and Alterations, ss. 20–23.

Part III.—Extension of Term and Confirmation of Invalid Patents, ss. 24–28.

Part IV.—Miscellaneous Provisions, ss. 29–39.

*Repeal of Acts.*

2. The Acts mentioned in the first schedule hereto, to the extent to which the same are in and by the said schedule expressed to be repealed, shall be and the same are hereby repealed. Nothing herein contained shall affect any proceedings or things lawfully taken, done, or commenced, or any Letters Patent granted, or any protection or right conferred, or any rules and regulations, or any register or appointment made, or any notice or particulars given or published, or any warrant issued or caveat entered under the said repealed Acts, or either of them, before the coming into operation of this Act; and all such proceedings and things shall be as valid and may be continued, and all such Letters Patent, protections, rights, rules, and regulations, registers, appointments, notices, particulars, warrants, and caveats shall have the same force and efficacy as if this Act had not been passed. Letters Patent may be granted in respect of applications made before the coming into operation of this Act in like manner as if this Act had not been passed; and where Letters Patent have been granted before the commencement of this Act, or shall in respect of any application made before the commencement of this Act be hereafter granted for any invention, such Letters Patent may be confirmed, or the term thereof extended or new Letters Patent granted for such invention in like manner as if the original or first Letters Patent had been granted under this Act.

*Interpretation.*

3. In the interpretation of this Act the word "invention" shall mean and include any manner of new manufacture the subject of Letters Patent and Grant of Privilege within the meaning of the enactment next hereinafter contained.

PART I.—MODE OF OBTAINING LETTERS PATENT.

*Power to grant Patents.*

4. It shall be lawful to make and issue, in the manner hereinafter mentioned, Letters Patent and Grants of Privilege for any term not exceeding fourteen years from the date thereof of the sole working or making of any manner of new manufactures within Victoria and its dependencies to the true and first inventor of such manufactures, which others at the time of

making such Letters Patent and Grants shall not use, so as also they be not contrary to the law nor mischievous to the State by raising prices of commodities, or hurt of trade, or generally inconvenient. And all other monopolies, commissions, grants, licences, charters, and Letters Patent hereafter to be made or granted to any person of or for the sole buying, selling, making, working, or using of anything within Victoria or its dependencies, or of any other monopolies, or of power, liberty, or faculty to dispense with any others, and all matters and things whatsoever in anywise tending to the instituting, erecting, or countenancing of the same, or any of them, shall be utterly void and of none effect, and in nowise to be put in execution.

*Governor in Council to make Rules for executing this Act.*

5. It shall be lawful for the Governor in Council, from time to time, to make such rules and regulations (not inconsistent with the provisions hereof), as may appear to be necessary and expedient for the purposes of this Act; and all such rules and regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the next meeting of Parliament.

*On application for Patents inventor to deposit Specification.—Specification may be amended before Patent issues.*

6. All applications under this Act for the grant of Letters Patent for an invention shall be made as follows; (that is to say,) the applicant shall deposit at the office of the *Registrar-General* an instrument in writing under his hand and seal, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, and also a copy of such instrument, and of the drawings accompanying the same (if any); and the day of the deposit of every such specification shall be recorded at the said office and endorsed on such specification, and a certificate thereof given to such applicant or his agent; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act for the term of six months next after the said deposit, and the applicant shall have during such term the like powers, rights, and privileges as might have been conferred upon him by Letters Patent

for such invention issued under this Act, and duly sealed as of the day of such deposit; and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any Letters Patent to be granted for the same; and where Letters Patent are granted in respect of such invention, such Letters Patent shall be conditioned to become void if such specification does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed: Provided always, that in case the title of the invention or the said specification be too large or insufficient, it shall be lawful for the law officer during the said term of six months, and before the grant of the Letters Patent, to allow or require such specification to be amended, or another and sufficient specification to be deposited in lieu thereof; and every such amended or new specification shall have the same force, effect, and operation as if it had been originally deposited in its amended or new state.

*Form and size of Specification and Copy.*

7. Every such specification as aforesaid shall be in the form contained in the second schedule to this Act, or to the like effect, and shall be written upon both sides of one or more skin or skins of parchment, and every page thereof shall be of the exact size of twenty inches in length by fifteen inches in breadth, leaving a margin of at least one inch and a half on each side of every such page in order and to the intent that the same may be bound into books for safe custody; but the drawings accompanying such specification (if any) may be made upon larger sheets of parchment, leaving a margin of the size and for the purpose aforesaid; and every copy of any such specification as aforesaid, and of the drawings accompanying the same (if any), shall in like manner be written upon one or more sheet or sheets of paper of the size and with the margins aforesaid.

*Patent of true Inventor not to be affected by Specification of pretended Inventor.*

8. In case of the deposit of any such specification as aforesaid in fraud of the true and first inventor, any Letters Patent granted to the true and first inventor of such invention shall

not be invalidated by reason of such deposit, or of any use or publication of the invention subsequent to such deposit and before the expiration of the said term of protection.

*Mode of proceeding after deposit of Specification.*

9. The applicant, so soon as he shall think fit after the deposit of such specification as aforesaid, and of the drawings and models accompanying the same (if any), may give notice in writing at the chambers of the law officer of his intention to proceed with his application for Letters Patent for the said invention, stating in such notice the title of the said invention; and the day on which the specification thereof was deposited at the office of the *Registrar-General*, and at the time of giving such notice shall produce the said certificate of deposit; and thereupon the said law officer shall deliver to the applicant or his agent an appointment in the form contained in the third schedule to this Act, or to the like effect; and such applicant or agent, not less than twenty-one clear days prior to the day appointed by the law officer, shall cause the said appointment to be published once in the Government Gazette, once in some newspaper published in the city of Melbourne, and twice in some newspaper published in the town or place at or near to which the applicant uses or exercises the said invention, or (in case he does not use or exercise the same) in or near to which he resides, or if there shall be no newspaper published in such town or place then twice in some newspaper circulating in the neighbourhood where he uses or exercises the said invention or (in case he does not use or exercise the same) where he resides; and any person having an interest in opposing the grant of Letters Patent for the said invention shall be at liberty, not less than three clear days prior to the day so appointed, to leave particulars in writing of his objections to the said application at the chambers of the law officer.

*Law Officer to hear Applications and Objections and award Costs.*

10. At the place and time named in the said appointment the applicant shall produce the newspapers containing the same; and the law officer shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars (if any), and for that purpose shall obtain from the office of the *Registrar-General* the said copy of the said

specification, and of the drawings and models accompanying the same (if any), and may call to his aid such scientific or other person as he may think fit, and may, by writing under his hand, order to be paid to such person some remuneration for his attendance; and may also in like manner order that the costs of any hearing upon any objection, or otherwise in relation to the grant of such Letters Patent, or the protection acquired by the applicant under this Act, shall be paid, and in and by such writing shall fix the amount of such remuneration or costs, and by or to whom the same respectively shall be paid; and every such order shall be in the form contained in the fourth schedule to this Act, or to the like effect, and may be made a rule of the Supreme Court: Provided always, that the applicant, the objectors, and their respective witnesses and evidence shall be respectively heard, examined, and considered separately and apart from and in the absence of the other and his witnesses and evidence.

*Law Officer may issue Warrant for Letters Patent.*

11. The law officer, after such hearing and consideration, may issue a warrant under his hand and seal for the granting of Letters Patent for the said invention, and by such warrant shall direct the insertion in such Letters Patent of all such restrictions, conditions, and provisoes as he may deem usual and expedient in such grants, or necessary in pursuance of this Act: and the said warrant shall be the warrant for the making and sealing of Letters Patent under this Act according to the tenor of the said warrant; and every such warrant shall be in the form contained in the fifth schedule to this Act, or to the like effect.

