

	£	s.	d.
Sealing letters patent.....	1	10	0
At or before the expiration of three years.....	5	0	0
At or before the expiration of seven years.....	10	0	0
From <i>Carp. Pat. L. of World</i> , 381; shortening some lengthy section captions.			

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

**NETHERLANDS.**

According to a report by Mr. J. Walsham, of the British Legation, published October 7, 1873, 4 *Pat. Off. Gaz.* 373, the law of January 25, 1817,—which allowed issue of patents for terms not exceeding fifteen years,—was repealed by a law taking effect July 18, 1869, which prohibited issue of patents except upon applications made prior to that date. He also says : “It may be as well to correct a somewhat prevalent idea that the Crown, notwithstanding the law for the abolition of patents, has still the power in special cases of conferring exclusive rights upon inventors. No such royal prerogative, however, exists ; and no exceptions whatever are or can be made, beyond those specified in the abolition law.” [Referring to provisions allowing patents granted under the former law for five or ten years to be extended not exceeding fifteen years in all, and allowing applications made before the abolition to be granted.] It follows that no patents for the Netherlands are obtainable, and none are existing. Mr. Walsham’s report explains the effect of this legislation ; and publishes the Act of January 25, 1817, and the regulations for carrying it out. 4 *Pat. Off. Gaz.* 374, 375.

---

**NEVIS.**

See LEEWARD ISLANDS.

---

**NEW BRUNSWICK.**

See CANADA.

---

**NEW CALEDONIA.**

See FRANCE.

## NEWFOUNDLAND.

*The Consolidated Statutes, Title XV., Ch. 54, Sec. 1, entitled "of Patents."*

I. *Patents to be granted in certain cases.* Whenever any person shall apply to the Governor, alleging that he hath invented and discovered any new and useful art, machine, manufacture, or composition of matter not theretofore known or used, and shall, by petition to the Governor, signify his desire to obtain an exclusive property in such new invention and discovery, and shall pray that a patent be granted for the same, the Governor in Council may direct letters patent, under the Great Seal of this Island, to be issued, which letters patent shall recite the allegations and suggestions of the said petition and shall therein give a short description of the said invention and discovery, and thereupon shall grant to such person, his executors, administrators, or assigns, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing, and using, and vending to others to be used, the said new invention or discovery ; which letters patent shall be good and available to the grantee therein named, by force of this chapter, and shall be recorded in the office of the colonial secretary in a book to be kept for that purpose, and shall be delivered to the patentee : and the Governor in Council may insert in any such letters patent a provision extending the operation thereof for a further term of seven years. Before the Great Seal of this Island shall be affixed to any such letters patent, or the same shall be issued and signed as aforesaid, such letters patent shall be delivered to Her Majesty's attorney-general, who shall examine the same, and shall, if he finds the same conformable to this chapter, certify accordingly, and return the same within fifteen days into the office of the colonial secretary, to be issued and signed.

II. *Improvement on patented invention.* Where any such letters patent shall be obtained by any person, and thereafter any other person shall discover or make any improvement in the principle or process of any such art, machine, or composition of matter, for which such patent hath been granted, and shall make application for and obtain letters patent under this chapter for the exclusive right of such improvement, the person who shall obtain and



procure letters patent for any such improvement, shall not make use, or vend the original invention or discovery, nor shall the person who shall have procured letters patent for the original invention or discovery, make, use, or vend any such improvement: Provided, that simply changing the form or the proportions of any machine or composition of matter, in any degree, shall not be deemed a discovery or improvement within the meaning of this chapter.

III. *Right to copies.* Any person may obtain from the office of the colonial secretary a copy of any such letters patent, or of the petition whereon the same were issued, or of any paper connected therewith, or any drawing relating to the same, on payment, for such copy, of such fees as are now payable at the office of the colonial secretary for copies of other documents.

IV. *Oath required.* Before any person shall receive any letters patent under this chapter, such person shall make oath, in writing, before one of the justices of Supreme Court, a stipendiary magistrate, or commissioner of affidavits, that he doth verily believe that he is the inventor or discoverer of the art, machine, composition of matter, or improvement for which he solicits letters patent, and that such invention or discovery hath not, to the best of his knowledge or belief, been known or used in this island or in any other country, which oath shall be delivered with the petition for such letters patent.

V. *Description, model, and drawing to be filed.* Together with such petition and oath, before any person shall obtain any letters patent as aforesaid, such person shall also deliver into the office of the colonial secretary a written description of his invention, and of the manner of using or process of compounding the same in such full, clear, and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected to make, compound, and use the same, and in case of any machine, shall deliver a model thereof into the office of the colonial secretary, and shall explain the principle and the several modes in which such person hath contemplated the application of that principle or character by which it may be distinguished from other inventions, and shall accompany the whole with drawings and written references, where the nature of the case admits of drawings, or with specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter; which description,

signed by such person, and attested by two witnesses, shall be filed in the office of the colonial secretary, and copies thereof, certified under his hand, shall be evidence in all courts where any matter or thing, touching or concerning the said letters patent, shall come into question : Provided, that where, from the complicated nature of any machinery, the cost of a model thereof may be so great as to prevent any ingenious but poor person from obtaining patents for his useful inventions, the Governor in Council may dispense with the delivery of such model into the office of the colonial secretary previous to the granting of any such patent ; and the requisitions of this chapter being in all other respects complied with, such person shall be entitled to such patent as if such model had been so lodged.

VI. *Patentee may assign.* Any patentee, his executors or administrators, may assign all his right, title, and interest in the said invention and discovery in the letters patent to him granted, to any person ; and the assignee thereof, having recorded the said assignment in the office of the colonial secretary, shall thereafter stand in the place and stead of the original patentee, as well as to all right, privilege, and advantage, as also in respect of all liability and responsibility as to the said letters patent, and the invention and discovery thereby secured ; and in like manner shall the assignees of any such assignee stand in the place and stead of the original patentee or inventor.

VII. *Forfeiture in case of infringement.* Whenever, in any case, any letters patent, shall be, or shall or may have been, granted to any person under and by virtue of this chapter, and any person, without the consent of the patentee, his executors, administrators, or assigns, first had and obtained in writing, shall make, devise, use, or sell the thing, invention, or discovery, whereof the exclusive right is secured to the said patentee by such letters patent, such person so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns, a sum equal to three times the actual damage sustained by such patentee, his executors, administrators, or assigns from or by reason of such offense, which sum may be recovered, together with costs, by action on the case, founded on this chapter, in the Supreme Court.

VIII. *Pleading.* The defendant in such action may plead the general issue, and give this chapter, and any special matter in evidence, tending to prove that the specification filed by the plaintiff does not contain the whole truth relative to the invention or discov-



ery therein alleged to have been made by the said plaintiff, or that it contains more than is necessary to produce the described effect (which concealment or addition shall fully appear to have been made for the purpose of deceiving the public), or that the thing, invention, or discovery, thus secured by letters patent, as aforesaid, was not originally discovered by the patentee, but had been in use, or had been described in some public work, anterior to the supposed invention or discovery of the said patentee, or that he had surreptitiously obtained letters patent as aforesaid, for the invention or discovery of some other person ; in either of which cases, upon proof thereof, a verdict shall be returned and a judgment shall be entered for the said defendant with costs, and the said letters patent shall thereupon be and shall by the said court be adjudged void.

IX. *Applicant not deprived of right by having obtained patent elsewhere.* No applicant shall be deprived of his right to a patent in this colony for his invention, by reason of his having previously taken out letters patent therefor in any other country : Provided, that such invention shall not have been introduced into public and common use in this colony prior to the application for a patent therein, and the patent granted in this colony shall not continue in force after the expiration of the patent granted elsewhere, and where more than one such patent or like privilege is obtained abroad, then immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges, the patent granted in this colony shall cease to be in force : and no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained elsewhere, and which shall be granted in this colony, after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

X. *Letters issuable to assignee.* Letters patent may be issued by the Governor in Council to the assignee of any person who may have taken out letters patent for his invention or discovery in any other country, but not for any invention or discovery made abroad for which no letters patent have been there obtained : Provided, that the invention or discovery so assigned shall not have been introduced into public and common use in this colony prior to the application for a patent ; and that the assignee of such foreign patent shall file, with his application, the assignment duly proved under which he claims a patent in this colony, and an affidavit, setting forth the date of the patent abroad, that the article thereby

patented has not been in public and common use in this colony, and that he is the assignee for a good consideration.

XI. *Forfeiture for failure to operate.* Any letters patent which may be taken out under or by virtue of this chapter, and which shall not have been brought into operation within two years next ensuing from and after the date thereof, such letters patent shall, at the expiration of the said period of two years, be void.

XII. *Notices.* No letters patent shall be granted under or by virtue of this chapter until notice shall have been published in the Royal Gazette and one other of the newspapers of this colony, for at least four weeks, of the intention of the applicant to apply for such letters patent ; and such notice shall contain, in general terms, the description of invention for which such letters patent shall be desired.

XIII. *Remedy where patentee takes larger interest than entitled to.* If by mistake, accident, or inadvertence, and without any willful default, or intent to defraud or mislead the public, a patentee shall in his specification have claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, but of which he was not the original or first inventor, and shall have no just or legal right to claim the same, his patent in such case shall be valid for so much of the invention or discovery as shall be actually his own, provided it is a material and substantial part of the thing patented, and be plainly distinguishable from other parts patented without right ; and every such patentee and his legal representatives, whether holding the whole or a particular interest in the patent, may maintain suits at law or in equity, for any infringement of such part of the same as is actually the invention or discovery of the patentee, although his specification may embrace more than he has a legal right to claim ; but if in such case the plaintiff shall obtain a verdict or judgment, he shall not be entitled to costs, unless before the commencement of the suit he shall have filed in the office of the colonial secretary a disclaimer, attested by a witness, of that part of the thing patented which was claimed without right ; and no person bringing a suit shall be entitled to the benefits of this section, if he shall have unreasonably neglected or delayed to record his disclaimer.

XIV. *Disclaimer of surplus when specification too broad.* If through inadvertence, accident, or mistake, a patentee shall have made his specification too broad by claiming more than that of which he was the original or first inventor (some material and sub-



stantial part of the thing patented being justly and truly his own), the disclaimer shall be in writing, and shall state the extent of interest in the patent held by the party making the same ; it shall be attested by a witness, and be recorded in the office of the colonial secretary ; thereafter, such disclaimer shall be considered as part of the original specification, to the extent of the interest possessed by the party making the same, or by those claiming under him ; but no such disclaimer shall affect any action or suit pending at the time of its being recorded, except so far as may relate to the question of unreasonable neglect or delay in recording the same.

XV. *Reissue for want in the description, &c.* If any patent shall become inoperative or invalid by reason of a defective or insufficient description or specification, or by reason of the patentee claiming in his specification, as his own invention, more than he had a right to claim, and the error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Governor in Council, upon the surrender of such patent, and upon petition therefor, may cause a new patent to be issued to the patentee, for the residue of the term mentioned in the first patent in accordance with the patentee's amended description and specification : in case of his death, or the assignment by him of the original patent or any fractional interest therein, the right shall vest in his legal representatives to the extent of their respective interests in such patent ; and the patent so re-issued, together with the amended description and specification, shall have the same effect and operation in law as though the same had been originally filed in such amended form before the issuing of the original patent.

XVI. *Right of patentee to patent improvements.* If an original patentee shall be desirous of adding a description and specification of an improvement upon his original invention or discovery, made or discovered by him subsequent to the date of his patent, he may, upon the like proceedings being had in all respects as in the case of an original application, have the same annexed to his original description and specification ; and the colonial secretary shall certify upon such annexed description and specification the time of its being annexed and recorded, and thereafter it shall have the same effect in law as if it had been embraced in the original description and specification, and had been recorded therewith.

XVII. *No patent granted elsewhere, valid in Newfoundland until, &c.* No patent for any invention or discovery, granted in England or elsewhere out of the colony, and extending to the col-



onies, shall be of force and effect in this colony, until copies of the original specification and drawings filed, or duplicates of the models lodged, in England or elsewhere out of the colony, upon which such patent was there obtained, shall be filed or lodged in the office of the colonial secretary, who shall grant a certificate of the lodging or filing of the same.

XVIII. *Affirmations and oaths.* All oaths required by this chapter, unless otherwise directed, may be taken in this colony before a judge of the Supreme Court, or a commissioner for taking affidavits in the same; or in Great Britain or Ireland, before the mayor of a city or borough, and shall be certified under the corporate seal; or, in a foreign country, before a British consul or vice-consul, and shall be certified under his seal of office.

XIX. *Patentee to pay fees of office and twenty-five dollars.* Any person who may take out letters patent under this chapter shall pay for the same such fees as are charged on documents issued under the Great Seal of this Island, and shall, in addition, deposit with the colonial secretary the sum of twenty-five dollars, to be by him paid to the receiver-general for the use of the colony.

From *Carp. Pat. L. of World*, 405.

## NEW SOUTH WALES.

*An Act to authorize the Governor General, with the advice of the Executive Council, to grant letters of registration for all Inventions and Improvements in the Arts or Manufactures, to have the same effect as Letters Patent in England, so far as regards this Colony. No. XXIV., December 6, 1852.*

*Preamble.* Whereas it is expedient that the exclusive benefit of inventions and improvements in the arts or manufactures should be secured for limited periods to the author or authors, or designer or designers thereof, or to his or their agents or assignees: And whereas it is doubtful whether the laws of the United Kingdom respecting patents extend to or have effect in the Colony of New South Wales: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, as follows:—

I. *Governor may grant letters of registration for improvements in arts or manufactures.* From and after the passing of this Act it shall and may be lawful for His Excellency the Governor of the said colony, with the advice of his Executive Council, to grant letters of registration under his sign manual and the seal of the colony for the exclusive enjoyment and advantage, for a period of not less than seven nor more than fourteen years, for all inventions or improvements in the arts or manufactures, to the author or authors, or designer or designers thereof, or to his or their agents or assignees, as soon as such proceedings shall have been taken by such author or authors, or designer or designers respectively as are in that behalf hereinafter mentioned.

II. *Deposit to be paid to colonial treasurer.* Every person who upon claiming to be the author or designer, by his agent or assignee, of any invention in or improvement to the arts or manufactures shall be desirous of obtaining such a letter of registration as is hereinbefore mentioned shall deposit with the colonial treasurer the sum of twenty pounds sterling, and shall, after such deposit, present a petition to His Excellency the Governor, setting forth that he is the author or designer, or the agent or assignee of such author or designer, as the case may be, of a certain invention in or improvement to the arts or manufactures, and specifying the particulars of such invention or improvement, and that he has



deposited with the colonial treasurer the sum of twenty pounds for defraying the expense of granting the letters of registration required by this Act, it shall be lawful for the said Governor for the time being to refer the said petition to one or more competent person or persons, to be appointed by the said Governor, to examine and consider the matters stated in such petition, and to report thereon for the information of his Excellency ; and if the report of the person or persons to whom the said petition shall have been referred by the Governor shall be favorable to its prayer, it shall be lawful for his Excellency with the advice of his Executive Council, to grant the letters of registration hereinbefore mentioned, and such letters of registration shall, within three days after the granting thereof, be registered in the proper office in the Supreme Court, otherwise such letter of registration shall be void and of no effect.

III. *Grantee of any such letter may assign the same.* Every grantee of such letter of registration shall be at liberty to assign the same, and all the benefits and advantages derivable therefrom, to any person or persons, by an instrument in writing under his hand and seal, to be registered in the Supreme Court in the same manner and within the same period after the execution thereof as the original letters of registration are hereinbefore directed to be registered.

IV. *Limit as to grantee's liability.* No grantee of any such letter of registration shall be liable in respect thereof for any higher charge than the said sum of twenty pounds, except for such costs and charges as he shall voluntarily incur, after the deposit of the said sum of twenty pounds with the colonial treasurer, as hereinbefore mentioned.

V. *Any such letter may be repealed for certain causes.* Any letter of registration granted by virtue of this Act shall be liable to be repealed by writ of scire facias for the same causes and in the same manner as other grants of the Crown are liable to be repealed.

VI. *Commencement of Act.* That this Act shall come into operation so soon as and not until the same shall have received the royal approbation, and the notification of such approbation shall have been made by order of His Excellency the Governor General in the New South Wales Government Gazette, and that such notification shall be sufficient evidence of such approbation.

From *Carpin. Pat. L. of World*, 413.

See also, AUSTRALASIA.

## NEW ZEALAND.

*Act to consolidate the Law relating to Letters Patent for Inventions. September 8, 1883.*

1. *Short title.* The short title of this Act is "The Patents Act, 1883."

It shall come into operation on the first day of January, one thousand eight hundred and eighty-four.

2. *Division of Act.* This Act is divided into Parts as follows :—

Part I.—Mode of obtaining Letters Patent.

Part II.—Disclaimers and Alterations.

Part III.—Extension of Term and Confirmation of Invalid Patents.

Part IV.—Miscellaneous Provisions.

3. *Interpretation.* In this Act—

"Invention" means and includes any manner of new manufacture the subject of letters patent and grants of privilege within the meaning of the fourth section hereof.

"Patent-Office" means the patent-office appointed under this Act, but does not include any local patent-office ;

"Patent-Officer" means the person appointed to be patent-officer under this Act ;

"Regulations" means regulations made under this Act.

## PART I.

## MODE OF OBTAINING LETTERS PATENT.

## 1.—FOR WHAT, PATENT MAY ISSUE.

4. *Power to grant patents. Monopolies forbidden.* It shall be lawful to make and issue, in the manner hereinafter mentioned, letters patent and grants of privilege, for any term not exceeding fourteen years from the date thereof, of the sole working or making of any manner of new manufactures within New Zealand, to the true and first inventor of such manufactures, which others, at the time of making such letters patent and grants, shall not use, so as



also they be not contrary to the law nor mischievous to the State, by raising prices of commodities or hurt of trade, or generally inconvenient.

And all other monopolies, commissions, grants, licenses, charters, and letters patent hereafter to be made or granted to any person or for the sole buying, selling, making, working, or using of anything within New Zealand or of any other monopolies or of power, liberty or faculty to dispense with any others, and all matters and things whatsoever in anywise tending to the instituting, erecting or countenancing of the same or any of them, shall be utterly void and of none effect, and in no wise to be put in execution.

## 2.—REGULATIONS.

5. *Governor in Council to make regulations.* The Governor in Council from time to time may make such regulations not inconsistent with the provisions hereof, as may appear to be necessary and expedient for the purposes of this Act, and all such regulations shall be gazetted.

All regulations in force under any Act hereby repealed shall remain in force as if made under this Act until other regulations are made as hereinbefore provided.

6. *Patent-officer ; patent-office.* The Governor may from time to time appoint such person as he thinks fit to be patent-officer, and in like manner may appoint a place to be the "patent-office."

The person who, at the commencement of this Act, holds the office of patent-officer under the Acts hereby repealed, shall be the patent-officer under this Act, without any further appointment.

The place at the commencement of this Act used as the patent-office shall be deemed to have been appointed under this Act.

7. *Deputy patent-officer.* The Governor at any time may appoint a fit and proper person to be deputy patent-officer, to act in case of the death, illness, or unavoidable absence of the patent-officer, and such deputy shall, during the time he shall so act, have all the powers and privileges, and shall perform all the duties, and be subject to the responsibilities of the patent-officer.

Whenever the patent-officer shall die, the deputy patent-officer shall act as such from the day of such death, and, in the case of illness or absence, shall act as such from such day as the patent officer shall certify under his hand to the deputy patent-officer that he is ill and unable to 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.

8. *Appointment of local offices and officers ; saving of existing appointments.* The Governor may, for all such purposes as he may deem necessary for the public convenience, appoint local patent-offices, and patent-office agents in the various centers of population throughout the colony, and from time to time alter or revoke the appointment of such offices and agents respectively.

The local patent-offices and the patent-office agents appointed under "The Patents Act Amendment Act, 1882," shall be deemed to have been appointed under this Act without further appointment.

Such agents shall not demand or receive from the applicant, or any one on his behalf, any fees or charges whatever other than such as are payable under this Act.

9. *Mode of application; first schedule; receipt.* Every application under this Act for the grant of letters patent for an invention shall be made as follows, that is to say :

(1.) The applicant shall deposit at the patent-office, or at any local patent-office, a specification, written in a plain legible hand or printed in fair legible type upon parchment or paper, and under his hand and seal, in the form or to the effect in the first schedule hereto, particularly describing and ascertaining the nature and details of the said invention with precision, and in what manner the same is to be performed, and containing a distinct claim for the especial novelty thereof, and accompanied by drawings, if necessary, for the full description and understanding of the said invention, and also a copy of such specification and drawings.

(2.) The title of the invention must state distinctly and specifically the nature and object of the invention, and every specification must be limited to one invention.

(3.) If such deposit be made at any local office the patent-office agent shall give the applicant or his agent a receipt therefor in the form contained in the second schedule hereto, or to the like effect, and shall forthwith transmit the documents and a copy of his receipt to the patent-officer.

10. *Protection of invention; third schedule.* (1.) The exact time of the deposit of every specification which, upon examination by the patent-officer, is found to be in accordance with this Act and the



regulations shall be recorded at the patent-office, and indorsed upon such specification, and a certificate thereof, under the hand of the patent-officer and in the form contained in the third schedule hereto, shall be given or transmitted to such applicant or his agent.

(2.) And thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act for the term of twelve months next after the said deposit, and the applicant shall have during such term the like powers, rights and privileges as might have been conferred upon him by letters patent for such invention issued under this Act and duly sealed as of the day of such deposit.

(3.) During the continuance of such powers, rights and privileges under this provision, such invention may be used and published without prejudice to any letters patent to be granted for the same.

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

**12. *Hearing of application; fourth schedule; objections.*** The patent-officer shall make an appointment for the hearing of every application, in the form contained in the fourth schedule to this Act or to the like effect; and shall publish a notification of the said appointment once in the Gazette, not less than sixty clear days prior to the day appointed.

Any person having an interest in opposing the grant of letters patent shall be at liberty, not less than fourteen clear days before the day so appointed, to leave particulars in writing of his objections to the said application at the patent-office.

**13. *Patent officer to hear applications and objections.*** At the place and time named in the said appointment the patent-officer shall hear and consider the said application, and all objections to the same, if any, mentioned in the said particulars, and may call to his aid such scientific or other person as he may think fit.

The applicant, the objectors, and their respective witnesses and evidence shall be respectively heard, examined and considered separately and apart from and in the absence of the other, his witnesses and evidence.

The patent-officer shall have full power to examine applicant, objectors, and witnesses upon oath, and to administer an oath to any or all of them.

**14. *Hearing may be adjourned.*** The patent-officer may adjourn from time to time the hearing of any application for letters patent.

**15. *Award of expenses and costs ; fifth schedule.*** The patent-officer may require that the applicant and the objector shall deposit such sums as the patent-officer may think fit to meet any costs of or incident to the hearing, and may, by writing under his hand, order to be paid to any person he may call to his aid as aforesaid, some remuneration for his attendance, and may also, in like manner, order that the costs of any hearing upon any objections, or otherwise in relation to the grant of such letters patent, or the protection acquired by the applicant under this Act, shall be paid ; and, in and by such writing, shall fix the amount of such remuneration or costs, and by or to whom the same respectively shall be paid.

Every such order shall be in the form contained in the fifth schedule, or to the like effect, and may be made a rule of the Supreme Court.

**16. *Patent-officer may issue warrant for letters patent ; sixth schedule.*** If there shall be no objection to the grant of letters patent and he is satisfied that this Act and the regulations have been complied with, the patent-officer may, on the day appointed, or as soon thereafter, and, when there are objections, after such hearing and consideration, issue a warrant under his hand for the granting of letters patent for the said invention ; and, by such warrant, shall direct the insertion in such letters patent of all such restrictions, conditions, and provisos, as he may deem usual and expedient in such grants, or necessary in pursuance of this Act.

Such warrant shall be the authority for the making and sealing of letters patent under this Act, according to the tenor of the said warrant.

Every such warrant shall be in the form set forth in the sixth schedule or to the like effect.

**17. *Amendments.*** In case the title of the invention or the specification be too large or insufficient, or clerical errors exist therein, the patent-officer, on the hearing of the application for the grant of the letters patent, may allow or require such specification to be amended, or another and sufficient specification to be deposited in lieu thereof, and every such amended, or new



specification shall have the same force, effect, and operation as if it had been originally deposited in its amended or new state.

When an applicant desires to amend his specification or drawings, or to substitute an amended specification, he must deposit particulars of such amendment or such amended specification at the patent-office at least fifteen days before the day of hearing.

**18. *Letters patent to be issued on application and during the protection.*** (1.) The patent-officer, after the issue by him of the said warrant, and on application in writing by the applicant or his agent, with payment of the fee thereon, shall cause to be prepared letters patent for the invention according to the tenor of the said warrant, and the Governor may cause such letters patent to be sealed with the public seal of the colony.

(2.) Such letters patent shall be made applicable to the colony and its dependencies, and shall be valid and effectual as to the whole of the same respectively; but, except as hereinafter mentioned, no letters patent shall issue on any warrant granted as aforesaid, unless application be made to seal such letters patent during the continuance of the protection conferred under this Act, by reason of such deposit as aforesaid.

**19. *Letters patent may issue after that time in certain cases.*** (1.) When the application to seal such letters patent has been made during the continuance of such protection as aforesaid, and the sealing of such letters patent has been delayed from accident, and not from the willful default of the applicant, then such letters patent may be sealed at such time after the expiration of such protection as the Governor may direct.

(2.) Where the applicant for such letters patent dies during the continuance of such protection as aforesaid, such letters patent may be granted to the executors or administrators of such applicant during the continuance of such protection or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the term of such protection.

**20. *Duplicate letters patent may be issued.*** In case any letters patent shall be lost or destroyed, duplicate letters patent of the like tenor and effect, and sealed and dated as of the same day as such lost or destroyed letters patent, may be issued upon evidence of such loss or destruction being produced to the satisfaction of the patent-officer.

**21.** *Letters patent to bear date of deposit of specification, and to be conclusive as to preliminary steps.* Notwithstanding any enactment to the contrary, all letters patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such specification as aforesaid, and shall be of the same force and validity as if they had been sealed on the day as of which they are expressed to be sealed and bear date.

After any letters patent shall have been issued in pursuance of this Act, it shall not be necessary or material to inquire whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

#### 4.—FORM AND CONDITIONS OF PATENT.

**22.** *Conditions for granting letters patent ; seventh schedule.* All letters patent for inventions granted under this Act shall be in the form contained in the seventh schedule, or to the like effect, and shall be made subject to the provisions of this Act, and to the conditions and restrictions that may be inserted in such patent by virtue thereof, or that are imposed by this Act, that is to say :—

(1.) That the powers and privileges thereby granted shall cease and determine at the expiration of five years from the date thereof, unless there be paid within such five years the sum or sums of money required to be paid under this Act, and the patent-officer shall indorse a receipt for the same on the letters patent.

(2.) No letters patent shall extend to entitle the patentee to use or imitate any invention or work which, before the date of such patent, had been found out or invented by any other person, and publicly used or exercised, or to whom like letters patent or privileges have been already granted for the sole use, exercise and benefit thereof within the colony.

(3.) The patentee, and all and every other person and persons to whom letters patent or privileges have been granted shall distinctly use and practice their several inventions by them invented and found out according to the true intent and meaning of the same respective letters patent.

(4.) Nothing contained in any letters patent shall prevent the patentee from granting licenses in such manner and for such considerations as they may by law be granted.

**23.** *Matters rendering letters patent void.* All letters patent and all privileges and advantages whatsoever thereby granted shall utterly cease and become void—



(1.) If the specification does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed.

(2.) If at any time during the term for which such letters patent are granted it appears that the grant is contrary to law or prejudicial or inconvenient to the public good, or that the invention therein mentioned is not a new invention, or that the patentee is not the true and first inventor thereof within this colony.

(3.) If the patentee shall not supply or cause to be supplied for the government of the colony all such articles of the said invention as he is required to supply by the persons administering the department of the public service for the use of which the same are required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said persons requiring the same.

24. *Invention to be brought into actual and public use.* Every invention protected by letters patent issued under this Act shall be brought into actual and public use within the colony within the space of two years from the date of such letters patent, or in default thereof such letters patent shall at the expiration of such period of two years cease and be of no effect.

#### 5.—REPEAL OF PATENT.

25. *Letters patent may be repealed, &c., or specification may be canceled.* (1.) An action shall lie for the repeal of any letters patent granted under this Act, and may be commenced in any district of the Supreme Court, in such form as may be authorized by its rules in substitution for the process by writ of scire facias; and in case the grantee does not reside in New Zealand, it shall be sufficient to file the writ in the Supreme Court, and to serve notice of such action in writing at the last known place of residence or business of such grantee.

(2.) The Governor in Council, upon the issue of the writ in such action, may order such patent-officer to withhold such warrant as aforesaid, or that any letters patent, for the granting whereof he may have issued a warrant as aforesaid, shall not issue; or may order the insertion, in any such letters patent, of any restrictions, conditions or provisos in addition to or in substitution for any restrictions, conditions or provisos which would otherwise be inserted therein under this Act.

(3.) The Governor in Council may also order any specification

in respect of the invention described, in which no letters patent may have been granted, to be canceled, and thereupon the protection obtained by the deposit of such specification shall cease.

26. *Patent not to prevent use of invention in foreign ships.* No letters patent granted for any invention shall extend to prevent the use of any such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of New Zealand, or in any of the waters within the jurisdiction of any of Her Majesty's courts in New Zealand, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the same.

But this enactment shall not extend to the ships of vessels of any foreign state the laws of which authorize subjects of such foreign state, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British ships or vessels or in or about the navigation of British ships or vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from such foreign state.

#### 6.—LETTERS OF REGISTRATION.

27. *Registration for foreign patents; tenth schedule.* The Governor in his discretion, on the application of any person being the holder or assignee of any letters patent or like protection issued in Great Britain or any other country or colony for an invention or discovery, and upon such proof as the Governor may by regulations require that such person is the *bonâ fide* holder or assignee thereof, and that the same are or is in full force, and upon payment of the sum of ten pounds, may grant letters of registration to such applicant.

(2.) Such letters of registration shall be in the form contained in the tenth schedule or to the like effect, and shall have the same force and effect as letters patent granted under this Act, and shall inure to the benefit of the grantee thereof, his executors, administrators, and assigns, during the continuance of the original letters patent or other protection in the country or colony where the same was or were granted, and no longer; and all the provisions of this Act shall apply to such letters of registration in the same way, *mutatis mutandis*, and as fully as to letters patent granted under this Act.



(3.) A copy of all such letters of registration shall be filed in the patent-office.

## PART II.

### DISCLAIMERS AND ALTERATIONS.

**28.** *Notice to disclaim; alter; procedure; eighth schedule; opposition.* (1.) Any person who shall obtain letters patent under this Act, his executors or administrators, or, in case he or they shall part with the whole or any part of his or their interest by assignment, he or they together with the assignee if part only has been assigned, or the assignee alone if the whole has been assigned, may apply to the patent-officer for leave to enter a disclaimer of any part of either the title to the invention, or the specification, or a memorandum of any alterations in the said title or specification, not being such disclaimer as shall extend the exclusive right granted by the said letters patent.

(2.) Thereupon the patent officer shall deliver to the person or persons applying, or to their agent, or to one of them, or the agent of one of them, an appointment in the form contained in the eighth schedule or to the like effect, and the person or persons so applying shall cause such disclaimer (stating the reason for the same), or such memorandum of alteration, to be written at the foot of the said appointment, and shall cause the same respectively to be published forthwith in the Gazette.

(3.) Any person having an interest in opposing the said application, shall be at liberty to leave particulars, in writing, of his objections to the same at the patent-office within such time not less than fourteen clear days prior to the day so appointed.

(4.) Where such application shall be for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the patent-officer may dispense with such appointment and publication, and in that case shall certify in the fiat hereinafter mentioned that he has dispensed with the same.

**29.** *Application for disclaimer to be heard.* At the time and place named in such appointment the patent-officer shall hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and all such powers and authority shall and may be exercised upon that occasion by the patent-officer

as, by virtue of the provisions herein contained, can and may be exercised in relation to the hearing and considering an application for letters patent and objections to the same, and shall and may be enforced in like manner.

**30. *How disclaimer entered and alterations ; effect.*** (1.) After such hearing and consideration, or without such hearing or consideration, where the said appointment and publication shall have been dispensed with as aforesaid, the person or persons applying, or one of them, may by leave of the patent-officer, to be certified by a fiat under his hand, to be written at the foot of the same paper or parchment with the said disclaimer or memorandum, enter such disclaimer (stating the reason for the same), or such memorandum of alteration, and at the time of entering such disclaimer or memorandum of alteration, shall deposit a copy thereof in the office next hereinafter mentioned.

(2.) Such disclaimer or memorandum of alteration, being filed in the patent-office, shall be deemed and taken to be part of such letters patent or such specification, and subject to the several incidents thereof, in all courts whatever, and shall be valid and effectual in favor of any person in whom the rights under the said letters patent may then be, or thereafter become, legally vested.

**31. *Actions not brought, when ; proceedings conclusive.*** (1.) No action shall be brought upon any letters patent in respect of which, or the specification of which, any disclaimer or memorandum of alteration shall have been filed, in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration (unless the patent-officer shall certify, in his said fiat, that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration), and no such disclaimer or alteration shall be receivable as evidence in any action or suit (save any proceedings for the repeal of letters patent) pending at the time when such disclaimer or alteration was filed as aforesaid ; but in every such action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the letters patent have been or shall have been granted.

(2.) When any such fiat shall have been granted under this Act, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act, and such filing of any disclaimer or memorandum of alteration, in pur-



suance of the leave of the patent-officer, certified as aforesaid, shall (except in cases of fraud) be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Act.

### PART III.

#### EXTENSION OF TERM.

**32. *Mode of obtaining extension ; petition.*** (1.) Any person who has obtained letters patent under this Act or any other Act relating to letters patent heretofore in force in New Zealand, or the executors or administrators of such person, or (in case such person shall have parted with the whole or any part of his interest in such patent by assignment) he or they together with the assignee when part only has been assigned, or the assignee alone when the whole has been assigned, may, six months before the expiration or other determination of such letters patent, present to the Governor a petition for the extension of the term in such letters patent mentioned.

(2.) Such petition shall set forth that the petitioner has been unable to obtain a due remuneration for his expense and labor bestowed in perfecting such invention, and that an exclusive right of using and vending the same for some further period, to be named in such petition, in addition to the said term, is necessary for his reimbursement and remuneration, and the Governor may refer the consideration of the said petition to one or more commissioners to be appointed for that purpose in the manner hereinafter mentioned.

**33. *Appointment of commissioners.*** For the purpose of considering any such petition, the Governor, if he shall think fit, may issue and direct, in the name of Her Majesty, to one or more persons a commission reciting such petition, and requiring and authorizing such person, or some stated number of such persons, to meet at some time, not being less than two months from the publication of such commission in the Gazette, and at some place to be respectively fixed in the said commission, and then and there to consider the said petition, and to report to the Governor (in case such petitioner shall have prayed for an extension of the term in the letters patent mentioned) whether any, and if any, what further extension of the said term should be granted, according to the prayer of the said petition.

**34. *Notice of commission ; ninth schedule ; caveat.*** (1.) Two

months at least before the time fixed in the said commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published, in the same manner as is hereinbefore required with respect to the first mentioned appointment, an advertisement of the contents of the said commission in the form contained in the ninth schedule, or to the like effect.