*Letters Patent may be repealed or withheld, and Specification cancelled.*

12. The writ of scire facias shall lie for the repeal of any Letters Patent granted under this Act and may be issued into the circuit district in which the grantee resided when the said Letters Patent were granted; and in case such grantee does not reside in Victoria, it shall be sufficient to file such writ in the proper office of the Supreme Court, and serve notice thereof in writing at the last known place of residence or business of such grantee; and nothing herein contained shall extend to abridge or affect the prerogative of the Crown in relation to

the granting or withholding the grant of any Letters Patent; and it shall be lawful for the Governor in Council to order such law officer to withhold such warrant as aforesaid, or that any Letters Patent for the granting whereof he may have issued a warrant as aforesaid shall not issue, or to order the insertion in any such Letters Patent of any restrictions, conditions or provisoes, in addition to or in substitution for any restrictions, conditions, or provisoes which would otherwise be inserted therein under this Act; and it shall also be lawful for the Governor in Council to order any specification in respect of the invention described in which no Letters Patent may have been granted to be cancelled, and thereupon the protection obtained by the deposit of such specification shall cease.

*Letters Patent to be void on non-performance of Conditions.*

13. All Letters Patent for inventions granted under this Act shall be in the form contained in the sixth schedule to this Act, or to the like effect, and be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine, at the expiration of three years and seven years respectively from the date thereof, unless there be paid within the said three and seven years respectively the sum or sums of money in that behalf hereby required to be paid; and the *Registrar-General* shall issue under his hand a certificate of such payment, and shall endorse a receipt for the same on the Letters Patent.

*Letters Patent to be issued within Three Months after Warrant and during the protection.*

14. The *Registrar-General*, so soon after the receipt by him of the said warrant as required by the applicant, shall cause to be prepared Letters Patent for the invention according to the tenor of the said warrant; and it shall be lawful for the Governor in Council to cause such Letters Patent to be sealed with the seal of the colony; and such Letters Patent shall be made applicable to the said colony and its dependencies, and shall be valid and effectual as to the whole of the same respectively; but except as hereinafter-mentioned, no Letters Patent shall issue on any warrant granted as aforesaid unless application be made to seal such Letters Patent within three months after the date of the said warrant, nor unless such Letters Patent be

granted during the continuance of the protection conferred under this Act by reason of such deposit.

*Letters Patent may issue after that time in certain cases.*

15. Where the application to seal such Letters Patent has been made during the continuance of such protection as aforesaid, and the sealing of such Letters Patent has been delayed from accident and not from the neglect or wilful default of the applicant, then such Letters Patent may be sealed at such time not being more than one month after the expiration of such protection as the Governor in Council shall direct; and where the applicant for such Letters Patent dies during the continuance of such protection as aforesaid, such Letters Patent may be granted to the executors or administrators of such applicant during the continuance of such protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the Letters Patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such protection; and in case any Letters Patent shall be destroyed or lost, other Letters Patent of the like tenor and effect, and sealed and dated as of the same day, may (subject to such regulations as the Governor in Council may direct) be issued under the authority of the warrant in pursuance of which the original Letters Patent were issued.

*Letters Patent to bear Date of the deposit of Specification, and to be conclusive as to preliminary steps and proceedings.*

16. Notwithstanding any enactment to the contrary, all Letters Patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such specification as aforesaid, and shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date; and after any Letters Patent shall have been granted or issued under this Act it shall not be necessary or material to inquire or ascertain whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore-mentioned and directed.

*Letters Patent for Foreign Inventions not to continue after expiration of Foreign Patent.*

17. Where upon any application made under this Act Letters Patent are granted for or in respect of any invention first invented in parts out of Victoria and its dependencies, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any parts out of Victoria and its dependencies is obtained before the grant of such Letters Patent in Victoria, all rights and privileges under such Letters Patent shall (notwithstanding any term in any such Letters Patent limited) cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such part out of Victoria and its dependencies shall continue in force, or where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges: Provided always, that no Letters Patent for or in respect of any invention (for which any such patent or like privilege as aforesaid shall have been obtained abroad) granted in Victoria after the expiration or determination of the term for which such patent or privilege was granted or was in force shall be of any validity.

*Letters Patent not to prevent the use of Inventions in Foreign Ships resorting to ports in Victoria.*

18. No Letters Patent for any invention granted after the coming into operation of this Act shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel, which may be in any port of Victoria or its dependencies or in any of the waters within the jurisdiction of any of Her Majesty's courts of Victoria, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the same: Provided always, that this enactment shall not extend to the ships or vessels of any foreign state, the laws of which authorize subjects of such foreign state having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British ships or vessels, or in or

about the navigation of British ships or vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from the territories of such foreign state.

*Specification to be filed after issue of Patent or expiring of Protection.*

19. Every specification deposited at the office of the *Registrar-General* as aforesaid, and the drawings and models accompanying the same (if any), shall, forthwith after the grant of the Letters Patent, or if no Letters Patent be granted then immediately on the expiration of six months from the time of such deposit, be transferred to and kept in such office as the Governor in Council shall from time to time appoint for that purpose.

## Part II.—Disclaimers and Alterations.

*Notice of Application to disclaim or make alterations.*

20. Any person who shall obtain Letters Patent under this Act, or in case such person shall part with his whole or any part of his interest by assignment, such person together with the assignee (if part only has been assigned), or the assignee alone (if the whole has been assigned), may apply to the law officer for leave to enter a disclaimer of any part of either the title of the invention or of the specification, or a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said Letters Patent; and thereupon the law officer shall deliver to such patentee and assignee, or either of them, or to their or either of their agent, an appointment in the form contained in the seventh schedule to this Act, or to the like effect; and such patentee or assignee shall thereupon cause such disclaimer (stating the reason for the same), or such memorandum of alteration, to be written at the foot of the said appointment, and shall cause the same respectively to be published in the manner hereinbefore required with respect to the said first-mentioned appointment; and any person having an interest in opposing the said application shall be at liberty to leave particulars in writing of his objections to the same at the chambers of the law officer within such time not being less than three clear days prior to the day so appointed: Provided

always, that where such application as aforesaid shall be for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the law officer may dispense with such appointment and publication, and in that case shall certify in the fiat hereinafter mentioned that he has dispensed with the same.

*Application for Disclaimer to be heard.*

21. At the time and place named in such appointment the said patentee and assignee, or one of them, shall produce the newspapers containing the same and the said disclaimer or memorandum of alteration at the foot thereof; and the law officer shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars (if any), and all such power and authority shall and may be exercised upon that occasion by the law officer as by virtue of the provisions hereinbefore contained can and may be exercised in relation to the hearing and considering an application for Letters Patent and objections to the same, and shall and may be enforced in like manner.

*How Disclaimer may be entered and alterations made.*

22. After such hearing and consideration, or without such hearing and consideration where the said appointment and publication shall have been dispensed with as aforesaid, such patentee and assignee, or either of them, may by leave of the law officer (to be certified by a fiat under his hand to be written at the foot of the same parchment with the said disclaimer or memorandum) enter such disclaimer (stating the reason for the same) or such memorandum of alteration, and at the time of entering such disclaimer or memorandum of alteration shall deposit a copy thereof in the office next hereinafter mentioned; and such disclaimer or memorandum of alteration, being filed in such office as the Governor in Council shall from time to time appoint for that purpose, shall be deemed and taken to be part of such Letters Patent or such specification, and subject to the several incidents thereof, in all courts whatever, and shall be valid and effectual in favour of any person in whom the rights under the said Letters Patent may then be or thereafter become legally vested; and no objection shall be allowed to be made in any proceeding upon or touching such Letters Patent, specification, disclaimer or memorandum of alteration, on the ground that the person entering such disclaimer or memorandum

of alteration had not sufficient authority in that behalf: Provided always, that no action shall be brought upon any Letters Patent in which or on the specification of which any disclaimer or memorandum of alteration shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration (unless the law officer shall certify in his said fiat that any such action may be brought), notwithstanding the entry or filing of such disclaimer or memorandum of alteration; and no such disclaimer or alteration shall be receivable as evidence in any action or suit (save and except in any proceeding by scire facias) pending at the time when such disclaimer or alteration was filed as aforesaid; but in every such last-mentioned action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the Letters Patent have been or shall have been granted: Provided also, that when any such fiat shall have been granted or issued under this Act, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act, and such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the law officer certified as aforesaid shall (except in cases of fraud) be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Act.

*Copies of Specification, Disclaimers, &c., to be open to inspection.*

23. The copies of all specifications and the drawings and models accompanying the same (if any) and of all disclaimers and memoranda of alterations respectively deposited under or in pursuance of this Act shall be open to the inspection of the public at all reasonable times after the grant of Letters Patent, or if no Letters Patent be granted then immediately on the expiration of six months from the time of such deposit; but subject to such regulations as the Governor in Council may make in that behalf.

## PART III.—EXTENSION OF TERM and CONFIRMATION OF INVALID PATENTS.

*Mode of obtaining extension of the Term.*

24. If any person who has obtained Letters Patent under this Act or any other Act relating to Letters Patent heretofore in

force in Victoria, or (in case such person shall have parted with his whole or any part of his interest by assignment) if such person, together with the assignee where part only has been assigned, or of the assignee alone where the whole has been assigned, shall, six months before the expiration or other determination of such Letters Patent, present to the Governor in Council a petition for the extension of the term in such Letters Patent mentioned, and shall set forth in such petition that he or they has or have been unable to obtain a due remuneration for his or their expense and labour in perfecting such invention, and that an exclusive right of using and vending the same for some further period to be named in such petition, in addition to the said term, is necessary for his or their reimbursement and remuneration, it shall be lawful for the Governor in Council to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Mode of obtaining confirmation of invalid Patent.*

25. If in any suit or action it shall be proved or specially found by the verdict of a jury that any person who shall have obtained Letters Patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented or used the same, or some part thereof, before the date of such Letters Patent, or if such patentee or his assigns shall discover that some other person had, unknown to such patentee, invented or used the same, or some part thereof, before the date of such Letters Patent, such patentee or his assigns may petition the Governor to confirm the said Letters Patent or to grant new Letters Patent; and it shall be lawful for the Governor in Council to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Appointment of Commissioners.*

26. For the purpose of considering any such petition as aforesaid, it shall be lawful for the Governor in Council (if he shall think fit) to issue and direct in the name of Her Majesty, her heirs or successors, to five or more persons (of whom some of the judges of the Supreme Court shall be two) a commission

reciting such petition, and requiring and authorising such persons, or any three of them, of whom one of the said judges shall be one, to meet at some time (not being less than two months from the publication of the said commission in the Government Gazette) and at some place to be respectively fixed in the said commission, and then and there to consider the said petition, and to report to Her Majesty, her heirs and successors (in case such petitioner shall have prayed for an extension of the term in the Letters Patent mentioned), whether any and, if any, what further extension of the said term should be granted according to the prayer of the said petition, and upon what, if any, conditions, or (in case such petitioner shall have prayed for a confirmation of the Letters Patent or for a grant of new Letters Patent) whether such confirmation or grant should be made.

*Notice of Commission to be published and Caveats entered.*

27. Two months at least before the time named in the said commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published in the same manner as is hereinbefore required with respect to the said first-mentioned appointment an advertisement of the contents of the said commission in the form contained in the eighth schedule to this Act, or to the like effect; and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the *Registrar-General* at any time not being less than one week before the time named in the said commission for the execution thereof.

*Commissioners to hear all Parties and report.*

28. At the time and place fixed in the said commission for that purpose the commissioners shall meet and proceed to consider such petition; and the petitioner shall be heard by his counsel and witnesses to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this Act; and the persons entering caveats shall likewise be heard by their counsel and witnesses; and all such witnesses shall be examined upon oath or affirmation (which oath or affirmation such commissioners as aforesaid are hereby authorised and required to administer); and thereupon and upon hearing and inquiry of the whole matter (in case such petitioner shall have prayed for an extension as aforesaid)

the said commissioners may report whether any and, if any, what further extension of the said term should be granted; and the Governor in Council is hereby authorised and empowered, if he shall think fit, to grant to the petitioner new Letters Patent for the said invention for a term not exceeding fourteen years after the expiration of the first term, anything hereinbefore contained to the contrary thereof in anywise notwithstanding; and such new Letters Patent shall be sealed and bear date as of the day after the expiration of the term of the first Letters Patent. Or (in case such petitioner shall have prayed for a confirmation or grant as aforesaid) such commissioners, upon examining the said matter and being satisfied that such patentee as aforesaid believed himself to be the first and original inventor, and being satisfied that such invention, or part thereof, had not been publicly and generally used before the date of such first Letters Patent, may report to Her Majesty, her heirs and successors, their opinion that the prayer of such petition ought to be complied with, whereupon the Governor in Council may, if he shall think fit, grant such prayer; and the said Letters Patent shall be available at law and in equity to give to such petitioner the sole right of using, making, and vending such invention as against all persons whomsoever, anything hereinbefore contained to the contrary thereof notwithstanding: Provided that any person, party to any former suit or action touching such first Letters Patent as last aforesaid, shall be entitled to have notice in writing of the time and place fixed as aforesaid for the first meeting of the said commissioners to consider the said petition; and after any such report shall have been made it shall not be material or necessary to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner hereinbefore directed in that behalf.

## PART IV.—MISCELLANEOUS PROVISIONS.

### *Index to Specifications, Disclaimers, &c.*

29. The Governor in Council may cause indices to all specifications, disclaimers, and memoranda of alterations heretofore or to be hereafter enrolled or deposited as aforesaid to be prepared in such form as may be thought fit; and such indices shall be

open to the inspection of the public, at such places as the Governor in Council shall appoint, and subject to the regulations to be made as hereinbefore provided.

*Register of Patents to be kept.*

30. There shall be kept at the office to be appointed as aforesaid a book or books, to be called "The Register of Patents," wherein shall be entered and recorded in chronological order all Letters Patent granted under this Act and any other Act relating to Letters Patent heretofore in force in Victoria, the deposit and filing of specifications, disclaimers, and memoranda of alterations filed in respect of such Letters Patent, all amendments in such Letters Patent and specifications, all confirmations and extensions of such Letters Patent, the expiry, determination, vacating, or cancelling such Letters Patent, with the dates thereof respectively, and all other matters and things affecting the validity of such Letters Patent as the Governor in Council may direct; and such register, or a copy thereof, shall be open at all convenient times to the inspection of the public, subject to such regulations as the Governor in Council may make in that behalf.

*Register of Proprietors to be kept.*

31. There shall be kept at the same office a book or books, entitled "The Register of Proprietors," wherein shall be entered, in such manner as the Governor in Council shall direct, the assignment of any Letters Patent, or of any share or interest therein, any licence under Letters Patent, and the district to which such licence relates, with the name or names of any person having any share or interest in such Letters Patent or licence, the date of his or their acquiring such Letters Patent, share, and interest, and any other matter or thing relating to or affecting the proprietorship in such Letters Patent or licence; and a copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be primâ facie proof of the assignment of such Letters Patent, or share or interest therein, or of the licence or proprietorship, as therein expressed: Provided always, that until such entry shall have been made the grantee or grantees of the Letters Patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such Letters Patent, and of all the licences and privileges

thereby given and granted; and such register of a copy shall be open to public inspection, subject to such regulations as the Governor in Council may make.

*Certified Copies to be Evidence.*

32. The Governor in Council may cause a seal to be made for the purposes hereinafter mentioned; and all courts, judges, and other persons whomsoever shall take notice of such seal, and receive impressions thereof in evidence in like manner as impressions of the seal of the colony are received in evidence; and copies or extracts, certified and sealed with such seal, of Letters Patent, specifications, disclaimers, memoranda of observations, and all other documents or books recorded, filed, and kept in pursuance of this Act, shall be received in evidence in all proceedings relating to Letters Patent for inventions in all courts, and by all judges and other persons whomsoever.