(2.) Any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the patent-office, at any time not less than one week before the time named in the said commission for the consideration thereof.

**35. Commissioners to hear all parties, and report.** (1.) At the time and place fixed in the said commission the commissioners, or some of them not less than the said stated number, shall proceed to consider such petition, and the petitioner shall be heard by his counsel and witnesses, to prove his case as stated in such petition, and the publication of the said last mentioned advertisement as required by this Act, and the persons entering caveats shall likewise be heard by their counsel and witnesses, and all such witnesses shall be examined upon oath, which oaths such commissioners are hereby authorized to administer.

(2.) Thereupon, and on hearing and inquiry of the whole matter (in case such petitioner shall have prayed for an extension as aforesaid), the said commissioners may report whether any, and, if any, what, further extension of the said term shall be granted, and the Governor is hereby authorized and empowered, if he shall think fit, to grant to the petitioner new letters patent for the said invention, not exceeding three years after the expiration of the first term, anything herein contained to the contrary notwithstanding.

Such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the first letters patent.

## PART IV.

### MISCELLANEOUS PROVISIONS.

#### 1.—RECORDS OF OFFICE.

**36. Specification, &c., of invention to be open to inspection.** Every specification deposited at the patent-office, and the drawings and models accompanying the same, if any, and all other documents so deposited, shall be kept in the patent office, and shall be open to the inspection of the public at all reasonable times, as well



before as after the grant of letters patent, and whether such letters patent be granted or not, but subject to regulations.

**37. *Indices to specifications, disclaimers, &c.*** Indices to all specifications, disclaimers and memoranda of alterations, heretofore or to be hereafter enrolled or deposited as aforesaid, shall be prepared and shall be open to the inspection of the public at the patent-office, subject to regulations.

**38. *Register of patents to be kept.*** There shall be kept at the patent-office a book, to be called The Register of Patents, wherein shall be entered and recorded in chronological order—

All letters patent and letters of registration granted under this Act or the Patents Act, 1870.

The deposit and filing of specifications, disclaimers and memoranda of alterations, filed in respect of such letters patent.

All amendments in such letters patent and specifications.

All confirmations and extensions of such letters patent.

The expiry, determination, vacating, or canceling of such letters patent, with the dates thereof respectively ; and

All other matters and things affecting the validity of such letters patent as the Governor may direct.

Such register or a copy thereof shall be open at all convenient times to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

**39. *Register of proprietors, and of assignments and licenses.*** There shall be kept at the patent-office a book entitled The Register of Proprietors, wherein shall be entered—

The assignment of any letters patent or letters of registration, or of any share or interest therein.

Any license under letters patent or letters of registration, and the district to which such license relates, with the name of any person having any share or interest in such letters patent or letters of registration or license.

The date of his acquiring such letters patent or letters of registration, share or interest ; and

Any other matter or thing relating to or affecting the proprietorship in such letters patent or letters of registration, or license.

## 2.—ASSIGNMENTS.

**40. *Conditions for registering assignment.*** Before any assignment or license shall be registered, the assignee or licensee shall furnish—

(1.) A statutory declaration by one of the attesting witnesses to the said assignment or license of the due execution of the said assignment or license :

Provided that, if it be proved to the satisfaction of the said patent-officer that the attesting witness to any such assignment or license is dead or cannot be found, the execution of the said assignment or license may be proved by a statutory declaration of any other person capable of declaring to the same :

(2.) A certified copy or copies of the assignment or license, and other instruments or documents of title.

41. *Assignment or license to be made by separate deed.* No assignment or license of two or more letters patent or letters of registration included in one deed or instrument shall be registered, and no certificate of assignment or license shall be granted, unless a fee for such registration or certificate be paid in respect of each such letters patent or letters of registration in respect of which such registration or certificate is desired.

42. *Register of proprietors to be open to inspection ; copies.*  
 (1.) A copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be *prima facie* proof of the assignment of such letters patent or letters of registration, or share or interest therein, or of the license or proprietorship as therein expressed.

(2.) Until such entry shall have been made, the grantee of the letters patent or letters of registration shall be deemed to be the sole and exclusive proprietor thereof, and of all the licenses and privileges thereby given.

(3.) Such register, or a copy, shall be open to public inspection subject to regulations.

### 3.—SEAL.

43. *Seal to be noticed judicially ; certified copies, evidence.*  
 (1.) The Governor may cause a seal to be made for the purposes hereinafter mentioned, and all courts, judges, and other persons whosoever shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the seal of the Supreme Court are received in evidence.

(2.) All copies or extracts, certified by the patent-officer and sealed with such seal, of letters patent, letters of registration, specifications, disclaimers, memoranda of alterations, and all other documents or books recorded, filed, and kept in pursuance of this



Act, shall be received in evidence in all proceedings relating to letters patent for inventions and letters of registration in all courts and by all judges and other persons whomsoever.

#### 4.—OFFENSES.

44. *Falsification or forgery of entries.* If any person shall willfully make or cause to be made any false entry in any such register, or shall willfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry therein, or shall produce or tender, or cause or suffer to be produced or tendered, any such writing, knowing the same to be false, he shall be guilty of a misdemeanor, and shall be liable, on conviction, to be kept in penal servitude for any term not exceeding five years, or to be imprisoned and kept to hard labor for any term not exceeding two years.

45. *Entries may be expunged.* If any person shall deem himself aggrieved by any entry made under color of this Act in any such register, such person may apply by motion to the Supreme Court, or by summons to a judge of such court, for an order that such entry may be expunged, vacated, or varied; and upon any such application such court or judge may make such order for expunging, vacating, or varying such entry, and as to the costs of such application, as to such court or judge may seem fit; and the patent officer, on the production to him of any such order, shall expunge, vacate, or vary the said entry according to such order.

46. *Penalty for unauthorized use of the word "patent."*

(1.) If any person:—

Shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark upon anything made, used, or sold by him, for the sole making or selling of which he has not or shall not have obtained letters patent, the name or any imitation of the name of any other person who has or shall have obtained letters patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns; or

Shall upon any such thing, not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having had the license or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "patent," the words "letters patent," or the words "by the Queen's patent," or any words of the like kind, meaning, or import, with a view of imita-

ting or counterfeiting the stamp, mark, or other device of the patentee, he shall for every such offense forfeit and pay the sum of one hundred pounds, one half to Her Majesty, and the other half, with full costs of suit, to any person who shall sue for the said penalty.

(2.) If any person shall upon any such thing for which no letters patent or like protection shall have been obtained, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "patent," the words "letters patent," or the words "by the Queen's letters patent," or any words of the like kind, meaning, or import, or by advertisement, or in any other way imply or give reasonable cause to believe that letters patent or like protection have been granted for such thing, he shall, for every such offense, be liable to a penalty not exceeding fifty pounds, one half of which shall be paid to any person who shall sue for the said penalty.

(3) But nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "patent" upon anything for the sole making or vending of which letters patent before obtained shall have expired or otherwise determined.

#### 5.—PROCEDURE IN ACTIONS FOR INFRINGEMENT.

47. *Actions for infringement, particulars of breaches and objections.* (1) In any action for the infringement of letters patent, the plaintiff shall deliver with his statement of claim particulars of the breaches complained of in the said action, and the defendant, on pleading thereto, shall deliver with his statement of defense, and the prosecutor in any proceedings by action to repeal letters patent shall deliver with his statement of claim, particulars of any objections on which he means to rely at the trial in support of the said action, or of the suggestions of the statement last mentioned respectively. At the trial of any such action no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such letters patent, which shall not be contained in the particulars delivered as aforesaid.

(2.) The place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars, and any judge at chambers may allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid upon such terms as to such judge shall seem fit.

(3.) At the trial of any proceeding to repeal letters patent, the



defendant shall be entitled to begin and to give evidence in support of such letters patent; and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

48. *Taxing costs; effect of record and certificate.* (1.) In taxing the costs in any action for infringing letters patent regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particulars, unless certified by the judge, before whom the trial was had, to have been proved by such plaintiff or defendant respectively without regard to the general costs of the cause; and the judge before whom any such action shall be tried may certify on the record that the validity of letters patent in the statement mentioned came in question.

(2.) The record, with such certificate, being given in evidence in any action for infringing the said letters patent, or in any proceeding in an action to repeal the letters patent, shall entitle the plaintiff in any such action, or the defendant in such proceeding, on obtaining a decree, order, or final judgment, to his full costs, charges, and expenses, to be taxed as between solicitor and client, unless the judge making such decree or order, or the judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

#### 6.—FEES.

49. *Eleventh schedule; Governor may reduce fees.* There shall be paid, in respect of the several matters and things respectively mentioned in the eleventh schedule, such fees as are therein enumerated, and all such fees shall be paid into the public account and form part of the consolidated fund.

The Governor may reduce any of such fees respectively from time to time by notification in the Gazette.

#### 7.—REPEALS.

50. *Repeal; twelfth schedule; saving.* (1.) The Acts enumerated in the twelfth schedule are hereby repealed.

(2.) But such repeal shall not affect any proceedings or things lawfully taken or commenced, or any letters patent, or letters of registration granted, or any protection or right conferred under the said repealed Acts before the commencement of this Act; and all

such proceedings and things shall be as valid, and all such letters patent, letters of registration, protections, and rights shall have the same force and efficacy as if this Act had not passed.

---

SCHEDULES.

FIRST SCHEDULE.

*Specification for Patent.*

Whereas I, \_\_\_\_\_, of \_\_\_\_\_, in the [Engineer] am desirous of obtaining letters patent for securing unto me Her Majesty's special license that I and such others as I should at any time agree with, should, from time to time during the term of fourteen years (to be computed from the day on which this instrument shall be left at the patent-office) make, use, and vend within the Colony of New Zealand and its dependencies an invention for [insert the title of the specification], and in order to obtain the said letters patent, I must by an instrument in writing under my hand and seal particularly describe the nature of the said invention, and in what manner the same is to be performed, and make a distinct claim for the especial novelty thereof; Now therefore, the nature and details of the said invention, and the manner in which the same is to be performed, are particularly described in the following statement [describe the invention and the especial novelty thereof, either in instrument or in attached schedule]. And I do hereby for myself, my heirs, executors, and administrators, covenant with Her Majesty, her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, that I do not know or believe that any other person than myself is the true and first inventor of the said invention, that I will not deposit these presents at the patent office with any such knowledge or belief as last aforesaid.

In witness whereof, I have hereunto set my hand and seal this \_\_\_\_\_ day of 18 .

Witness to signature.

---

SECOND SCHEDULE.

*Receipt for Specification.*

Received from A. B., specification for an invention for [insert the title] for transmission to the patent-office, Wellington, at the hour of [insert the time] on this day of 18 .

Local Patent Office.

O. A., Patent-Office Agent.

---

THIRD SCHEDULE.

*Deposit of Specification.*

No.

I hereby certify that \_\_\_\_\_, being the applicant \_\_\_\_\_ for the grant to \_\_\_\_\_ of letters patent for an invention the name whereof is \_\_\_\_\_, ha \_\_\_\_\_ this day, under the provis-



ions 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,  
New Zealand.

P. O., Patent-Officer.

#### FOURTH SCHEDULE.

##### *Hearing Application.*

Patent-Office, Wellington,        18 .

Patent for [*insert title of specification*] A. B., of        , has deposited at this office a specification of 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.

#### FIFTH SCHEDULE.

##### *Order for Expenses.*

Upon hearing the objection of A. B. to the grant to C. D. of letters patent for [*insert the title as in the specification*], I do by this writing under my hand, order that the said A. B. shall pay to the said C. D. the sum of        for the costs of such hearing [or to E. F. the sum of        as a remuneration for his attendance at such hearing].

Given under my hand this        day of        18 .

P. O., Patent-Officer.

#### SIXTH SCHEDULE.

##### *Warrant for grant of Letters Patent.*

I have [*heard and*] considered the application of A. B. for letters patent for [*insert the title as in the specification*] [and also all objections to the same], and, having perused the specification, am of opinion that, as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, Her Majesty's royal letters patent may be issued in the form contained in the seventh schedule to the Patents Act, 1883] with the following additional clauses, that is to say (*here set them out, if any*).

Given under my hand this        day of        18 .

P. O., Patent-Officer.

## SEVENTH SCHEDULE.

*Form of Letters Patent.*

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

To all to whom these presents shall come, greeting :

Whereas A. B. of            in the            of            [*Engineer*] (who, with his executors, administrators, and assigns, is and are hereinafter included in the term "Patentee"), hath represented that he is desirous of obtaining letters patent for securing unto him our special license for an invention for [*insert the title of the invention*], and by an instrument in writing under his hand and seal deposited in the office of the patent-officer under the provisions of the Patents Act, 1883, the patentee hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed ; Now, therefore, know ye that we have given and granted, and by these presents for us, our heirs and successors, do give and grant unto the patentee our special license and authority that the patentee by himself or his servants or agents, or such others as he shall at any time agree with during the term herein expressed, shall and lawfully may make, use, and vend, his said invention within our said colony and its dependencies, in such manner as to him shall seem meet ; To have, hold, and enjoy the said license, privilege, and advantage, unto and by the patentee, for and during the term of fourteen years now next ensuing ; and that he shall and lawfully may have and enjoy the whole profit, benefit, and advantage from time to time coming, accruing, and arising by reason of the said invention during the said term : subject, however, in all things to the provisions of the Patents Act, 1883, and to the conditions and restrictions thereby imposed [*and inserted herein, if any*].

In witness whereof we have caused these our letters to be made patent, and to be sealed and bear date as of the            day of            one thousand eight hundred and            .

## EIGHTH SCHEDULE.

*Disclaimer.*

Patent for [*insert the title*]. This is to notify to all whom it may concern that C. D. of, &c. has applied to me for leave to enter a disclaimer of part [*or, memorandum of alteration, as the case may be*] of the said invention, the particulars whereof are stated below. I do therefore appoint            day the            day of            next at o'clock in the            noon, to hear and consider the said application, and all objections to the same. And I do hereby require all persons having an interest in opposing the said application, to leave on or before the            day of            at my office in            particulars in writing of their objections to the same ; otherwise they will be precluded from urging such objections.

Given under my hand this            day of            18 .

P. O., Patent-Officer.

The following is the disclaimer [*or, as the case may be*] which I desire to make in, &c. [*The applicant must here set forth what he wishes to enter, and sign it.*]



## NINTH SCHEDULE.

*Extension of Patent.*

Patent for [*insert the title*]. Notice is hereby given that I have presented a petition to His Excellency the Governor, praying for the confirmation of [or, extension of the term in] the said patent, and that a Royal Commission has issued authorizing and requiring certain commissioners therein named to consider and report upon the subject to Her Majesty, which said commissioners will meet for that purpose on the day of next at o'clock in the noon at . All persons objecting to the said confirmation [or extension] must enter a caveat against the same at the office of the patent-officer in Wellington, otherwise they will be precluded from objecting to it.

Dated this day of 18 .

A. B.

## TENTH SCHEDULE.

*Form of Letters of Registration*

Know all men by these presents that :

Whereas by an Act of the General Assembly of New Zealand, entitled "The Patents Act, 1883," it is enacted that the Governor in his discretion, on the application of any person being the holder or assignee of any letters patent or like protection, and upon such proof as the Governor may by regulations require that such person is the *bona fide* holder or assignee thereof, and that the same are or is in full force, may grant letters of registration to such applicant; and that such letters of registration shall have the same force and effect as letters patent granted under the said Act, and shall inure to the benefit of the grantee thereof, his executors, administrators, and assigns, during the continuance of the original letters patent or other protection in the country or colony where the same was, or were, granted, and no longer; and all the provisions of the said Act shall apply to such letters of registration in the same way, *mutatis mutandis*, and as fully as to letters patent granted under this Act; And whereas A. B. has represented to me the Governor of the colony of New Zealand, that letters sealed and dated as of the day of one thousand eight hundred and have been issued in the to for an invention or discovery for And whereas the said A. B. has applied to me, the Governor, as aforesaid, for the grant to him of letters of registration of the said invention or discovery in pursuance of the said recited power, and has proved to my satisfaction that he the said A. B., is the *bona fide* holder (or assignee) of the said letters and that the same are in full force in the said Now know ye that I, the Governor as aforesaid of the said colony of New Zealand, in pursuance of the said recited power and authority conferred upon me by the said "Patents Act, 1883," do hereby grant unto the said A. B., his executors, administrators, and assigns, letters of registration of the said letters with all the rights, powers, and privileges thereto belonging.

Given under my hand at the at and issued under the seal of the said colony this day of in the year of our Lord one thousand eight hundred and .

Governor of New Zealand.

## FOREIGN LAWS.

## ELEVENTH SCHEDULE.

<i>Fees.</i>	£	s.	d.
On depositing specification.....	0	10	0
On depositing amended specification, or application for amendment to specification.....	0	10	0
On obtaining letters patent, or any duplicate thereof.....	2	0	0
At or before the expiration of the fifth year.....	7	0	0
On lodging particulars of objections.....	2	0	0
On presenting petition for extension.....	2	0	0
Search and inspection. For each book or specification.....	0	1	0
Entry of assignment or license.....	0	10	0
Certificate of assignment or license.....	0	10	0
Filing of memorandum of alteration or disclaimer.....	2	10	0
Entering any caveat.....	2	10	0
Copy or extract of any writing per common law folio.....	0	0	6
On obtaining letters of registration.....	10	0	0

## TWELFTH SCHEDULE.

*Acts repealed.*

- 1870.—No. 89. The Patents Act, 1870.  
 1881.—No. 22. The Patents Act Amendment Act, 1881.  
 1882.—No. 18. The Patents Act Amendment Act, 1882.

From *Carpin. Pat. L. of World*, 416.



## NICARAGUA.

*Report by Mr. Corbett, of the British Legation, published  
1873.*

*Translation.*

The Spanish Cortes, whose resolutions obtained until the 15th of September, 1821, and as far as they are not in opposition to those of these countries, have been declared in force in this republic, assure and regulate the right of property of inventors, establishing also the term of its duration.

Decree 43 declares, as to this right—to consider as proprietor of his work him who should invent, import, or introduce.

The government, by means of the proper minister, will issue to the said proprietor a certificate, in which will appear his name as inventor, improver, or introducer of the work, a description of it (the invention), and the duration of the exclusive right. This certificate will serve as a sufficient title; but in order to obtain it, it is necessary that the petitioner should address himself to the prefect of the department or to the municipality, giving an account of his work, describing it with the greatest exactness possible in conformity with the model, which the same law establishes.

The said authorities in their turn, shall be obliged to give to the petitioner testimony of everything which may serve for the information of the minister of the department.

The inventor shall have ten years of exclusive property, the improver seven, and the introducer five. These terms may be extended by the sovereign power, on the proposition of the government, to fifteen, ten and seven years, respectively.

The inventor, improver, and introducer, apart from the aforesaid terms, will cease to be considered as sole proprietors, first, if they cede their right for the public good; secondly, if they let six months pass without taking up the certificate; thirdly, if they let two years pass without putting in execution their invention, perfection, or improvement.

This is, in substance, that which is decreed by the Spanish Cortes.

In this republic nothing new has been arranged with respect to this matter.

The state of continual agitation, in which this country has been involved since its political emancipation, has not permitted the complete reform of its codes.

But our Constitution has given to Congress the faculty of promising rewards and privileges to the inventors and managers of useful works, as will be seen by its article XLII., division twenty-two; and, in practice, the rules of the decree cited above are not followed.

He who wishes for a reward or privilege seeks it from Congress, which concedes it, if it sees fit to do so.

From 4 *Pat. Off. Gaz.* 373.



## NORWAY.

*Law of June 16, 1885.*

We, OSCAR, by the Grace of God, King of Norway and Sweden, the Goths, and the Vends, make known that there has been laid before us the resolution of the now assembled honorable Storting, on the 8th of June, this year, as follows:

1. Patents shall be granted for new inventions which are useful in industry, excepting, however, (a) inventions which, if brought out, would be contrary to the law, morality, or public order; (b) inventions the subject-matter of which is a beverage, food, or medicine. Nevertheless in relation to these, patents will be granted for processes or apparatus specially described for their manufacture.

2. An invention shall not be considered new if it have already been so known before the application for the patent was handed in that it could by other conversant persons be brought into practice. However, publication by printing or by an ordinary exhibition shall not prevent a grant of letters patent applied for within the next ensuing six months after such publication.

3. The right to obtain patent is available, subject to a conformity with section 4, to the first inventor only, or to a person having the legal power to act for him. In cases where it cannot be clearly ascertained who, among several applicants for a patent for a given invention, is the first inventor, the patent will be granted to the first one that handed in an application.

4. When a patent is granted for an invention here in the kingdom, the inventor shall, in the course of two years, counted from the time when the application for patent was handed in, have the exclusive privilege of obtaining a patent for improvements on or addition to the former patented invention. In consequence of this every application for such patent that might come in from third parties shall remain in abeyance under seal in the patent office and shall be decided upon after the first mentioned interval is expired, unless the older patentee has made use of his right of preference.

5. Patents shall be granted for a period of fifteen years, counted from the time of the handing in of the application. If anybody having obtained a patent for an invention shall wish to take out a patent for an addition to or improvements on the same, he shall

have the option of taking out a special patent or only a supplementary patent which shall expire the same time as the original patent.

6. At the handing in of every application for a patent thirty kroner shall be paid as a fee for the consideration of the matter. For granting patents, with exception of supplement patents, a yearly payment shall also be demanded, which begins with ten kroner for the second year of the patent and increasing five kroner each year for every following year,—that is, fifteen kroner the third year, twenty the fourth. This fee shall be paid before the beginning of the patent year for which it is due. However, it may be paid within the period of three months afterward, but in such a case with an increase of one-fifth part.

7. The patent confers the privilege that nobody can without the consent of the patentee, excepting for his own use, manufacture or import from abroad the patented article, neither keeping nor selling the same. If the patented matter be a process, an apparatus, a machine, a tool, or other implement, the patent also confers the privilege that nobody can without the consent of the patentee make use of the patented matter in his business. However, ship-fittings can be used without hindrance from the patent upon ships engaged in foreign navigation while staying in Norwegian ports or in Norwegian waters.

8. The patent shall have no effect against any one who already had made use of the invention within the kingdom before the handing in of the application or made the necessary arrangements for the same. If the patentee have in an earlier stage published the invention in the manner as described in the latter section of section 2, the power of the patent does then extend back to the publication, provided he at the same time and in conjunction therewith (in case of exhibition by notification on the object exhibited) has published that a patent will be applied for, and besides has beforehand handed in a preliminary notice to the patent commissioners.

9. Without the consent of the patentee the patented invention can be used by the public authority, if the King so decides. Likewise can the patented invention that is of particular importance for one or another trade by similar provision be adopted for private use. In both cases compensation shall be due to the patentee, which amount and mode of computation, in default of amicable agreement, shall be settled by judgment of impartial men (arbitration). Compensation is procured in the first case from the public



authority—in the latter case from the person or persons who take the invention into use. If the compensation be settled as a lump sum once for all, the same shall be paid before the invention is taken into use. If it be settled as a royalty, the arbitration shall, at the request of the patentee, also settle by what installments this shall be paid, and also shall fix the amount of the security which ought to be given for the correct payment of the royalty. The royalty fixed by the arbitration can be levied by distraint.

**10.** The investigation and decision upon applications for patents shall rest in a patent commission that shall have its sitting in Christiania, and which shall consist of a juridically educated chairman and at least five technical skilled members, who shall be appointed by the King for a period of five years. For the technical skilled members deputies shall also be appointed. No decision by which an application for a patent is to be decided shall take place unless at least four, or—in case of difference of opinion—at least five, members of the commission shall be present, including always the chairman and such members as have previously dealt with the matter. If the votes be equal, the decision shall rest with the chairman. Every such decision shall be accompanied by reasons, and complete written copy handed to the applicant, the patentee, or his deputy.

**11.** None of the members of the patent commission shall have personally or through others a grant of a patent for any invention, or shall act as deputy for others (patent-agent) in patent matters. They shall resign if they are in such a manner connected with an applicant for a patent that they as judges should give up their seat.

**12.** Anybody who desires to obtain patent on an invention shall hand in to the patent commission (1) an application for the patent addressed to the commission; (2) a specification of the invention, in duplicate; (3) the drawings necessary for the understanding of the specification, also in duplicate, also, according to circumstances, models, samples, &c.; (4) a list of all the documents, &c., which are handed in.

**13.** If the applicant is not a resident in Norway, he must name in his application a deputy residing within the kingdom, who shall represent him in all matters connected with the patent, and who can be summoned on his account. A ratified copy of the document appointing such deputy with full powers and accepted by said deputy shall accompany the application. Likewise always

shall the application, if not signed by the applicant himself, be accompanied by the necessary full powers to the person who signs it.

14. The application, which must only relate to one principal invention (with the details belonging to the same,) shall give the applicant's name, occupation, and residence, as well as a short description of the invention, such as it is wished should be stated in the patent. If the invention have not been made by the applicant himself, the necessary proofs shall be attached that it has been lawfully intrusted to him by the inventor. The specification shall be so explicit and complete that others conversant with the trade to which it relates shall be able to carry out and apply the invention. It shall finish with a specific declaration as to what the applicant considers as his invention and desires to protect by patent. The application, as well as the specification, is to be written in the Norwegian language.

15. If the patent commission find that a deposited application is not fulfilling the terms of sections 12, 13, and 14, it shall as soon as possible give a written communication about it to the applicant or his deputy, in which shall be given a reasonable time during which the defects shall be remedied. If during this period, or any extension thereof that may be granted according to circumstances, the necessary corrections be not made, the application will be laid aside.

16. If the invention treated in the application be evidently not new, or there be other reason which would prevent the legally granting of a patent for the same, the application can be refused at once.

17. On the other hand, if the application, with its accompanying documents, &c., be in proper form, and, as far as can be judged, there be no defect present, as mentioned in section 16, the commission shall draw up as soon as possible, and at latest within four weeks, a public notification about the application, stating the principal contents of the same and the name of the applicant. At the same time the application, with the document and other vouchers belonging to it, shall be laid open for public examination in the patent-office.

18. If the inventor in his application shall desire and at the same time pay down an additional sum of twenty kroner, the enjoined publication and laying out for examination, as stated in the preceding section, shall be deferred until four months after the inventor



or his deputy has received information that the patent commission from the previous examination finds no hindrance for a grant of patent. For the preliminary examination the commission has in this case an extension of time of eight weeks, during which it is entitled to obtain statements of men conversant in the matter, as stated in section 20.

19. During the period of eight weeks following the publication anybody shall be at liberty to hand in to the patent commission an objection to a grant of the patent applied for. Such objection shall be in writing, and shall be accompanied by the reasons on which it is based, which must also be presented in writing.

20. Before the expiration of sixteen weeks after the publication the commission shall come to a decision concerning the application. Before its decision it can demand more particular declarations or explanations from those interested in the matter. It shall also be entitled to obtain statements of men conversant with the same, or make other necessary arrangements to throw light upon the matter.

21. If the applicant shall be dissatisfied with the decision of the patent commission in conformity to section 16 or section 20, and he shall think himself able to give explanation or information which would convey another result, he shall have the right during the next ensuing six weeks after the giving of the decision to hand in to the commission a representation, which in such a case shall bring the matter under a renewed consideration. Should this also not bring it to a decision satisfactory to the applicant, he shall still, during four weeks more, have the option of making an application to the patent commission asking for a decision of a supreme patent commission, consisting of seven men specially selected by the King for this case, and with an eye to the circumstances of the case. With the request the applicant shall pay a fee of one hundred and fifty kroner, which, however, shall be returned to him if the former decision be not confirmed. The supreme patent commission shall decide the case from the documents handed over by the patent commission.

22. When the final decision shall be given that a patent be granted, the commission shall draw up the letters patent, stating the nature of the patent, as well as the day from which its duration is to be counted, in accordance with section 5. As soon as possible after the drawing up of the letters patent the commission shall make a public notification of the same, containing also the essential part of the specification, &c., and other documents, as the case may

demand, together with the name and residence of the deputy. When a final decision shall have been made that the patent be refused, this shall also be published.

23. If the patentee leave the country, or the patent be transferred to an owner not residing in Norway, such a deputy must be made known to the patent-office, and such authorized power be forwarded as stated in section 13.

24. A register shall be kept at the patent-office of all the completed patents. This shall show the nature of the patent and date, as well as the name and residence of the patentee, or, as the case may be, those of his deputy. When a patent expires, becomes void; is by judgment abolished, or is wholly or partly declared invalid, this shall be noted in the register and publicly notified. The same shall hold good with respect to transfer of patent right and choice of deputy or substitution of a new one (sections 13 and 23) when notice concerning the same with necessary legitimation shall be handed in to the office. As long as this latter shall not have taken place, the transfer or the choice shall be without effect with the public authorities, as well as with third persons. Both the register and the specifications, drawings, models, &c., connected with patents shall be accessible to everybody who might wish to make themselves acquainted with the same.

25. A patent shall expire (1) if the fixed fee in section 6 be not paid into the office within the time stated in the said section ; (2) if the notified deputy will not or cannot any longer undertake the charge, and the patentee within three months after he has been notified about it in the newspaper for publications of patents has not registered new deputy with the patent commission.

26. A patent shall by judgment be found wholly or partly invalid if it be shown that in accordance with the provisions of sections 1, 2, 3, and 4, either in whole or in part, it ought not to have been granted.

27. A patent shall by judgment be made void if the patentee shall not have worked the patent within the termination of three years from the date of the patent either himself or through others in the kingdom or have offered the patented object for sale ; also, if after that period the working or the offering for sale has been discontinued during one year. If this be caused by a casual incident, the last-mentioned period can be increased by the patent commission on application. In particular cases the patent commission shall have power after representation to make exceptionally distinct



provision for what is required for the working or arrangement for sale within the kingdom.

**28.** Anybody who may desire to have a patent declared void (section 26) or abolished (section 27) can prosecute the patentee to accept judgment. Such questions shall come within the jurisdiction of Christiania town court. The summons shall be four weeks regardless of the summoned person's residence. Settlement by arbitration will not be allowed. The chairman of the patent commission shall always be summoned.

**29.** Any person who shall encroach upon the rights belonging to any one pursuant to a patent shall be obliged to compensate the injured person for all damage to him thereby caused. Should the infringer have knowingly committed such violation of rights he shall besides, provided he be not liable at law to a more severe punishment, be fined (the penalty to be paid into the state treasury) from fifty to one thousand kroner, and in case of repetition up to two thousand kroner; also, all unlawfully manufactured goods offered for sale, in case the article itself be patented, may by judgment be confiscated.

**30.** The public authority shall not prosecute the offense treated in section 29. The prosecution concerns the patentee himself or any other person to whom he wholly or partly transferred his right or in any other person who by the offense shall have sustained loss.

**31.** If the defendant, in a case of infringement of a patent, shall base his claim for acquittal on the ground that the patent is invalid (section 26) or forfeited (section 27), the court shall, if requested, if it be any other court than the town court of Christiania, give him such delay that he can have an opportunity to obtain judgment in conformity to section 28. If the matter is taken before the town court of Christiania, he can, through counter prosecution, without arbitration, obtain a hearing under the procedure to get the patent made null and void or abolished.

**32.** No punishment or compensation shall be decreed under this law if the infringement complained of at the court shall have been committed more than two years before the commencement of the action, or if the action has not been commenced by the injured party within a year from the time when he was first acquainted by established proof, through judicial act of the infringement complained of, or if he delay to prosecute for a full year a trial already judicially commenced.

**33.** If any one who shall have in a foreign country applied for

patent for an invention within a period of seven months after such foreign application hands in an application for patent in this country for the same invention, this last application shall (in case the said foreign country grants reciprocal rights to Norwegians) be considered in relation to other applications, as if it had been handed in at the same time that the application was made in the foreign state.

34. The present law has no application to patents issued before the law comes into force. However, after the period of one year the inventor of such a patent shall be at liberty to apply for change of patent so as to come under the rules of the present law, which in such a case will be fully applied to such patent. The question of the novelty of the invention (section 2) shall be decided, however, according to the condition of the time when the application of the older patent was given in. If a new patent is granted, its duration shall (section 5) be counted from the issue of the older patent and the yearly fee (section 6) shall be determined according to its age.

35. The particular provisions of the administration of the patent commission, the form and contents of patents, and what more may be required for the execution of this law shall be in the jurisdiction of the King.

36. The present law shall come into force on the 1st of January, 1886, after which time section 82 in the artisan's law of the 15th of July, 1839, shall be null and void.

We hereby accept and ratify this resolution as law under our hand and Seal of the Realm.

Given at Stockholm Castle on the 16th of June, 1885.

OSCAR. [L. S.]

From *Carp. Pat. L. of World*, 443.

---

**NOVA SCOTIA.**

See CANADA.

---

**ONTARIO.**

See CANADA.

---

**ORANGE FREE STATE.**

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



**PARAGUAY.**

Under a law of May 20, 1845, citizens or foreigners are alike entitled to protection, and the term of the grant varies from two to ten years. Where there is a previous foreign patent for the same invention, the patent is not valid for more than six months beyond the termination of the foreign patent. The invention patented must be worked within two years from the date of the grant.

*Encyc. Brit.* ed. 9, art. Patents.

---

**PERSIA.**

According to a report of Mr. R. F. Thomson, of the British Legation, published October 28, 1873, in 4 *Pat. Off. Gaz.* 447, there was not, at the time of his writing, any law in Persia respecting patent rights for inventions, but every one there was free to invent or imitate.

---

**PERU.**

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

---

**PHILIPINE ISLANDS.**

See SPAIN.

---

**PORTO RICO.**

• See SPAIN.

**PORTUGAL.***Civil Code.***CHAPTER III.****PROPERTY IN INVENTIONS.****SECTION I.****GENERAL PROVISIONS.**

**ARTICLE 613.** Any one who invents any manufacture, product, or article of commerce, who perfects and improves any known product or manufacture of the same nature, or discovers any easier and less expensive means of obtaining it, shall enjoy the property in his invention or discovery for a period of fifteen years, on the terms hereinafter set forth in this chapter.

1. An inventor who has obtained a privilege in a foreign country can only obtain a patent in the kingdom on the conditions of this code, and for the term which has still to run in the foreign country before the invention falls into the public domain.

**ART. 614.** The property in the invention gives the exclusive right of producing or manufacturing the articles which constitute or embody the said invention.

**ART. 615.** Inventions or discoveries relating to unlawful industries or articles cannot be patented.

**ART. 616.** The duration of the exclusive property in inventions commences from the date of the grant of the patent.

**ART. 617.** The exclusive property is limited to the article specified, and can never be interpreted as extending to others, under pretext of intimate relation or connection.

**ART. 618.** The appropriation of inventions can only be decreed by law, in cases wherein it may be necessary for the public good.

**SECTION II.****ADDITIONS TO INVENTIONS.**

**ART. 619.** The patentee or his representatives may, during the existence of the patent, add to the invention any improvements and modifications which they may conceive.



ART. 620. The person making additions enjoys, so far as concerns the additional improvements, the same rights as those conferred by the principal patent; but only for the time that this may last.

ART. 621. The person making additions may, however, apply for a new patent for the improvements, providing he submits himself to the provisions regulating principal patents.

ART. 622. The grant of a patent for an improvement cannot be made during the first year of the patent granted for the principal invention, save to the person who obtained that patent.

ART. 623. Third parties who solicit such a patent may, before the end of the year, deliver their petition, closed and sealed, to the proper department, and thereupon note shall be taken of such delivery.

The deposit mentioned in this article serves to confer on the depositor priority over all others, not being the patentee, who may subsequently present themselves. The patentee has in every case the preference, provided he applies within the year.

ART. 624. Third parties who apply for a patent of improvement are deemed, for the issue of their titles, to be principal inventors.

ART. 625. The exclusive property in inventions is authenticated and secured by the laws and administrative regulations.

### SECTION III.

#### TRANSMISSION OF PROPERTY IN INVENTIONS.

ART. 626. Property in inventions is governed by the general laws which regulate movable property, except as is hereinafter provided.

ART. 627. The transfer of the patent, whether gratuitously, or for a consideration, can only be effected by notarial deed.

ART. 628. Licensees under a principal patent shall enjoy additions granted to the inventor or his representatives, and so reciprocally if the case arises, unless there exists any agreement to the contrary.

### SECTION IV.

#### THE PUBLICATION OF INVENTIONS.

ART. 629. The descriptions, designs, models and specifications required for the grant of a patent shall be shown gratuitously to all

persons who may apply for them, and copies thereof shall be supplied on payment of the cost.

It pertains to the government to make the necessary regulations respecting this matter.

ART. 630. On the expiration of the second year of the patent the designs and descriptions shall be published in full or by extract.

ART. 631. It is the duty of the government to announce officially those inventions which have become public property.

## SECTION V.

### THE NULLITY AND LOSS OF PATENTS.

ART. 632. Patents granted in the following cases are null:

1. If the inventions or discoveries were known to the public, practically or theoretically, through any technical description divulged in home or foreign documents, or by any other means :

2. If a patent had already previously been granted for the same object: [Art. 635.]

3. If the invention or discovery should be found prejudicial to public security or health, or contrary to the laws :

4. If the title given to the invention fraudulently comprises a different object:

5. If the description lodged of the invention does not indicate everything which is necessary for working the invention, or the real means of the inventor:

6. If the patent was obtained contrary to the formalities prescribed by law :

7. If a patent for a modification or improvement does not relate to something which facilitates the working, or increases the utility of the invention, but merely to a change of form or of proportions, or to mere ornament.

ART. 633. Any one who fails to carry out his invention within two years counted from the date of the signature of the patent, or who ceases to use it for two consecutive years, without proving a legitimate impediment, shall forfeit the said patent.

## SECTION VI.

### ACTIONS FOR NULLITY AND WITHDRAWAL OF THE PATENT.

ART. 634. Either the public prosecutor, or persons having a direct interest in the withdrawal of the patent, may bring suitable



actions. If the action is brought by the public prosecutor, the interested party shall be allowed to intervene therein as assistant, but the public administration must always intervene in actions brought by interested parties. [Civil Code, Art. 329.]

ART. 635. The right of action for nullity, in the case of No. 2 of article 632, lapses on the expiration of a year without opposition by the parties interested: in other cases it shall exist as long as the exclusive privilege of invention lasts.

## SECTION VII.

### THE RESPONSIBILITY OF INFRINGERS.

ART. 636. Whosoever, during the exclusive privilege of invention, injures the patentee in the exercise of his rights by reproducing, without his authorization, the object of the said invention, or by selling, concealing, or introducing with deliberate intent, any similar article manufactured abroad, is responsible for the reparation of the damage caused, besides being subject to the penalties of the Criminal Code.

ART. 637. Patentees or their representatives may require, in case of suspected infringement, and on their first giving security, the seizure of the infringing articles, or of implements that can only serve for their manufacture. [Civil Code, Art. 363.]

In this case, however, if the party seizing should not commence his action within fourteen days, the seizure becomes void at law, and the holder may sue the party making the seizure for losses and damages.

ART. 638. If the action for infringement is brought to final judgment at criminal or civil law, the articles seized shall be awarded to the complainant, on account of the compensation due to him; but if the matter is tried by a criminal suit, the plaintiff can only sue by civil action for anything that may be wanting for his complete indemnification.

ART. 639. The party injured by the infringement may proceed either by criminal action, or merely by civil action for losses and damages; in either case the Public Prosecutor shall be heard.

ART. 640. The tribunal which tries criminally the infringement shall pronounce on the objections the defendant may raise as to the nullity of the patent or the loss of the rights of the plaintiff.

From *Carpn. Pat. L. of World*, 445.

*Report by Mr. Wm. Doria, of the British Legation, published 1873.*

On the 17th of March, 1868, the present law in force was published for regulating the concession of patents, and regulations were inserted in the Civil Code for the protection of public interests against the too excessive exercise of particular privileges granted by patents, and the regulations were assimilated more to those adhered to in other countries granting such patents.

It is, therefore, to the Civil Code that reference must be made for those provisions of the law which protect patent rights from being infringed. The punishment to be awarded to those persons who infringe those rights is to be found inscribed in the Penal Code of the country.

Patents are granted for a term of years not exceeding fifteen, to the inventor or discoverer, to enjoy during that time the right of property.

From the right of property to an invention is derived the exclusive right of producing or manufacturing the articles which constitute the said invention. Persons making additions to their inventions enjoy the advantage of the additional improvements, and they may apply for a French patent.

The exclusive right of property over inventions is secured by the administrative laws and regulations—that is to say, by the laws having reference to movable property, except in cases where the patent has been granted gratuitously, or as compensation in return for service performed.

The publication of patents, their drawings, models, and specifications, which are required for obtaining the concession, must be shown gratuitously to every one who desires to see them. Applicants, by payment, can procure copies. On the government devolves the duty to announce officially what patents have fallen into the dominion of the public.

Patentees who have been injured by the infringement of their patent can institute a criminal suit, or enter a civil action to recover damages.

The right of property conferred by a patent is transmissible by will to heirs and successors.

A register of all patents is kept in the department of public works.



A tax of 120,000 reis is exacted on granting a patent for fifteen years, equivalent to about \$140.00. Of this amount 75,000 reis, or \$88.00, is set apart for a fund for the advancement of industry. The remaining sum is absorbed in stamps and fees paid to government.

Medicines, articles of food, simple changes in the form of an object patented, and ornaments are excluded from obtaining patents.

The civil governor of the district is charged with the duty of granting patents, on whom devolves the duty also of forwarding to the office of public works information for their due registration.

An invention which involves danger to public safety is prohibited from obtaining a patent.

A foreigner can only obtain a patent subject to the rules laid down by the Civil Code of Portugal, and that also only for the period of time before it falls under the dominion of the public, in conformity with those rules.

No concession of patent for an improvement of an article already patented is granted, except to the patentee himself, during the first year after the patent is granted. Application by another person may be made before the expiration of the year to the proper department, where such application will be taken into consideration.

This provision is to insure to the first applicant the preference over other persons, with the exception of the original patentee, who always has the preference accorded to him, provided his application is also made during the first year.

Exclusive right to import foreign patents is not granted; only the privilege for their manufacture in Portugal is guaranteed by patent.

The punishment awarded by the Penal Code to persons who infringe patent rights is subjection to a fine, which is imposed by the judge at his discretion, varying from 30,000 reis to 300,000 reis, or from \$35 to \$350, and the confiscation of the articles which have been employed in the violation of the patent.

For losses sustained by the patentee through the infringement of his rights, he can obtain indemnity by a civil action.

From 4 *Pat. Off. Gaz.* 447.

See also, INTERNATIONAL CONVENTION.

---

## PRINCE EDWARD ISLAND.

See CANADA.

## PRUSSIA.

*Extracts from a report by Mr. T. N. Plunkett, of the British Legation, published October 14, 1873.\**

The legislation of Prussia on patents is based on a rescript of October 14, 1815, on various ministerial decisions as to the precise meaning of particular portions of it, which have been given from time to time when occasion arose; and also on the agreement come to in September, 1842, between the different States of the Zollverein respecting patents.

In the main, however, the practice in Prussia is as follows:

Patents can be obtained both for discoveries and for improvements; and also for the introduction into Prussia of inventions patented abroad.

New goods, new machines, new tools, and new modes of fabrication can be patented; but only on the condition that they are useful to industry and manufacture, and afford new means of industrial development.

Patents are never granted in Prussia for inventions of an artistic nature; the only excuse for a patent is that the invention shall have industrial value. No invention which is not entirely new, or which is not certain to be useful to industry, has a chance of receiving a patent, for the rules are administered with the greatest severity.

Articles or inventions patented abroad may also be patented in Prussia, provided, however, that no description of them shall have been published either here or elsewhere, and that no use shall have yet been made of the invention in Prussia.

When once the details of an invention have been published, either in Germany or elsewhere, officially or unofficially, before the application for the Prussian patent has been made in Berlin, it is invariably refused.

\* The date of this report was not long after the adoption of the Imperial Constitution of the German empire, article 4 of which declares that questions concerning patents and patent laws are reserved to the Reichsrath; but before a general law

had been established for the empire. The subject is now governed, for Prussia, as for the other kingdoms, by the general law; for which see GERMAN EMPIRE. This report has value in connection with unexpired Prussian Patents.



An article which is patented abroad may be patented in Prussia, if it fulfills the necessary requirements, by anybody.

No rights whatever are reserved to the original patentee, except in the case of patents taken out in other German countries.

Under the agreement concluded between the Zollverein States in 1842, when a patent has been given for an invention in any one of those States, it secures to the patentee the sole right of applying for a patent for the same article in all the other States of the Confederation ; but it does not necessarily follow from this that the Prussian authorities will give patents in every case where other German governments have done so.

In Saxony, Bavaria, and Würtemberg, for instance, patents are much more easily obtained than they are in Prussia.

Patents are granted only to natives, or to the subjects of such countries as by treaty are entitled to most-favored-nation treatment. Therefore, under the treaty of commerce concluded in 1865, British subjects are entitled to take out patents in this country. Subjects of those foreign countries which are not entitled to most-favored-nation treatment, if they wish to patent their inventions in Prussia, must appoint a native as their representative, and have the patents made out in his name.

The application for a patent is made direct to the minister of commerce in Berlin, and must be accompanied by full descriptions, and, if necessary, also by models. These are, however, kept secret from everybody except from the persons whose special duty it is to examine and report upon them.

The applications are registered immediately on receipt at the ministry, and take their precedence accordingly.

Under the ministry of commerce is a special department called the technical deputation for industrial matters, to whom all these applications are referred. It is their duty to examine the models, descriptions, &c., to see whether patents for similar or kindred inventions have been already given, and to ask for any further explanations which they may require. They then decide absolutely and without appeal whether they will grant the patent or not. They fix the length of time for which the patent is to hold good, and have, moreover, the right of declaring whether they will give a patent for the whole invention or only for some portion of it.

The deputation consists, at present, of nine members, under the presidency of a director of the ministry of commerce, and meets

once a week or oftener to examine the application for patents which have been made to the minister.

Their verdict is communicated to the person who has applied for the patent, and he is allowed a period of six weeks to decide whether he accepts or not the conditions proposed by the deputation.

If he agrees to accept them, the patent is then issued under the signature of the minister of commerce.

The following conditions are invariably imposed in the case of every patent which is granted :

1. The patentee must give practical effect to his invention in Prussia within the time fixed by the minister (usually six months, never more than a year), on pain of forfeiting his patent ; and he must produce before the end of that term an official certificate from the local police, or at least from some government employe, that his invention is or has been actually in work within the Prussian dominions.

2. If at any time during the period for which the patent is granted his invention shall have been unemployed during twelve consecutive months, the patentee shall forfeit all his rights.

3. The patent shall equally be forfeited if at any time afterward it can be proved that the invention was neither new nor original.

The period for which a patent is to run is laid down, specially for each case, in the rescript of the minister of commerce. The law is, that it shall not be less than six months nor more than fifteen years ; but it is now usually fixed at three years.

A patent which is near expiring may, in some cases, be renewed ; but the entire period for which it can last must never exceed fifteen years. Such prolongations, however, have lately been more difficult to obtain than they were formerly.

Unless in cases where the applicant himself demands a special exception, patents extend to the whole Kingdom of Prussia.

The publication of the fact of a patent having been granted to an inventor is made in the official journals free of cost. Merely the fact itself is mentioned of a patent having been granted for such a number of years to such or such a person, for such or such an invention. No details are entered into, and no description is given. The exact particulars of the invention are kept in sealed covers at the office of the technical deputation for industrial matters in Berlin ; and, although in the patent commission itself there is a special proviso that the government do not guarantee secrecy, they prac-



tically never allow the secret to ooze out. It would indeed appear that everything connected with this department is conducted with the view of preventing the outside world from learning what takes place within its walls.

The expenses of taking out a patent in Prussia are almost nominal.

The application for a patent must be written on stamped paper of 5 silber-groschen—say 12 cents.

The answer of the technical deputation is given on stamped paper of 15 silber-groschen—say, 36 cents—and the patent itself, if granted, is liable to a stamp duty of 1 thaler—say, 73 cents. There is no further tax or duty whatever.

A patent can be sold or inherited like any other property, on condition, however, that the new proprietor shall be a Prussian, or a subject either of one of the Zollverein States or of a country entitled by treaty to most-favored-nation treatment. In these cases no notice need be given to the government, which always applies direct to the original patentee or his heirs.

Corporate bodies have the same rights as individuals in regard to the acquisition of patents.

A patent in Prussia gives to the patentee the exclusive right of working his invention—that is to say, the sole right of making the article in question; and also, in the case of machinery, the sole right of employing it when made. It does not give the right of prohibiting the sale or importation of articles which are like the article for which the patent has been obtained.

A patentee whose rights have been infringed can invoke the aid of the police to confiscate the pirated articles; but the offending party must be named before they can be seized; and it is only in case of a second offense that the articles in question can actually be confiscated. The decision in these questions lies, in the first instance, with the authorities of the "bezirk" (district), with an appeal, in second instance, to the minister of commerce.

Claims for damages must be laid before the ordinary civil tribunal; and such claims may be made without the previous formality of a warning to the offending parties being required.

Patents which have been granted before 1866 by the Prussian Government, and by the former Governments of Hanover, Hesse, Nassau, or Frankfort, and which have not yet expired, have force only in those special districts which at that time were under each of those governments; but all patents issued by the Prussian Gov-

ernment since 1866 have force throughout the whole monarchy as now consituted, unless in those few cases where, at the request of the patentee himself, a special reservation is made.

From 4 *Pat. Off. Gaz.* 395.

See GERMAN EMPIRE.

---

## QUEBEC.

See CANADA.



## QUEENSLAND.

*An Act to Amend and Consolidate the Law relating to Patents for Inventions, and the Registration of Designs and Trade-Marks, assented to October 13, 1884.*

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

## PART I.

## PRELIMINARY.

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

2. This act is divided into parts, as follows :

Part I.—Preliminary ;

Part II.—Patents ;

Part III.—Designs ;

Part IV.—Trade-Marks ;

Part V.—International and Intercolonial Arrangements ;

Part VI.—General.

## GENERAL DEFINITIONS.

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

"*Examiner*" includes examiners, if more than one.

"*The court*" means the Supreme Court of Queensland.

"*Law officer*" means her Majesty's attorney-general for Queensland.

"*The minister*" means the colonial secretary or other minister charged with the execution of this act.

"*Registrar*" means the registrar of patents, designs, and trade-marks.

"*Prescribed*" means prescribed by any of the schedules to this Act, or by general rules under or within the meaning of this Act.

"*Patent*" means letters patent for an invention.

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

“*Invention*” means any manner of new manufacture, the subject of letters patent and grant of privilege within section 6 of the statute of monopolies—that is, the act of the twenty-first year of the reign of King James the First, chapter 3, entitled “An Act concerning Monopolies, and Dispensations with Penal Laws, and the forfeiture thereof”—and includes an alleged invention.

“*Design*” means any design applicable to any article of manufacture, or to any substance, artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modeling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined, not being a design for a sculpture, or other thing within the protection of “The Sculpture Copyright Act” of the year 1814, (fifty-fourth George the Third, chapter 56).

“*Copyright*” means the exclusive right to apply a design to any article of manufacture or to any such substance, as aforesaid, in the class or classes in which the design is registered.

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

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

“*Summary conviction*” means a conviction under the summary jurisdiction Acts—that is to say, the acts regulating the duties of justices of the peace and any acts amending or in substitution for them.

#### TRANSITIONAL PROVISIONS.

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

(a.) Affect the past operation of any of those enactments, or any patent or copyright or right to use a trade-mark granted or



acquired, or application pending or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this act ; or

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

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

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

(2.) The patent-office shall be under the immediate control of an officer, called the "registrar of patents, designs, and trade-marks," acting under the superintendence and direction of the minister.

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

(4.) Until other provision is made in that behalf, the registrar-general shall be and act as registrar of patents, designs, and trade-marks.

6. This Act, except where it is otherwise expressed, shall commence from and immediately after the 31st day of December, 1884.

## PART II.

### PATENTS.

#### APPLICATION FOR AND GRANT OF PATENT.

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

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

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

(2.) An application must contain a declaration to the effect that

the applicant is in possession of an invention, whereof he, or, in the case of a joint application, one or more of the applicants, claims or claim to be the true and first inventor or inventors, and for which he or they desires or desire to obtain a patent, and must be accompanied by either a provisional or complete specification.

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

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

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

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

9. The registrar shall refer every application to an examiner or examiners, who shall ascertain and report to the registrar whether the nature of the invention has been fairly described, and the application, specification, and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject-matter of the invention.

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

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

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

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

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

in the affirmative, the registrar shall give notice to the applicants that he has so reported.

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

**11.** (1.) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within nine months from the date of application.

(2.) Unless a complete specification is left within that time, the application shall be deemed to be abandoned.

**12.** (1.) Where a complete specification is left after a provisional specification the registrar shall refer both specifications to an examiner for the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner, and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification.

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

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

(4.) Unless a complete specification is accepted within twelve months from the date of application, then (save in the case of an appeal having been lodged against the refusal to accept) the application shall at the expiration of those twelve months become void.

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

**13.** On the acceptance of the complete specification the registrar shall advertise the acceptance in the Gazette, and the application



and specification or specifications with the drawings (if any) shall be open to public inspection.

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

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

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

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

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

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

(3.) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, except in the cases hereinafter mentioned—that is to say :

(a.) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct.

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

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

#### PROVISIONAL PROTECTION.

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

#### PROTECTION BY COMPLETE SPECIFICATION.

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

#### PATENT.

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

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

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

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

(4.) Thereupon the registrar shall, if satisfied that the failure has arisen from any of the above mentioned causes, on receipt of the

prescribed fee for enlargement, not exceeding ten pounds, enlarge the time accordingly, subject to the following conditions :

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

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

#### AMENDMENT OF SPECIFICATION.

21. (1.) An applicant or a patentee may, from time to time, by request in writing left at the patent-office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of such amendment and his reasons for the same.

(2.) The request and the nature of such proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the patent-office of opposition to the amendment.

(3.) Where such notice is given the registrar shall give notice of the opposition to the person making the request, and shall hear and decide the case subject to an appeal to the law officer.

(4.) The law officer shall, if required, hear the person making the request and the person so giving notice, and being in the opinion of the law officer entitled to be heard in opposition to the request, and shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(5.) Where no notice of opposition is given or the person so giving notice does not appear, the registrar shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6.) When leave to amend is refused by the registrar, the person making the request may appeal from his decision to the law officer.

(7.) The law officer shall, if required, hear the person making the request and the registrar, and may make an order determining whether, and subject to what conditions, if any, the amendment ought to be allowed.

(8.) No amendment shall be allowed that would make the speci-



fication, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.

(9.) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud ; and the amendment shall in all courts and for all purposes be deemed to form part of the specification.

(10.) The foregoing provisions of this section do not apply when and so long as any action for infringement or other legal proceeding in relation to a patent is pending.

22. (1.) In an action for infringement of a patent, and in a proceeding for revocation of a patent, the court or a judge may at any time order that the patentee shall, subject to such terms as to costs and otherwise as the court or a judge may impose, be at liberty to apply at the patent-office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

23. Where an amendment by way of disclaimer, correction, or explanation has been allowed under this Act, no damages shall be given in any action in respect of the use of the invention before the disclaimer, correction, or explanation, unless the patentee establishes to the satisfaction of the court that his original claim was framed in good faith and with reasonable skill and knowledge.

24. Every amendment of a specification shall be advertised in the prescribed manner.

#### COMPULSORY LICENSES.

25. If on the petition of any person interested it is proved to the Governor in Council that by reason of the default of a patentee to grant licenses on reasonable terms—

(a.) The patent is not being worked in the colony ; or

(b.) The reasonable requirements of the public with respect to the invention cannot be supplied ; or

(c.) Any person is prevented from working or using to the best advantage an invention of which he is possessed, the Governor in Council may order the patentee to grant licenses on such terms as to the amount of royalties, security for payment, or otherwise as the Governor in Council, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.

## REGISTER OF PATENTS.

26. (1.) There shall be kept at the patent-office a book, called the "Register of Patents," wherein shall be entered the names and addresses of grantees of patents, notifications of assignments, and of transmissions of patents, of licenses under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed.

(2.) The Register of Patents shall be *prima facie* evidence of any matters by this act directed or authorized to be inserted therein.

(3.) Copies of deeds, licenses, and any other documents affecting the proprietorship in any letters patent, or in any license thereunder, must be supplied to the registrar in the prescribed manner for filing in the patent-office.

## FEES.

27. (1.) There shall be paid in respect of the several instruments described in the third schedule to this Act the fees in that schedule mentioned, and there shall likewise be paid, in respect of other matters under this part of the Act, such fees as may be from time to time prescribed by the Governor in Council; and such fees shall be paid into the consolidated revenue.

(2.) The Governor in Council may from time to time reduce any of those fees.

## EXTENSION OF TERM OF PATENT.

28. (1.) A patentee may, after advertising in manner directed by any rules made under this section his intention to do so, present a petition to the Governor in Council, praying that his patent may be extended for a further term; but such petition must be presented at least six months before the time limited for the expiration of the patent.

(2.) Any person may enter a caveat, addressed to the clerk of the executive council at the council office, against the extension.

(3.) If the Governor in Council shall be pleased to refer any such petition to the court, the court shall proceed to consider the same, and the petitioner and any person who has entered a caveat shall be entitled to be heard by himself or by counsel on the petition.

(4.) The court shall, in considering their decision, have regard to the nature and merits of the invention in relation to the public to the profits made by the patentee as such, and to all the circumstances of the case.

(5.) If the court report that the patentee has been inadequately remunerated by his patent, it shall be lawful for the Governor in Council to extend the term of the patent for a further term not exceeding seven, or in exceptional cases, fourteen, years ; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the court may think fit.

(6.) It shall be lawful for the judges of the Supreme Court, or any two of them, of whom the Chief Justice shall be one, to make from time to time rules of procedure and practice for regulating proceedings on such petitions, and subject thereto such proceedings shall be regulated according to the existing procedure and practice in cases of petitions to the court.

(7.) The costs of all parties of and incident to such proceedings shall be in the discretion of the court, and the orders of the court respecting costs shall be enforceable in the same manner as other orders of the court.

#### REVOCATION.

29. (1.) The proceeding by scire facias to repeal a patent is hereby abolished.

(2.) Revocation of a patent may be obtained on petition to the court.

(3.) Every ground on which a patent may, at the commencement of this Act, be repealed by scire facias shall be available by way of defense to an action of infringement, and shall also be a ground of revocation.

(4.) A petition for revocation of a patent may be presented by—

(a.) The attorney-general ;

(b.) Any person authorized by the attorney-general ;

(c.) Any person alleging that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims ;

(d.) Any person alleging that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee ;



(e.) Any person alleging that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within the colony, before the date of the patent, anything claimed by the patentee as his invention.

(5.) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and no evidence shall, except by leave of the court or a judge, be admitted in proof of any objection of which particulars are not so delivered.

(6.) Particulars delivered may be from time to time amended by leave of the court or a judge.

(7.) The defendant shall be entitled to begin and give evidence in support of the patent, and if the plaintiff gives evidence impeaching the validity of the patent the defendant shall be entitled to reply.

(8.) Where a patent has been revoked on the ground of fraud the registrar may, on the application of the true inventor, made in accordance with the provisions of this Act, grant to him a patent in lieu of and taking effect from the same date as the date of revocation of the patent so revoked, but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

#### CROWN.

**30.** (1.) A patent shall have to all intents the like effect as against Her Majesty the Queen, her heirs and successors as it has against a subject.

(2.) But the officers or authorities administering any department of the service of the crown may, by themselves, their agents, contractors, and others, at any time after the application, use the invention for the service of the crown on terms to be before or after the use thereof agreed on, with the approval of the minister, between those officers or authorities and the patentee, or, in default of such agreement, on such terms as may be settled by the minister after hearing all parties interested.

#### LEGAL PROCEEDINGS.

**31.** (1.) In an action or proceeding for infringement or revocation of a patent, the court may, if it thinks fit, and shall on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try and hear the case wholly or

partially with his assistance. The action shall be tried without a jury, unless the court shall otherwise direct.

(2.) The remuneration, if any, to be paid to an assessor under this section shall be determined by the court, and be paid in the same manner as the other expenses of the execution of this Act.

**32.** (1.) In an action for infringement of a patent the plaintiff must deliver with his statement of claim, or by order of the court or the judge, at any subsequent time, particulars of the breaches complained of.

(2.) The defendant must deliver with his statement of defense, or by order of the court or a judge, at any subsequent time, particulars of any objections on which he relies in support thereof.

(3.) If the defendant disputes the validity of the patent, the particulars delivered by him must state on what grounds he disputes it, and, if one of those grounds is want of novelty, must state the time and place of the previous publication or use alleged by him.

(4.) At the hearing no evidence shall, except by leave of the court or a judge, be admitted in proof of any alleged infringement or objection of which particulars are not so delivered.

(5.) Particulars delivered may be from time to time amended, by leave of the court or a judge.

(6.) On taxation of costs regard shall be had to the particulars delivered by the plaintiff and by the defendant, and they respectively shall not be allowed any costs in respect of any particular delivered by them unless the same is certified by the court or a judge to have been proven, or to have been reasonable and proper, without regard to the general costs of the case.

**33.** In an action for infringement of a patent, the court or a judge may on the application of either party make such order for an injunction, inspection, or account, and impose such terms and give such directions respecting the same and the proceedings thereon as the court or a judge may see fit.

**34.** In an action for infringement of a patent, the court or a judge may certify that the validity of the patent came in question, and if the court or judge so certifies, then in any subsequent action for infringement the plaintiff in that action, on obtaining a final order or judgment in his favor, shall have his full costs, charges, and expenses as between solicitor and client, unless the court or judge trying the action certifies that he ought not to have the same.



**35.** When any person claiming to be the patentee of an invention, by circulars, advertisements, or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged manufacture, use, sale, or purchase of the invention, any person or persons aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damage, if any, as may have been sustained thereby, if the alleged manufacture, use, sale, or purchase to which the threats related was not in fact an infringement of any legal rights of the person making such threats: Provided, That this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.

#### MISCELLANEOUS.

**36.** Every patent may be in the form in the second schedule to this Act, and shall be granted for one invention only, but may contain more than one claim; but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it comprises more than one invention.

**37.** (1.) If a person possessed of an invention dies without making application for a patent for the invention, application may be made by, and a patent for the invention granted to, his legal representative.

(2.) Every such application must be made within six months of the decease of such person, and must contain a declaration by the legal representative that he believes such person to have been the true and first inventor of the invention.

**38.** A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection.

**39.** A patentee may assign his patent for the whole colony or any place in or part of the colony.

**40.** If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the registrar, the Governor in Council may at any time cause a duplicate thereof to be sealed.

**41.** The law officer may examine witnesses on oath and administer oaths for that purpose under this part of this Act, and may



from time to time make, alter, and rescind rules regulating references, and appeals to the law officer and the practice and procedure before him under this part of this Act; and in any proceeding before the law officer under this part of this Act the law officer may order costs to be paid by either party, and any such order may be made a rule of the court.

42. The exhibition of an invention at an industrial or international exhibition, certified as such by the minister, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or the consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or validity of any patent granted on the application: Provided, That both the following conditions are complied with, namely:

(a.) The exhibitor must, before exhibiting the invention, give the registrar the prescribed notice of his intention to do so; and

(b.) The application for a patent must be made before or within six months from the date of the opening of the exhibition.

43. The registrar shall from time to time prepare and publish such indexes, abridgments of specifications, catalogues, and other works relating to inventions as the minister may direct.

44. The minister may at any time require a patentee to furnish him with a model of his invention on payment to the patentee of the cost of the manufacture of the model, the amount to be settled in case of dispute by the auditor-general.

45. (1.) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of the Supreme Court of Queensland, or the use of an invention in a foreign vessel within that jurisdiction: Provided, It is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from Queensland.

(2.) But this section shall not extend to vessels of any foreign State of which the laws authorize subjects of such foreign State having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British vessels while in the ports of such for-

eign State, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture or preparation of anything intended to be sold in or exported from the territories of such foreign State.

#### EXISTING PATENTS.

46. (1.) The provisions of this Act relating to applications for patents and proceedings thereon shall have effect in respect only of applications made after the commencement of this Act.

(2.) Every patent granted before the commencement of this Act, or on an application then pending, shall remain unaffected by the provisions of this Act relating to patents binding the crown, and to compulsory licenses.

(3.) In all other respects (except with regard to fees payable in respect of granting a patent) this Act shall extend to all patents granted before the commencement of this Act, or on applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.

(4.) All instruments relating to patents granted before the commencement of this Act required to be left or filed in the Supreme Court shall be deemed to be so left or filed if left or filed before or after the commencement of this Act in the patent-office.

### PART III.

#### DESIGNS.

##### REGISTRATION OF DESIGNS.

47. (1.) The registrar may, on application by or on behalf of any person claiming to be the proprietor of any new or original design not previously published in Queensland, register the design under this part of this Act.

(2.) The application must be made in the form set forth in the first schedule to this Act or in such other form as may be from time to time prescribed, and must be left at or sent by post to the patent-office in the prescribed manner.

(3.) The application must contain a statement of the nature of the design, and the class or classes of goods in which the applicant desires that the design be registered.

(4.) The same design may be registered in more than one class.



(5.) In case of doubt as to the class in which a design ought to be registered, the registrar may decide the question.

(c.) The registrar may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal therefrom to the law officer.

(7.) The law officer shall, if required, hear the applicant and the registrar, and may make an order determining whether and subject to what conditions, if any, registration is to be permitted.

48. (1.) On application for registration of a design the applicant shall furnish to the registrar the prescribed number of copies, of drawings, photographs, or tracings of the design, sufficient, in the opinion of the registrar, for enabling him to identify the design; or the applicant may, instead of such copies, furnish exact representations or specimens of the design.

(2.) The registrar may, if he thinks fit, refuse any drawing, photograph, tracing, representation, or specimen which is not, in his opinion suitable for the official records.

49. (1.) The registrar shall grant a certificate of registration to the proprietor of the design when registered.

(2.) The registrar may, in case of loss of the original certificate, or in any other case in which he deems it expedient, grant a copy or copies of the certificate.

#### COPYRIGHT IN REGISTERED DESIGNS.

50. (1.) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration.

(2.) Before delivery on sale of any articles to which a registered design has been applied the proprietor must (if exact representations or specimens were not furnished on the application for registration) furnish to the registrar the prescribed number of exact representations or specimens of the design, and if he fails to do so the registrar may erase his name from the register and thereupon his copyright in the design shall cease.

51. Before delivery on sale of any articles to which a registered design has been applied the proprietor of the design shall cause each such article to be marked with the prescribed mark or with the prescribed word or words or figures denoting that the design is registered, and if he fails to do so the copyright in the

design shall cease unless the proprietor shows that he took all proper steps to insure the marking of the article.

52. (1.) During the existence of copyright in a design the design shall not be open to inspection except by the proprietor or a person authorized in writing by the proprietor, or a person authorized by the registrar or by the court, and furnishing such information as may enable the registrar to identify the design, nor except in the presence of the registrar or of an officer acting under him, nor except on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design or of any part thereof.

(2.) When the copyright in a design has ceased, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

53. On the request of any person producing a particular design, together with its mark of registration, or producing only its mark of registration, or furnishing such information as may enable the registrar to identify the design, and on payment of the prescribed fee, it shall be the duty of the registrar to inform such person whether the registration still exists in respect of such design, and if so, in respect of what class or classes of goods, and stating, also, the date of registration and the name and address of the registered proprietor.

54. If a registered design is used in manufacture in any foreign country and is not used in this colony within six months of its registration in this colony, the copyright in the design shall cease.

#### REGISTER OF DESIGNS.

55. (1.) There shall be kept at the patent-office a book, called the "Register of Designs," wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may from time to time be prescribed.

(2.) The register of designs shall be *prima facie* evidence of any matters by this Act directed or authorized to be entered therein.

#### FEEES.

56. There shall be paid in respect of applications and registration and other matters under this part of this Act such fees as may be from time to time prescribed by the Governor in Council, and such fees shall be paid into the consolidated revenue.



## INDUSTRIAL, INTERNATIONAL, AND INTERCOLONIAL EXHIBITIONS.

57. The exhibition at an industrial, international, or intercolonial exhibition, certified as such by the minister, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor of a design or of any article to which a design is applied, or the publication during the holding of any such exhibition of a description of a design, shall not prevent the design from being registered or invalidate the registration thereof: Provided, That both the following conditions are complied with, namely:

(a.) The exhibitor must, before exhibiting the design or article, or publishing a description of the design, give the registrar the prescribed notice of his intention to do so; and

(b.) The application for registration must be made before or within six months from the date of the opening of the exhibition.

## LEGAL PROCEEDINGS.

58. During the existence of copyright in any design—

(a.) It shall not be lawful for any person, without the license or written consent of the registered proprietor, to apply such design or any fraudulent or obvious imitation thereof in the class or classes of goods in which such design is registered, for purposes of sale, to any article of manufacture or to any substance artificial or natural or partly artificial and partly natural; and

(b.) It shall not be lawful for any person to publish or expose for sale any article of manufacture or any substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

Any person who acts in contravention of this section shall be liable for every offense to forfeit a sum not exceeding fifty pounds to the registered proprietor of the design, who may recover such sum as a simple contract debt by action in any court of competent jurisdiction.

59. Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the registered proprietor of any design may (if he elects to do so) bring an action for the recovery of any damages arising from the application of any such design or of any fraudulent or obvious imitation thereof, for the purpose of sale, to any article of manufacture or substance, or from the publication, sale, or exposure for sale, by any person, of any article or

substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, such person knowing that the proprietor had not given his consent to such application.

60. The author of any new and original design shall be considered the proprietor thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case such person shall be considered the proprietor; and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person or otherwise, and also every person on whom the property in such design or such right to the application thereof shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise.

#### PART IV.

[Omitted because relating to trade-marks.]

#### PART V.

##### INTERNATIONAL AND INTERCOLONIAL ARRANGEMENTS.

And whereas by the one hundred and third section of the Act of the Imperial Parliament, called "The Patents, Designs, and Trade-Marks Act, 1883," it is enacted as follows, that is to say: [See the section, *ante*, 244.]

And by the one hundred and fourth section of the said Act it is further enacted as follows, that is to say: [See the section, *ante*, 245.]

Be it enacted as follows:

80. (1.) If her Majesty is pleased by order in council to apply the provisions of the said one hundred and third section of the imperial act, called "The Patents, Designs, and Trade-Marks Act, 1883," to the Colony of Queensland, then any person who has applied for protection for any invention, design, or trade-mark in England, or in any foreign State with the government of which her Majesty has made an arrangement under the said section for mutual protection of inventions, designs, or trade-marks, or any of them, shall be entitled to a patent for his invention or to registration of his design or trade-mark (as the case may be) under this Act in priority to other applicants, and such patent or registration shall



take effect from the same date as the date of the protection obtained in England or such foreign State, as the case may be: Provided, That his application is made in the case of a patent within twelve months and in the case of a design or trade-mark within six months from his applying for protection in England or the foreign State with which the arrangement is in force. [Proviso relative to trade-marks.]