*Falsification or forgery of Entries.*

33. If any person shall wilfully make or cause to be made any false entry in any such register, or shall wilfully make or forge or cause to be made or forged any writing falsely purporting to be a copy of any entry in the said book, or shall produce or tender or cause or suffer to be produced or tendered in evidence any such writing, knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall be liable to be imprisoned for any term not exceeding five years.

*Entries may be expunged.*

34. If any person shall deem himself aggrieved by any entry made under colour of this Act in any such register, it shall be lawful for such person to apply by motion to the Supreme Court in term time, or by summons to a judge of such court in vacation, for an order that such entry may be expunged, vacated, or varied; and upon any such application such court or judge may make such order for expunging, vacating, or varying such entry, and as to the costs of such application, as to such court or judge may seem fit; and the officer having the care and custody of such register, on the production to him of any such order, shall expunge, vacate, or vary the said entry according to such order.

*Penalty for unauthorised user of the word "Patent."*

35. If any person shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark upon anything made, used, or sold by him, for the sole making or selling of which he has not or shall not have obtained Letters Patent, the name or any imitation of the name of any other person who has or shall have obtained Letters Patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns, or if any person shall upon such thing, not having been purchased from the patentee, or some person who purchased it from c under such patentee, or not having had the licence or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "patent," the words "letters patent," or the words "by the Queen's patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, he shall for every such offence forfeit and pay the sum of one hundred pounds, one half to Her Majesty, her heirs and successors, and the other half with full costs of suit to any person who shall sue for the said penalty by action of debt: Provided always, that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "patent" upon anything for the sole making or vending of which Letters Patent before obtained shall have expired or otherwise determined.

*In Actions for Infringement Particulars of Breaches and Objections to be delivered.*

36. In any action for the infringement of Letters Patent the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his pleas, and the prosecutor in any proceeding by scire facias to repeal Letters Patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration in scire facias respectively; and at the trial of such action or proceeding by scire facias no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such Letters Patent which shall

not be contained in the particulars delivered as aforesaid: Provided always, that the place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the Letters Patent shall be stated in such particulars: Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid, upon such terms as to such judge shall seem fit. Provided also, that at the trial of any proceeding by scire facias to repeal Letters Patent the defendant shall be entitled to begin and to give evidence in support of such Letters Patent; and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such Letters Patent the defendant shall be entitled to the reply.

*Particulars to be regarded in taxing Costs.*

37. In taxing the costs in any action for infringing Letters Patent regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular unless certified by the judge before whom the trial was had to have been proved by such plaintiff or defendant respectively, without regard to the general costs of the cause; and it shall be lawful for the judge before whom any such action shall be tried to certify on the record that the validity of Letters Patent in the declaration mentioned came in question; and the record with such certificate being given in evidence in any suit or action for infringing the said Letters Patent, or in any proceeding by scire facias to repeal the Letters Patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by scire facias, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses to be taxed as between attorney and client, unless the judge making such decree or order, or the judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

*Fees on obtaining Patents.*

38. There shall be paid in respect of Letters Patent applied for or issued as herein mentioned, the deposit of specifications, disclaimers, and memoranda of alterations, warrants,

certificates, entries, and searches, and other matters and things respectively mentioned in the ninth schedule to this Act, such fees as are enumerated in that schedule; and such of the said fees as are thereby made payable to the law officer shall and may be received and retained by such law officer for his own proper use; and the residue thereof shall form part of the consolidated revenue of Victoria, and be paid, applied, and disposed of accordingly.

*English Patents to be subject to this Act.*

39. All Letters Patent which shall have been or which shall be granted in the United Kingdom of Great Britain and Ireland after the thirty-first day of December in the year of our Lord one thousand eight hundred and fifty-seven, for any invention, shall, so far as the same relate to Victoria and its dependencies, be and be deemed to have been utterly void and of none effect, and in nowise be put in execution; but all such Letters Patent granted in the said United Kingdom on or before that day, and which would be or would have been valid in Victoria if this Act or any other Act relating to Letters Patent heretofore in force in Victoria had not been passed, shall be deemed and taken to have been granted under this Act, and may be dealt with accordingly.

## SCHEDULES.

### SCHEDULE I.

*Section 2.*

| Date of Act. | Title of Act. | Extent of Repeal. |
|---|---|---|
| 18 Vict. No. 1 .. | "An Act to protect the rights of "inventors of articles at the "Exhibition in Victoria of one "thousand eight hundred and "fifty-four." | The whole. |
| 20 Vict. No. 3 .. | "An Act concerning Letters Patent "for Inventions." | The whole. |

## SCHEDULE II.

*Section* 7.

To all to whom these presents shall come, I [John Doe, of Taradale, in the county of Talbot, engineer,] 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 *Registrar-General*), 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 hereinafter contained: Now know ye, that the nature 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 *Registrar-General* with any such knowledge or belief as last aforesaid.

In witness, &c.

## SCHEDULE III.

*Section.* 9.

Patent for [*insert the title of the specification*]. This is to notify that *A.B.* of, &c., did on the day of instant [*or* last] deposit at the office of the *Registrar General* in Melbourne a specification or instrument in writing under his hand and seal particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, and that by reason of such deposit the said invention is protected and secured to him exclusively for the term of six calendar months thence next ensuing; and I do further notify that the said *A.B.* has given notice in writing at my chambers of his intention to proceed with his application for Letters Patent for the said invention, and that I have appointed [*Thursday*] the day of next, at o'clock in the noon, at my chambers to hear and consider the said application and all objections thereto; and I do hereby require all

persons having an interest in opposing the grant of such Letters Patent to leave on or before the day of at my chambers in Melbourne particulars in writing of their objections to the said application, otherwise they will be precluded from urging the same.

Given under my hand this day of 18 .

T. H. F.,
General.

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## Schedule IV.

*Section* 10.

Upon hearing the objection of *A.B.* to the grant to *C.D.* of Letters Patent for [*insert the title as in the specification*], I do by this writing under my hand order that the said *A.B.* shall pay to the said *C.D.* the sum of for the costs of such hearing [*or* to *E.F.* the sum of as a remuneration for his attendance at such hearing].

Given under my hand this day of 18 .

G. H.,
General.

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## Schedule V.

*Section* 11.

I have heard and considered the application of *A.B.* for Letters Patent for [*insert the title as in the specification*], and also all objections to the same, and having perused the specification and the usual and necessary advertisements, am of opinion that as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, Her Majesty's Royal Letters Patent may be issued in the form contained in the sixth schedule to the "Patents Statute, 1865," [with the following additional clauses; (that is to say,) *here set them out if any*].

Given under my hand and seal this day of

(L.S.) W. F. S.,
General.

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## Schedule VI.

*Section* 13.

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

Whereas *A.B.* of in the county of , engineer, hath represented that he is desirous of obtaining our Royal Letters Patent for securing unto him our special licence that he, his executors, adminis-

trators, and assigns, and such others as he or they should agree with, and no others, should and lawfully might make, use, exercise, and vend within our colony of Victoria and its dependencies an invention for [*insert the title of the invention*]; and by an instrument in writing under his hand and seal, deposited in the office of the *Registrar General*, the said *A.B.* hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed; and we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said *A.B.* the privileges hereinafter mentioned: Know ye, therefore, that we, of our 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 *A.B.*, his executors, administrators, and assigns, our especial licence, full power, sole privilege, and authority that he the said *A.B.*, his executors, administrators, and assigns, and every of them, by himself and themselves, or his and their deputy or deputies, servants or agents, or such others as he or they shall at any time agree with, and no others, during the term herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within our said colony and its dependencies, in such manner as to him, his executors, administrators, and assigns, or any of them shall seem meet, and that he, his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention during the said term; to have, hold, exercise, and enjoy the said licences, powers, privileges, and advantages unto and by the said *A.B.*, his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years now next ensuing; and to the end that he, his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention according to our gracious intention, we do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate and all other our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within our said colony and its dependencies, that neither they nor any of them at any time during the said term, either directly or indirectly, do make, use, or put in practice the said invention or any part of the same so attained unto by the said *A.B.* as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, licence, or agreement of the said *A.B.*, his executors, administrators, or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this our royal command, and further to be answerable to the said *A.B.*, his executors, administrators, and assigns, according to law for his and their damages thereby