(2.) The publication in Queensland, during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design, or the publication therein during such periods of a description or representation of the design, or the use therein during such periods of the trade-mark, shall not invalidate the patent which may be granted for the invention or the registration of the design or trade-mark.

(3.) The application for the grant of a patent, or the registration of a design, or the registration of a trade-mark under this section must be made in the same manner as an ordinary application under this Act. [Proviso relative to trade-marks.]

(4.) The provisions of this section shall in the case of foreign States apply only in the case of those foreign States with respect to which her Majesty shall from time to time by order in council declare the provisions of the aforesaid section of the said imperial Act to be applicable, and so long only in the case of each State as the order in council shall continue in force with respect to that State.

**81.** (1.) Where it is made to appear to the Governor in Council that the legislature of any British possession has made satisfactory provision for the protection of inventions, designs, and trade-marks, or any of them, patented or registered in Queensland, the Governor in Council may from time to time, by order in council, apply all or any of the provisions of the last preceding section relating to the protection of inventions, designs, and trade-marks patented or registered in England, with such variations or additions, if any, as to the Governor in Council may seem fit, to inventions, designs, and trade-marks, or any of them, patented or registered in such British possession.

(2.) An order in council under this section shall, from a date to be mentioned for the purpose in the order, take effect as if its provisions had been contained in this Act; but it shall be lawful for the Governor in Council to revoke any such order in council.

## PART VI.

## GENERAL.

## PROCEEDINGS AT PATENT-OFFICE.

82. There shall be a seal for the patent-office, and impressions thereof shall be judicially noticed and admitted in evidence.

83. There shall not be entered in any register kept under this Act, or be receivable by the registrar, any notice of any trust expressed, implied, or constructive.

84. The registrar may refuse to recommend that a patent be granted for an invention, or to register a design or trade-mark, of which the use would, in his opinion, be contrary to law or morality.

85. Where a person becomes entitled by assignment, transmission, or other operation of law, to a patent or to the copyright in a registered design, or to a registered trade-mark, the registrar shall on request and on proof of title to his satisfaction cause the name of such person to be entered as proprietor of the patent, copyright in the design, or trade-mark, in the register of patents, designs, or trade-marks, as the case may be. The person for the time being entered in the register of patents, designs or trade-marks as proprietor of a patent, copyright in a design, or trade-mark as the case may be, shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the same, and to give effectual receipts for any consideration for such assignment, license, or dealing: Provided, That any equities in respect of such patent, design, or trade-mark may be enforced in like manner as in respect of any other personal property.

86. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed; and certified copies, sealed with the seal of the patent-office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

87. Printed or written copies or extracts, purporting to be certified by the registrar and sealed with the seal of the patent-office, of or from patents, specifications, disclaimers, and other documents in the patent-office, and of or from registers and other books kept



there, shall be admitted in evidence in all courts of justice and in all proceedings without further proof or production of the originals.

88. (1.) The court may on the application of any person aggrieved by the omission without sufficient cause of the name of any person from any register kept under this Act, or by any entry made without sufficient cause in any such register, make such order for making, expunging, or varying the entry as the court thinks fit, or the court may refuse the application, and in either case may make such order with respect to the costs of the proceedings as the court thinks fit.

(2.) The court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3.) Any order of the court rectifying a register shall direct that due notice of rectification be given to the registrar.

89. The registrar may, on request in writing, accompanied by the prescribed fee—

(a.) Correct any clerical error in or in connection with an application for a patent, or for registration of a design or trade-mark; or

(b.) Correct any clerical error in the name, style, or address of the registered proprietor of the patent, design, or trade-mark; or

(c.) Cancel the entry or part of the entry of a trade-mark on the register: Provided, That the applicant accompanies his request by a statutory declaration made by himself, stating his name, address, and calling, and that he is the person whose name appears on the register as the proprietor of the said trade-mark.

90. (1.) The registered proprietor of any registered trade-mark may apply to the court for leave to add to or alter such mark in any particular, not being an essential particular within the meaning of this Act, and the court may refuse or grant leave on such terms as it may think fit.

(2.) Notice of any intended application to the court under this section shall be given to the registrar by the applicant, and the registrar shall be entitled to be heard on the application.

(3.) If the court grants leave, the registrar shall, on proof thereof and on payment of the prescribed fee, cause the register to be altered in conformity with the order of leave.

91. If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing knowing the entry or writing to be false, he shall be guilty of a misdemeanor.

92. Where any discretionary power is by this Act given to the registrar, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, or for registration of a trade-mark or design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

93. The registrar may in any case of doubt or difficulty arising in the administration of any of the provisions of this Act apply to the minister for directions in the matter.

94. A certificate purporting to be under the hand of the registrar as to an entry, matter, or thing which he is authorized by this Act, or any general rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

95. (1.) Any application, notice, or other document authorized or required to be left, made, or given at the patent-office or to the registrar, or to any other person under this Act, may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

(2.) In proving such service or sending it shall be sufficient to prove that the letter was properly addressed and put into the post.

96. Whenever the last day fixed by this Act, or by any rule for the time being in force, for leaving any document or paying any fee at the patent-office shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or bank holiday, or any day observed as a day of public fast or thanksgiving, herein referred to as excluded days, it shall be lawful to leave such document or to pay such fee on the day next following such excluded day, or days, if two or more of them occur consecutively.

97. If any person is, by reason of infancy, lunacy, or other inability incapable of making any declaration or doing anything required or permitted by this Act or by any rules made under the



authority of this Act, then the guardian or committee, if any, of such incapable person, or if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purpose of this Act be as effectual as if done by the person for whom he is substituted.

98. (1.) The Governor in Council may from time to time make such general rules and do such things as they think expedient, subject to the provisions of this Act—

(a.) For regulating the practice of registration under this Act ;

(b.) For classifying goods for the purposes of designs and trade-marks ;

(c.) For making or requiring duplicates of specifications, amendments, drawings, and other documents ;

(d.) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Governor in Council think fit, of specifications, drawings, amendments, and other documents ;

(e.) For securing and regulating the making, printing, publishing, and selling of indexes to and abridgments of specifications and other documents in the patent-office, and providing for the inspection of indexes and abridgments and other documents ;

(f.) For regulating the presentation of copies of patent-office publications to patentees and to public authorities, bodies, and institutions at home and abroad ;

(g.) Generally for regulating the business of the patent-office and all things by this Act placed under the direction or control of the registrar or of the minister.

(2.) Any of the forms in the first schedule to this Act may be altered or amended by rules made by the Governor in Council as aforesaid.

(3.) General rules may be made under this section at any time after the passing of this Act, but not so as to take effect before the commencement of this Act, and shall, subject as hereinafter mentioned, be of the same effect as if they were contained in this Act, and shall be judicially noticed.

(4.) Any rules made in pursuance of this section shall be published in the Gazette, and shall forthwith be laid before both houses of Parliament, if Parliament be in session at the time of making thereof, or if not, then as soon as practicable after the beginning of the next session of Parliament.

(5.) If either house of Parliament, within the next forty days after any rules have been so laid before such house, resolve that such rules, or any of them, ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule or to the making of any new rules or rule.

99. The registrar shall in every year make a report respecting the execution by or under him of this Act which shall be laid before both houses of Parliament, and therein shall be included for the year to which each report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act.

#### OFFENSES.

100. (1.) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, or describes any design or trade-mark applied to any article sold by him as registered which is not so, shall be liable for every offense on summary conviction to a fine not exceeding five pounds.

(2.) A person shall be deemed, for the purposes of this enactment, to represent that an article is patented or a design or a trade-mark is registered if he sells the article with the word "Patent," "Patented," "Registered," or any word or words expressing or implying that a patent or registration has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to the article.

101. [Omitted because relating only to use of royal arms.]

102. The registers of patents and of proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of patents kept under this Act.

103. Nothing in this Act shall take away, abridge or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof.

From 31 *Pat. Off. Gaz.* 122.\*

\* Schedules omitted because not given in the Patent Office Gazette.



## RUSSIA.

*Code of Laws of the Russian Empire.—Vol. XI., Part II.  
Statute of Manufacturing Industry, Section 3.\**

## PATENTS FOR NEW INVENTIONS AND DISCOVERIES.

## CHAPTER I.

## NATURE OF PATENTS FOR INVENTIONS AND DISCOVERIES.

ARTICLE 73. Every discovery or invention of any new and useful art, machine, manufacture, or composition of matter, and every improvement on any art, machine, manufacture, or composition of matter, is the property of the person or persons by whom such discovery, or invention, or improvement has been made, and that person, in order to secure his rights to such property, may make application to the government for an exclusive privilege or patent for it.

ART. 74. A patent is therefore a document granted by the government to certify that the individual or individuals specified therein has or have laid the description of the discovery, invention, or improvement before the government, and conveys to the aforesaid individual or individuals the sole right to make, use, or dispose of the new invention, discovery, or improvement described, for a certain specified period.

ART. 75. In granting such patent, the government neither guarantees that the discovery, invention, or improvement described actually belongs to the individual or individuals specified therein, nor answers for the utility of the said discovery, invention, or improvement, but merely certifies that such discovery, invention, or improvement has actually been laid before the government, stating the time and the name or names of the individual or individuals applying for the patent.

ART. 76. Consequently, a patent granted by the government does not deprive any person or persons of the right of proving, by legal process, that the discovery, invention, or improvement belongs

\* A concise, practical statement of the substance of this law is given in a report by Mr. Ford, of the British Legation, published October 28, 1873, 4 Pat. Off. Gaz. 448.

to him or them, or has been in use prior to the grant of the patent.

ART. 77. Until it shall have been proved, however, before a court of law that the person to whom the patent has been granted was not the inventor and has no right to it, he enjoys the following privileges :—

(1.) He has the sole right during the time specified to take the benefits of the discovery, invention, or improvement as property belonging exclusively to him, to make, use, sell, dispose of, bequeath, or make over by any other lawful means, the object for which the patent was granted, as well as the patent itself, or to allow any other person to make use of it, during the whole term for which it was granted, or for a shorter period.

(2.) To prosecute by law all infringements, and to seek for redress for the losses he may have sustained by such.

ART. 78. An exact imitation of all the essential parts of the discovery, invention, or improvement for which the patent was granted, notwithstanding there may be some slight alterations in it, not affecting its individuality, or even should there be improvements on it, but in which the essential parts remain, is considered an infringement.

ART. 79. Patents may be taken out for discoveries, inventions, or improvements made in foreign countries, and for which the term of the patent granted in those countries has not expired ; in such case, however, the term of the patent granted in Russia cannot extend beyond the term for which the patent was taken out by the inventor abroad. A patent for the introduction of an invention previously known and in use in foreign countries, and for which no patent has been taken out in those countries, can only be granted by way of exception and by special favor of the government, with a view to the advantages and utility to be derived from such introduction. Patents granted for foreign inventions have the same force and effect as patents taken out for inventions made in Russia.

ART. 80. Patents cannot be granted for fundamental or elementary principles, as for instance, distilling brandy by steam, or boiling sugar by means of steam in a vacuum, unless their application or combination produces some new result in the arts, presenting a special and new apparatus.

ART. 81. Patents shall not be granted for trifling or unimportant discoveries, inventions, or improvements indicative only of inventive genius, without offering any real advantage or utility,



nor for such inventions as may become dangerous to society, or detrimental to the government revenues.

ART. 82. No patents shall be granted for inventions and improvements relating to implements of war and the defense of the State, such as cannons, shells, fuses, and other appurtenances of ordnance, armor for ships, torpedoes, powder magazines, revolving turrets, &c., the exclusive use of which belongs to the government. But patents shall be granted for inventions and improvements the objects of which, though applicable to military purposes, are useful also to private persons, such as small fire-arms, metallic cartridges, bullets, and other appurtenances of hand weapons. Patents for these inventions shall, however, be granted solely on the condition that the same shall not hinder the army and navy administrations in the trial and use of such inventions and improvements for military purposes.

ART. 83. Patents are granted to aliens, who are allowed to construct manufactories, mills, &c., without turning Russian subjects, as well as to Russian subjects.

## CHAPTER II.

### ORDER OF GRANT OF PATENTS.

ART. 84. The application for a patent for any new discovery, invention, or improvement in the arts, manufactures, and trades, must be made by petition to the department of manufactures and home trade, praying for the exclusive right to the invention, discovery, or improvement, specifying the term for which the patent is solicited, and there shall be annexed the necessary drawings and plans, together with a written description of the invention or discovery, and of the matter and process of making, constructing, using, and compounding the same, in such full, clear, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same, without having recourse to conjecture, or filling up omissions in the defective specification.

In this description the applicant must particularly specify and point out the part, improvement, or combination which he claims as his own invention or discovery. The description must be written in Russian, and in the event of its having been translated from a foreign language, the original must be annexed for the purpose of verification. The description of the discovery, invention, or

improvement in a foreign language may be presented without a Russian translation, in order to obtain an official certificate of the applicant's right of property in the invention, but not for the purpose of taking out a patent; the grant of a patent can only be obtained by supplying a description, or translation of it, in the Russian language. In the event of non-fulfillment of the above by the petitioner, or his agent, within three months from the date on which the description in a foreign language was presented, the petition will be null and void. The applicant shall deliver a model of his invention, discovery, or improvement, when the same admits of a model, and should it be necessary for the better understanding of it. On presenting the petition, drawings, and description, the applicant shall pay into the treasury of the department the amount of duties according to the following scale:—

(1.) For discoveries, inventions, or improvements of the discoverers, inventors, and improvers themselves :

	S. Rs.
For 3 years.....	90
“ 5 “ .....	150
“ 10 “ .....	450

(2.) For the introductions of inventions, discoveries, or improvements already existing and known abroad :

	S. Rs.
For 1 year.....	60
“ 2 “ .....	120
“ 3 “ .....	180
“ 4 “ .....	300
“ 6 “ .....	360

ART. 85. On the filing of such an application (consisting of petition, specification, model, or drawings), and on payment of the duty, the department of trade and manufactures will, on the same day, hand the applicant a receipt for the same, signed by the director of the department, with the government seal affixed. To persons living in other towns, the department may send such receipt by post. This certificate, or receipt, shall specify the year, month, day, and hour when the application was received by the department.

ART. 86. Petitions for the grant of patents for any discovery, invention, or improvement in arts, manufactures, and crafts, shall be examined by the council of trade and manufactures, at the session of which the director of the department of the ministry to whose province the application pertains shall be invited to attend.



The examination is only made with a view of ascertaining whether a patent has already been granted to another for the same invention or discovery, and whether the description delivered by the applicant is sufficiently exact, clear, and full ; and finally, whether the invention or discovery for which the patent is solicited offers any advantage or utility. Special attention shall be paid by the council of trade and manufactures to the investigation of the invention, discovery, or improvement, with a view of ascertaining whether it contains anything unhealthy, or likely to endanger the lives of people. When necessary, and in order to decide with the more certainty on this latter question, the council of trade and manufactures may confer with the medical board.

ART. 87. Should the council of trade and manufactures, on examination of such application, decide that the invention, discovery, or improvement for which a patent has been solicited has been described with a sufficient accuracy, clearness, and fullness ; that no patent has been granted for such to any other person prior to the alleged invention or discovery thereof by the applicant ; and that it does not contain anything unhealthy or likely to endanger the lives of people, or be in any way detrimental to the government revenues ; they shall then, having first fixed the term of the patent according to the condition of the branch of industry to which it belongs ; recommend to the minister of finance that a patent be granted, and one shall then be issued under the hand of the minister. If, on the contrary, it be known to the council of trade and manufactures that the invention for which a patent is solicited has already been described, or has been made use of anywhere, they shall refuse the patent : moreover, should the applicant's alleged invention or improvement be considered dangerous to the health and lives of people, he shall be bound by an undertaking signed by him not to put it into action, under penalty of the rigor of the law. The council shall publish the reasons for the refusal of a patent in the Official Gazette, in the newspapers of both capitals, and in the Warsaw Gazette.

ART. 88. An applicant who has been refused the grant of a patent by reason of or on account of defective or insufficient description or drawings, may again make application by presenting an amended specification containing the necessary explanations and amplifications ; and should such be found satisfactory the issue of patent will be effected according to the rule herein contained.

ART. 89. Should there be more than one applicant for the same

invention or discovery, pending the examination, the patent shall not be granted at all ; an exception to this rule is made, however, in the event of one of the applicants proving by legal process that the other has appropriated his invention.

ART. 90. In case of the refusal of a patent, the money paid in by the applicant will be repaid to him without delay.

### CHAPTER III.

#### TERM OF PATENTS.

ART. 91. Patents for discoveries, inventions, and improvements are granted to the discoverer, inventor, and improver himself, as he may wish, and according to the discrimination of the government, for three, five, or ten years, but not for longer. The term of patents for the introduction of inventions already known in foreign countries shall not exceed six years, or as is provided for in article 79.

ART. 92. No extension of a patent can be granted after the expiration of the term for which it was originally issued.

ART. 93. The term of a patent commences from the day on which it is signed, but the power of taking legal proceedings for infringement of a patent dates from the day of issue of the certificate of filing the application for the patent. A publication of each certificate delivered is made in the newspapers of both capitals and in the Warsaw Gazette.

### CHAPTER IV.

#### FORM OF PATENTS AND THEIR PUBLIC NOTIFICATION.

ART. 94. A patent must always be headed by the words "By order of His Imperial Majesty."

The patent contains :

- (1.) The name of the applicant.
- (2.) The day on which the application was made.
- (3.) A full and detailed description of the discovery, invention, improvement, or introduction.
- (4.) The term of the patent.
- (5.) The amount of duty paid for the same into the treasury.
- (6.) A certificate, to the effect that no privilege has been granted for the same discovery, invention or improvement, to any other than the person who holds it.
- (7.) A notice that the government does not guarantee that the



discovery, invention, or improvement for which the applicant has solicited a patent actually belongs to him, or that it is a success.

(8.) The signature of the minister to whose province the granting the patent belongs.

(9.) The countersignature of the director of the department.

ART. 95. Patents shall be written on parchment.

ART. 96. A full and detailed account of the discovery, invention, or improvement, shall be published immediately on delivery, in the publications of the ministry to which it appertains, in the Senate Gazette, in the newspapers of both capitals, and in the Warsaw Gazette. Independently of the above, the departments that have granted the patent are bound to show the register of new inventions for which patents have been granted, to any one who may wish to see it.

## CHAPTER V.

### THE RIGHTS AND DUTIES OF PATENTEE.

ART. 97. The holder of a patent is bound to put into complete practice or execution, during the first quarter of the term specified, the discovery, invention, or improvement for which the patent was granted, and before the expiration of the six months after this to present to the department from which the patent was issued a certificate from the local authorities, to the effect that it has actually been put into execution—*i. e.*, that the patented invention or improvement has been put into practical use.

ART. 98. Should the patentee wish to transfer the patent to another person, or to enter into partnership in respect to such patent, such matters must be effected through the proper courts, and according to the laws. On making such transfer, or on entering into partnership, the original patentee must communicate the same to the department, and the latter shall publish it in the newspapers.

ART. 99. A patentee has not the right of forming a joint stock company for the purpose for which the patent was taken out, nor of transferring his patent to such a company without special permission from the government.

ART. 100. Should a patentee make any new improvement on his invention or discovery, or introduce any important alteration in it, readjusting and simplifying his process, he is at liberty to take out a patent for it, but in any case he is bound to give notice of

such improvement or alteration to the department, together with a detailed and accurate description of the said improvement or alteration.

ART. 101. Should any other person than the original patentee make an improvement on the patentee's invention or discovery, the former cannot take out a patent for it unless he can prove that he has entered into an agreement with the original patentee, by which the latter has consented to his making use of his improvement. At the expiration of the term of the first patent, however, he may take out a patent for his improvement on the first patentee's invention.

ART. 102. In the cases provided for in the preceding articles (100 and 101), the following rules must be observed:—

(1.) In applications for patents for improvements made by the inventor himself, the term specified for the patent must be shorter than that of the patent for the original invention.

(2.) That the effect of such patent is entirely independent of the patent granted for the principal invention, so that the term of the latter cannot be extended, though the term of the patent granted for the improvement may not have expired.

(3.) That the term of a patent taken out for an improvement made by any other person on the original patentee's invention shall not be more than half the term granted to the original patentee.

ART. 103. Patents shall cease:—

(1.) At the expiration of the term for which they are issued.

(2.) When it shall be proved before a court of law that the same discovery, invention, or improvement for which the patent was granted, was, before the patentee presented his petition, already introduced in the Russian empire, or was known by descriptions or specifications, by which the same apparatus or process in essential respects could be produced or carried out without the new description or specification.

(3.) When it shall be proved before a court of law that the discovery, invention, or improvement for which a patent has been granted, was already in use somewhere without being patented, with the exception, however, of the introduction of inventions, discoveries, and improvements from foreign countries admitted by special favor, as provided for in article 79.

(4.) When it shall be proved by judgement of a court of justice that the person to whom a patent has been granted appropriated the discovery, invention, or improvement of another person, and the real inventor petitions for the repeal of such patent.



(5.) When it shall be proved that the description or specification is not complete, that the details of some of the essential parts or properties of the discovery or invention, without which the expected results could not possibly be obtained, have been left out or kept back ; or that essential alterations and improvements have been made, without which it is impossible to obtain the desired result, or generally that the specification does not disclose the real mode of procedure.

(6.) Should the patentee not present, within the time specified, to the department to which it pertains, the certificate from the local authorities, as provided for in article 97.

ART. 104. In any and all of the cases referred to in article 103, the 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.

From *Carpin. Pat. L. of World*, 453.

---

## ST. CHRISTOPHER.

See LEEWARD ISLANDS.

## ST. HELENA.

*Ordinance No. 3 of 1872. An Ordinance made by the Governor of St. Helena for the extension to this Island of Letters Patent granted under the Great Seal of the United Kingdom of Great Britain and Ireland.*

*Preamble.* Whereas it is expedient that letters patent granted under the Great Seal of the United Kingdom of Great Britain and Ireland should have the same force and effect within the Island of St. Helena as such letters have in the said United Kingdom ; be it enacted as follows :

1. *Privileges granted by letters patent in the United Kingdom extended to St. Helena.* The grantee of any such letters patent, and the executors, administrators and assigns of the said grantee shall be entitled to the sole and exclusive privileges of making, selling and using in the Island of St. Helena, the invention patented by such letters, and of authorizing others so to do, for and during the unexpired residue of the term granted in and by such letters, and if the said letters patent shall by competent authority be renewed in and for the United Kingdom, the term of the privileges granted in respect of the inventions comprised in such letters which may be so renewed, shall *ipso facto* thereupon be also prolonged in and for the Island of St. Helena for and during such renewed term subject to the following conditions and provisions :

2. *Grantee to file copy of such letters in the Supreme Court.* The grantee or grantees of such letters patent shall file in the registry of the Supreme Court a copy of such letters patent and specification, or in case of a renewal a copy of the renewal thereof, such copy of the letters patent and specification or of the renewal thereof, to be signed and certified as a true copy by one of the officers to whose custody the original is entrusted, and if such filing be not so effected, the privileges granted by this ordinance in respect of the inventions comprised in such letters shall cease to have effect.

3. *Letters to be open to inspection.* Every such copy so filed, shall, if purporting to be so signed and certified, be *prima facie* evidence of the document of which it purports to be a copy, and shall be open at all reasonable times at the office of the registrar of the Supreme Court for the inspection of any person ; and the



said registrar shall permit to be made by any person a copy of the whole or any part of such copy of the said letters patent and specification, and shall on application certify the same to be a true copy.

4. *Fees payable to the registrar.* The following fees shall be payable to and accounted for by the registrar of the Supreme Court, viz :

	£	s.	d.
For filing copy of letters patent and specification.....	1	1	0
For inspection and permission to copy the same.....	0	2	6
For registrar's certificates to copy.....	0	5	0

5. *All cases of doubt to be settled by law of England.* In all cases of doubt or difficulty not provided for by this ordinance, or by the local laws of this island, the same shall be guided and governed, so far as practicable, by the law in force in England.

From *Carp. Pat. L. of World*, 464.

---

## ST. PIERRE.

See FRANCE.

**SALVADOR.**

A report by Mr. Corbett, of the British Legation, published October 7, 1873, in 4 *Pat. Off. Gaz.* 372, under the head of San Salvador, states that: "Our Constitution gives power to the executive to award and concede privileges to the authors of useful inventions; but this faculty is not arranged as it should be, by a secondary law; and in the few cases which have occurred, the spirit of this constitutional disposition has been followed in accordance with the practice of civilized governments."

See also INTERNATIONAL CONVENTION.

---

**SAXONY.**

See GERMAN EMPIRE.

---

**SCOTLAND.**

See GREAT BRITAIN AND IRELAND.

---

**SENEGAMBIA.**

See FRANCE.

---

**SERVIA.**

See INTERNATIONAL CONVENTION.



## SOUTH AUSTRALIA.

*An Act to Consolidate and Amend the Laws Relating to Patents for Inventions. No. 78 of December 21, 1877.*

[NOTE.\*—The words in italics in sections 4, 6, 25, and schedule B are alterations made by Act No. 101, 1878, and Act No. 201, 1881.]

*Preamble.* Whereas it is expedient to amend the law relating to the grant of patents for inventions in the province of South Australia: Be it therefore enacted by the Governor of the province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

1. *Repeal.* From and after the passing hereof, "The Patent Act, 1859," being Act No. 18 of 1859, and "The Provisional Registration of Patents Act, 1875," being Act No. 3 of 1875, are hereby repealed; but this repeal shall not affect the validity of any letters of registration or any provisional registration granted, made, or entered under the said repealed Acts or either of them, nor the rights, remedies, or liabilities of any parties or persons in respect of any such letters of registration, or of such provisional registration, nor affect or prevent the grant of any letters of registration under "The Patent Act, 1859," pursuant to any application therefor made before the passing of this Act, but such application shall be proceeded with and granted, and the letters of registration when granted shall have the same effect as if this Act had not passed, provided that the applicant may at any time before the granting of letters of registration to him, in pursuance of such application, apply for and obtain a patent under this Act in place of such letters of registration, without any further payment than he shall have made under "The Patent Act, 1859."

2. *Short title.* This Act may be cited for all purposes as "The Patent Act, 1877."

\* Notes printed in this manner are from Carpmals' edition.

The law as presented there and in the text consists of Act No. 78, of December 21, 1877, with which are consolidated the

alterations made by Act No. 101, 1878, and Act No. 201, 1881. The Acts No. 78 of 1877, and No. 101 of 1878, are published separately and in full in 20 Pat. Off. Gaz. 1088-1092.

3. *Division of Act.* This Act is divided into seven parts, relating to the following subject-matters:—

Part I.—Patent-Office, sections 4 to 8:

Part II.—Who may obtain patents, sections 9 to 13:

Part III.—How patents obtained, sections 14 to 29:

Part IV.—Effect, conditions and extension of patents, sections 30 to 37:

Part V.—New patents, disclaimers, alterations and confirmations, sections 38 to 45:

Part VI.—Caveats; and revocation and assignment of patents, sections 46 to 52:

Part VII.—Miscellaneous provisions, sections 53 to 72.

## PART I.

### PATENT-OFFICE.

4. *Establishment of patent-office.* There shall be attached to the department of the attorney-general or to a branch of such department, an office to be called the patent-office, and the commissioner of patents under this Act shall receive and have the custody of all applications, papers, documents, models, machines, books, and records relating to patents, and shall receive all fees, and perform all acts and things incidental to the grant, issue, or renewal of patents under this Act.

5. *Seal of patent-office to be received in evidence.* The commissioner of patents shall have a seal, to be called “the Seal of the Patent-Office,” and such seal and any impression thereof shall be taken judicial notice of by all courts, judges, and magistrates, tribunals, and persons authorized to receive evidence in the said province, who shall receive in evidence any document bearing an impression of the said seal, and purporting to be a copy of or extract from any document or book deposited or kept in the said patent-office under the provisions hereof, without the production of the original.

6. *Commissioner.* The secretary to the attorney-general for the time being shall be commissioner of patents.

7. *Governor may make rules and prescribe forms.* The Governor may from time to time, by proclamation in the government Gazette, make, prescribe, repeal, and alter such regulations and forms as he shall deem necessary or expedient for the purposes of this Act.



8. *Governor may appoint clerks and officers.* The Governor may from time to time appoint and remove such clerks and officers as he may deem expedient for carrying out the purposes of this Act, and no commissioner of patents, nor any clerk or officer, appointed as aforesaid shall, unless he shall be the original inventor or the legatee of the rights of the original inventor, buy, sell, acquire, or otherwise deal in any patent or right to a patent, and every purchase, sale, acquisition, or other dealing contrary to the provisions of this section, shall be null and void.

## PART II.

### WHO MAY OBTAIN PATENTS.

9. *Power to issue patents.* The true and first inventor of any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement on any art, machine, manufacture, or composition of matter, not publicly used or offered for sale within the said province prior to the date of the patent for the same, may, on petition to the commissioner, and on complying with the requirements of this Act, obtain a patent under the hand of the commissioner and the seal of the patent-office for the sole making, using, exercising, and vending of any such art, machine, manufacture, or composition of matter, or improvement within the said province.

10. *Inventions for which foreign patents have been obtained.* An inventor shall not be entitled to a patent for his invention if a patent or other similar privilege therefor shall have been in existence in any country other than the said province, and shall have expired before a patent shall be granted to him under this Act; and whenever a patent or other similar privilege in any other country than the said province in respect of any invention is in existence, at the time when a patent is granted for the same invention under this Act, such last named patent shall not confer any rights for any period beyond the earliest date at which the patent or other similar privilege in such other country shall expire.

11. *Inventor's representatives may obtain patent.* A patent may be granted by the commissioner to any person to whom any inventor, entitled to obtain a patent, has assigned or bequeathed the right of obtaining it, or in default of such assignment or bequest, to the executor or administrator of any deceased inventor.

12. *Patent for improvements on patented invention.* A patent



may be granted under this Act in respect of any improvement on or modification of any previously patented or registered invention, but shall not be deemed to confer any right to make, use, exercise, or vend such last named invention.

**13. *Patents to several persons jointly.*** Where several persons shall make a joint application for a patent it shall be granted to them jointly, and any assignment from one or more of them to the other or others, or to any other person, shall be registered like any other assignment of a patent.

### PART III.

#### HOW PATENTS OBTAINED.

**14. *Repealed.*** See sections 3 and 7 of Act of 1881.

**15. *Petition for patent to be accompanied by specification.*** The petition shall contain the name or title of the invention, and shall state an address within the City of Adelaide, to which notices in respect of such petition may be sent, and shall be accompanied by a specification in duplicate of the invention for which the patent is sought. The petition and specification shall be filed in the patent-office, and the day of such filing shall be recorded at the said office, and indorsed on the petition, and a certificate thereof, under the seal of the patent-office, given to the applicant, or his agent, and thereupon, except in case of application for a patent by any person to whom the commissioner shall have already refused to grant a patent for an invention substantially the same as that for which such application for a patent is made, and subject to the provisions hereinafter contained, the invention shall be protected under this Act for the term of six months next after such filing, and the applicant shall during such term have the like powers, rights, and privileges as would have been conferred upon him by a patent for such invention issued under this Act, and duly sealed, as of the day of such filing: Provided that in case the specification be too large or insufficient, the commissioner may, during the said term of six months, and before the grant of the patent, allow or require the specification to be amended, or another and sufficient specification to be filed in lieu thereof, and every such amended or new specification shall have the same force and effect as if it had been filed in its amended or new form on the day of the filing of the original specification.

**16. *Requisites of specifications.*** Every such specification shall

correctly and fully describe and ascertain the nature and principle of the invention, and in what manner it is to be made, used, worked, or performed, and shall be signed by the inventor if he be alive, and if not by the applicant, which signature shall be attested by two witnesses, who shall specify when and where the same was signed; and in any case where the invention admits of a model or drawing, illustration, or explanation by means of drawings, the specification shall contain or be accompanied by a model or by drawings in duplicate, showing clearly all parts of the invention, which drawings, if not comprised in the specification, shall be signed and attested in the same manner as the specification: Provided that in any case the commissioner may in his discretion dispense with any such drawings.

[NOTE.—See section 4 of Act of 1881.]

17. *Commissioner to publish notice in Gazette.* The commissioner shall cause to be published in the Government Gazette a notice that the applicant has applied for a patent in respect of the specified invention, giving the name or title thereof, and stating that the specification thereof may be inspected at the patent-office; and that any person may within one month, or within such longer period not exceeding three months to be specified in such notice as the commissioner may determine, object to the grant of the patent by lodging at the patent-office notice in writing, stating his name and address and the nature and grounds of his objection, and also an address within the City of Adelaide, to which notices in respect of such objection or of the application for the patent may be sent.

18. *Applicant to publish notice.* The applicant shall within one week after the filing of his petition, cause notice to be given by advertisement to be inserted three times in at least two of the daily newspapers published in Adelaide, stating that he has applied for a patent for the invention, giving its title or name, and stating that the specification may be inspected at the patent-office.

19. *If no objections lodged, commissioner to grant patent.* If there shall be no objection lodged within the period limited for that purpose by the notice of the government Gazette, the commissioner shall, on the expiration of such period, determine upon the application for the patent and no person shall be entitled to object to such application.

20. *If objection lodged, commissioner to give notice.* If during the period limited as aforesaid any objection to the grant of the patent shall have been duly lodged in the patent-office under the



provisions of this Act, the commissioner shall, immediately on the expiration of such period, send through the general post-office, or otherwise, to the applicant and to every objector at the respective addresses given as hereinbefore prescribed for that purpose, a notice in writing that he will, at a time and place to be specified in the notice, such time to be not less than ten nor more thirty days from the time of posting or otherwise sending such notice, attend to hear and determine upon the application and the objections.

**21. Commissioner may summon witnesses.** The commissioner shall, at the request of the applicant or of any objector, issue summonses under the seal of the patent-office for the attendance of witnesses, and every witness so summoned shall be bound to attend at the time and place mentioned in such summons on being paid his expenses according to the scale for the time being allowed to witnesses on trials in local courts, and to continue in attendance until the matter shall be disposed of, and to produce any documents which he shall by any such summons be required to produce, if they are in his possession, power, custody, or control.

**22. Penalty for non-attendance of witness.** Any witness neglecting to attend, or continue to attend, or to produce any documents in accordance with such summons, shall be liable to a penalty of twenty pounds, in addition to the costs of service of the summons upon him, and the amount paid him for expenses, which penalty, costs, and amount may be recovered by the person on whose behalf such summons shall be issued by information before any two justices of the peace in a summary way, together with the costs of, and incidental to, and resulting from such information.

**23. Commissioner to determine application.** At the time and place appointed the commissioner shall attend and hear the applicant and the objectors either personally or by their respective solicitors or agents, and any evidence adduced either by declaration or *vivâ voce* in support of the application and objections respectively, and may adjourn or postpone any such hearing, and shall at such hearing, or some adjournment or postponement thereof, either grant or in his discretion refuse the application for the patent.

**24. Cost of application or objection.** The commissioner may, by writing under his hand, order the applicant or any objector to pay to any objector or to the applicant such costs of and attending the application or objection as the commissioner shall think fit, and every such order may be made a rule of the Supreme Court.