occasioned: Provided always, and these our Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall appear that this our grant is contrary to law or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said *A.B.* is not the true and first inventor thereof within this colony or its dependencies, these our Letters Patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided also, that these our Letters Patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said *A.B.*, his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever and publicly used or exercised, unto whom our like Letters Patent or privileges have been already granted for the sole use, exercise, and benefit thereof, within our said colony or its dependencies, it being our will and pleasure that the said *A.B.*, his executors, administrators, and assigns, and all and every other person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and 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 instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also, if the said *A.B.*, his executors, administrators, or assigns, shall not pay at the office of the *Registrar-General* of our said colony the sum of fifteen pounds within three years next after the date of these presents, and the sum of twenty pounds within seven years next after such date, and also if the said *A.B.*, his executors, administrators, or assigns, shall not supply or cause to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the persons administering the department of our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said persons requiring the same, that then and in any of the said cases these our Letters Patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted. And lastly, we do by these presents, for us, our heirs and successors, grant unto the said *A.B.*, his executors, administrators, and assigns, that these our Letters Patent shall be, in and by all things, good, firm, valid, and sufficient and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favourable and

beneficial sense, for the best advantage of the said *A.B.*, his executors, administrators, and assigns, as well in all our courts of record as elsewhere, aud by all and singular the officers and ministers whatsoever, of us, our heirs and successors, in our said colony and its dependencies, and amongst all and every the subjects of us, our heirs and successors whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging. In witness whereof we have caused these our letters to be made patent, and to be sealed and bear date as of the day of

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## Schedule VII.

*Section* 20.

Patent for [*insert the title*]. This is to notify to all whom it may concern, that *C.D.*, of &c., has applied to me for leave to enter a disclaimer of part [*or* memorandum of alteration, *as the case may be*] of the said invention, the particulars whereof are stated below; I do therefore appoint [*Thursday*], the day of next, at o'clock in the noon, to hear and consider the said application and all objections to the same; and I do hereby require all persons having an interest in opposing the said application to leave on or before the day of at my chambers in Melbourne particulars in writing of their objections to the same, otherwise they will be precluded from urging such objections.

Given under my hand, this day of .

W. F. S.,
General.

The following is the disclaimer [*or as the case may be*] which I desire to make in, &c. [*The applicant must here set forth what he wishes to enter, and sign it*].

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## Schedule VIII.

*Section* 27.

Patent for [*insert the title*]. Notice is hereby given, that I have presented a petition to his Excellency the Governor, praying for the confirmation of [*or* extension of the term in] the said patent, and that a royal commission has issued authorising and requiring certain commissioners therein named to consider and report upon the subject to Her Majesty, which said commissioners will meet for that purpose on the day of next, at o'clock in the noon, at . All persons objecting to the said confirmation [*or* extension] must enter a caveat against the same, at the office of the *Registrar-General* in Melbourne, otherwise they will be precluded from objecting to it.

Dated this day of

A. B.

## SCHEDULE IX.

*Section* 38.

| | £ | 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 of memorandum of alteration or disclaimer | 2 | 10 | 0 |
| Entering any caveat . . . . . | 2 | 10 | 0 |
| Copy or extract of any writing per common law folio . . . . . | 0 | 1 | 0 |

# WESTERN AUSTRALIA.

*Act No.* 1, 15*th Aug.*, 1872.

An Act to regulate Grants of Patents for Inventions in the colony of Western Australia.

Whereas it is expedient to make provision for granting Patents for Inventions in the colony of Western Australia: Be it therefore enacted by His Excellency the Governor of Western Australia and its dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

*Holder of Letters Patent issued under this Act entitled to same privileges in Western Australia as Patentees under Great Seal entitled to in England—5th & 6th Wm. IV. c.* 83; 15*th & 16th Vict. c.* 83.

1. From and after the passing of this Act, any person to whom, as the originator or discoverer of any new invention or improvement in the arts or manufactures, His Excellency the Governor shall, according to the provisions hereinafter contained, grant Letters Patent, or an instrument in the nature of Letters Patent, shall have within the said colony of Western Australia, for a term of fourteen years next after the granting of such Letters Patent or instrument, the exclusive enjoyment and advantage in the said colony of such invention or improvement, and such and the same protection, and such and the same remedies at law and in equity against any person in

the colony infringing the said Letters Patent or instrument, and generally such and the same rights, powers, and privileges throughout the said colony, with respect to the invention for which such Letters Patent or instrument shall be granted, as any person to whom Letters Patent for a new invention have been granted under the Great Seal of England has by the law of England in and throughout the realm of England (save so far as such protection, remedies, rights, powers, and privileges may be inconsistent with the provisions of this Act): Provided that so much of the provisions contained in an Act of the United Parliament of Great Britain and Ireland passed in the session of the fifth and sixth years of the reign of His late Majesty King William the Fourth, intituled "An Act to amend the law touching Letters Patent for Inventions," as relates to the confirming of Letters Patent or granting new Letters Patent to a patentee acting under an erroneous belief that he was the first and original inventor, and for the prolongation of Letters Patent, and the several provisions contained in an Act of the United Parliament of Great Britain and Ireland passed in the session of the fifteenth and sixteenth years of the reign of Her present Majesty, intituled "An Act for amending the law for granting Patents for Inventions," shall not be deemed applicable to the colony of Western Australia: Provided further, that any of the penalties recoverable by any person holding Letters Patent under the Great Seal of England in any court of Great Britain, under the said first-mentioned Act, for any unauthorized person using or imitating the name of any such patentee, or using the word "patent," or the like words, or counterfeiting the mark of any such patentee, may be recoverable and recovered in similar courts in the said colony by any person to whom Letters Patent, or an instrument in the nature of Letters Patent, shall be granted under the provisions hereof, or by his assignee, for similar injuries to such last-mentioned patentee or his assignee in the said colony.

*Mode of Application for Letters Patent.*

2. Any person being the originator or discoverer of any new invention or improvement as aforesaid, for which no patent or instrument in the nature of Letters Patent has been issued in Western Australia or any other country, and being desirous of obtaining Letters Patent or an instrument as aforesaid under this Act, shall deposit with the Colonial Treasurer the sum of

twenty-five pounds, and leave in the office, or in the custody of such person as the Governor may appoint, a petition addressed to His Excellency, stating clearly and succinctly the object to be attained by his invention or discovery, setting forth that he has deposited the sum of twenty-five pounds as aforesaid, and praying that Letters Patent, or an instrument as aforesaid, may be granted to him for the exclusive use thereof in the said colony; and every such person shall also send with his said petition a written specification, signed by him, of his invention or discovery, and of the manner and process of making, constructing, using, and compounding the same, in such terms, avoiding unnecessary prolixity, as to enable any person skilled in the art or scheme to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of any machine, a statement of the principle and of the several modes in which he has contemplated the application of that principle or character by which it may be distinguished from other inventions; and shall in the said specification particularly specify and point out the part, improvement, or combination which he claims as his own invention and discovery: he shall also send a drawing and written references, where the nature of the case admits, of drawings or specimens of ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, when the invention or discovery is a composition of matter; and he shall moreover, if required by such person so appointed as aforesaid, furnish with the said petition a model of his invention, in all cases which admit of a representation by model, of a convenient size to exhibit advantageously its several parts; and he shall also send a solemn affirmation or declaration, made before some justice of the peace of the said colony (and which affirmation or declaration such justice is hereby authorized to take), that the petitioner is, as he believes, the first and true originator or discoverer of such new invention or improvement, and shall affirm or declare the object intended to be attained thereby.