**25. Commissioner may refer to examiners.** The commissioner

may at any time, if he shall think fit, refer any petition for a patent, whether opposed or not, to one or more competent person or persons to be appointed by him to examine and consider the matters stated in such petition, and to report thereon to the commissioner for his information ; and the applicant for such patent shall, prior to such reference, pay to the commissioner such sum not exceeding five pounds five shillings, as the commissioner shall in each case direct, such sum to be paid by the commissioner to the person or persons so appointed as aforesaid as a recompense for his or their trouble.

**26. *Determination of commissioner final.*** The determination of the commissioner upon any such application shall be final, but any applicant whose application has been refused may, on giving not less than four weeks' previous notice in the government Gazette of his intention so to do, make one or more fresh applications for a patent in respect of the same invention.

**27. *When patent to issue.*** When the commissioner has determined to grant a patent, he shall, upon payment of the proper fee, cause the same to be sealed and issued accordingly ; but except as hereinafter mentioned no patent shall be sealed after the expiration of the six months' term of protection conferred under this Act by reason of the filing of the petition and specification, nor unless the applicant shall pay the fee for the sealing of the patent within ten days after the commissioner has sent to the applicant notice of his intention to grant the same : Provided that where the sealing of any patent shall have been delayed by reason of opposition to the grant thereof, such patent may be sealed at such time as the commissioner shall direct.

**28. *Patent may issue after prescribed time in certain cases.*** When the sealing of the patent has been delayed from accident and not from the neglect or willful default of the applicant, then the patent may be sealed at such time not being more than one month after the expiration of the six months' term of protection hereinbefore referred to as the Governor shall direct ; and where the applicant for the patent dies during the continuance of such protection, the patent may be granted to his executors or administrators during the continuance of such protection, or at any time within three months after the death of the applicant, notwithstanding the expiration of the term of such protection, and the patent so granted shall be of the like force and effect as if it had been granted to the applicant during the continuance of such protection.



**29. Patent to relate back to filing of petition.** Every patent to be issued in pursuance of this Act shall be signed and sealed and bear date as the day of the filing of the petition and specification as aforesaid, and shall be of the same force and validity as if it had been signed and sealed on the day of which it is expressed to be signed and sealed and bear date ; and after any patent shall have been signed and sealed, it shall not be necessary or material to inquire or ascertain whether any advertisement or notice directed by this Act shall have been published, given, or sent as herein directed.

#### PART IV.

##### EFFECT, CONDITIONS, AND EXTENSION OF PATENTS.

**30. Rights conferred by patent.** Every patent granted under this Act shall be in duplicate, and shall contain the title or name of the invention, with a reference to the specification, and shall be in the form in the schedule A. hereto, or as near thereto as the circumstances will permit, and shall, subject to the provisions of this Act and to all such restrictions, conditions, and provisos as the commissioner shall deem necessary or expedient, and shall insert in such patent, confer upon the patentee, his executors, administrators, and assigns, for the term of fourteen years, and for such further term, not exceeding seven years, as the Governor may grant under section 37 of this Act, the sole right of making, using, exercising, and vending such invention : Provided that no patent shall be construed to prohibit the subsequent use or sale of any article once lawfully obtained.

**31. Duplicate patent to be filed.** One duplicate part of every patent issued under this Act shall be delivered to the patentee or his agent, and the other duplicate part shall be filed in the patent-office.

**32. Prerogative of crown preserved.** Nothing herein contained shall extend to abridge or affect the prerogative of the Crown in relation to granting or withholding the grant of any patent or letters patent ; and it shall be lawful for the Governor to direct the commissioner to grant or withhold the grant of any patent or letters patent as aforesaid, or to direct the insertion in any patent issued under this Act of any restrictions, conditions, or provisos which the Governor may think fit, in addition to or in substitution for any restrictions, conditions, or provisos which would otherwise be inserted therein under this Act ; and it shall also be lawful for the Governor to direct any specification filed under this Act, and in

respect of the invention described in which no patent shall at the time of such direction have been granted, to be canceled, and thereupon the protection obtained by the filing of such specification shall cease.

**33. *Conditions of patent.*** All patents granted under this Act shall be made subject to the conditions that the same shall be void if at any time during the term thereby granted it shall appear that the grant of the patent was contrary to law or prejudicial or inconvenient to the general public, or that the said invention was not a new and useful art, machine, manufacture, or composition of matter, or a new and useful improvement on any art, machine, manufacture, or composition of matter, or that the said invention had been publicly used or offered for sale within the said province prior to the date of such patent, or that the patentee was not the true and first inventor of the patented invention; or if the patent shall have been granted to him as assignee, legatee, executor, or administrator, then that he was not the assignee, legatee, executor, or administrator, as the case may be, of the true and first inventor of the patented invention, or if the specification does not correctly and fully describe and ascertain the nature and principle of the invention, and in what manner it is to be made, used, worked or performed.

**34. *Patent to cease on non-payment of fees.*** All patents under this Act shall also be made subject to the condition that the same shall be void, and that the rights and privileges thereby granted shall cease and determine at the expiration of three years from the date thereof, unless the patentee, his executors, administrators, or assigns, shall pay at the patent-office the sum of five pounds before the expiration of such three years from the date thereof, and at the expiration of seven years from the date thereof, unless the patentee, his executors, administrators, or assigns, shall pay at the patent-office the sum of five pounds before the expiration of such seven years.

**35. *Patented invention may be used in foreign vessels.*** No patent for any invention granted after the passing of this Act shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of South Australia or its dependencies, or in any of the waters within the jurisdiction of any of the courts of the said province, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the said province or its dependencies: Provided that



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

**36.** *Government may use patented invention.* The Government may use any invention patented under this Act, paying to the patentee such sum for the use thereof as shall be agreed upon between the Government and the patentee, or, in case of dispute, such sum as may be fixed by two arbitrators, one of whom shall be appointed by the Government, and one by the patentee; or, in case of disagreement between the arbitrators, by an umpire to be named by them before entering upon the consideration of the matter referred to them.

**37.** *Government may extend term of patent.* The Governor, on petition by any patentee, or his executors, administrators, or assigns, presented at least six months before the expiration of any patent, and on being satisfied that the patentee, his executors, administrators, or assigns, have been unable to obtain due remuneration for the expense and labor of perfecting the invention, the subject of the patent may, by order under his hand, to be filed in the patent-office, grant an extension of the term of such patent for any term not exceeding seven years from the expiration of the term for which the patent was originally granted: Provided that the Governor may require such petition to be advertised in such manner as he shall think fit, and may hear any person desirous of opposing such extension.

## PART V.

### NEW PATENTS, DISCLAIMERS, ALTERATIONS AND CONFIRMATIONS.

**38.** *When commissioner may grant new patent.* Whenever any patent shall be deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee having claimed as new more than he had a right to claim, the commissioner may, upon petition by the patentee, and upon being satisfied

that the error arose from inadvertence, accident, or mistake, without any fraudulent intention, and upon the surrender of such patent and payment of the fee for that purpose specified in the schedule B. hereto, and the filing of an amended description and specification, to be filed in the like manner as hereinbefore provided with respect to applications for patents, grant to the patentee, his executors, administrators, or assigns, a new patent for the same invention, for any part or the whole of the then unexpired term for which the original patent was granted.

**39.** *Disclaimer or memorandum of alteration may be filed.*

Any patentee, his executors, administrators, or assigns, may, on payment of the fee for that purpose specified in the schedule B. to this Act, and on obtaining the leave of the commissioner, file in the patent office a disclaimer of any part, either of the title or the specification of the invention in respect of which he is the patentee, or the executor, administrator, or assignee of the patentee, stating the reasons for such disclaimer, or a memorandum of any alteration in such title or specification, not being such disclaimer or alteration as shall extend the exclusive right granted by the patent. Such disclaimer or memorandum of alteration shall be attached to the patent or specification filed in the patent-office, and a memorandum thereof shall be entered upon the patent in possession of the patentee, his executors, administrators, or assigns, and thereupon such disclaimer or memorandum of alteration shall be deemed and taken to be part of the patent or specification in all courts in the said province: Provided that no such disclaimer or alteration shall, except, in proceedings by scire facias, be receivable in evidence to support any patent in any action or suit pending at the time that such disclaimer or alteration was filed, or brought in respect of any infringement of any patent committed prior to the filing of such disclaimer or memorandum of alteration; but in every such action or suit, except as aforesaid, the original title and specification alone shall be given in evidence, and deemed to be the title and specification of the invention for which the patent shall have been granted.

**40.** *Commissioner may require notices to be given.* The commissioner may require any patentee, his executors, administrators, or assigns, applying for a new patent, or for leave to file a disclaimer or memorandum of alteration, to give such notices by advertisement or otherwise of his application as the commissioner shall think fit, and may hear any person in opposition to such



application. The filing of any disclaimer or memorandum of alteration in pursuance of the leave of the commissioner obtained under the last preceding section shall, except in cases of fraud, be conclusive as to the right of the party to file such disclaimer or memorandum of alteration under this Act, and no objection shall be made in any proceeding upon or touching such patent, specification, disclaimer, or memorandum of alteration on the ground that the party filing such disclaimer or memorandum of alteration had not sufficient authority in that behalf.

41. *Mode of obtaining confirmation of invalid patent.* If in any suit or action it shall be proved, or specially found by the verdict of a jury, that any person who shall have obtained a patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented the same, or some part thereof, before the date of such patent, or if such patentee, his executors, administrators, or assigns, shall discover that some other person had unknown to such patentee invented the same, or some part thereof, before the date of such patent, such patentee, his executors, administrators, or assigns, may petition the Governor to confirm the said patent, or to grant a new patent in respect of such invention; and it shall be lawful for the Governor to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

42. *Appointment of commissioners.* The Governor may issue to three or more persons, of whom one shall be a judge of the Supreme Court, a commission reciting such petition, and requiring and authorizing such persons, or any three of them, of whom the said judge shall be one, to meet at some time, not being less than two months from the publication of the said commission in the government Gazette, and at some place to be respectively fixed in the said commission, and then and there to consider the said petition, and to report to the Governor whether such confirmation should or should not be made.

43. *Notice of commission published; caveat.* Six weeks at least before the time named in the said commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published twice in the government Gazette, and three times in some daily newspaper published in Adelaide, an advertisement of the contents of the said commission; and any person having an interest in opposing the said petition shall be at liberty to enter a

caveat against the same at the office of the commissioner of patents at any time not being less than one week before the time named in the said commission for the execution thereof.

44. *Commissioners to hear all parties and report.* At the time and place fixed in the said commission for that purpose, the commissioners shall meet and proceed to consider such petition, and the petitioner shall be heard in person, or by his solicitor or agent, and may call witnesses to prove his case as stated in such petition, and the publication of the last mentioned advertisement as required by this Act; and the persons entering caveats shall likewise be heard in person, or by their solicitors or agents, and may also call witnesses; and all witnesses shall be examined upon oath or affirmation (which oath or affirmation such commissioners as aforesaid are hereby authorized and required to administer); and thereupon, and upon hearing and inquiry of the whole matter, such commissioners, upon being satisfied that such patentee as aforesaid believed himself to be the first and original inventor, and being satisfied that the invention, or part thereof, has not been publicly and generally used, or offered for sale within the said province prior to the date of such patent, may report to the Governor their opinion that the prayer of such petition ought to be complied with; whereupon the Governor may, if he shall think fit, grant such prayer; and the confirmed or new patent (as the case may be) shall thereupon be available at law and in equity to give to such petitioner the sole right of making, using, exercising, and vending such invention as against all persons whomsoever, anything hereinbefore contained to the contrary notwithstanding: Provided that any person party to any former suit or action touching the first patent shall be entitled to have notice in writing of the time and place fixed as aforesaid for the first meeting of the said commissioners to consider the said petition; and after any such report shall have been made it shall not be material or necessary to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner hereinbefore directed.

45. *Where patent only partly assigned.* When a patentee, his executors, administrators, or assigns, shall have assigned a part only of his or their interest in any patent, no petition or application under any of the preceding sections numbered respectively 37, 38, 39, and 41, shall be allowed unless joined in by all persons having any legal interest in the patent.



## PART VI.

## CAVEATS AND REVOCATION AND ASSIGNMENT OF PATENTS.

46. *Caveat may be filed.* Any intending applicant for a patent may file in the patent-office, on payment of the fee specified for that purpose in the schedule B. hereto, a document to be signed by him and containing a description of any invention claimed by him as his own (with or without plans at his option), and giving an address within the City of Adelaide to which any notice by the next following clause required to be sent to him may be addressed; such document, which shall be called a caveat, may be amended by the caveator, at any time within one year from the filing thereof, and shall, until the expiration of such year, be preserved in secrecy in the patent-office, the commissioner being at liberty, however, to furnish copies of the same to the caveator on payment of the proper charges for such copies.

47. *In certain cases commissioner to send notice.* If at any time before the expiration of one year from the filing of any caveat an application shall be made by any person other than the caveator for a patent for any invention, and the commissioner shall consider that the granting of such application may interfere with or affect the right of the caveator to obtain a patent for the invention described in the caveat, the commissioner shall forthwith send notice thereof through the general post-office to the caveator at the address given by him for that purpose.

48. *Patent may be revoked by governor.* Every patent shall be liable to be revoked by the Governor upon the application of any person after the expiration of three years from the granting thereof, if it shall be made to appear to the Governor that neither the patentee nor his assignee or licensee has, before the time of such application, used the patented invention to a reasonable extent for the public benefit: Provided that the Governor may in his absolute discretion refuse any such application upon such terms and conditions as he may see fit.

49. *Proceedings to revoke patent.* The Supreme Court of the said province shall have jurisdiction to revoke and cancel any patent issued under this Act, upon a writ of scire facias, issued out of the said court; and in case any person having an interest in such patent shall not reside in the said province at the time of the issue of such writ, it shall be sufficient as against such person to file such

writ in the office of the Supreme Court, and serve notice of such filing at his last known place of business or residence within the said province (if any), and if no such place can be found, then to give notice of such filing by advertisement, or otherwise, as the said court may in each case direct.

50. *Patent may be filed in the Supreme Court.* Any person desiring to impeach a patent issued under this Act may obtain from the patent-office a copy of the patent, and of the petition, declaration, specification, and drawings thereunto relating, certified under the seal of the patent-office and the hand of the commissioner, and may file the same in the office of the said Supreme Court to be held of record therein.

51. *Certificate of judgment to be filed.* A certificate of the judgment voiding any patent shall be filed in the patent-office by the prosecutor on the writ of scire facias, and shall be noted on the duplicate patent in the patent-office, and thereupon the patent shall be and be held to have been void and of no effect from the time of the grant thereof.

52. *Assignment of patent.* Every patent shall be assignable either as to the whole interest of the patentee, his executors, administrators, or assigns, or as to any part of such interest by instrument in writing under the hand of the assignor or his agent thereunto authorized in writing; and every such assignment shall be in duplicate, and shall be registered by deposit of one duplicate part in the patent-office. Every assignment shall be deemed null and void against any subsequent assignment for valuable consideration, unless such prior assignment shall be registered before the registration of the subsequent assignment.

## PART VII.

### MISCELLANEOUS PROVISIONS.

53. *Patents, &c., to be open to public inspection.* All patents, specifications, drawings, models, disclaimers, and other papers, except caveats, filed in the patent-office, shall be open to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

54. *Fees.* The fees mentioned in schedule B. to this Act shall be paid in respect of the several matters and things therein respectively referred to. Such fees shall form part of the general revenue



of the said province, and be paid, applied, and disposed of accordingly.

**55. Commissioner may correct clerical errors.** No patent or other instrument under this Act shall be invalidated by any clerical error in the framing or copying thereof, but any such error may be corrected by or under the authority of the commissioner.

**56. Lost patent.** In case any patent be lost or destroyed, any person entitled to such patent may obtain from the patent-office, on payment of the proper fee, a copy of such lost or destroyed patent, to be certified under the seal of the patent-office.

**57. Declarations, before whom to be made.** Every declaration under this Act may be made before the commissioner or any justice of the peace or notary public in South Australia; or if the declaration shall be made out of the said province, then before any person who, in the country in which the declaration is made, shall be authorized to administer an oath.

**58. Licensed patent agents.** It shall be lawful for the commissioner, with the sanction of the Governor, to license fit and proper persons to be patent agents for transacting business under the provisions of this Act, and upon proof to his satisfaction of the malfeasance or incapacity of any such licensed patent agent, or on non-payment of any annual fee for any such license, as prescribed by schedule B. hereto, and with such sanction as aforesaid, to revoke any such license. Before granting any such license the commissioner shall receive bond from the person to be licensed in the sum of five hundred pounds, with two sureties each in the sum of two hundred and fifty pounds, conditioned that such person shall duly and faithfully act in the capacity of a licensed patent agent, in accordance with the provisions of this Act, and shall also administer to such person the oath following:—

I, A. B., do solemnly swear that I will faithfully and to the best of my ability execute and perform all such business or duties as may be entrusted to or imposed upon me as a licensed patent agent. So help me God.

**59. Certificate of correctness; false and negligent certificate.** The commissioner shall not receive any petition, disclaimer, memorandum of alteration, caveat, assignment, or other instrument under this Act, unless there shall be indorsed thereon a certificate that the same is correct for the purposes of this Act, signed by the applicant or the principal party filing such instrument, or by his solicitor, or by a patent agent licensed under this Act, or by a land broker lic-

ensed under the provisions of the "Real Property Act of 1861," or any Act substituted therefor ; and any person who shall falsely and negligently certify to the correctness 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.

**60.** *In actions for infringements; particulars of breaches and objections.* In any action for the infringement of a patent the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his pleas, and the prosecutor in any proceedings by scire facias to revoke and cancel any patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration in the proceedings by scire facias respectively ; and at the trial of such action or proceeding by scire facias no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such patent, which shall not be contained in the particulars delivered as aforesaid : Provided always, that the place or places at or in which and in what manner the invention is alleged to have been used or offered for sale in the said province prior to the date of the patent shall be stated in such particulars : Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff, or defendant, or prosecutor, respectively, to amend the particulars delivered as aforesaid upon such terms as to such judge shall seem fit : Provided also, that at the trial of any proceedings by scire facias to revoke and cancel a patent the defendant shall be entitled to begin and to give evidence in support of such patent ; and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such patent the defendant shall be entitled to the reply.

**61.** *Particulars to be regarded in taxing costs.* In taxing the costs in any action commenced after the passing of this Act for infringing any patent, regard shall be had to the part of such case which has been proved at the trial, which shall be certified by the judge before whom the case shall be tried, and the costs of each part of the case shall be given according as either party has succeeded or failed therein, regard being had to the particulars of objections and breaches as well as the counts in the declaration, and the plaintiff and defendant respectively shall not be allowed any



costs in respect of any particular unless certified by the judge before whom the trial was had to have been proved by such plaintiff or defendant respectively, without regard to the general costs of the cause ; and it shall be lawful for the judge before whom any such action shall be tried to certify on the record that the validity of the patent in the declaration mentioned came in question ; and the record with such certificate being given in evidence in any suit or action for infringing the said patent, or in any proceeding by scire facias to revoke and cancel the patent, shall entitle the plaintiff in any such suit or action, or the defendant in any such proceeding by scire facias, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, to be taxed as between attorney and client, unless the judge making such decree or order, or the judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

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

**63. Register of Proprietors to be kept.** There shall also be kept at the patent-office a book or books entitled "The Register of Proprietors," wherein shall be entered every assignment of a patent, or of any share or interest therein, every license under a patent, and the place or district to which such license relates, with the name or names of every person having by assignment any patent, or any share or interest in any patent, or, having any license, the date of his or their acquiring such patent, share, interest, or license, and any other matter or thing relating to or affecting the proprietorship in such patent or license ; and a copy of any entry in such book, certified under the seal of the patent-office, shall be given to any person requiring the same, and shall be *prima facie* evidence of the

proprietorship or assignment of such patent, or share or interest therein, or license as therein expressed : Provided always, that until such entry shall have been made the grantee or grantees of the patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such patent, and of all the licenses and privileges thereby given and granted, and such register, or a copy thereof, shall be open to public inspection, subject to such regulations as the Governor may make.

64. *Expungement, &c., of entries in Register.* If any person shall deem himself aggrieved by any entry made under color of this Act in any such register as aforesaid, he may apply to the Supreme Court, or any judge thereof, for an order that such entry may be expunged, vacated, or varied, and such court or judge may thereupon make such order as to the expunging, vacating, or varying of such entry, and as to the costs of such application, as to such court or judge shall seem fit; and the officer having the custody of such register shall, on the production of any such order, expunge, vacate, or vary such entry in accordance with the order.

65. *Falsification or forgery of entry.* If any person shall willfully make or cause to be made any false entry in any such register, or shall willfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in any such register, or shall produce or tender, or cause to be produced or tendered in evidence, any such writing or any such false entry, knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall be liable to be imprisoned for any term not exceeding five years.

66. *Punishment on false oath or declaration.* Every person who shall make any false oath or declaration under this Act shall be guilty of a misdemeanor, and shall on conviction be liable to imprisonment, with or without hard labor for any period not exceeding five years.

67. *Penalty for unauthorized use of name of patentee, &c.* If any person shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark upon anything made, used, or sold by him, for which he has not or shall not have obtained a patent, the name or any imitation of the name of any other person who has or shall have obtained a patent for such thing without leave in writing of such patentee, his executors, administrators, or assigns, or if any person shall, upon such thing not having been purchased from the patentee, his executors, administrators, or assigns, or some per-



son who purchased it from or under such patentee, his executors, administrators, or assigns, or not having had the license or consent in writing of such patentee, his executors, administrators or assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "patent," the words "letters patent," or the words "By the Queen's patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, his executors, administrators, or assigns, or shall in any other manner imitate or counterfeit the stamp, mark, or other device of the patentee, his executors, administrators, or assigns, he shall for every such offense forfeit and pay the sum of one hundred pounds, one half to Her Majesty, her heirs and successors, and the other half with full costs of suit to any person who shall sue for the said penalty, by action of debt, or in a summary manner before any two justices of the peace of the said province: Provided always, that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "patent" upon anything in respect of which the patent before obtained shall have expired or otherwise determined.

**68. *Proceedings before justices.*** The proceedings before justices shall be conducted as appointed by and shall be regulated under the Ordinance No. 6 of 1850, entitled "An Ordinance to facilitate the performance of the duties of Justices of the Peace out of Sessions with respect to summary convictions and orders."

**69. *Non-payment of penalty.*** In every case of the adjudication of a fine or pecuniary penalty or amends under this Act, and of the non-payment of such fine or pecuniary penalty or amends, any justice of the peace may commit the offender or person making default in payment to any jail in the said province for any time not exceeding three calendar months, the imprisonment to cease on payment of the sum and costs due; but this section shall not affect any remedy for the recovery of any fine or pecuniary penalty or amounts under the said Ordinance No. 6 of 1850, or any other ordinance or Act.

**70. *Appeal.*** There shall be an appeal from any order of justices of the peace made under the provisions hereinbefore contained, or from any order of justices of the peace dismissing any information laid under this Act, or from any conviction by justices for any offense against this Act, which appeal shall be to the local court of Adelaide of full jurisdiction only, and the proceedings in such

appeal shall be conducted in manner appointed by the said Ordinance No. 6 of 1850 for Appeals to Local Courts, but the local court of Adelaide aforesaid may make such order as to payment of costs of appeal as such court shall think fit, although such costs may exceed ten pounds.

71. *Local court may state a case for Supreme Court.* It shall be lawful for the local court of Adelaide, upon the hearing of any appeal under the last preceding section, to state one or more special case or cases for the opinion of the Supreme Court and the Supreme Court shall hear and decide such special case or cases according to the practice of the Supreme Court on special cases; and the Supreme Court shall make such order as to the costs of any such special case as to the said court shall appear just; and any two or more justices, or the local court of Adelaide, shall make an order in respect of the matters referred to the Supreme Court, in conformity with the certificate of the said Supreme Court, or of any judge thereof, which order of the justices of the peace or local court shall be enforced in manner provided by this Act for the enforcement of orders of justices of the peace; and, save as herein provided, no order or proceeding of justices or of any local court made under the authority of this Act, shall be appealed against or removed by certiorari or otherwise into the Supreme Court of the said province.

72. *Definition clause.* In the construction of this Act the following expressions shall have the meanings hereby assigned to them unless such meaning shall be repugnant to or inconsistent with the context: "patent" shall mean letters patent granted under this Act; "patentee" shall mean a person to whom a patent shall have been granted under this Act; "commissioner" shall mean the commissioner of patents.

---

#### SCHEDULE A.

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

Whereas \_\_\_\_\_, of \_\_\_\_\_, hath, by his petition, represented unto us that he is [or \_\_\_\_\_, of \_\_\_\_\_, is or was] the true and first inventor of a certain invention for \_\_\_\_\_, and that the same has not been publicly used or offered for sale within the province of South Australia more than twelve months prior to the date of the said petition [and that the said \_\_\_\_\_ is the assignee, legatee, executor, or administrator,



*as the case may be*, of the said           ], and hath, therefore, humbly prayed for letters patent for the sole making, using, exercising, and vending of the said invention within our said province for the term of fourteen years, pursuant to "The Patent Act, 1877:" And whereas the said           hath correctly and fully described and ascertained the nature and principle of the said invention, and in what manner the same is to be made, used, worked, or performed, by a specification in writing under his hand, and has caused the same to be duly filed in the patent office of our said province on the           day of           , 18           : And We, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioner's request: Know ye, therefore, that we of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents for us, our heirs and successors, do give and grant unto the said           , his executors, administrators, and assigns, our special license, full power, sole privilege, and authority, that he, the said           , his executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as the said           , his executors, administrators, or assigns, shall at any time agree with, and no others, from time to time, and at all times hereafter during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within our said province, in such manner as to him, the said           , his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet; and that he, the said           , his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage from time to time coming, growing, accruing, and arising by reason of the said invention for and during the term of years herein mentioned, to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages herein before granted or mentioned to be granted to the said           , his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years from the           day of           , A. D.           , according to the statute in such case made and provided; and to the end that he, the said           , his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit and sole use and exercise of the said invention, according to our gracious intention hereinbefore declared, we do by these presents for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within our said province, that neither they nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, exercise, or vend the said invention, or any part of the same, so attained unto by the said           as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisers thereof, without the consent, license, or agreement of the said           , his executors, administrators, or assigns, in writing under his or their hands or seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this our royal command, and further to be answerable to the said           , his executors, administrators, and assigns, according to law for his and their damages thereby occasioned: And, moreover, we do by these presents, for us, our heirs and successors, will and command all and singular the justices of the peace, sheriffs, bail-

iffs, constables, and all other officers and ministers of us, our heirs and successors for the time being, that they or any of them do not nor shall at any time during the said term hereby granted in anywise molest, trouble, or hinder the said , his executors, administrators, and assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall appear that this our grant is contrary to law, or 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 caused to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of our service, for the use of which the same shall be required, in such manner, at such times, and at or upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same, then and in any of the said cases these our letters patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provide also, that these our letters patent or anything herein contained, shall not extend or be construed to extend to give 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 practice their several inventions by them invented and found out according to the true intent and meaning of the same respective letters patent, and of these presents: Provided likewise, and these our letters patent are upon this express condition, that the same shall be void, and that the rights and privileges hereby granted shall cease and determine at the expiration of three years from the date hereof, unless the said , his executors, administrators, or assigns, shall pay at the said patent-office the sum of five pounds before the day of , A. D. 18 and further upon condition that the same letters patent shall be void, and the said rights and privileges cease and determine at the expiration of seven years from the date hereof, unless the said , his executors, administrators, or assigns, shall pay at the said patent-office the sum of five pounds before the day of , A. D. 18 : Provided that nothing herein contained shall prevent the granting of licenses in the manner and for the considerations in and for which they may by law be granted; and lastly we do by these presents for us, our heirs and successors, grant



unto the said \_\_\_\_\_, his executors, administrators, and assigns, that these our letters patent or the filing thereof shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense, for the best advantage of the said \_\_\_\_\_, his executors, administrators, and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors, in this our said province, and amongst all and every the subjects of our heirs and successors, whatsoever and where-soever. In witness whereof we have caused these our letters patent to be made patent this \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_, and to be sealed with the seal of the said patent-office, and bear date as of the said \_\_\_\_\_ day of \_\_\_\_\_, A.D., in the \_\_\_\_\_ year of our reign.

---

SCHEDULE B.

(As Amended by Act of 1881.)

*Fees to be paid in respect of the several matters hereunder specified:—*

	£	s.	d.
On filing every petition.....	2	10	0
On grant of patent.....	1	1	0
On every patent before the expiration of three years from its date.....	2	10	0
And before the expiration of seven years.....	2	10	0
For taking any declaration.....	0	8	6
For every certificate of filing.....	0	2	6
On filing every amended or substituted specification.....	1	0	0
On lodging objections against grant of patent.....	0	10	6
On every summons to witnesses....	0	5	0
On hearing of every opposed application.....	1	0	0
On filing duplicate patent.....	0	5	0
On extention of patent.....	20	0	0
On granting new patent under Part V.....	10	0	0
On filing every disclaimer or memorandum of alteration.....	2	10	0
On confirmation of invalid patent.....	50	0	0
On filing caveat under part VI.....	1	0	0
On amending any caveat.....	0	10	6
For every office copy (including the seal) per folio of 72 words.....	0	0	6
On filing every certificate voiding a patent.....	0	5	0
On deposit of any assignment of patent.....	1	0	0
On every search, including inspection.....	0	2	6
Annual fee for license to patent agent.....	5	0	0

From *Carpin. Pat. Law of World*, 466.

*An Act to amend "The Patent Act, 1877." No. 201, 1881.*

*Preamble.* Whereas it is desirable to amend "The Patent Act, 1877," by affording greater facilities for the obtaining of patents—Be it therefore enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

1. *Short title.* This Act may be for all purposes cited as "The Patent Act Amendment Act, 1881."

2. *Incorporation.* This Act and "The Patent Act, 1877," except so far as the same is altered by this Act, shall be incorporated and read and construed together.

3. *Petition for patent.* Every petition for a patent shall be addressed to the commissioner, and shall be accompanied by a declaration by the applicant, or his duly authorized attorney or agent, that the several allegations contained in the petition are true, and stating that the person making the declaration verily believes that the inventor mentioned in the petition is the true and first inventor of the invention for which the patent is sought.

4. *Requisites of specifications.* For the purposes of section 16 of the said Act, it shall be sufficient, whether the inventor be alive or not, if the specification therein mentioned be signed by the applicant, or his duly authorized attorney or agent, and if such signature be attested as provided in the said section.

5. *Exhibition not ground for refusing patent.* The mere fact of any inventor having exhibited or tested his invention, either publicly or privately, shall not in itself be deemed any ground for refusing him a patent, or justify any other person in using such invention, provided that such exhibiting must have been within six months of the date of the inventor filing his petition for a patent.

6. *Schedule of fees.* The fees mentioned in the schedule of this Act shall be paid in respect to the several matters and things therein respectively referred to, in lieu of the fees mentioned in schedule B of the Patent Act, 1877. Such fees shall form part of the general revenue of the said province, and be paid, applied, and disposed of accordingly.

[NOTE.—See end of 1877 Act.]

7. *Repeal.* Section 14 of the said Act is hereby repealed.

From *Carym. Pat. L. of World*, 493.

See also AUSTRALASIA.



## SPAIN.

*Law of July 30, 1878.\**

## SECTION I.

## GENERAL PROVISIONS.

ARTICLE 1. Every Spaniard or foreigner who intends to establish or has established in the Spanish dominions a new branch of industry shall have the exclusive right to work the same during a certain number of years, subject to the rules and conditions laid down by the present law.

ART. 2. The right referred to in the preceding article shall be acquired by obtaining from the Government a patent of invention.

ART. 3. The following objects shall be patentable :—

Machinery, apparatus, instruments, processes, or mechanical or chemical operations, being entirely or partly a new and original (*i. e.*, the applicant's own) invention, or which, without fulfilling these conditions, have not been established or executed in the same way or form in the Spanish dominions.

New industrial products or results [obtained by new or known means, provided their working tends to establish a new industry in the country.

ART. 4. Patents having for their objects products or results mentioned in the second paragraph of the previous article shall not prevent other patentees of objects mentioned in the first paragraph from obtaining the same products or results.

ART. 5. Objects which are not known, nor have been executed, or worked in the Spanish dominions or abroad, shall be considered as new according to article 3 of this law.

ART. 6. The right which is conferred by the patent of invention, or as the case may be, the right derived from the application, can be transferred entirely or partly by the various ways established by our laws relating to private property.

ART. 7. A patent of invention can be granted to one person or to several, or to a society, whether they be natives or foreigners.

\* Another translation of this law, differing slightly from that given in the text, may be found in 26 Pat. Off. Gaz. 108.

ART. 8. All patents shall be considered as granted, not only for the Peninsula and adjacent islands, but also for the provinces beyond the sea.

ART. 9. The following shall not be the objects of patents:—

(1.) The result or product of the machines, apparatus, instruments, processes or operations mentioned in the first paragraph of article 3, unless they are contained in the second paragraph of the same article.

(2.) The use of natural products.

(3.) Scientific principles or discoveries, so far as they are of a mere speculative nature, and are not likely to be applicable to machinery, apparatus, instruments, processes, or mechanical or chemical operations of a practical industrial nature.

(4.) Pharmaceutical or medical preparations of all sorts.

(5.) Schemes or combinations of credit or finance.

ART. 10. No patent shall be delivered for more than one object of industry.

ART. 11. Patents of invention shall be delivered without previous examination as to novelty or utility, and must not therefore be considered in any case as a declaration or certificate of the novelty or utility of the object to which they refer. Qualifications of this nature concern the person interested, who must act on his own responsibility, and will be subject to the consequences resulting from the provisions of the present law.

## SECTION II.

### THE DURATION OF PATENTS AND THE GOVERNMENT FEES.

ART. 12. The duration of patents of invention shall be twenty years without prolongation, if they have for their object new and original inventions. The duration of patents for all objects that are not original inventions, or being so, are not new, shall only be five years without prolongation.

Nevertheless, patents shall be granted for ten years for all original inventions, even when the inventor has obtained a patent for the same object in one or more foreign countries, provided he applies therefor in Spain before the expiration of two years from the obtaining of the first foreign patent.

ART. 13. For working a patent there must 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 practiced or established in the same mode or form in Spain. At the foot of the specification there must be a note expressing clearly, distinctly, and particularly which part, piece, movement, mechanism, operation, process, or matter is claimed as the object of the patent. The patent will depend entirely on the contents of the said note.

The specification must be written in Spanish, without abbreviations, corrections, or erasures of any kind, on sheets folded and numbered. References to weights and measures must be given according to the metrical decimal system.

The specification must not contain conditions, restrictions, or reservations.

(3.) The drawings, samples, or models which the interested party thinks necessary for the comprehension of the descriptive specification, all in duplicate.

The drawings must be made on cloth-paper in ink, and according to the metrical decimal scale.

(4.) The receipt for the payment to the State of the first annual tax.

(5.) A signed list of all the documents and objects presented, which latter must also be signed by the applicant or his attorney.

ART. 16. The secretary of the civil government upon receiving the documents and objects mentioned in the preceding article, shall enter, in a special register, the day, the hour, and the minute of the presentation ; sign the list jointly with the interested party or his representative, and deliver a proper receipt. The same secretary shall close and seal the box or packet containing the two copies of the specification, and of the drawings, samples, or models, and write underneath the inscription on the box or packet "Presented on such a month, day, hour, and minute," signing the same, and affixing the official seal.

The entry in the register of presentation indicating the day, hour, and minute of presentation shall establish the right of priority of the applicant.

ART. 17. Within a term not exceeding five days from the date of the presentation of the application, and of the aforesaid documents and objects, the civil governor shall remit to the director of the Conservatory of Arts at Madrid the application, together with the documents and objects, also a certificate of the secretary, countersigned by the governor, of the entry in the register, and the contents of the box or packet. The cost of remittance shall be borne by the interested party.

ART. 18. The secretary of the Conservatory of Arts shall examine the contents of the box or packet, and shall sign and seal, at the foot of the certificate mentioned in the preceding article, a statement as to their completeness or defects.

ART. 19. The secretary of the conservatory shall at once compare the two copies of the specification and drawings or models for the sole purpose of satisfying himself of their identity, and having found them consistent and that the specification has written at the end the note mentioned in the second paragraph of article 16 (*query 15?*), he shall sign and seal both copies, in proof of the compliance with this formality.

If he discovers any defects in the documents, he shall point them out in his dispatch, and they must be corrected by the interested parties themselves, or their attorneys ; for which purpose they shall be allowed a term of two months, counting from the day of the presentation of the petition to the government of the province,



if it is in the Peninsula or the adjacent islands, and of four months if in the Canaries or Antilles, and of eight months for the Philippine Islands.

These terms cannot be prolonged, and when once expired without the defects pointed out having been amended, such application shall not proceed, and the petition for the patent shall be considered as of no effect.

ART. 20. When the requirements mentioned in two preceding article have been observed, the director of the Conservatory of Arts, bearing in mind the provisions of article 11, shall send the petition to the minister of commerce, together with a report stating—

(1.) Whether the form of the petition is in conformity with the provisions of article 15.

(2.) Whether the specification and the above-mentioned drawings, samples and models, all in duplicate, and the receipt for the government tax for the first year, have been delivered.

(3.) Whether there is perfect conformity between the duplicates of the specifications, drawings, samples or models and the originals.

(4.) Whether the object of the patent is comprised among one of the cases of article 9.

(5.) Whether, taking all circumstances into consideration, it is advisable to grant or refuse the petition.

ART. 21. If the application results favorably, the minister of commerce shall inform the director of the Conservatory of Arts thereof, who shall publish this decision by means of the Madrid Gazette ; and within a term, which cannot be prolonged, of one month from the date of publication, the interested party or his representative shall appear at the Conservatory or Arts to pay in Government paper the value of the stamp, which must be put on the patent document. Should this not be done within the prescribed term, the proceedings shall be stayed and the petition for the patent shall be considered as of no effect.

ART. 22. When the payment mentioned in the preceding article has been made, the director of the Conservatory of Arts shall inform the minister of commerce thereof, who shall immediately issue the patent of invention, and send it to the Conservatory of Arts, whose director shall communicate it to the governor of the province where the application was originally made, for the purpose of having it duly entered in the register mentioned in article 16, and of having it copied by the secretary of the conservatory in a special register, after which it shall be delivered by him to the interested party or

his representative, against a receipt which shall be attached to the documents.

ART. 23. At the head of the patent there shall be printed in letters of a larger type than the largest employed in the body of the same the following words :—

“Patent of invention, without guarantee of the government as to the novelty, fitness, or utility of the object for which it is granted.”

ART. 24. The secretary of the Conservatory of Arts shall likewise deliver to the interested party or his representative, against a receipt, at the same time as the patent, one of the copies of the specification and of the drawings, samples and models accompanying it, and the whole shall be considered as an integral part of the patent and so designated therein.

ART. 25. The special register of patents at the office of the secretary of the Conservatory of Arts shall remain at the disposition of the public during the hours fixed by the director. The dates in this register shall be considered as evidence in the courts.

#### SECTION IV.

##### THE PUBLICATION OF PATENTS AND THE PUBLICITY OF SPECIFICATIONS, DRAWINGS, SAMPLES, OR MODELS.

ART. 26. The director of the Conservatory of Arts shall deliver to the Madrid Gazette, within the second half of the months of January, April, July, and October, for immediate publication in that official periodical, a report of all patents granted during the preceding quarter, clearly expressing their objects.

The provincial governors shall have these reports reproduced in the official bulletins in the same form as in the Gazette.

ART. 27. The specifications, drawings, samples, and models relating to the patents shall be open for public inspection at the office of the secretary of the Conservatory of Arts during the hours fixed by the director of the same.

Any one wishing to make copies thereof may do so at his own expense, after previous consent of the director of the conservatory, who will fix the place, days, and hours at which they can be made.

ART. 28. After the expiration of patents, the specifications, drawings, samples, and models shall remain at the Conservatory of Arts, in the museum of which shall be placed those which appear worthy of being exhibited there.



## SECTION V.

## CERTIFICATES OF ADDITION.

ART. 29. The owner of a patent of invention, or those interested through him, shall during the term of the grant have the right of making any alterations, modifications, or additions to the object of the patent, they may think proper, in preference to all others applying at the same time for a patent for an object similar to the alterations, modifications, or additions.

Such alterations, modifications, or additions shall be established by certificates of addition, delivered in the same way and with the same formalities as the original patent, and after application and proceedings as prescribed by article 15.

ART. 30. The applicant for a certificate of addition shall pay a single tax of 25 pesetas in government paper.

ART. 31. Certificates of addition shall form part of the original patent, and shall have from the respective dates of the application and grant the same effect. The time for working a certificate of addition terminates at the same time as that for the original patent.

## SECTION VI.

## CESSION AND TRANSFER OF PATENT RIGHTS.

ART. 32. All total or partial cessions of the rights conferred by a patent of invention or certificate of addition, whether gratuitously or for a consideration, and every other act involving a modification of the original right must indispensably be made by deed on which there shall be a certificate of the secretary of the Conservatory of Arts, signed by the director, proving the payment up to date of the taxes prescribed by this law, and that the assignor is the real owner of the patent or certificate of addition according to the entries in the records.

ART. 33. No assignment or other deed involving a modification of the right can prejudice a third party, unless it has been registered at the office of the secretary of the civil government of the province where the original deposit took place.

ART. 34. The registration of cessions and of all deeds involving a modification in the right shall be effected by the presentation and delivery to the secretary of the provincial government of an attested copy of the deed or contract of cession or modification.

On this copy the secretary shall mark the day and the page of the register.

ART. 35. The civil governor of the province where the assignment or other deed or contract involving a modification in the right is registered, shall, within five days after it has been entered in the register, transmit to the director of the Conservatory of Arts a copy, certified by the secretary and countersigned by the governor, both of the deed or contract of cession or modification, and of the entry on the register made by the secretary.

ART. 36. The secretary of the Conservatory of Arts shall note in the special register of patents all modifications occurring in the right of each of them, after having taken cognizance of the certified copy of the deed or contract of cession annexed to the records.

ART. 37. The director of the Conservatory of Arts shall transmit to the Gazette with the report mentioned in article 26 all modifications of rights that have taken place in the patents.

## SECTION VII.

### LIABILITIES OF PATENTEES.

ART. 38. The owners of a patent or certificate of addition shall be required to prove before the director of the Conservatory of Arts, within a term of two years counting from the date of the patent or of the certificate of addition, that they have put it in practice on Spanish territory, establishing a new industry in the country.

The above mentioned term of two years can only be prolonged by a law on equitable grounds, and for a term not exceeding six months.

ART. 39. The director of the Conservatory of Arts shall ascertain the fact, either by himself or through a practical engineer, or any competent person appointed for that purpose, by means of steps the least onerous he considers necessary, and for this end he may demand the assistance of all authorities and corporations, who are bound to aid him in the most efficacious manner with their influence and all means they can employ for that purpose.

ART. 40. When the director of the Conservatory of Arts thinks that the report concerning the working of the patent is sufficiently proved, he shall transmit the same, together with his report, to the minister of commerce for final decision.

ART. 41. The costs caused by the inquiries necessary to prove



that the object of a patent or of a certificate of addition has been worked establishing a new industry in the country, shall be borne by the interested party, who need only pay them when approved by the director of the Conservatory of Arts.

ART. 42. The director of the Conservatory of Arts shall cause the secretary to make on the register of patents a note of the decision recognizing the working, and communicate the same to the governor of the proper province.

### SECTION VIII.

#### NULLITY AND ANNULMENT OF PATENTS.

ART. 43. Patents of invention are void :—

(1.) Whenever it is proved, with respect to the object of the patent, that the circumstances ; of originality and novelty ; of not having been established or practiced in essentially the same mode and form within the dominions ; or any other circumstance, alleged as fundamental in the application ; are not borne out.

(2.) Whenever it is found that the object of the patent is contrary to public order, or safety ; to morals, or to the laws of the country.

(3.) Whenever the object for which the patent was applied for is different from that which is worked in virtue of it.

(4.) Whenever it is shown that the specification does not contain all that is required for the complete understanding and working of the object of the patent, or when it does not completely indicate the real means of manufacturing or working.

ART. 44. Actions for annulment can only be instituted by an interested party.

The public prosecutor, however, may demand the annulment when the patent comes under the second paragraph of article 43.

ART. 45. Where the provisions mentioned in article 43 apply, all certificates of alterations, modifications, or additions to the original patent shall equally be null and void.

ART. 46. Patents of invention shall be annulled :—

(1.) At the expiration of the term of the grant.

(2.) When the owner does not pay the annual tax before the beginning of each year of the duration of the patent.

(3.) When the object of the patent has not been worked in the Spanish dominions within the time mentioned in article 38.

(4.) When the owner has ceased to work for one year and one day, unless he can show good cause for such interruption.

ART. 47. The declaration of annulment of patents coming under the first, second, and third paragraphs of article 46, belongs to the minister of commerce, on the previous advice of the director of the Conservatory of Arts. Against the decision of the minister there may be lodged an appeal to the Council within 30 days. The declaration of annulment of a patent coming under the fourth paragraph of the same article 46, belongs to the courts of justice on the application of an interested party.

ART. 48. The director of the Conservatory of Arts, after having caused the required entries to be made in the register of patents, shall transmit to the Madrid Gazette, together with the report mentioned in article 26, a further list of the patents annulled by the minister of commerce.

The civil governors shall cause such lists to be published in the official bulletins of their provinces, and have copies made in the registers of patents at the offices of their secretaries.

#### SECTION IX.

##### INFRINGEMENTS AND FALSIFICATION OF PATENTS, AND THE PENALTIES TO WHICH THEY ARE SUBJECT.

ART. 49. Infringers of patents are those who knowingly encroach on the rights of the legal owner by manufacturing or executing the object of the patent by the same means.

Accomplices are these who knowingly assist in the manufacture, execution, and sale or expedition of the counterfeit patent articles.

ART. 50. Infringement shall be punished by a fine of from 200 to 2,000 pesetas.

In case of a second offense the fine shall be from 2,001 to 4,000 pesetas.

It is a second offense when the infringer has been convicted of the same offense within the five preceding years.

Complicity in infringement shall be punished by a fine of from 50 to 200 pesetas, and a second offense by a fine of from 201 to 2,000 pesetas.

All products obtained by infringement shall be delivered to the patentee, besides damages for the loss he may have sustained. Insolvents shall suffer, in both cases, imprisonment, as prescribed by article 50 of the Criminal Code.



ART. 51. Falsifiers of patents of invention shall suffer the penalties mentioned in the first section of chapter 4, book ii., of the Criminal Code.

ART. 52. Actions for the offense of infringement provided for and punishable by the present section can only be entered by the public prosecutor on the complaint of the injured party.

## SECTION X.

### JURISDICTION IN PATENT MATTERS.

ART. 53. Civil and criminal actions concerning patents of invention shall be instituted before industrial juries. Until the organization of the industrial juries, such actions shall be brought before the ordinary courts.

ART. 54. Whenever the action is brought at the same time against the grantee and against one or more licensees, the competent tribunal shall be that of the domicile of the grantee.

ART. 55. Civil actions shall be governed by the rules prescribed for them by the laws relating to ordinary justice; and criminal actions shall be regulated by the criminal procedure.

ART. 56. The public prosecutor shall be a party to all actions having for their object the annulment of a patent of invention.

ART. 57. In the case of the preceding article, all parties interested in the grant according to the register of the Conservatory of Arts shall be summoned.

ART. 58. As soon as a patent of invention has been judicially declared null or extinct, the tribunal shall communicate the judgment to the Conservatory of Arts for entry, and the annulment or expiry shall be published in the Madrid Gazette in the manner prescribed by this law for the publication of patents.

The civil governors shall republish such annulments or expiries in the official bulletins of their provinces, and make in the registers of their offices the corresponding entries.

## SECTION XI.

### TRANSITORY DISPOSITIONS.

ART. 59. From the day the present law comes into force, all anterior dispositions relating to patents of invention, of importation, and of improvement shall be abrogated.

ART. 60. Existing patents of invention, importation, and

improvement, obtained under the old law, shall continue to be in force during the term for which they were granted.

ART. 61. Applications made before the publication of the present law shall be regulated in accordance with the old law; the applicants, however, may choose the terms and mode of payment of the present law.

ART. 62. All actions for infringement, counterfeiting, annulment, or extinction of patents, which were not begun before the commencement of the present law, shall be pursued according to the provisions of the same.

From *Carpn. Pat. L. of World*, 495.

See also INTERNATIONAL CONVENTION.

Operation of the general patent law of Spain over her provinces abroad. Spain, like France and unlike Great Britain, has pursued the policy of providing a law suitable for her colonies and dependencies as well as for the mother country. Thus article 8 of the general law (see p. 511 of the text), enacts that "all patents shall be considered as granted not only for the peninsula and adjacent islands but also for the provinces beyond the sea." Article 19 (p. 514)

allows an extended time for the correcting defects in applications presented in the Canaries or Antilles, or in the Philippine Islands. The mention, here, of the Antilles of course embraces only those few of the islands known by that general name which belong to Spain. Cuba and Porto Rico deserve mention as provinces of Spain important to inventors and patentees. There are many others, but they are small, or the authority of Spain over them is disputed.



## STRAITS SETTLEMENTS.

*An Ordinance for Granting Exclusive Privileges to Inventors; being Ordinance No. XII. of 1871.*

## PART I.

## PRELIMINARY RULES.

1. *Short title.* This ordinance may be cited as the Inventions Ordinance, 1871.

2. *Interpretation clause.* In the construction of this ordinance, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction :

The word "invention" shall include an improvement.

The word "manufacture" shall include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture.

The word "inventor," when not used in conjunction with the word "actual," shall include the importer of an invention not publicly known or used in the colony.

The words "inventor" and "actual inventor" shall include the heirs, executors, administrators, or assigns of an inventor, or actual inventor, as the case may be.

The word "assigns" shall include grantees of the sole use or benefit in the colony of an invention, or of the sole use of any exclusive privilege for a limited time.

3. *Invention.* An invention shall be deemed a new invention within the meaning of this ordinance, if it shall not, before the time of applying for leave to file the specification, have been publicly used in the United Kingdom, in this colony, or in any British Possession. The public use of an invention prior to the application for leave to file a specification shall not be deemed a public use within the meaning of this section, if the knowledge thereof shall have been obtained surreptitiously, or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor, or in breach of confidence. Provided that the inventor shall, within six months after the commencement of such public use, apply for leave to file his specification, and shall not previously

have acquiesced in such public use. Provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing, shall not be deemed a public use thereof, within the meaning of this ordinance.

4. *When exclusive privilege does not attach.* No person shall be entitled to any exclusive privilege under the provisions of this ordinance ;

If the invention is of no utility ; or,

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention within the meaning of this ordinance ; or,

If the petitioner is not the inventor thereof ; or,

If the specification filed, or the amended specification (if any), does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be carried out, with the particulars required by section 11 of this ordinance ; or,

If the original or any subsequent petition relating to the invention, or the original or any amended specification, contain a willful or fraudulent misstatement.

5. *Prerogative in respect of letters patent saved.* Nothing in this ordinance contained shall abridge or effect the prerogative of the Crown, in relation to the granting or withholding the grant of any letters patent for inventions, or otherwise, or affect or interfere with any letters patent for an invention heretofore granted, or hereafter to be granted by the Crown.

## PART II.

### ACQUISITION OF EXCLUSIVE PRIVILEGES.

6. *Inventor may petition for leave to file specification ; form, &c., of petition.* The inventor of any new manufacture may petition the Governor in Council for leave to file a specification thereof. Every such petition shall be in writing, in the form or to the effect mentioned in the schedule A, and shall be signed by the petitioner, or in case the petitioner shall be absent from the colony, by an authorized agent, and shall state the name, condition, and place of residence of the petitioner, and the nature of the invention.

7. *An alien ami may petition.* An *alien ami*, whether resident in the colony or not, may petition for leave to file a specification under this ordinance.



**8. Order for filing specification.—Power to refer petition for inquiry and report.—Fee for report.—Governor in Council may refuse order.** Upon such petition the Governor in Council may make an order authorizing the petitioner to file a specification of the invention. Provided always, that at any time before such order is made, the Governor may, if he think fit, refer the petition to any person or persons for inquiry and report, and such person or persons shall be entitled to a reasonable fee for such inquiry and report, to be paid by the petitioner, the amount of fee, in case of dispute, to be settled by a judge of the Supreme Court in a summary manner.

And provided further, that it shall be lawful for the Governor in Council to refuse to make any order under this section in any case in which it may appear to him that the granting of exclusive privileges under this ordinance would be prejudicial to the public interests, or of doubtful public utility.

**9. Petition and specification to be left with the colonial secretary, and to be accompanied by declaration by petitioner, or if absent, by agent.—To be recorded.** Every 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 indorsed on the same respectively, and shall also be recorded in the office of the colonial secretary.

**10. Order to file specification may be made subject to conditions.** An order, authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made, subject to such conditions and restrictions as the Governor in Council may think expedient.

**11. Specification to describe invention and manner of working, &c.—Plans and further particulars.** Every specification of an invention filed under this ordinance shall be in writing, and shall be signed by the petitioner, and shall clearly and minutely describe and define the nature and purpose of the invention, and how and in

what manner it is to be worked and carried into practical operation, and shall be accompanied by such explanatory plans, and shall contain such further or other particulars and information as the Governor in Council may require.

**12. *Petitioner to be entitled to exclusive privilege for 14 years.—***  
*Extension of term.* If, within the space of six months from the date of such order, the petitioner cause a specification of his invention to be filed in manner required by this ordinance, the Governor in Council may, in the form E in the schedule, under the public seal of the colony, grant to the petitioner, his heirs, executors, administrators, and assigns, the sole and exclusive privilege of making, selling, and using the said invention in the colony, and authorizing others so to do, for the term of fourteen years from the time of filing such specification ; and for such further term, if any, not exceeding fourteen years from the expiration of the first fourteen years, as the Governor in Council may think fit to direct, upon petition to be presented by such inventor at any period, not more than one year, and not less than six months, before the expiration of the exclusive privilege hereby granted.

**13. *Petitions for disclaimer, how drawn; order; notice opposing; proviso.*** If, after the filing of the specification, the inventor or his assignees shall have reason to believe that through mistake or inadvertence he has erroneously made any misstatement in his petition or specification, or included therein something which at the date of his petition was not new, or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor in Council for leave to file a memorandum, pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or for leave to file an amended specification, in case of any defect or insufficiency of the specification.

The petition shall state how the error, defect, or insufficiency occurred, and that it was not fraudulently intended, and shall be accompanied by a declaration in writing, signed by the petitioner, or, if he be absent from the colony, by his agent, stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition, the Governor in Council may make an order, allowing such memorandum or amended specification to be filed.

All the provisions of the 3d part of this ordinance applicable to petitions and specifications shall be applicable to the petitions, orders



and memoranda, or amended specifications, referred to in this section, but the stamp fee chargeable on the petition shall be five dollars in lieu of fifty dollars.

Every petition under this section shall be published in the Government Gazette of the colony, and at the same time notice shall be given in the said Gazette of the time when the petition will be taken into consideration by the Governor in Council, and any person interested in opposing the prayer of the petition may serve on the colonial secretary a notice, on a stamp paper of the value of one dollar, of his intention to oppose, and every person so serving a notice may be heard by the Governor in Council, in opposition to the prayer of the said petition.

Every memorandum of alteration filed under the provisions of this section shall be added to and form part of the original specification, and, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such memorandum of alteration, or of the filing of an amended specification, the memorandum of alteration, or the amended specification, shall have the same effect as if it had formed part of or had been the specification first filed; provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

14. *Patentee in England may petition for extension here.—Proviso.* If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Ordinance, shall have obtained Her Majesty's letters patent for the exclusive use of such invention in any part of the United Kingdom, or shall have obtained a grant of exclusive privileges in any British Possession, but not extending to this colony, shall petition the Governor in Council for leave to file a specification of such invention, it shall be competent to the Governor in Council to make an order authorizing the petitioner to file a specification of the invention and exemplification of the letters patent or grant of exclusive privileges granted to him. On this being done, the petitioner shall be entitled to the sole and exclusive privilege of making, using, and selling the said invention in this Colony, during the remainder of the term for which the said letters patent or grant of exclusive privileges or any renewal of the same may be in force, or for the term or terms mentioned in section 12. Provided that the petition for leave to file the specification shall state that such letters patent or grant of exclusive

privileges have been granted, and shall also state the date thereof, and the term during which the same are to continue in force.

15. *Rule for Indian patents before April 1, 1867.—Stamp fee.* Every person who, before the first day of April, 1867, shall have obtained from the Governor General of India in Council a grant of exclusive privileges under the Indian Act No. 15 of 1859, for India, as defined in the said Act, shall be entitled to use and exercise in the colony after the first day of April, 1867, all the rights and privileges conferred by such grant, on registering at the office of the colonial secretary a certified copy of such grant, and of the specification filed in India on which such grant was made.

For every such register a fee of 5 dollars shall be paid, by a stamp or stamps impressed on the said copy.

16. *Disclaimers or memorandum of alterations made elsewhere, and amendments under section 3, how to be filed.—Proviso.* Whenever it shall be made to appear to the Governor in Council that a disclaimer or memorandum of alterations relating to any invention as to which privileges have been obtained in the colony under section 14 of this ordinance, or under the provisions of the Electric Telegraph Exclusive Privileges Ordinance, 1870, has been entered according to the law of England, or the law of the British Possession in which the exclusive privilege may have been granted, and whenever any amendments are made under section 35 of this ordinance, it shall be lawful for the Governor in Council to order that a copy of such disclaimer or memorandum of alteration or amendment shall be filed in the office of the colonial secretary, with and as part of the specification of the invention and exemplification of the letters patent, or of grant of exclusive privileges to which the same relates; whereupon the said specification of invention and exemplification of letters patent, or of grant of exclusive privileges, shall be read as if such disclaimer or memorandum of alterations or amendment had formed a part thereof when filed in the office of the colonial secretary. Provided that no such disclaimer, memorandum of alteration, or amendment shall be held to extend the exclusive rights granted by such letters patent, or grant of exclusive privileges.

### PART III.

#### GENERAL RULES.

17. *Stamp on petition.* Every petition for leave to file a specification under the provisions of this ordinance, or for the extension



of the term of an exclusive privilege, shall be written or printed on a stamped paper of the value of fifty dollars.

18. *All fees to be paid before filing.* No specification shall be filed until the petitioner shall have paid all fees and stamp duties payable under this ordinance.

19. *Specification to be open to inspection.—Fee for inspection.* The specification, or a copy thereof, shall be open at all reasonable times at the office of the colonial secretary to public inspection, upon payment of a fee of one dollar.

20. *Register for the registry of petitions, specifications, &c.* A register shall be kept in the office of the colonial secretary, wherein shall be entered every such petition and specification, and every order made upon such petition, or relating to the invention therein mentioned, and every grant of exclusive privilege. Every specification and every grant as aforesaid shall be numbered according to the order in which they are entered in such book, and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention.

21. *Inspection of register.—Fee.—Certified copy of entry to be given.* Such register, or a copy thereof, shall be open at all convenient times for the inspection of any person, upon payment of a fee of one dollar, and the colonial secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

22. *Certified copy to be primâ facie evidence.* Every copy of a document filed in the office of the colonial secretary under the provisions of this ordinance, purporting to be certified as a true copy under the hand of the colonial secretary, shall be *primâ facie* evidence of the document of which it purports to be a copy.

23. *Specifications.—Service of notices, &c.—Names and addresses of proprietors.* A book shall be kept in the office of the colonial secretary (such book to be open to inspection without fee), wherein every person filing a specification under this ordinance shall cause to be stated, under a number corresponding with the number of the specification, some place in the settlement where service of any rules or proceedings for the purpose of canceling or revoking his exclusive privilege, or of any other process may be made. Any person, partnership, or company, from time to time, being proprietors of, or having shares or interests in, such exclusive privilege, shall cause to be entered in such book, under such numbers as aforesaid, their names, together with the name of some

place for the service of such proceedings and process as aforesaid. All such rules, proceedings, and process shall be deemed sufficiently served on any such person, partnership, or company, if a copy thereof be left at the place entered in such book, or (if any other place be substituted for the same by entry in said book) at the place last substituted, by delivering the same to any person resident at or in charge of such place; or if there be no person resident at or in charge of such place, and if such person, partnership, or company shall neglect to make or cause to be made such entry, then service of such rule, proceeding, or process may be effected by affixing a copy thereof to a conspicuous part of the Supreme Court house, or in such other manner as the court may direct.

**24. Governor may determine exclusive privilege.** Every exclusive privilege under this ordinance shall cease if the Governor in Council shall declare by notification in the Government Gazette, that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition, on which the petitioner shall have been authorized to file a specification, or upon which the term of the exclusive privilege shall have been extended, shall be proved to the satisfaction of the Supreme Court, and if the Governor in Council shall thereupon declare that such exclusive privilege shall cease.

#### PART IV.

##### LEGAL PROCEEDINGS.

**25. Actions for infringements.** An action may be maintained in the Supreme Court by an inventor against any person who, during the continuance of any exclusive privilege granted by this ordinance, shall, without the license of the said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same.

**26. Particulars to be delivered.—Evidence at trial.—Court may amend particulars.** In any such action the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action; and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to the Supreme Court under sections 30 and 31 of this ordinance, the applicant shall deliver particulars of the objections on which he means to rely. At



the trial of any action or issue, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such exclusive privilege, which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where, and the manner in which the invention was so publicly known or used, shall be stated in such particulars : Provided always, that it shall be lawful for the court to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

*27. Action for infringement not to be defended for defect in specification or petition, or for want of novelty in invention.* No such action shall be defended upon the ground of any defect or insufficiency of specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a misdescription, nor upon the ground that the invention is not useful ; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he, the defendant, is the actual inventor, or has obtained a right from the actual inventor to use the invention, either wholly or in part.

*28. The actual use of an invention in the colony, or the United Kingdom, or any British Possession before the date of petition, a defense to such action.* Any such action may be defended upon the ground that the invention was not new, if the person making the defense, or some person through whom he claims, shall, before the date of the petition for leave to file the specification, have publicly or actually used in the colony or in some part of the United Kingdom, or in any British Possession, the invention or that part of it of which the infringement shall be proved, but not otherwise.

*29. In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.* If, upon proceedings instituted by a person claiming to be the inventor, within two years from the date of a petition to file a specification, he shall prove to the satisfaction of the Supreme Court that the petitioner was not the inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through

whom he derived such knowledge, the court may compel the petitioner to assign to the inventor any exclusive privilege obtained under this ordinance, and to account for and pay over the profits thereof.

**30.** *Application by attorney-general on breach of special conditions.—Costs.* It shall be lawful for the attorney-general or solicitor-general to apply to the Supreme Court, calling upon any petitioner under this ordinance, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition, upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor in Council, under the power reserved in section 24, may, in the judgment of the said Governor in Council, depend, should not be tried in the form of an issue directed by the said court, and if the rule be made absolute, the court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and shall certify the result of such trial to the Governor in Council. The costs of such trial, and also the costs of such proceedings, shall be in the discretion of the said court.

**31.** *Application to Supreme Court to declare exclusive privilege not to have been acquired.* It shall be lawful for any person to apply by motion to the Supreme Court for a rule to show cause why the court should not declare that an exclusive privilege in respect of an invention or part of an invention has not been acquired under the provisions of this ordinance, by reason of all or any of the objections following (to be specified in the rule); that is to say:—

That the said invention or part of invention was not at the time of presenting the petition for leave to file the specification 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 willfully made a false statement in his petition or specification ; or,

That some part of the invention, or the manner in which that part is to be carried out as described in the said specification, is not thereby sufficiently described and defined, and that such defect or insufficiency was fraudulent, and is injurious to the public.

**32.** *Service of proceedings on all persons interested.* Notice of any rule obtained or proceeding taken under either of the last three preceding sections shall be served on all persons appearing to be proprietors, or to have shares or interests in the exclusive privilege under the provisions of section 23 of this ordinance, and it shall not be necessary to serve such notice on any other persons.

**33.** *Court may direct issue for trial.* The Supreme Court may, if it think fit, direct an issue for trial of any question of fact arising upon an application under sections 30 or 31 of this ordinance, and such issue shall be tried in the usual manner for trying issues of fact in the said court.

**34.** *Judgment.—Costs.* If it shall appear to the Supreme Court, at the hearing of any application under the provisions of sections 30 or 31 of this ordinance, that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention, or in any part thereof, has not been acquired, the court shall give judgment accordingly, and shall make such order as to the costs of, and consequent upon, the application, as it may think just ; and thereupon the petitioner, his heirs, executors, administrators, and assigns, shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

**35.** *Amendment of specification by court.—Proviso.* If the court, at the hearing of any application under this ordinance, shall think that the petitioner has, in the description of the invention given in his petition or specification, included something which at the date of the petition was not new, or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the said court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency ; or if the court shall think that the error, defect, or insufficiency can be amended without injury to the public, it may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be

amended in any of the said particulars; and thereupon the petitioner, his heirs, executors, administrators, or assigns, shall, within the time limited by the court for the purpose, file a specification amended according to such order.

Provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

**36. *Misdescription in the petition, if not fraudulent, not to defeat the privilege.*** An exclusive privilege shall not be defeated upon the ground that there is any misdescription of the invention in the petition, unless such misdescription was fraudulent.

**37. *Entry in registry book, of judgment declaring privilege not to have been acquired.*** Whenever it shall be adjudged by the said court that an exclusive privilege as to the whole or any part of an invention has not been acquired, the colonial secretary shall, upon the production of a certified copy of the judgment or order of the court, cause an entry thereof to be made in the register hereinbefore in section 20 directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such register.

**38. *Appeal to Privy Council.*** Nothing in this ordinance contained shall be held to affect the right of appeal to Her Majesty in Her Privy Council. Every such appeal may be had, and proceedings therein shall be subject to the rules, orders, and regulations in force, or to be in force, in the colony for appeals to Her Majesty in Her Privy Council from decisions of the Supreme Court of the Colony.

---

## SCHEDULE.

### A.

#### *Form of Petition.*

To His Excellency the Governor of the Colony of the Straits Settlements in Council:

The petition of [*here insert name, addition, and place of residence*], for leave to file a specification under the Inventions Ordinance, 1871, 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 the colony, to the best of his knowledge and belief [or, as the case may be, that he is the first importer into the colony of the said invention, and that the same is not publicly known or used in the colony].

N. B.—If letters patent have been obtained for the invention, state according to the requirements of section 14.

The following is a description of the invention [here describe it as required by section 11].

Your petitioner therefore prays for leave to file a specification of the said invention, pursuant to the provisions of the Inventions Ordinance, 1871. And your petitioner, &c.

(Signed.)

The day of

\_\_\_\_\_

B.

*Declaration to accompany a Petition.*

I [here insert name, addition, and place of residence], do solemnly and sincerely declare that I am in possession of an invention for [state the title of the invention as in the petition]; that I believe the said invention will be of public utility; that I am the inventor [or owner] of the said invention [or, as the case may be, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention, or that I am the first importer of the said invention into this colony], and that the same is not publicly known or used in the colony to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said invention is truly described in my petition for leave to file a specification thereof.

(Signed.)

The day of

\_\_\_\_\_

C.

*Declaration to accompany a Specification.*

I [here insert name, addition, and place of residence], do solemnly and sincerely declare that I am in possession of an invention for [state the title of the invention], which invention I believe will be of public utility; that I am the inventor or owner of the said invention [or, as the case may be, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention, or that I am the first importer of the said invention into this colony], and the same is not publicly known or used in this colony to the best of my knowledge and belief; and that, to the best of my belief, the instrument in writing under my hand, hereunto annexed, particularly describes and defines the nature of the said invention and in what manner the same is to be carried out.]

(Signed.)

The day of

\_\_\_\_\_

D.

*Declaration by Agent.*

I \_\_\_\_\_, of \_\_\_\_\_, do solemnly and sincerely declare that I have been appointed by the said \_\_\_\_\_, his agent for the purpose of \_\_\_\_\_, and I verily believe that the

declaration purporting to be the declaration of the said \_\_\_\_\_, marked ( \_\_\_\_\_ ), was signed by him, and that the contents thereof are true.

(Signed.)

The \_\_\_\_\_ day of \_\_\_\_\_

E.

*Form of Grant.*

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

(Signed.) [Signature of Governor.]

To all to whom these presents shall come,

Greeting:

Whereas *A. B.* of *C. D.*, has presented to [insert name of Governor], Governor of the Colony of the Straits Settlements, a petition (numbered \_\_\_\_\_ in the book of petitions for exclusive privileges in inventions in the office of the colonial secretary) praying for leave to file a specification of a certain invention entitled [here insert the title of invention], and an Order in Council, dated the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, was made thereon, authorizing the said *A. B.* to file a specification of the said invention: And whereas the said *A. B.* did on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, file a specification in accordance with the said order, and the same is entered in the Book of Specifications of the colonial secretary, and bears the number \_\_\_\_\_ therein: And whereas all things have been done to entitle him to exclusive privilege in the invention in the said petition and specification instituted, mentioned, and described for the term of \_\_\_\_\_ years: It is hereby ordered that the said *A. B.*, his heirs, executors, administrators, and assigns, shall have the exclusive privilege of making, selling, and using (as the case may be) the said invention in the said specification described in the Colony of the Straits Settlements for the term of \_\_\_\_\_ years, in terms of and subject to the provisions of the Inventions Ordinance, 1871 [here insert any condition under which the grant is made].

(Signed.)

*Colonial Secretary.*

From *Carpms. Pat. L. of World*, 510.



## SWEDEN.

*Law of May 16, 1884.\**

His royal majesty's gracious order respecting patents, given at the Castle of Stockholm on the 16th of May, 1884.

We, OSCAR, by the grace of God, King of Sweden, Norway, Gothland, and Vendland, make known that, in accordance with a proposition of the Riksdag, dated the 25th of January last, we have agreed to declare annulled (with some small exceptions herein noted) our gracious order respecting patents, of the 19th of August, 1856, and are graciously pleased to order as follows:

§ 1. Patents may, under the conditions hereinafter prescribed, be granted for inventions of industrial productions or of special methods of manufacturing such productions.

Inventors only, Swedish or foreign, or the legal representatives of inventors, are entitled to obtain patents.

§ 2. Patents shall not be granted for inventions the working of which would be contrary to law or morals. With regard to inventions relating to provisions or medicines, patents shall not be granted for the commodity itself, only for special methods for its manufacture.