*Notice of Application to be published in Gazette.*

3. The Governor in his discretion may thereupon cause notice of the said application to be inserted in the Government Gazette, and thereby require any person who may conceive that he would be prejudiced by the granting of such Letters

Patent or instrument, to send within two months of the said publication to the office or address of such person so appointed as aforesaid, a statement in writing setting forth the grounds of such objection, subscribed with his proper name and address.

*Governor may refer Objection to Persons appointed who shall report to His Excellency.*

4. It shall be lawful for the Governor, upon receipt within the time aforesaid of such objection, to refer the consideration thereof to one or more competent person or persons to be appointed by the said Governor, and also to direct the applicant for such Letters Patent or instrument, and the opponent of the grant or issue thereof, to attend before such person or persons so appointed, who shall investigate the said matter, and shall be at liberty to call to his or their aid such scientific or other witnesses as he or they may think fit, and to cause to be paid to such witnesses by the applicant such remuneration as he or they may direct; and such person or persons so appointed shall report to the Governor whether in his or their opinion such Letters Patent should be issued, and if any such objection shall be sustained, the said specification, drawings, and models shall be returned to the said applicant, and the said sum of twenty-five pounds shall be paid to Her Majesty as hereinafter mentioned.

*Costs of Inquiry to be given.*

5. It shall be lawful for such person or persons so appointed, to whom the consideration of any such objection as aforesaid is referred, if he or they see fit, by certificate under his or their hand, to determine the amount of the costs of any hearing or inquiry upon such objection, and to order by and to whom such costs shall be paid; and if any such costs so ordered to be paid be not paid within seven days after the date of such order, every such order may be made a rule of the Supreme Court of such colony.

*If no Objection, Letters Patent may be issued.*

6. In case no objection shall be made to the issuing of the said Letters Patent or instrument within the time aforesaid, or in case such person or persons so appointed shall report that such Letters Patent or instrument should be issued, the Governor may direct, by writing under his hand, that such

Letters Patent or instrument shall be issued by the Colonial Secretary or other proper officer, and shall thereupon cause such specifications, drawings, and models so sent as aforesaid, to be deposited with the Colonial Secretary of the said colony.

*Amount to be paid for Letters Patent.*

7. The person applying for such Letters Patent or instrument shall, within one month after the issuing of such direction, pay into the office of the Colonial Treasurer of the said colony and obtain a receipt for the sum of twenty-five pounds sterling, which sum and the said sum of twenty-five pounds, and all other monies received by the Colonial Treasurer under this Act, shall be paid to Her Majesty, her heirs and successors, for the use of the said colony and in support of the Government thereof.

*Colonial Secretary to issue Letters Patent.*

8. The Colonial Secretary or other proper officer, upon such directions as aforesaid, and production to him of the receipts of the Colonial Treasurer, shall forthwith cause Letters Patent to be prepared in the form in the schedule hereunto annexed marked A, and the Governor shall sign his name and cause the seal of the said colony to be annexed to such Letters Patent, and deliver the same to the person to whom the same shall be granted, or to his agent or legal representative.

*Letters Patent to be delivered to Colonial Secretary.*

9. The person to whom such Letters Patent shall be issued shall thereupon deliver or cause to be delivered the said Letters Patent at the office of the said Colonial Secretary, and the said Letters Patent shall be operative from the time of such delivery.

*More than Ten Persons may be interested in Letters Patent.*

10. It shall be lawful for a larger number than ten persons to have a legal or beneficial interest in any such Letters Patent, or instrument in the nature of Letters Patent, issued under the provisions of this Act.

*Assignment of a Patent and record thereof.*

11. Every patent or instrument in the nature of Letters Patent granted under this Act shall be assignable in law either

as to the whole interest or any undivided part thereof by any instrument in writing, which assignment, and also every grant and conveyance of the exclusive right under any patent to make and use and to grant to others to make and use the thing patented within the said colony, shall be recorded in the office of the Colonial Secretary within three months from the execution thereof upon payment by the assignee or grantee to the Colonial Treasurer of the sum of ten pounds.

*Injunction may be granted.*

12. In any action in the Supreme Court of the said colony for the infringement of any Letters Patent, or instrument in the nature of Letters Patent, issued under the provisions of this Act, it shall be lawful for the Court, as well in its common law as equity jurisdiction, or if the Court be not sitting, then for a Judge of such Court, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such Court or Judge shall seem fit.

*Letters Patent may be repealed by Scire facias.*

13. Any Letters Patent or instrument in the nature of Letters Patent granted by virtue of this Act shall be liable to be repealed by writ of *scire facias* for the same causes and in the same manner as any grants of the Crown are liable to be repealed.

*Letters Patent and Specifications, &c., to be enrolled.*

14. The said Colonial Secretary shall cause both the said Letters Patent and the said specification and description to be kept in his office, and shall also cause a book to be kept in his office containing an index to all such Letters Patent, or instruments which may be issued or assigned; the object to be attained by the invention to be protected thereby, the date thereof, the name of the person to whom the same is issued or assigned, and such description of the enrolment thereof as may be necessary to facilitate reference; and all persons whosoever may have access to the said books, and may inspect the same, and may have copies thereof, or of such parts thereof as they may require,

certified by the Colonial Secretary, upon payment of reasonable expenses actually incurred in taking the same, and copies of, or extracts from the said Letters Patent, instrument, and specification certified by the said Colonial Secretary to be true copies or extracts shall be received as evidence of the contents of the said Letters Patent, instrument, and specification respectively in all proceedings whatsoever.

*Specification may be corrected.*

15. Whenever any patent or instrument in the nature of Letters Patent granted under the authority of this Act shall be inoperative or invalid by reason of a defective or insufficient description or specification, or by reason of the patentee claiming, as his own invention, more than he had or shall have a right to claim as new, if the error has or shall have arisen by inadvertency, accident, or mistake, and without any fraudulent or deceptive intention, it shall be lawful for His Excellency the Governor, upon the surrender of such patent or instrument, and the payment to the Colonial Treasurer of the sum of ten pounds, to cause a new Patent or instrument as aforesaid to be issued to the said inventor for the same invention for the residue of the period then unexpired for which the original patent was granted in accordance with the patentee's corrected description and specification, and in case of his death or any assignment by him made of the original patent a similar right shall vest in his executors, administrators, or assigns; and the patent so re-issued, together with the corrected description and specification, shall have the same effect and operation in law on the trial of all actions hereafter commenced for causes subsequently accruing as though the same had been originally filed in such corrected form before the issuing out of the original patent: And whenever the original patentee or his assignee shall be desirous of adding the description and specification of any new improvement of the original invention or discovery which shall have been originated or discovered by him subsequent to the date of his patent, he may, like proceedings being had in all respects as in the case of original applications, and on the further payment of twenty pounds in manner hereinbefore provided, have the same annexed to the original description and specification, and the Colonial Secretary shall certify on the margin of such annexed description and specification the time of its being annexed and recorded, and the same shall

thereafter have the same effect in law to all intents and purposes as though it had been embraced in the original description and specification.

*Disclaimer may be entered.*

16. Any person who shall obtain such Letters Patent or instrument, or his assignee, may, if he think fit, enter with the said Colonial Secretary (having first obtained the permission in writing of the Governor) a disclaimer of any part of either the title of the invention or of the specification, stating the reason for such disclaimer, or may, with such permission as aforesaid, enter a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said Letters Patent or instrument, and such disclaimer or memorandum of alteration being deposited with the said Colonial Secretary shall be deemed and taken as part of such Letters Patent or instrument, or such specification, and subject to the several incidents thereof, in all courts of justice in the said colony: Provided that no such disclaimer or alteration shall be receivable as evidence in any action or suit (save and except in any proceeding by *scire facias*) pending at the time when such disclaimer or alteration was enrolled, but in every such action or suit the original title and specification alone shall be deemed and taken to be the title and specification of the invention for which the Letters Patent have been or shall have been granted.

*Punishment for false Entries or false Affirmations.*

17. If any person shall wilfully make or cause to be made any false entry or alteration in any register or assignment of patents or instruments as aforesaid, or in any specification, or shall wilfully make or forge, or cause to be made or forged, any false writing purporting to be a copy of any entry in the said book, or of any such patents, instruments, or specifications, or shall produce or tender or cause to be produced or tendered in evidence any such writing, knowing the same to be false or forged, or shall wilfully make any false affirmation before any justice of the peace respecting any of the matters concerning which an affirmation is hereby required to be made as aforesaid, he shall be guilty of a misdemeanor, and on conviction thereof shall be punished by fine and imprisonment at the discretion of the court.

*Holder or Assignee of Patents obtained in other countries may obtain Letters of Registration.*

18. No person shall receive a patent or an instrument in the nature of Letters Patent under this Act for an invention or discovery which has been previously patented in Great Britain, or any other country, but it shall be lawful for the Governor, in his discretion, on the application of any person being the holder or assignee of any patent granted or issued in Great Britain, or any other country, for any new discovery or invention, and upon such proof as the Governor may deem sufficient that such person is the *bonâ fide* holder or assignee of the said patent, and that the same is in full force, and upon payment to the Colonial Treasurer of the sum of twenty-five pounds, to grant letters of registration under the seal of Western Australia to the holder of such patent as aforesaid, or his assignee, and such letters of registration shall be deposited in the office of the Colonial Secretary in the manner herein provided, and shall be deemed to be Letters Patent issued under this Act for such invention or improvement, and shall have the same force and effect as Letters Patent issued thereunder, and shall, unless repealed by writ of *scire facias* or otherwise, inure to the benefit of the holder during the continuance of the original patent in the country in which it was issued or granted, and no longer; and all the provisions of this Act shall apply to such letters of registration in the same way *mutatis mutandis* and as fully as to Letters Patent or an instrument in the nature of Letters Patent issued under this Act.

*Interpretation Clause.*

19. In the construction of this Act, the word "person" shall include bodies corporate and companies as well as individuals, unless the context be repugnant thereto.

*Royal Prerogative saved.*

20. Nothing in this Act contained shall be deemed to interfere with Her Majesty's Royal Prerogative in granting or issuing or withholding the grant or issue of any Letters Patent.

## The SCHEDULE referred to in the foregoing Act.

### A.

*Form of Letters Patent, or Instrument in the nature of Letters Patent.*

His Excellency the Governor of the Colony of Western Australia, &c., &c.

To all to whom these Presents shall come,
Greeting--

Whereas hath by his petition humbly represented unto me that he is in possession of an invention for , which the petitioner conceives will be of great public utility, that he is the true and first inventor thereof, and that the same is not in use by any other person or persons to the best of his knowledge and belief; the petitioner therefore humbly prayed that I would be pleased to grant unto him, his executors, administrators, and assigns, Letters Patent, or an instrument in the nature of Letters Patent, for the sole use, benefit, and advantage of his said invention within the Colony of Western Australia for the term of 14 years, pursuant to the Act of Council 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, and I have acceded to the petitioner's request: Know ye therefore that I, in pursuance of the powers conferred on me by an Act of the Governor and Legislative Council of the said Colony in that behalf made and provided, hath given and granted, and by these presents do give and grant unto the said his executors, administrators, and assigns, the sole privilege and especial license, full power and authority, that he the said his executors, administrators, and assigns, and every one of them by himself and themselves, or by his or 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, and exercise, and vend the said invention within the said Colony of Western Australia, 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 may lawfully have and enjoy the whole profit, benefit, commodity, and advantage from time to time 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 and mentioned, to be granted unto the said his executors, administrators, and assigns, for and during and unto the full end and term of 14 years from the date of these presents next and immediately ensuing, according to

the Act of Council in such case made and provided: And to the end that 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 as hereinbefore declared. I do, by these presents, advise all and every person and persons, bodies politic and corporate, in the said Colony of Western Australia, of what estate, quality, degree, name, and condition soever they be within the said Colony, that neither they or any of them at any time during the continuance of the said term of 14 years hereby granted, either directly or indirectly do make, use, or put in practice the said invention or any part of the same so attained unto by the said as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, devisor or devisors thereof, without the consent, license, or agreement of the said his executors, administrators, or assigns, in writing under his or their hands and seals first had and obtained in that behalf, lest by so doing they may make themselves answerable to the said his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned.

Provided always, and these Letters Patent or instrument in the nature of Letters Patent are, and is, and shall be upon this condition, that if at any time during the said term hereby granted it shall be made appear to Her Majesty Queen Victoria, her heirs or successors, or to the Governor of the said Colony, that this grant is contrary to law, or prejudicial or inconvenient to her 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, these Letters Patent, or instrument in the nature of Letters Patent, shall forthwith cease, determine, and be utterly void to all intents and purposes; Provided also, that these Letters Patent or instrument as aforesaid, 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 person and publicly used or exercised, unto whom Letters Patent or privileges have been already granted for the sole use, exercise, and benefit thereof; Provided likewise, and these Letters Patent, or instrument in the nature of Letters Patent, are or is upon this express condition, that if the said has not 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 deposited with the officer appointed by the Governor, and also if the said his executors, administrators, or assigns, shall not supply or cause to be supplied for the service of Her Majesty Queen Victoria, her heirs or successors, in the said Colony, 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 her or their service for the use of which

the same shall be required in the said Colony, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the Governor of the said Colony, that then, and in any of the said cases, these Letters Patent, or instrument in the nature of Letters Patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void; And lastly, I do by these presents grant unto the said his executors, administrators, or assigns, that these Letters Patent, or instrument in the nature of Letters Patent, shall be in and by all things good, firm, valid, sufficient, and effectual in the law according to the true intent and meaning thereof, notwithstanding the not full and certain describing herein of the nature or quality of the said invention, or of the materials thereunto conducing and belonging. In witness whereof, I have hereunto subscribed my name and have caused these Letters Patent, or this instrument in the nature of Letters Patent, to be sealed with the seal of the Colony of Western Australia, this day of A.D. .

# INTERNATIONAL CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY.

*Signed at Paris, March* 20, 1883.

[*Ratifications exchanged at Paris, June* 6, 1884.]

## ARTICLE I.

The Governments of Belgium, Brazil, Spain, France, Guatemala, Italy, Holland, Portugal, Salvador, Servia, and Switzerland, constitute themselves into a Union for the protection of Industrial Property.

[NOTE.—*The following Governments have since adhered to the Convention in accordance with Art. XVI.:* Great Britain, (Order in Council, under § 103 of the Patents Act, dated 26th June, 1884), Ecuador *and* Tunis.]

## ARTICLE II.

The subjects or citizens of each of the Contracting States shall, in all the other States of the Union, in matters concerning patents, industrial designs or models, trade and commercial marks and trade names, enjoy the advantages that their respective laws now grant, or shall hereafter grant, to natives.

Consequently, they shall have the same protection as the latter, and the same legal remedy against any infringement of

their rights, subject to the fulfilment of the formalities and conditions imposed on natives by the internal legislation of each State.

## ARTICLE III.

Subjects or citizens of States not forming part of the Union, who are domiciled or have industrial or commercial establishments in the territory of any of the States of the Union, shall be assimilated to the subjects or citizens of the Contracting States.

## ARTICLE IV.

Any person who has duly lodged an application for a patent, an industrial design or model, or a trade or commercial mark in one of the Contracting States, shall enjoy, for lodging the application in the other States, and reserving the rights of third parties, a right of priority during the terms hereinafter stated.

Consequently, a subsequent application in any of the other States of the Union before the expiration of these periods shall not be invalidated through any acts accomplished in the interval, either, for instance, by another application, by publication of the invention, or by the working of it by a third party, by the sale of copies of the design or model, or by the use of the mark.

The above-mentioned terms of priority shall be six months for patents, and three months for industrial designs and models and for trade and commercial marks. The terms will be increased by a month for countries beyond the sea.

## ARTICLE V.

The introduction by the patentee into the country where the patent has been issued of objects manufactured in any of the States of the Union shall not entail forfeiture.