§ 3. An invention shall not be considered as new, if it has, prior to filing the application for a patent with the patent authorities, been described in any published journal, or is so openly worked that any person conversant with the subject may, guided by the information thus gained, work the invention, or if the object of the invention does not essentially differ from products or methods of manufacture which have before become known in such a way.

The publication of an invention in print by foreign patent authorities or the exhibition of the same in any international exhibition shall not be an obstacle to the granting of a patent, provided the application is filed within six months from the date of publication or the day the exhibition commenced.

§ 4. (1.) Whoever wishes to obtain a patent shall lodge a writ-

\*Another translation of this law, differing slightly from that given in the text, and from which the title and enact-

ing clause commencing and ending the law in the text are taken, may be found in 28 Pat. Off. Gaz. 1103.

ten application with the patent authorities or send it prepaid by post. The application must be accompanied by a duplicate description of the invention and the drawings in duplicate which are required to explain the description ; and when necessary, also by models, samples or the like.

The application shall contain the name, profession and postal address of the applicant, likewise the title of the invention.

The description must be given in so explicit and complete a manner that any person conversant with the subject may, thus guided, work the invention.

The description must also state what the inventor considers to be novel in the invention.

When the applicant does not reside in the country he must also deposit a power of attorney to an agent, residing in the country, authorizing him to represent the inventor in everything pertaining to the patent.

If patents are applied for for several inventions, separate applications must be lodged for each.

(2.) If the applicant names another person as the inventor he shall produce papers authorizing him to represent the inventor.

(3.) The applicant is also required to pay a fee amounting to fifty crowns according to section 11.

§ 5. If the patent authorities find that the applicant has not fulfilled the provisions of section 4 (1.) a written notice to that effect will be kept at the office for him ; or, if a full postal address is furnished, the notice will be sent to him by post. Should the applicant not supply the deficiency within the date fixed by the patent authorities the application will be considered abandoned.

§ 6. Should it be deemed that the object of the invention is of such a character that a patent may not be granted, or that the invention evidently is not new, or if the applicant upon stating that another person is the inventor has not proved himself to be the legal representative of the inventor, or if the applicant has failed to pay the fee prescribed by section 4 (3.) ; the patent authorities shall immediately reject the application.

Notice of such a decision together with the reasons for rejection will be communicated to the inventor in accordance with section 5.

§ 7. If the several documents for application are complete, and there is no cause for immediate rejection of the application as provided in section 6, the patent authorities shall give notice of the ap-



plication in the newspapers, stating the main features thereof ; likewise it shall be the duty of the said authorities to keep the documents of application accessible to every person desiring to obtain knowledge of the same. And every one intending to contest the application for the patent shall, within a period of two months from the date of the announcement of the application, be permitted to file with the patent authorities a written protest.

At the end of that period the patent authorities shall take up the case under consideration.

If there is nothing to impede the granting of the application the patent may be granted and letters patent be issued, saving, however, the right of contest provided for in section 18. It shall be the duty of the patent authorities to enter the grant in a register kept for that purpose and to make it public by notices in the newspapers and to have the description, with the necessary supplements in their essential parts, printed and published in a suitable way.

If the application is rejected the decision shall be communicated to the applicant in the form enacted by section 6.

§ 8. In cases where an application for a patent has been rejected in pursuance of sections 6 and 7, and the applicant declares himself dissatisfied with this decision, he may appeal to the King before twelve o'clock upon the sixtieth day after the date of the decision or the privilege of appeal shall be lost.

§ 9. When several persons desire to obtain a patent for the same or a similar invention, the right of preference will be granted to the inventor whose documents for application, prepared in conformity to law, were earliest lodged with the patent authorities.

§ 10. Letters patent shall, except in the case hereinafter stated, be issued for a period of fifteen years from the day the application was filed.

Any person desiring to obtain a patent of addition for improvements upon inventions patented before as his own, without applying for a new patent, may upon complying with the conditions hereinbefore stated, have this granted for the same period as that for which the prior patent is valid.

§ 11. On each application for a patent a fee amounting to fifty crowns shall be paid to the patent authorities as provided in section 4. Should the application be rejected or forfeited half that sum will be returned to the applicant.

Upon each patent granted, with the exception of patents of

addition, the patentee shall pay to the patent authorities an annual fee amounting for the second, third, fourth and fifth years of the patent to twenty-five crowns, each year, and for each of the following five years fifty crowns, and for each of the remaining five years seventy-five crowns. The fee may be sent prepaid by post, and shall for each year of the patent be paid before the commencement of that year, under penalty of the fee for that year being increased by one-fifth. Should the payment of the increased fee be afterwards neglected, then at the end of the first ninety days of the new year of the patent, the patent shall be considered as forfeited. The patentee has not to pay, over and above the fees here prescribed, the expenses of publishing the patent or the description.\*

§ 12. If the patent is assigned to another person, notice of such proceeding, together with the documents proving the assignment, shall be presented to the patent authorities. Unless such notice is given, the patentee latest entered in the records shall be considered by the patent authorities as patentee.

§ 13. In case a patentee is about to reside abroad, or the patent has been assigned to a person who does not live within the country, it shall be the duty of the patentee to deposit with the patent authorities a power of attorney to a legal representative as provided under section 4 (1). Should the agent of the patentee go away to reside abroad, or his charge be otherwise discontinued, the patentee must deposit a power of attorney to another agent. If these provisions are not observed, the judge of the court shall upon being duly notified of the matter appoint an agent for the patentee.

\* The matter corresponding to section 11 is stated in the Patent-office Gazette translation, as follows:

With each application for patent shall be paid to the patent authority, as stated in § 4, 50 kroner (about fourteen dollars). One half of this, however, shall be returned to the applicant if the application fall through or be rejected. On every patent, with the exception of patents of addition, shall be paid by the holder of the patent to the patent authority a yearly duty amounting for each of the second, the third, the fourth, and the fifth patent years twenty-five kroner (about seven dollars), for each of the five following years

fifty kroner (about fourteen dollars), and for each of the five last years seventy-five kroner (about twenty-one dollars). The duty (which must be forwarded in prepaid letter) shall for each patent year be paid before the beginning of that year; otherwise the duty for the same shall be increased one-fifth. If, furthermore, the increased duty be not paid within ninety days after the beginning of the patent year, the patent shall be forfeited. The holders of patent are not obliged to pay beyond the above-named duties for the expenses of publication of the patent or for the announcement of the detailed description.



§ 14. If the fees are paid and the proceedings completed as provided by sections 12 and 13, the patent authorities shall register the payment in the records pursuant to section 7.

§ 15. It shall be the duty of the patentee within three years from the date at which the patent was granted to have the invention worked within the country to an adequate extent. But the patent authorities may allow at the time the patent is granted, or afterwards, should it be requested, and having regard to the character and extent of the invention, a prolongation of the period up to four years. They may also determine in exceptional cases what measures, taken by the patentee, shall be considered to have complied with the conditions of working the invention.\*

If the patentee has within the period prescribed failed to comply with the conditions required for working the invention, or if the working of the invention is subsequently abandoned and not afterward resumed within a year, the patent shall be forfeited.

§ 16. Claims in relation to patents shall not be valid against any person who at the time the application for the patent was filed had worked the patented invention or made extensive preparations for such working.

§ 17. If the King considers it necessary that a patented invention shall be open to the free use of the public, or appropriated on account of the State, the patent shall be no obstacle, the patentee shall however be entitled to full compensation. If the amount of compensation cannot be agreed upon, it shall be fixed by a special jury, appointed by the court, according to the provisions for expropriation of land or homesteads required for public purposes.

§ 18. Should a patent have been obtained contrary to the provisions of sections 1, 2 and 3, any person who considers his rights violated through the patent granted, and also the public prosecutor, when the interest of the public demands such proceedings, may contest before the court the validity of the patent.

\* This point is thus stated in the translation given in the Patent-Office Gazette:

The holder of the patent is required within three years from the date of when the patent was granted to bring into operation his invention to some practical extent within the realm. At the same time the patent authority shall have power to allow at the grant of the patent or afterward, if representations be made

to him, and if the nature of the invention and other causes make it desirable in his opinion) to extend the said period for beginning working to four years, and also in remarkably exceptional cases the patent authority may direct that the holder of the patent be considered as having fulfilled the conditions for the working of the invention.

§ 19. All and every one who alleges that a patentee through negligence in complying with the regulations prescribed by section 15 has forfeited his patent, may proceed before the court.

§ 20. The court before whom it shall be lawful to proceed in cases coming under sections 17, 18 and 19, shall be the Court of the City of Stockholm.

§ 21. If the validity of a patent has been contested, and the contest has been decided, the decision shall through the court, be transmitted to the patent authorities.\*

§ 22. Any person who without the permission of the patentee, except in cases coming under sections 16 and 17, manufactures goods in the country with an intent to sell, or for such manufacture employs a method of which he knows another person to be the lawful patentee; or who sells in the country or imports into the country for sale, goods patented here or made according to methods of manufacturing which he knows to be patented here, which methods he appropriates without permission of the patentee, shall be liable to a fine varying from twenty to two thousand crowns, and he shall be also liable to all the damages. No one but the patentee has the right to take proceedings for these penalties.

Goods unlawfully manufactured or unlawfully imported into the country shall, when the complainant so demands, be delivered up to him against compensation for the value, or against deduction therefor from the damages due to the complainant. Implements exclusively applicable for the unlawful manufacture may, when the complainant requires it, be destroyed to prevent further mischief.

Persons accused under this section (section 22) who continue the offense during the proceedings shall, when legally convicted be called to account for each separate time a warrant has been issued and served.

Money fines according to this section go to the crown. In cases of destitution when the fine cannot be fully paid, imprisonment may be substituted according to the general penal code.†

§ 23. Should any person be accused of interfering with the

\* Section 21 is translated as follows in the Patent-Office Gazette:

The verdict in any action about the validity of the patent, when the plea of invalidity has been approved, shall be sent by the court to the patent authority.

† Section 22 is thus translated in the Patent-Office Gazette.

Any one who shall, except in the cases mentioned in sections 16 and 17, without the permission of the holder of the patent within the realm, offer for sale, manufac-



rights of another person under a patent, and in the course of the proceedings the patent be found invalid, forfeited, or the claim unfounded, the person under prosecution shall be acquitted.

§ 24. When a patent has ceased to be valid, either in consequence of the provisions prescribed by this law, or when the patentee has notified to the patent authorities his intention to give up the patent, it shall be the duty of the patent authorities to cause the same to be canceled in the register, and also to have notices of the cancellation published in the newspapers.

§ 25. With regard to patents granted in a foreign State, where patents granted in this country are treated with corresponding consideration, be it enacted that persons, who within seven months from the day the application was filed in the foreign State, apply for a patent for the same invention in this country, shall with regard to this application in relation to earlier applications for patents, be considered as if the application was filed in this country at the same date as the application was filed in the foreign State.

§ 26. More detailed provisions relating to the character of the documents required when an application is lodged, to the entering of patents, and to the publication of the descriptions of patents, will be issued by the King.

§ 27. The regulations contained in this law shall take effect from the first day of January, 1885, and applications for patents filed prior to that date shall be proceeded with in accordance with the

ture goods or make use of a mode of manufacture, by manufacturing for sale, for which he is aware patent has been obtained, or keep knowingly for sale within the realm or for sale imports into the realm the patented article or articles which he knows to be produced by the patented mode of manufacturing of goods without the permission of the holder of the patent, shall be punished with fines of not less than twenty kroner (about five dollars and fifty-five cents), or more than two thousand kroner (about five hundred and fifty-five dollars), and all costs and damages. At the same time no one but the holder of the patent shall be allowed to prosecute. Unlawfully manufactured goods or unlawfully imported goods shall, if the plaintiff demands it, be delivered up

to him for compensation for the value or in part payment of damages. All tools exclusively applicable for the unlawful manufacture shall, if the plaintiff demands it, be dealt with in such manner that abuse with the same may not take place. Anybody that during the time when he is being proceeded against for infringement under this section continues the same offense, shall, when he is lawfully convicted, be fined separately for each and every time summons for the offense has been made out and served upon him. Fines which are imposed in conformity to this section fall to the crown. If the full value of the fines be not forthcoming, common penal punishment shall be imposed in their place.

provisions hitherto observed, also any court, where the validity of a patent has been contested prior to the said date, may, notwithstanding the provisions of section 20, proceed with the case.

If letters patent have been issued according to prior laws and a patentee desires the same to be exchanged for another, granted pursuant to this law, he may lodge an application for that purpose with the patent authorities, when the provisions stated in this law shall be observed relative to the application, questions as to the novelty of the invention being decided with regard to the period when the former patent was granted. If a second patent is granted the period of its validity shall be considered to commence at the same date as that of the patent previously issued, and the annual fees to be paid shall be according to the date of the first patent.

Let all whom it concerns be obediently ruled by this law. For further confirmation of this Act, we have ratified it with our autograph signature and our royal seal, at the Castle of Stockholm, on the 16th of May, 1884.

(Signed)

OSCAR. [L. S.]

E. VON KRUSENSTJERNA. (Signed.)

*From Carpm. Pat. L. of World, 527.*



**SWITZERLAND.**

According to a report by Mr. Gould, of the British Legation, published November 18, 1873, in 4 *Pat. Off. Gaz.* 523, there were not, at the time of his writing, any special laws in the Swiss Confederation for the encouragement and protection of inventors.

According to dispatches from Frank H. Mason, United States Consul at Basle, dated in 1882, and published September 19, 1882, in 22 *Pat. Off. Gaz.* 947, the Federal Congress at Switzerland had then recently enacted an amendment to the Constitution of the Confederacy, the purpose of which amendment was to enable the Federal Assembly to enact a general patent law ; this prerogative having been previously reserved by the several cantonal governments. By the requirement of the Constitution, such amendment after its adoption by the assembly must be submitted to popular vote for ratification. Such submission took place July 20, 1882 ; when the proposed amendment was defeated. By the Constitutional Law of Switzerland, ten years must elapse before a defeated amendment can be again presented for popular approval.

See also INTERNATIONAL CONVENTION.

---

**TAHITI.**

See FRANCE.

## TASMANIA.

*An Act to Regulate the Granting of Letters Patent for Inventions ; No. XXII. of November 5, 1858.*

[NOTE.\*--The words "registrar of patents" † in italics are alterations made by the Amending Act of 1883.]

*Preamble.* Whereas it is expedient to promote and encourage the discovery and use of new manufactures, and to afford greater facilities for obtaining for a limited period the exclusive enjoyment thereof by means of letters patent : Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

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

"Law officer" shall mean Her Majesty's attorney-general or solicitor-general for the time being of the Colony of Tasmania :

"Invention" shall mean any manner of new manufacture the subject of letters patent and grant of privilege within the meaning of this Act :

"Petition," "declaration," "specification," "appointment to hear application," "warrant," and "letters patent," respectively, shall mean instruments in the form and to the effect in the schedule, subject to such alterations as may, from time to time, be made therein under the powers and provisions of this Act.

2. *Power to grant letters patent for inventions.* It shall be lawful for the Governor, with the advice of the Executive Council, in the name and on behalf of Her Majesty the Queen, to make and issue, in the manner hereinafter mentioned, letters patent and grants of privilege for any term not exceeding fourteen years from the date thereof of the sole working or making of any manner of new manufactures within this colony to the true and first inventor of such manufactures, which others at the time of making such letters

\* Notes printed in this form are from *Gaz.* 771, as act of November 5, 1885, and without the insertion of "Registrar

† This law is published in 82 *Pat. Off.* of Patents."



patent and grants do not use, so as also they be not contrary to law nor mischievous to the community by raising prices of commodities, or hurt of trade, or generally inconvenient.

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

4. *Mode of applying for letters patent for inventions.* Every application for the grant in this colony, under this Act, of letters patent for inventions, shall be made by petition to the Governor, the allegations of which petition shall be supported by a declaration, to be made and subscribed by the applicant, that he is the true and first inventor, and that the article has not to his knowledge or belief been before made or used in this colony; and such petitions and declarations shall be lodged at the office of the *registrar of patents*, and shall be in the form in the schedule, or to the like effect.

5. *On application for letters patent, inventor to deposit specification.—Specification may be amended before patent issues.* The applicant for letters patent for an invention shall, at the time of lodging such petition and declaration as aforesaid, deposit at the said office of the *registrar of patents* an instrument in writing under his hand and seal, hereinafter called a specification, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, which specification shall be mentioned in and annexed to the declaration; and shall also then deposit at the said office a copy of such instrument, and of the drawings accompanying the same, if any; and the day of the deposit of every such specification shall be recorded at the said office and indorsed on such specification, and a certificate thereof given to such applicant or his agent; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act for the term of six months from the day of such deposit, and the applicant shall have during such term the like powers, rights, and privileges as might have been conferred upon him by letters patent for such invention issued under

this Act, and duly sealed as of the day of such deposit; and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any letters patent to be granted for the same; and where letters patent are granted in respect of such invention, such letters patent shall be conditioned to become void if such specification does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed: Provided always, that in case the title of the invention or the said specification is too large or insufficient, it shall be lawful for the law officer during the said term of six months, and before the grant of the letters patent, to allow or require the same to be amended, or another and sufficient specification to be deposited in lieu of such specification as aforesaid; and every such amended or new specification shall have the same force, effect, and operation as if it had been originally deposited in its amended or new state.

6. *Forms and size of specification and copy.* Every such specification shall be in the form in the schedule, or to the like effect, and shall be written upon parchment upon both sides, and every page thereof shall be of the exact size of twenty inches in length by fifteen inches in breadth, leaving a margin of at least one inch and a-half on each side of every such page in order and to the intent that the same may be bound into books for safe custody, but the drawings accompanying such specifications, if any, may be made upon larger sheets of parchment, leaving a margin of the size and for the purpose aforesaid; and every copy of any such specification as aforesaid, and of the drawings accompanying the same, if any, shall in like manner be written upon paper of the size and with the margins aforesaid.

7. *Petition of true inventor not to be affected by protection obtained in fraud of true inventor.* In case of any application for letters patent for an invention, and the obtaining of protection for the same by reason of the deposit of any such specification as aforesaid in fraud of the true and first inventor, any letters patent granted to the true and first inventor of such invention shall not be invalidated by reason of such application or of such protection as aforesaid, or of any use or publication of the invention subsequent to such application and before the expiration of the said term or protection.

8. *Mode of proceeding after deposit of specification.* The applicant, so soon as he thinks fit after the deposit of such specification as



aforesaid, and of the drawings and models accompanying the same, if any, may give notice in writing at the office of the law-officer of his intention to proceed with his application for letters patent for the said invention, stating in such notice the title of the said invention, and the day on which the specification thereof was deposited at the office of the *registrar of patents*, and shall at the time of giving such notice produce the certificate of deposit; and thereupon the law-officer shall deliver to the applicant or his agent an appointment to hear the application in the form in the schedule, or to the like effect; and such applicant or agent shall cause the said appointment to be published once in the Gazette and twice in some newspaper published in Hobart Town and in Launceston; and any person having an interest in opposing the grant of letters patent for the said invention shall be at liberty to leave particulars in writing of their objections to the said application at the office of the law officer within such time, not being less than one month, as the law officer by such appointment may direct.

9. *Law officer to hear application and objections.* At the time and place named in the said appointment the applicant shall produce the Gazette and newspapers containing the same; and the law officer shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and for that purpose shall obtain from the office of the *registrar of patents* the copy of the specification and of the drawings and models accompanying the same, if any; and the law officer may call to his aid such scientific or other person as he may think fit, and may cause such remuneration to be paid to such person as he thinks proper: Provided always, that the applicant, the objectors, and their respective witnesses and evidence, shall be respectively heard, examined, and considered separately and apart from and in the absence of the other and his witnesses and evidence.

10. *Law officer may order by and to whom costs to be paid.* It shall be lawful for the law officer, if he sees fit, by certificate under his hand, to order by and to whom the costs and expenses of any hearing or inquiry upon any objection, or otherwise in relation to the grant of such letters patent, shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid are not paid within four days after the amount thereof is so ascertained, it shall be lawful for such law officer to make an order for the payment of the same; and every such order may be made a rule of the Supreme Court.

**11.** *Law officer may issue warrant for sealing letters patent.* It shall be lawful for the law officer, after such hearing and consideration as he may think fit, to issue a warrant under his hand and seal for the sealing of letters patent for the said invention, and such warrant shall set forth the tenor and effect of the letters patent thereby authorized to be granted, and shall direct the insertion in such letters patent of all such restrictions, conditions, and provisos as the law officer may deem usual and expedient in such grants, or necessary in pursuance of the provisions of this Act; and the said warrant shall be the warrant for the making and sealing of letters patent under this Act according to the tenor of the said warrant; and every such warrant shall be in the form in the schedule or to the like effect.

**12.** *Writ of scire facias.* The writ of scire facias shall lie for the repeal of any letters patent issued under this Act in the like cases as the same would lie in England for the repeal of letters patent which may now be issued under the Great Seal; and in case the grantee does not reside in this colony, it shall be sufficient to file such writ in the proper office of the Supreme Court, and serve notice thereof in writing at the last known residence or place of business of such grantee.

**13.** *Nothing to affect prerogatives of Crown in granting or withholding letters patent.* Nothing herein contained shall extend to abridge or affect the prerogatives of the Crown in relation to the granting or withholding the grant of any letters patent; and it shall be lawful for the Governor in Council to direct such law officer to withhold such warrant as aforesaid, or that any letters patent for the issuing whereof he may have issued a warrant as aforesaid shall not issue, or to direct the insertion in any such letters patent of any restrictions, conditions, or provisos, in addition to or in substitution of any restrictions, conditions, or provisos which would otherwise be inserted therein under this Act; and it shall also be lawful for the Governor in Council to direct the specification in respect of the invention described to be canceled in any case in which letters patent may have been refused to be granted, and thereupon the protection obtained by the deposit of such specification shall cease.

**14.** *Letters patent to be void on non-performance of conditions.* All letters patent for inventions granted under this Act shall be in the form in the schedule or to the like effect, and be made subject to the condition that the same shall be void, and that the powers



and privileges thereby granted shall cease and determine, at the expiration of three years and seven years respectively from the date thereof, unless there is paid before the expiration of the said three and seven years respectively the sum or sums of money in that behalf by this Act required to be paid ; and the colonial treasurer shall issue under his hand a certificate of such payment, and shall indorse a receipt for the same on the letters patent.

**15.** *Registrar of patents to issue letters patent.* The *registrar of patents*, so soon after the receipt by him of the said warrant as he is required by the applicant, shall cause to be prepared letters patent for the invention according to the tenor of the said warrant; and it shall be lawful for the Governor in Council to cause such letters patent to be sealed with the seal of the colony ; and such letters patent shall be made applicable to this colony, and shall be valid and effectual within the same.

**16.** *Letters patent to be issued within certain time.* Save as hereinafter mentioned, no letters patent shall issue on any warrant granted as aforesaid unless application is made to seal such letters patent within three months after the date of the said warrant, nor shall any letters patent be issued or be of any force or effect unless such letters patent are granted during the continuance of the protection conferred under this Act by reason of such deposit as aforesaid.

**17.** *Letters patent may issue after that time in certain cases.* Where the letters patent have not been sealed during the continuance of such protection as aforesaid, and the delay in such sealing has arisen from accident and not from the neglect or willful default of the applicant, it shall be lawful for the Governor, if he thinks fit, to seal such letters patent at any time, not being more than one month after the expiration of such protection ; and where the applicant for letters patent dies during the continuance of such protection as aforesaid, such letters patent may be granted to the executors or administrators of such applicant during the continuance of such protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection ; and the letters patent so granted by virtue of this section shall be of the like force and effect as if they had been granted to such applicant during the continuance of such protection; and in case any letters patent are destroyed or lost, other letters patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the Governor in

Council may direct, be issued under the authority of the warrant in pursuance of which the original letters patent were issued.

18. *Letters patent to bear date of the deposit of specification and to be conclusive as to preliminary steps and proceedings.* Notwithstanding any law to the contrary, all letters patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such specification as aforesaid ; and such letters patent shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date ; and after any letters patent have been issued under this Act it shall not be necessary or material to inquire or ascertain whether such appointment to hear the application as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

19. *Letters patent for foreign inventions not to continue after expiration of foreign patent.* Where upon any application made under this Act letters patent are granted for or in respect of any invention first invented in parts out of this colony, and a patent or the like privilege for the monopoly or exclusive use or exercise of such invention in any part out of this colony is there obtained before the grant of such letters patent in this colony, all rights and privileges under such letters patent shall, notwithstanding any term in such letters patent limited, cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such part out of this colony continues in force, or where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which first expires or is determined of such several patents or like privileges : Provided always, that no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid has been obtained abroad, granted in this colony after the expiration or determination of the term for which such patent or privilege was granted or was in force, shall be of any validity.

20. *Letters patent not to prevent the use of inventions on foreign ships resorting to ports of this colony.* No letters patent for any invention granted in pursuance of this Act shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of this colony, or in any of the waters within the jurisdiction of any of Her Majesty's courts in this colony, where such invention is not



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

**21. Specifications, &c. to be filed.** Every specification deposited at the office of the *registrar of patents* as aforesaid, and the drawings and models accompanying the same, if any, and all such petitions and declarations, as aforesaid, shall forthwith after the grant of the letters patent, or if no letters patents are granted then immediately on the expiration of six months from the time of such deposit, or upon the specification being so canceled as aforesaid, be transferred to, kept, and filed in such office as the Governor in Council from time to time appoints for that purpose ; and the copies of such specifications, and the drawings and models, if any, accompanying the same, shall also be forwarded to and kept at the same office.

**22. Application to disclaim or make alterations.** Any person who obtains letters patent under this Act, or in case such person parts with the whole or any part of his interest by assignment, such person together with the assignee if part only has been assigned, or the assignee alone if the whole has been assigned, may apply to the law officer for leave to enter a disclaimer of any part of either the title of the invention or of the specification, or a memorandum of any alteration in the said title or specification, not being such a disclaimer or such an alteration as extends the exclusive right granted by the said letters patent; and thereupon the law officer shall deliver to such applicant or his agent an appointment to hear such application in the form in the schedule or to the like effect ; and such applicant or his agent shall thereupon cause such disclaimer, stating the reason for the same, or such memorandum of alteration, to be written at the foot of the said appointment, and cause the same respectively to be published in the manner hereinbefore required with respect to the publication of the appointment

to hear an application for letters patent ; and any person having an interest in opposing the said application shall be at liberty to leave particulars in writing of their objections to the same at the office of the law officer, within such time not being less than one month as the law officer, by such appointment, may direct : Provided always, that where such application as aforesaid is for leave to enter a disclaimer of any part of the title of the said invention or a memorandum of any alteration in such title, the law officer may dispense with such appointment and publication, and in that case shall certify in the fiat hereinafter mentioned that he has dispensed with the same.

**23.** *Law officer to hear applications for leave to disclaim.* At the time and place named in such appointment the applicant shall produce the Gazette and newspapers containing the same, and the said disclaimer, or memorandum of alteration at the foot thereof ; and the law officer shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and all such power and authority shall and may be exercised upon that occasion by the law officer as by virtue of the provisions hereinbefore contained can and may be exercised in relation to the hearing and considering an application for letters patent and objections to the same, and shall and may be enforced in like manner.

**24.** *Disclaimers and alterations to be entered and filed.* After such hearing and consideration, or without such hearing and consideration where the said appointment and publication have been dispensed with as aforesaid, such applicant may, by leave of the law officer, to be certified by a fiat under his hand to be written at the foot of the same parchment with the disclaimer or memorandum, enter such disclaimer, stating the reason for the same, or such memorandum of alteration ; and such disclaimer or memorandum of alteration and fiat shall be filed in the office in which specifications are appointed to be filed as aforesaid, with the specification of the invention to which the same relate ; and such disclaimer or memorandum of alteration, being so filed in such office, shall be deemed and taken to be part of the letters patent or the specification, and subject to the several incidents thereof, in all courts whatever, and shall be valid and effectual in favor of any person in whom the rights under the said letters patent may then be or thereafter become legally vested ; and such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the law officer certified as aforesaid shall, except in cases of fraud, be con-



clusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Act, and no objection shall be allowed to be made in any proceeding upon or touching such letters patent, specification, disclaimer or memorandum of alteration, on the ground that the person entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf : Provided always, that no action shall be brought upon any letters patent in which or on the specification of which any disclaimer or memorandum of alteration has been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the law officer certifies in his said fiat that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration ; and that no such disclaimer or memorandum of alteration shall be receivable in evidence in any action or suit, save and except in any proceeding by scire facias pending at the time when such disclaimer or alteration was filed as aforesaid, but in every such last mentioned action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the letters patent have been granted : Provided also, that when any such fiat has been issued under this Act, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act.

*25. Specifications, &c., to be open to inspection.* All specifications, and the drawings and models accompanying the same, if any, and all petitions, declarations, disclaimers, and memoranda of alterations filed in the office appointed for filing specifications under and in pursuance of this Act, and also the copies of the specifications, and drawings and models accompanying the same, if any, kept at the said office, shall be open to the inspection of the public at all reasonable times, subject to such regulations as the Governor in Council may appoint in that behalf.

*26. Mode of obtaining extension of the term.* If any person having obtained letters patent under this Act, or in case such person has parted with his whole or any part of his interest by assignment, if such person, together with the assignee where part only has been assigned, or if the assignee alone where the whole has been assigned, six months before the expiration or other determination of such letters patent, presents to the Governor a petition

for the extension of the term in such letters patent mentioned, and sets forth in such petition that he has been unable to obtain a due remuneration for his expense and labor in perfecting such invention, and that an exclusive right of using and vending the same for some further period to be named in such petition, in addition to the said term, is necessary for his reimbursement and remuneration, it shall be lawful for the Governor in Council to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*27. Mode of obtaining confirmation of invalid patent.* If in any suit or action it is proved or specially found by the verdict of a jury that any person who has obtained letters patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented or used the same or some part thereof in this colony, before the date of such letters patent, or if such patentee or his assigns discover that some other person had, unknown to such patentee, invented or used the same or some part thereof in this colony before the date of such letters patent, such patentee or his assigns may petition the Governor to confirm the said letters patent, or to grant new letters patent, and it shall be lawful for the Governor in Council to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*28. Appointment of commissioners.* For the purpose of considering any such petition as aforesaid, it shall be lawful for the Governor in Council, if he thinks fit, to issue and direct a commission in the name of Her Majesty to five or more persons, of whom the judges of the Supreme Court shall be two, reciting such petition and requiring or authorizing such persons or any three of them, of whom one of the said judges shall be one, to meet at some time, not being less than two months from the publication of the said commission in the Gazette, and at some place to be fixed in the said petition, and to report to the Governor, in case the petitioner prays for an extension of the term in the letters patent mentioned, whether any, and if any what, further extension of the said term should be granted, or in case the petitioner prays for a confirmation of the letters patent or for a grant of new letters patent, whether such confirmation or grant should be made, and upon what, if any, conditions the prayer of any such petition should be complied with.

*29. Notice of commission to be published and caveats entered.*



Two months at least before the time named in the commission for the consideration of any such petition as aforesaid, the petitioner shall cause an advertisement of the contents of the said commission, in the form in the schedule or to the like effect, to be published in the same manner as is hereinbefore required with respect to the publication of the appointment to hear an application for letters patent; and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the *registrar of patents*, at any time not being less than one week before the time named in the commission for the execution thereof.

**30.** *Commissioners to hear all parties and report.* At the time and place fixed in the commission for that purpose the commissioners, shall meet and proceed to consider such petition; and the petitioner shall be heard by his counsel and witnesses to prove his case as stated in such petition, and the publication of the said last mentioned advertisement as required by this Act; and the persons entering caveats shall likewise be heard by their counsel and witnesses; and all such witnesses shall be examined upon oath, which oath any one of the commissioners is hereby authorized and required to administer; and the proceedings before the said commissioners may be adjourned from time to time as may be necessary.

**31.** *Extension of term may be granted.—Invalid patents may be confirmed.—Parties to actions to have notice of petitions.* If upon hearing and inquiry of the whole matter the commissioners, in case the petitioner prays for an extension as aforesaid, are of opinion, and so report, that a further extension of the said term should be granted, it shall be lawful for the Governor in Council, if he thinks fit, to grant to the petitioner new letters patent for the said invention for any term not exceeding fourteen years after the expiration of the term of the first letters patent, anything hereinbefore contained to the contrary in anywise notwithstanding; and if the commissioners, in case the petitioner prays for a confirmation or grant as aforesaid, upon examining the said matter, and being satisfied that such patentee as aforesaid believed himself to be the first and original inventor, and that such invention, or part thereof, had not been publicly and generally used in this colony before the date of the first letters patent, report their opinion that the prayer of such petition ought to be complied with, the Governor in Council may, if he thinks fit, grant such prayer; and the said letters patent shall be available at law and in equity to give to such peti-

tioner the sole right of using, making, and vending such invention as against all persons whatsoever, anything hereinbefore contained to the contrary notwithstanding : Provided, that any person, party to any former suit or action touching any such first letters patent as in this section are mentioned, shall be entitled to have notice in writing of the time and place fixed as aforesaid for the first meeting of the said commissioners to consider the said petition ; and that after any such report has been made it shall not be material or necessary to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner hereinbefore directed in that behalf.

**32.** *Conditions may be inserted in new patents.—Date of new patents.* It shall be lawful for the Governor in Council to insert in any such new letters patent as in the preceding section are mentioned any restrictions, conditions, and provisions which may be recommended by the commissioners in their report, or which to the Governor in Council may seem proper ; and such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the first letters patent.

**33.** *Indexes to specifications, &c.* The Governor may cause indexes to all specifications, declarations, disclaimers, and memoranda of alterations, deposited and filed as aforesaid, to be prepared in such form as may be thought fit ; and such indexes shall be open to the inspection of the public, subject to the regulations to be made by the Governor.

**34.** *Register of patents to be kept.* There shall be kept at the office appointed for filing specifications as aforesaid a book, to be called the “Register of Patents,” wherein shall be entered and recorded in chronological order all letters patents granted under this Act,—the deposit and filing of specifications, disclaimers and memoranda of alterations filed in respect of such letters patent,—all amendments in such letters patent and specifications,—all confirmations and extensions of such letters patent, the expiry, determination, vacating, or canceling of such letters patent, with the dates thereof respectively,—and all such other matters and things affecting the validity of such letters patent as the Governor in Council may direct ; and such register or a copy thereof, shall be open at all convenient times to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

**35.** *Register of Proprietors to be kept.* There shall be kept at



the same office a book, entitled the "Register of Proprietors," wherein shall be entered, in such manner as the Governor directs, the assignment of any letters patent, or of any share or interest therein,—any license under letters patent, and the district to which such license relates, with the name or names of any person having any share or interest in such letters patent or license,—the date of his or their acquiring such letters patent, share, and interest,—and any other matter or thing relating to or affecting the proprietorship in such letters patent or license; and a copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be *prima facie* proof of the assignment of such letters patent, or share or interest therein, or of the license or proprietorship, as therein expressed; and such register or a copy thereof shall be open to public inspection, subject to such regulations as the Governor may make: Provided always, that until such entry has been made, the grantee of the letters patent shall be deemed and taken to be the sole and exclusive proprietor of such letters patent, and of all the licenses and privileges thereby given and granted.

**36.** *More than twelve persons may be interested in patent.* It shall be lawful for a larger number than twelve persons to have a legal and beneficial interest in letters patent granted under this Act.