Nevertheless, the patentee shall remain subject to the obligation to work his patent in conformity with the laws of the country into which he introduces the patented objects.

## ARTICLE VI.

Every trade or commercial mark duly deposited in the country of its origin shall be admitted for registration, and protected in like manner in all the other countries of the Union.

The country where the applicant has his chief establishment shall be deemed the country of origin.

If this chief establishment is not situated in one of the countries of the Union, the country to which the applicant belongs shall be deemed the country of origin.

The deposit may be refused if the object for which it is solicited is considered contrary to morality or public order.

## ARTICLE VII.

The nature of the goods on which the trade or commercial mark is to be used can, in no case, be an obstacle to the registration of the mark.

## ARTICLE VIII.

A trade name shall be protected in all the countries of the Union, without the necessity of registration, whether it form part or not of a trade or commercial mark.

## ARTICLE IX.

All goods illegally bearing a trade or commercial mark or trade name may be seized on importation into those States of the Union where this mark or trade name has a right to legal protection.

The seizure shall be effected at the request of either the Public Prosecutor or of the interested party, pursuant to the internal legislation of each country.

## ARTICLE X.

The provisions of the preceding Article shall apply to all goods falsely bearing the name of any locality as indication of their place of origin, when such indication is associated with a trade name either fictitious or assumed with fraudulent intent.

Any manufacturer or merchant engaged in the manufacture or sale of such goods, established in the locality falsely designated as the place of origin, shall be deemed an interested party.

## ARTICLE XI.

The High Contracting Parties agree to grant temporary protection to patentable inventions, to industrial designs or models, and trade and commercial marks, for articles exhibited at official or officially recognized International Exhibitions.

## ARTICLE XII.

Each of the High Contracting Parties agrees to establish a special Department for industrial property, and a central office for the communication to the public of patents, industrial designs or models, and trade and commercial marks.

## ARTICLE XIII.

An international office shall be organized under the name of the "Bureau International de l'Union pour la Protection de la Propriété Industrielle."

This office, the expense of which shall be defrayed by the Governments of all the Contracting States, shall be placed under the high authority of the Central Administration of the Swiss Confederation, and shall work under its supervision. Its functions shall be determined by agreement between the States of the Union.

## ARTICLE XIV.

The present Convention shall be submitted to periodical revisions, with a view to introducing improvements calculated to perfect the system of the Union.

To this end Conferences shall be successively held in one of the Contracting States by Delegates of the said States. The next meeting shall take place in 1885 at Rome.

## ARTICLE XV.

It is agreed that the High Contracting Parties respectively reserve to themselves the right to make separately, between themselves, special arrangements for the protection of Industrial Property, in so far as such arrangements do not contravene the provisions of the present Convention.

## ARTICLE XVI.

States which have not taken part in the present Convention shall be permitted to adhere to it at their request.

Such adhesion shall be notified officially through the diplomatic channel to the Government of the Swiss Confederation, and by the latter to all the others. It shall imply complete accession to all the clauses, and admission to all the advantages stipulated by the present Convention.

## ARTICLE XVII.

The execution of the reciprocal engagements contained in the present Convention is subordinated, in so far as necessary, to the observance of the formalities and rules established by the Constitutional laws of those of the High Contracting Parties who are bound to procure the application of the same, which they engage to do with as little delay as possible.

## ARTICLE XVIII.

The present Convention shall come into operation one month after the exchange of ratifications, and shall remain in force for an unlimited time, till the expiration of one year from the date of its denunciation.

This denunciation shall be addressed to the Government commissioned to receive adhesions. It shall only affect the denouncing State, the Convention remaining in operation as regards the other Contracting Parties.

## ARTICLE XIX.

The present Convention shall be ratified, and the ratifications exchanged in Paris, within one year at the latest.

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## ON THE SIGNATURE OF THE CONVENTION THE PLENIPOTENTIARIES AGREED AS FOLLOWS:—

1. The words "Industrial Property" shall be understood in their broadest sense; they are not to apply simply to industrial products properly so called, but also to agricultural products (wine, corn, fruits, cattle, &c.), and to mineral products employed in commerce (mineral waters, &c.).

2. Under the word "patents" are comprised the various kinds of industrial patents recognized by the legislation of each of the Contracting States, such as patents of importation, patents of improvement, &c.

3. The last paragraph of Article II. of the Convention does not affect the legislation of each of the Contracting States as regards the procedure to be followed before the Tribunals, and the competence of those Tribunals.

4. Paragraph 1 of Article VI. is to be understood as meaning that no trade or commercial mark shall be excluded from pro-

tection in any State of the Union, from the fact alone that it does not satisfy, in regard to the signs composing it, the conditions of the legislation of that State; provided that on this point it comply with the legislation of the country of origin, and that it had been properly registered in the said country. With this exception, which relates only to the form of the mark, and reserving the provisions of the other Articles of the Convention, the internal legislation of each State remains in force.

To avoid misconstruction, it is agreed that the use of public armorial bearings and decorations may be considered as being contrary to public order in the sense of the last paragraph of Article VI.

5. The organization of the special Department for Industrial Property mentioned in Article XII., shall comprise, so far as possible, the publication in each State of a periodical official paper.

6. The common expenses of the International Office, instituted by virtue of Article XIII., are in no case to exceed each year a total sum representing an average of 2,000 fr. for each Contracting State.

To determine the part which each State should contribute to this total of expenses, the Contracting States, and those which may afterwards join the Union, shall be divided into six classes, each contributing in the proportion of a certain number of units, namely:—

| | | |
|---|---|---|
| 1st class | .. .. .. .. .. .. | 25 units. |
| 2nd class | .. .. .. .. .. .. | 20 „ |
| 3rd class | .. .. .. .. .. .. | 15 „ |
| 4th class | .. .. .. .. .. .. | 10 „ |
| 5th class | .. .. .. .. .. .. | 5 „ |
| 6th class | .. .. .. .. .. .. | 3 „ |

These co-efficients will be multiplied by the number of States in each class, and the sum of the result thus obtained will supply the number of units by which the total expense has to be divided. The quotient will give the amount of the unit of expense.

The Contracting States are classed as follows, with regard to the division of expense:—

| | | |
|---|---|---|
| 1st class | .. .. | France, Italy. |
| 2nd class | .. .. | Spain. |
| 3rd class | .. .. | Belgium, Brazil, Portugal, Switzerland. |
| 4th class | .. .. | Holland. |
| 5th class | .. .. | Servia. |
| 6th class | .. .. | Guatemala, Salvador. |

The Swiss Government will superintend the expenses of the International Office, advance the necessary funds, and render an annual account, which will be communicated to all the other Administrations.

The International Office will centralize information of every kind relating to the protection of Industrial Property, and will bring it together in the form of a general statistical statement which will be distributed to all the Administrations. It will interest itself in all matters of common utility to the Union, and will edit, with the help of the documents supplied to it by the various Administrations, a periodical paper in the French language dealing with questions regarding the object of the Union.

The numbers of this paper, as well as all the documents published by the International Office, will be circulated among the Administrations of the States of the Union in the proportion of the number of contributing units as mentioned above. Such further copies as may be desired either by the said Administrations, or by Societies or private persons will be paid for separately.

The International Office shall at all times hold itself at the service of members of the Union, in order to supply them with any special information they may need on questions relating to the international system of Industrial Property.

The Administration of the country in which the next conference is to be held will make preparation for the transactions of that conference, with the assistance of the International Office.

The Director of the International Office will be present at the meetings of the conferences, and will take part in the discussions, but without the privilege of voting.

He will furnish an annual Report upon his administration of the office, which shall be communicated to all the members of the Union.

The official language of the International Office will be French.

7. The present Final Protocol, which shall be ratified together with the Convention concluded this day shall be considered as forming an integral part of, and shall have the same force, validity, and duration as the said Convention.

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LONDON: PRINTED BY WILLIAM CLOWES AND SONS, LIMITED, STAMFORD STREET AND CHARING CROSS.