**37.** *Certified copies to be evidence.* The Governor may cause a seal to be made for the purposes hereinafter mentioned; and all courts, judges, and other persons whomsoever shall take notice of such seal, and receive impressions thereof in evidence in like manner as impressions of the seal of the colony are received in evidence; and copies or extracts, certified and sealed with such seal, of letters patent, specifications, disclaimers, memoranda of alterations, and all other documents or books recorded, filed, and kept in pursuance of this Act, shall be received in evidence in all proceedings relating to letters patent for inventions in all courts, and by all judges and other persons whomsoever.

**38.** *Falsification or forgery of entries.* If any person willfully makes, or causes to be made, any false entry in the said Register of Proprietors, or willfully makes or forges, or causes to be made or forged, any writing falsely purporting to be a copy of any entry in the said book, or produces or tenders, or causes or suffers to be produced or tendered in evidence, any such writing knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall

be liable to be imprisoned, with or without hard labor, for any term not exceeding two years, or to be fined and imprisoned at the discretion of the court.

39. *Entries may be expunged from Register of Proprietors.* If any person deems himself aggrieved by any entry made under color of this Act, in the said Register of Proprietors, it shall be lawful for such person to apply by motion to the Supreme Court in term time, or by summons to a judge of such court in vacation, for an order that such entry may be expunged, vacated, or varied; and upon any such application, such court or judge respectively may make such order for expunging, vacating, or varying such entry, and as to the costs of such application, as to such court or judge may seem fit; and the officer having the care and custody of such Register, on the production to him of any such order, shall expunge, vacate, or vary the said entry according to the requisition of such order.

40. *Penalty for unauthorized use of word "patent."* If any person writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks upon anything made, used, or sold by him, for the sole making or selling of which he has not obtained letters patent, the name or any imitation of the name of any other person who has obtained letters patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns, or if any person upon such thing, not having been purchased from the patentee, or some person who purchased it from or under such patentee, or not having had the license or consent in writing of such patentee or his assigns, writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks the word "patent," the words "letters patent," or the words "by the Queen's patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, he shall for every such offense forfeit and pay the sum of one hundred pounds, one half to Her Majesty, and the other half with full costs of suit to any person who sues for the said penalty by action of debt: Provided always, that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "patent" upon anything made for the sole making or vending of such letters patent before obtained have expired or been otherwise determined.

41. *In actions for infringement, particulars of breaches and objections to be delivered.* In any action for the infringement of letters patent the plaintiff shall deliver with his declaration particu-



lars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his pleas, and the prosecutor in any proceeding by scire facias to repeal letters patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declarations in the proceeding by scire facias respectively ; and at the trial or proceeding by scire facias no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such letters patent which are not contained in the particulars delivered as aforesaid : Provided always, that the place at or in which and in what manner the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars : Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid, upon such terms as to such judge seems fit. Provided also, that at the trial of any proceeding by scire facias to repeal letters patent the defendant shall be entitled to begin and to give evidence in support of such letters patent ; and in case evidence is adduced on the part of the prosecutor impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

42. *Court may grant injunction in case of infringement.* In any action for the infringement of letters patent, it shall be lawful for the court, if the court is then sitting, or if the court is not sitting then for a judge, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such court or judge may seem fit.

43. *Particulars to be regarded in taxing costs.* In taxing the costs in any action for infringing letters patent, regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular unless certified by the judge before whom the trial was had to have been proved by such plaintiff or defendant respectively, without regard to the general costs of the cause ; and it shall be lawful for the judge before whom any such action is tried to certify on the record that the validity of the letters patent in the declaration mentioned came in question : and the record with such

certificate being given in evidence in any suit or action for infringing the said letters patent, or in any proceeding by scire facias to repeal the letters patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by scire facias, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, taxed as between attorney and client, unless the judge making such decree or order, or the judge trying such action or proceeding, certifies that the plaintiff or defendant respectively ought not to have such full costs.

44. *Fees on obtaining patents.* There shall be paid in respect of letters patent applied for or issued under or in pursuance of this Act, the depositing of specifications, the filing of disclaimers and memoranda of alterations, certificates, entries, and searches, and other matters and things respectively mentioned in the schedule, such fees as are enumerated in the schedule; and such of the said fees as are hereby made payable to the law officer shall and may be received and retained by such law officer for his own proper use; and the residue of the said fees shall form part of the general revenue, and shall be forthwith paid into the colonial treasury by the persons receiving the same in pursuance of this Act.

45. *English patents.* All letters patent which are granted in the United Kingdom of Great Britain and Ireland after the 30th day of June, 1859, for any invention, shall, so far as the same relate to this colony, be utterly void and of none effect, and in nowise be put in execution; but all such letters patent granted in the said United Kingdom on or before that day, and which if this Act had not been passed would have been valid in this colony, shall be deemed and taken to have been granted under this Act, and may be dealt with accordingly.

46. *Forms in schedule may be varied.* The Governor in Council may, if he thinks fit, vary and alter the several forms in the schedule as occasion may require.

47. *Short title.* In referring to this Act it shall be sufficient to use the expression the Patent Law Act.



SCHEDULE.

---

FORMS.

---

*Petition.*

No.

To His Excellency the Governor of the Colony of Tasmania.

The humble petition of [*here insert name and address of petitioner,*] for, &c.  
Showeth,—

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

Your petitioner therefore humbly prays that Your Excellency will be pleased to grant unto him, his executors, administrators, and assigns, letters patent for the term of fourteen years, pursuant to the provisions of the Patent Law Act.

And your petitioner will ever pray, &c.

---

*Declaration.*

No.

I, *A. B.*, of \_\_\_\_\_, in Tasmania, do hereby solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as in petition*], which invention I believe will be of great utility; that I am the true and first inventor thereof; and that the same has not been before made or used in this colony by any other person or persons, to the best of my knowledge and belief; and that the instrument in writing under my hand and seal, hereunto annexed, particularly describes and ascertains the nature of the said invention, and the manner in which the same is to be performed; all which matters I conscientiously believe to be true; and I make this declaration under the provisions of the Act of Council, entitled *An Act for the abolition of extra-judicial and unnecessary Oaths*.

*A. B.*

Taken before me, this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_  
C. D.,  
*Justice of the Peace.*

---

*Specification.*

No.

To all to whom these presents come,

I, *A. B.*, of \_\_\_\_\_, in Tasmania, Engineer, send greeting:—

Whereas I am desirous of obtaining letters patent for securing unto me Her Majesty's special license that I, my executors, administrators, and assigns, or such others as I or they should at any time agree with, and no others, should and lawfully might from time to time, and at all times during the term of fourteen years, to be computed from the day on which this instrument is left at the office of the *registrar of patents* at Hobart Town, make, use, exercise, and vend within the Colony of Tasmania, an invention for

[insert the title of the invention] ; and in order to obtain the said letters patent, I must by an instrument in writing under my hand and seal particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed : Now know ye, that I, the said *A. B.*, do hereby declare the nature of the said invention, and the manner in which the same is to be performed, to be particularly described and ascertained in and by the following statement ; that is to say [*describe the invention*].

In witness whereof I, the said *A. B.*, have hereunto set my hand and seal this day of \_\_\_\_\_, 18 . *A. B.* (L. S.)

*Appointment to hear Application for Letters Patent.*

Patent for [*insert the title as in specification*]. This is to notify that *A. B.*, of \_\_\_\_\_, in Tasmania, Engineer, did on the \_\_\_\_\_ day of \_\_\_\_\_ instant [*or last*] deposit at the office of the *registrar of patents* at Hobart Town a specification or instrument in writing under his hand and seal particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, and that by reason of such deposit the said invention is protected and secured to him exclusively for the term of six months then next ensuing : And I do further notify that the said *A. B.* has given notice in writing at my office of his intention to proceed with his application for letters patent for the said invention, and that I have appointed [*Thursday*] the \_\_\_\_\_ day of \_\_\_\_\_ next, at \_\_\_\_\_ o'clock in the noon, at my office, to hear and consider the said application, and all objections thereto ; and I do hereby require all persons having an interest in opposing the grant of such said letters patent, to leave before that day at my office at Hobart Town particulars in writing of their objections to the said application, otherwise they will be precluded from urging the same.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 18 .  
*F. S.*, [*Attorney*] *General*,  
 \_\_\_\_\_  
*Macquarie Street, Hobart Town.*

*Warrant.*

I have heard and considered the application of *A. B.*, of \_\_\_\_\_, in Tasmania, Engineer, for 'letters patent for [*insert the title as in the specification*], and [*also all objections to the same, if any*], and having perused the specification and the usual and necessary advertisements, am of opinion that as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, letters patent may be issued to the said *A. B.*, in the form contained in the schedule to the Patent Law Act ; [with the following additional clauses ; that is to say, *here set them out if any*].

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 18 .  
*F. S.* (L. S.),  
 \_\_\_\_\_  
 [*Attorney*] *General.*

*Letters Patent.*

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

To all whom these presents come, greeting :—

Whereas *A. B.*, of \_\_\_\_\_, in \_\_\_\_\_, Tasmania, Engineer, has represented



that he is desirous of obtaining letters patent for securing unto him our special license that he, his executors, administrators, and assigns, and such others as he or they should agree with, and no others, should and lawfully might, make, use, exercise, and vend within our Colony of Tasmania an invention for [*insert the title of the invention*]; and by an instrument in writing under his hand and seal deposited in the office of the *registrar of patents*, the said *A. B.* has particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed.

And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said *A. B.* the privileges hereinafter mentioned: Know ye, therefore, that we, of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents, for us, our heirs, and successors, do give and grant under the said *A. B.*, his executors, administrators, and assigns, our especial license, full power, sole privilege, and authority that he the said *A. B.*, his executors, administrators, and assigns, and every of them, by himself and themselves, and his or their deputy or deputies, servants or agents, or such others as he or they at any time agree with, and no others, during the term herein expressed, shall and lawfully may, make, use, exercise, and vend his said invention within our said colony, in such manner as to him, his executors, administrators, and assigns, or any of them, seems meet, and that he, his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention during the said term; to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages unto and by the said *A. B.*, his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years now next ensuing: And to the end that the said *A. B.*, his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit, and the sole use and exercise, of the said invention according to our gracious intention, we do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other our subjects whatsoever of what estate, quality, degree, name, or condition soever they be, within our said colony, that neither they nor any of them at any time during the said term, either directly or indirectly, do make, use, or put in practice the said invention or any part of the same so attained unto by the said *A. B.* as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor make or cause to be made any addition thereunto or subtraction from the same whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the consent, license, or agreement of the said *A. B.*, his executors, administrators, or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this our Royal command, and further to be answerable to the said *A. B.*, his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned: Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted it appears that this our grant is contrary to law or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said *A. B.* is not the true and first inventor thereof within this colony, these our letters patent shall forthwith cease, determine,

and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided also, that these our letters patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said *A. B.*, his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which has heretofore been found out or invented by any other of our subjects whatsoever and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use, exercise, and benefit thereof, within our said colony: It being our will and pleasure that the said *A. B.*, his executors, administrators, and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions by them invented and found out according to the true intent and meaning of the same respective letters patent, and of these presents: Provided likewise nevertheless, and these our letters patent are upon this express condition, that if the said instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said *A. B.*, his executors, administrators, and assigns, shall not pay at the office of the colonial treasurer of our said colony the sum of fifteen pounds within three years next after the date of these presents, and the sum of twenty pounds within seven years next after such date, and also if the said *A. B.*, his executors, administrators, or assigns shall not supply or cause to be supplied for our service all such articles of the said invention as he or they are required to supply by the persons administering the department of our service for the use of which the same are required, in such manner, at such times and at and upon such reasonable prices and terms as are settled for that purpose by the said persons requiring the same, that then and in any of the said cases these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted: And lastly we do by these presents, for us, our heirs, and successors, grant unto the said *A. B.*, his executors, administrators, and assigns, that these our letters patent shall be in and by all things good, firm, valid, sufficient and effectual in the law according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said *A. B.*, his executors, administrators, and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors, in our said colony, and amongst all and every the subjects of us, our heirs and successors, whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging. In witness whereof we have caused these our letters patent to be made patent, and to be sealed and bear date as of the            day of            , 18 .

---

*Appointment to hear Application for Leave to enter Disclaimer.*

Patent for [*insert the title*]. This is to notify that C. D., of            , in Tasmania, has applied to me for leave to enter a disclaimer of part of [*or, a memorandum of*



alteration in] the title of the said invention [or as the case may be] the particulars whereof are stated below; I do therefore appoint [*Thursday*], the            day of next, at            o'clock in the            noon, at my office, to hear and consider the said application, and all objections to the same; and I do hereby require all persons having an interest in opposing the said application, to leave before that day, at my office at Hobart Town, particulars in writing of their objections to the same; otherwise they will be precluded from urging such objections.

Given under my hand, this            day of            , 18 .

*F. S. [Attorney] General,  
Macquarie Street, Hobart Town.*

The following is the disclaimer [or, as the case may be] which I desire to make in, &c. [*The applicant must here set forth what he wishes to enter, and the reasons for the disclaimer, and sign it.*]

*Notice of Appointment of Commission.*

Patent for [*insert the title*]. Notice is hereby given that I have presented a petition to His Excellency the Governor, praying for the confirmation of [or, extension of the term in, or, as the case may be] the said patent; and that a commission has issued authorizing and requiring certain commissioners therein named to consider and report upon the subject to His Excellency the Governor, which said commissioners will meet for that purpose on the            day of            next, at            o'clock in the            noon at            : All persons objecting to the said confirmation [or extension, or, as the case may be] must enter a caveat against the same at the office of the registrar of patents, Hobart Town, not less than one week before the time named for the said meeting, otherwise they will be precluded from objecting to the said petition.

Dated this            day of            , 18 .

*A. B.*

FEES.

*Fees on obtaining Patents.*

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

From *Carpm. Pat. L. of World*, 535.

•See also, AUSTRALASIA.

## TRINIDAD.

*Ordinance No. 25, of (September 2), 1867.*

An Ordinance enacted by the Governor of Trinidad, with the advice and consent of the Legislative Council thereof, for amending the Law for granting Patents for Invention.

Be it it enacted by his Excellency the Governor, with the advice and consent of the Legislative Council, as follows :—

I. *On delivery of declaration and specification, the registrar-general to issue certificate to inventor.* The registrar-general, on an application by or on behalf of any person claiming to be the inventor within this colony of any invention, and on the delivery to such registrar-general of a declaration in writing according to the form in the schedule to this Ordinance, together with a specification signed by the applicant or his agent, particularly describing and ascertaining the nature of the invention and in what manner the same is to be performed, shall deliver to such person or his agent a certificate according to the form in the schedule to this ordinance, and a copy of such certificate shall be inserted by the registrar-general in the Royal Gazette.

II. *Specification may be open or if closed, opened in six months.* Any specification of an invention may be delivered to the registrar-general, open or closed, in an envelope, with a note of the name of the invention to which the specification refers indorsed on such envelope, and signed by the applicant or his agent, and where any such specification shall be so delivered closed, the registrar-general shall, on the expiration of six calendar months from the day of granting the certificate, or at any earlier day, on the request of the applicant, his executors, administrators, or assigns, break the seal of such envelope and enregister the specification.

III. *Inventions to be duly recorded, and specifications numbered.* The registrar-general shall number with a distinguishing number, and shall, in a book to be kept by him for that purpose, to be called The Book of Inventions, enter and record in its chronological order every such invention, and the christian and surnames of the inventor, and the day of the date of the certificate of such invention, and shall cause every 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.

IV. *Certificate to vest exclusive right for fourteen years.* Every certificate granted under this ordinance shall vest in the applicant, his executors, administrators, or assigns, the sole right and benefit of using within this island the invention mentioned in such certificate for and during the space of fourteen years next after the granting of such certificate.

V. *Disclaimer may be entered.* Any person who, as grantee, assignee, or otherwise, shall obtain a certificate under this ordinance, may, if he think fit, enter with the registrar-general a disclaimer or disclaimers, of any part or parts of either the title of the invention or of the specification, stating the reason for such disclaimer, or may enter a memorandum of any alteration in such title of specification, not being such disclaimer or such alteration as shall extend the exclusive right vested by such certificate; and such disclaimer or memorandum of alteration, being filed by the said registrar-general, shall be deemed and taken to be part of such specification in all courts whatever; provided always, that no action shall be brought on any certificate in any case where any disclaimer or memorandum shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration.

VI. *Where the invention assigned, who may enter disclaimer.* In case any person obtaining such certificate shall part with his or their whole or their part or any part of his or their interest by assignment to any other person or persons, it shall be lawful for the person obtaining such certificate, together with such assignee or assignees, if part only hath been assigned, and for the assignee or assignees, if the whole hath been assigned, to enter a disclaimer and memorandum of alteration under the powers of this ordinance; and such disclaimer and memorandum of such alteration, having been so entered and registered as in this ordinance mentioned, shall be valid and effectual in favor of any person or persons in whom the rights under the said certificate may then be or thereafter become legally vested; and no objection shall be made in any proceeding whatsoever on the ground that the party making such disclaimer or memorandum of such alteration had not sufficient authority in that behalf.

VII. *Disclaimer recorded, and note thereof indorsed on specification.* The registrar-general shall cause every such disclaimer and memorandum to be entered in a book to be kept by him for

that purpose, and to be marked with the distinguishing number of the invention and specification to which such disclaimer or memorandum shall refer, and shall indorse on the declaration and specification to which such disclaimer or memorandum shall refer a memorandum in writing of the date and entry of every such memorandum and disclaimer.

VIII. *Penalties for infringement of exclusive right.* If any person shall, during the said term of fourteen years from the granting of a certificate for an invention, directly or indirectly make, use, or put in practice the said invention, or any part of the same, or in anywise counterfeit or imitate the same, or make or cause to be made any addition or subtraction from the same, whereby to pretend himself the inventor thereof, without the license in writing of the inventor, his executors, administrators, or assigns, the inventor, his executors, administrators, or assigns, shall have and be entitled to such and the like remedies against such persons, both in law and in equity, as the grantee of any letters patent for any invention would be entitled to in the like case by the law of England.

IX. *Exclusive right to cease in certain cases.* Provided always, that if at any time during the said fourteen years, it shall be made to appear that the said invention is not a new invention as to the public use and exercise thereof in this colony, or that the said invention is prejudicial or inconvenient to the subjects of our Lady the Queen in general, then all privileges and advantages hereby granted to the inventor, his executors, administrators, and assigns, in respect of such invention, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary in anywise notwithstanding.

X. *Fees to be paid.* There shall be paid to the registrar-general the several fees mentioned in the schedule to this ordinance, and such fees shall be paid over monthly by the registrar-general to the receiver-general for the use of the colony.

---

*Form of Declaration.*

I            of            declare that I am in possession of an invention for  
(state the title of the invention), which invention I believe will be of great public utility, and that the same is not in use by any person or persons in the Island of Trinidad to the best of my knowledge and belief, and that the instrument in writing under my hand herewith delivered particularly describes and ascertains the nature of the said invention and the manner in which the same is to be performed.

Signature.



*Form of Certificate.*

I, J. B., Registrar General of the Island of Trinidad, do hereby certify that on the  
 day of                    has been delivered to me by (or on behalf of                    *the name*  
*and place of abode of the inventor*), a declaration in writing, signed by the said  
 of a certain invention whereof the said                    claims to be the inventor in this island,  
 being an invention (*state the name of the invention*), together with a specification (*open*  
*or under seal, as the case may be,*) describing the nature of the said invention, and the  
 manner in which the same is to be performed.

In witness whereof, I have hereunto put my hand at Port of Spain, in the Island  
 of Trinidad; this                    day of                    in the year one thousand eight hundred and                    .

*Fees to be paid to the Registrar-General.*

	£	s.	d.
On leaving any declaration of invention and specification.....	10	0	0
Every disclaimer.....	2	0	0
Publication in the Royal Gazette of any declaration, disclaimer, or memo- randum of alteration.....	0	10	0
Every search or inspection of the Book of Inventions.....	0	1	0
Every inspection of any specification.....	0	2	0
For every copy of any specification, for every 120 words.....	0	1	0

From *Carp. Pat. L. of World*, 561.

---

**TUNIS.**

See FRANCE.

See also INTERNATIONAL CONVENTION.

## TURKEY.

*Law of the 20th Day of the Month of Rabia I., A. H. 1297  
(February 18, 1879 \*).*

## SECTION I.

## GENERAL PROVISIONS.

ARTICLE 1. Every new discovery, invention, or improvement in any branch of industry, confers on its author, under the conditions and for the time hereinafter mentioned, the right to work the said discovery, invention, or improvement for his own benefit. This right is confirmed by a *berat* (patent) delivered by the government.

ART. 2. The following shall be considered as new inventions :

The invention of new industrial products.

The invention of new means, or a new application of known means, for obtaining an industrial result or product.

ART. 3. The following are not patentable :—

1. Pharmaceutical compounds and medicines of all kinds.

2. Devices or combinations relating to banking or finance.

ART. 4. The duration of patents delivered in accordance with article 1 will be five, ten, or fifteen years. Every patent shall be subject to the payment of a fixed tax, as follows :—

Ten Turkish pounds for a patent for five years.

Twenty Turkish pounds for a patent for ten years.

Thirty Turkish pounds for a patent for fifteen years.

This tax shall be paid in installments of two Turkish pounds, payable at the commencement of each year, under penalty of forfeiture if the patentee omits the payment of any annuity.

## SECTION II.

## THE FORMALITIES IN RELATION TO THE DELIVERY OF PATENTS.

## CHAPTER I.

## APPLICATIONS FOR PATENTS.

ART. 5. Whoever shall desire to obtain a patent shall deposit, in

\* A translation of this law differing very slightly from that presented in the text may be found in 20 Pat. Off. Gaz. 2. The date of the law as stated in the text is that given in Carpmaels' edition. The Patent Office Gazette, and the Encyclopædia Brit. assign March 2, 1880, as the date.



a sealed envelope, if in Constantinople, at the ministry of commerce and agriculture, and if in the provinces at the office of the provincial government, or, if he prefers it, at the said ministry :—

(1.) His application for a patent.

(2.) A specification of the discovery, invention, or appliance forming the subject of the application.

(3.) The drawings or samples which may be necessary to the understanding of the description.

(4.) A memorandum of the papers deposited.

If the applicant complies with these formalities in a place in which he has no domicile, he must elect domicile there.

ART. 6. The application shall be limited to a single main subject with its details. It shall mention the duration which the applicant wishes to assign to his patent, within the limits fixed by article 4, and shall contain neither restrictions, conditions, nor reservations. It shall have a title giving a short and precise designation of the object of the invention. The application and the specification shall be written without erasures, alterations, or interlineations. The drawings shall be made in ink, to a metrical scale. A duplicate of the specification and drawings shall accompany the application. All the papers shall be signed by the applicant or by his attorney, whose power shall be annexed to the application.

ART. 7. No deposit will be accepted unless accompanied by a receipt showing that the applicant has paid to the authorities, to whom he presented his application, the sum of two Turkish pounds on account of the tax on the patent. An official memorandum shall be drawn up, in Constantinople, at the ministry of commerce and agriculture, or in the provinces at the office of the provincial government. This memorandum will authenticate each deposit, showing the date of the remission of the application papers, and shall be signed by the applicant. A copy of the said memorandum will be sent to the depositor on prepayment of postage.

ART. 8. The term of the patent will begin from the date of the deposit prescribed in article 5.

## CHAPTER II.

### THE DELIVERY OF PATENTS.

ART. 9. After the application has been filed and the deposits made in the province, in accordance with article 5, the governor-general will transmit the application to the ministry of commerce

and agriculture within five days, accompanied by a letter, a certified copy of the memorandum, the receipt for the tax, the power of attorney (if there be one), and the memorandum of the pieces deposited, all under the seal of the applicant. If the applicant is at Constantinople, these formalities must be complied with at the ministry of commerce and agriculture.

ART. 10. The papers sent from the provinces and those remitted directly to the ministry of commerce and agriculture will be filed in the order of their reception on a special file, and the patent applied for will be delivered.

ART. 11. Patents applied for in due form shall be delivered without previous examination, at the risk and peril of the applicant and without guarantee either of the reality, novelty, or merit of the invention, or of the accuracy or exactness of the specification.

ART. 12. In case of the invention 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 masters of artillery and to the imperial admiralty. A patent will be given for any invention which is shown after examination to be useful and advantageous to the State, and will be bought, in conformity with a contract with the inventor, and paid for, in proportion to its usefulness, by that department of the army and navy which the invention chiefly concerns. A medal of invention is also conferred upon the inventor in accordance with article 14. Inventions not found useful or advantageous will be rejected.

ART. 13. The *berat* (patent) is the official document confirming the regularity of the application, and is delivered to the applicant. It will bear at the top the imperial arms, and at the bottom the seal of the ministry of commerce and agriculture. This document will be accompanied by a certified copy of the specification and drawings mentioned in article 6. Subsequent copies of the patent asked for by the patentee or parties interested require the payment of a fee of one Turkish pound for expenses, the cost of the drawings, if any, being borne by the applicant.

ART. 14. Gold, silver, and copper medals will be ordered. Ottoman subjects and foreigners who shall invent articles useful to the State and to the country will receive as a compensation for and according to the importance of their inventions, gold, silver, or copper medals. They will be required to use the design of the medal as a trade-mark for the object invented.

ART. 15. The first copy of a patent is delivered without charge.



ART. 16. Every application not in conformity with the formalities prescribed by numbers 2 and 3 by article 6 will be rejected. Half of the sum prepaid will remain in the treasury, but it will be placed on account of the sum payable by the applicant if he repeats his application within three months, counting from the date of the notification of the rejection of the application.

ART. 17. When an application is rejected in accordance with article 3 the tax prepaid will be returned.

ART. 18. A list of patents issued by the ministry of commerce and agriculture with a description of the inventions will be published every six months. This publication will be in the usual form of the proclamations of the laws of the Empire.

ART. 19. The duration of patents can be prolonged only by special law.

### CHAPTER III.

#### CERTIFICATES OF ADDITION.

ART. 20. Patentees or parties interested will have the right during the whole term of the patent to make changes, improvements, or additions in the invention by complying with the formalities laid down in articles 5, 6, and 7. These changes, improvements, or additions will be confirmed by certificates, which will have from the date of their delivery, the same effect as the original patent, and will expire with them. Every application for a certificate of addition requires the payment of one Turkish pound. A certificate of addition taken by any person interested inures to the benefit of all the others.

ART. 21. Every patentee who, instead of a certificate of addition, wishes to take out a new patent for a change, improvement, or addition, shall comply with the formalities prescribed in articles 5, 6, and 7, and pay the fees mentioned in article 4.

ART. 22. Those who have transferred their patents to others lose the right of applying for a certificate of addition according to article 20.

ART. 23. No one besides the patentee or persons interested through him may, during one year from the date of the patent, apply for a patent for a change, improvement, or addition to the invention which was the subject of the original patent. Nevertheless, if such an application is received in the course of the aforesaid year, the application and the papers annexed will remain deposited under seal of the ministry of commerce and agriculture. When

the year has expired the seal will be broken and the patent issued. In all cases the original patentee will have the preference in the matter of changes, improvements, or additions for which he himself shall during the year apply for a certificate of addition or a patent.

ART. 24. Any one having taken out a patent for a discovery, invention, or appliance connected with the object of another patent shall have no right to work the invention already patented, and, reciprocally, the owner of the original patent shall not have the right to work the object of the new patent.

#### CHAPTER IV.

##### ASSIGNMENT AND TRANSFER OF PATENTS.

ART. 25. The right of ownership of a patent for an invention is divisible. Every patentee may assign the whole or a part of his patent. The assignment, total or partial, of a patent, either gratuitously or for a consideration, can only be made by notarial deed, or by an Act passed before a civil tribunal of first instance in localities where there are no notaries. This formality requires the payment of all the fees mentioned in article 4. No assignment will be valid until registered at Constantinople, at the ministry of commerce and agriculture, or in the provinces at the office of the local authorities of the place in which the Act was passed. The entry of assignments or transfers shall be accomplished by the deposit of a certified copy of the act of assignment or transfer. A copy of each official entry made in the provinces shall be sent by the local authorities to the ministry of commerce and agriculture within five days from the date of the official report. This copy will be accompanied by an extract of the Act aforementioned.

ART. 26. Every patentee may, in accordance with a contract, assign in part the right to work his patent for the manufacture or preparation of the article invented in any quantities, and for any time agreed upon. The owner of a patent for any object dangerous to the community can only work it with caution and under surveillance of the government. The assignee of such a patent is subjected to the same conditions.

ART. 27. The ministry of commerce and agriculture will keep a register of the assignments and transfers of all patents. Every six months an official publication will announce in a form laid down in article 18, the assignments and transfers that have occurred during the half-year just expired.



ART. 28. Licensees under a patent and all who have acquired from a patentee or his agents the right to a patent shall have the full benefit of certificates of addition issued to the original patentee or to persons interested through him. In the same way the patentee and persons interested through him will profit by a certificate of addition issued to the licensees. All those who have the right to profit by a certificate of addition may obtain a copy of it from the ministry of commerce and agriculture on payment of a fee of one Turkish pound.

#### CHAPTER V.

#### INSPECTION AND PUBLICATION OF THE SPECIFICATIONS AND DRAWINGS OF PATENTS.

ART. 29. The specifications, drawings, samples, and models of patents issued will remain until the expiration of the patents deposited at the ministry of commerce and agriculture, where they may be inspected without expense by any applicant. Any one may obtain, at his own expense, copies of the said specifications and drawings.

ART. 30. After payment of the second annual fee the specifications and drawings will be published either entire or by extract only. Besides, there will be published every year a catalogue of the patents issued during the preceding year.

ART. 31. The specifications and drawings and the catalogue, when published, will be deposited at Constantinople, at the ministry of commerce and agriculture, and in the provinces, at the office of the secretary of the administrative council, where they can be consulted without charge.

ART. 32. At the expiration of the patents the original specifications and drawings will be deposited at the conservatory of the school of arts and trades at Constantinople.

#### SECTION III.

#### RIGHTS OF FOREIGNERS.

ART. 33. Foreigners may obtain patents in Turkey.

ART. 34. The formalities and conditions prescribed by the present law are applicable, without exception, to foreigners applying for patents.

ART. 35. The author of an invention already patented in a for-

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.

#### 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 article 3 the discovery or invention is not patentable.

(3.) If the patents relate to theoretical principles, methods, systems, discoveries, and conceptions, without indication of their industrial application.

(4.) If the discovery or invention is contrary to public order or safety, to morals, or to the laws of the empire.

(5.) If the title under which the patent was applied for gives a false or fraudulent indication of the real object of the invention.

(6.) If the specification annexed to the patent is insufficient for the execution of the invention or if it does not indicate completely and faithfully the true means employed by the inventor.

(7.) If the patent was obtained contrary to the provisions of article 23.

The manufacture and sale of articles prohibited by paragraphs 3 and 4 of this article incur the penalties enacted by the laws of the empire.

All certificates for alterations, improvements, and additions which do not relate to the subject of the original patent are likewise null and void.

ART. 37. No invention will be considered new which, up to the date of the application, has received, either in Turkey or elsewhere, sufficient publicity to enable the same to be worked.

ART. 38. The following persons shall be deprived of all rights :—

(1.) Patentees who neglect to pay the yearly tax before the beginning of each year of their patent's duration.



(2.) Any patentee who has not worked his invention in Turkey within two years from the date of the issue of the patent or who has at any time ceased to work the same for any consecutive period of two years, unless in either case he can give a sufficient reason for his inaction.

(3.) Any patentee who shall have introduced into Turkey articles of foreign manufacture and similar to those forming the subject of his patent.

Nevertheless, the minister of commerce and agriculture may authorize the introduction into the empire of models of machines, and articles manufactured abroad intended for public exhibitions or for experiments made with the consent of the government.

ART. 30. Whoever shall in a sign, announcement, prospectus, advertisement, trade-mark, or stamp, pretend to the possession of a patent according to law without really possessing one, or after the same has expired, or shall, while having a patent, mention the same without adding the words "without guarantee of the government," shall be punished by a fine of not less than two nor more than forty-five Turkish pounds. For the second offense the fine shall be doubled.

## CHAPTER II.

### ACTIONS FOR ANNULMENT AND FORFEITURE.

ART. 40. Actions for annulment or forfeiture may be brought by any person having an interest in the matter, or who can be injured by the act of the defendant. These actions, as well as all disputes relating to the ownership of patents, shall be brought before a civil tribunal of first instance.

ART. 41. If the action is brought at the same time against the owner of a patent and against a licensee, it shall be brought before the tribunal of the domicile of the owner.

ART. 42. Whenever the annulment or forfeiture of a patent has been pronounced, notice of the same shall be sent to the ministry of commerce and agriculture, and it shall be published in the form prescribed by article 13 for the proclamation of patents.

## SECTION V.

### INFRINGEMENTS, PROSECUTIONS, AND PENALTIES.

ART. 43. Every interference with the rights of a patentee, either by the manufacture of articles or by the use of means forming the

subject of his patent, constitutes the offense of infringement. Every person who shall be judged guilty of this offense shall be punished by a fine of not less than five nor more than a hundred Turkish pounds.

ART. 44. All persons who shall have knowingly received, sold, or exposed for sale or introduced into Ottoman territory, infringing articles shall be considered guilty of infringement.

ART. 45. Any person who shall, without authority from the government, sell or expose for sale arms, tools, or apparatus of war, mentioned in article 12, and that could be used to the detriment of the country, shall be amenable to the penalties imposed by the appendix to article 166 of the Penal Code, without regard to the fact of these inventions having been accepted or rejected by the army and navy departments.

ART. 46. The penalties established by the present law are not cumulative. The heaviest penalty only can be inflicted for all acts committed prior to the prosecution.

ART. 47. For a second offense, in addition to the fine imposed by articles 42 and 43, there shall be inflicted a penalty of imprisonment for not less than one nor more than six months. Any act will be considered as a second offense when the accused shall have at any time during the previous five years been found guilty of any offense provided for by the present law. An imprisonment of not less than one month, nor more than six months, may likewise be inflicted upon any infringer who is or has been employed in any capacity in the shops or establishments of the patentee, or who has been associated with any one so employed in such a manner as to obtain knowledge from him of the processes described by the patent. In the latter case the employe from whom the knowledge was derived may be prosecuted as an accomplice.

ART. 48. At the request of the patentee and on presentation of the patent the president of the tribunal may issue an order providing that an officer of the court shall, assisted, if need be by an expert, make an inventory of articles alleged to be infringements. When a seizure is to be made, the order may require security of the person making the requisition. Security shall always be required of foreigners. The owner of the articles seized shall be provided with copies both of the ordinance and of the order requiring security, if there be one, under pain of annulment of the proceedings and of damages against the officer to the profit of the party injured.



ART. 49. In default of the party making the requisition presenting himself before the tribunal within a period of seven days, in addition to the time necessary to travel the distance between the place in which the objects seized or inventoried were found and the place or residence of the infringer, receiver, importer, or retailer, the seizure or inventory shall be void without prejudice to any damages that may be claimed.

ART. 50. The objects declared infringements must, and the implements and tools intended specially for the manufacture of the said objects may, at the discretion of the tribunal, be confiscated, even in case of the acquittal of the infringer, receiver, importer, or retailer. The objects, implements, and tools so confiscated shall, at the discretion of the judge, be delivered to the owner of the patent without prejudice to further damages or to the publication of the judgment.

*From Carpm. Pat. L. of Worl.l, 566.*

END OF VOL. I.

YALE LAW LIBRARY.