

Appeals are submitted to a Commission, comprising fifteen members, three of whom are magistrates for life, or members of the Faculty of Law, of the Royal University of Turin, the remaining twelve being selected from members of the Royal Academy of Sciences, Professors and Doctors of the Royal University, and Professors of the Polytechnic Schools. The members of the Commission are nominated every year by the Minister. The Commission is divided into three sections: one for mechanics, one for physics, and one for chemistry, each section comprising one legal and four technical members. Every appeal must be accompanied by a deposit of 50 lire.

Assignments of patents are registered at the Ministry, and published in the Official Gazette at the expense of the applicant, and are only valid against third parties after registration. Where an entire patent is assigned, the assignee must pay all the fees, but if the patent be assigned to several persons collectively, they are jointly liable for the payment. If a partial assignment be made to several distinct persons, the deed can only be registered upon payment of the annuities for the entire term of the patent.

All registers relating to patents are open to the public, and copies can be obtained upon payment. Specifications are open for inspection at the chief office after the expiration of three months from the date of the delivery of the patent, after which time copies can be obtained. A list of the patents delivered every three months is published in the Official Gazette, and every six months specifications are published in full. In certain cases, however, only extracts of the specifications will be published.

Patents are invalid if granted for one of the proscribed subjects, or if for beverages or eatables, and the patent has been granted against the advice, or without the knowledge, of the sanitary authorities, if a fraudulent title has been given, if the specification be not sufficient, or conceals some important part of the invention, if the invention be not new or does not relate to industrial pursuits, if improperly granted for a modification during the first six months to a person other than the inventor, or those entitled through him. A patent of addition is invalid if not connected with the original invention.

A patent lapses if the annual tax be not paid within three months after it becomes due, if the invention be not worked within the first year of the grant, or be not worked during a whole year afterwards, supposing the patent has been granted for five years or less; should the patent be granted for more than five years, working must take place within two years, and must not cease for a period of two years during the life of the patent, unless the inventor can show that the omission was due to causes beyond his control, but the want of pecuniary means will not be considered as beyond his control.

Actions for nullity and annulment are decided by summary process, and are communicated to the Public Prosecutor. If the partial annulment of a patent has been twice pronounced, the Public Prosecutor may demand the absolute and peremptory annulment of the patent. Three experts may be called in by the Court upon the demand of one of the parties, and appeal may be made from the decision of the Court, and the Court of Appeal may order an *ex-officio*

examination. The judgments of the Courts are published in the Official Gazette.

Infringing a patent is punishable with a fine not exceeding 500 lire, and all infringing objects may be seized and handed to the patentee, and the injured party may also claim damages, but should it be shown that the owner of any of these objects acted honestly, he will only be subject to the loss of the objects.

### JAMAICA.

Duration of Patent: fourteen years.

Working: within two years.

Taxes: none.

International Convention: does not apply.

Patents are granted in Jamaica under the law of 1857, as amended in 1891.

Any person may apply, by petition, to the Governor for the grant of Letters Patent, for some new and useful art, machine, manufacture, or composition of matter, or some improvement thereof, not previously known or used within the Island of Jamaica, and the Governor, with the advice and consent of the Executive Committee, may grant Letters Patent for a term not exceeding fourteen years, unless they deem it expedient to insert in the Letters Patent a provision extending them for a further period of seven years.

The application must be accompanied by a petition, specification, and declaration, which are referred to the Attorney-General, who may call in expert assistance, at the expense of the applicant. The Attorney-General, if satisfied that the

application may be granted, may issue his fiat, or if not satisfied, may refuse the application, notifying the Governor of his reasons for the refusal. The applicant must make a declaration, or, if he be an absentee, his attorney must make it for him, before a Justice of the Peace in the Island, that he believes himself to be the true inventor or discoverer of the invention for which a patent is solicited, and that the same, to the best of his knowledge and belief, has not been known or used in the Island. A specification and drawings the former fully and clearly describing the invention, and the manner of carrying it into effect, must be lodged with the application, as well as specimens or ingredients for the purposes of experiment, where necessary, and the specification must be signed by the applicant, or his attorney, and be attested by two witnesses. The specification must commence with the title of the invention. A model was originally required, but by the Act of 1891 is dispensed with.

Notice must be published in the Jamaica Gazette by authority, and in one other newspaper of the Colony, for at least four weeks, to the effect that the application has been made, and full particulars of the newspapers, in which the advertisements appeared, must be supplied to the authorities.

The patent must be worked in Jamaica within two years from its date, under penalty of loss of the patent; the patent dates from the day of application, but the date of sealing, or any other date, may be fixed by the Attorney-General, or the Governor in Executive Committee, as the date of the patent.

The Letters Patent must be applied for within three months from the date of the filing of the application, or in

case of the death of the applicant, they must be issued to the executors or administrators, within three months after his death.

Duplicate Letters Patent may be issued in place of those lost or mislaid, subject to such regulations as the Governor in Executive Committee may enforce.

Letters Patent granted in fraud of the true inventor, or any use, or publication of the invention, subsequent to the grant of such Letters Patent, will not invalidate those issued to the actual true and first inventor.

Where a patent is granted for an improvement, upon an existing patent, to another person, he shall not be at liberty, without the consent of the original patentee, to use the original patent, and *vice versa*.

The proprietor of a foreign patent may obtain a patent in the Colony, provided that the subject of the invention has not come into public and common use in the Colony, before the application for patent is made; the Jamaican patent will lapse with the prior foreign patent, or in case there be more than one, with the one which first lapses, and should the grant of the patent in Jamaica take place after the lapse of a prior foreign patent, the Jamaican patent will never be of any effect or validity.

Patents may be assigned in whole or in part, but the assignment must be recorded in the office of the Island Secretary.

Patents may be granted to the assignee of an invention patented in a foreign country, but will not be granted for an invention made abroad, for which no Letters Patent have been obtained; the invention assigned must not have been

introduced into public use in the Colony, prior to the application for the patent, and the applicant must file with his application, the assignment duly proved, and an affidavit proving the date of the foreign patent, and that the subject of the patent has not been publicly introduced into the Colony, and that he is the assignee for good consideration.

Where a patentee has claimed in his specification, matter to which he was not entitled, but without wilful default or intention to mislead the public, and this be proved in a suit or action, the patent will, nevertheless, be deemed good and valid for the remaining portion of the invention, supposing that to be a substantial and material portion of the whole, and he may maintain suits at law or in equity for infringement, notwithstanding that his specification may embrace more than he is legally entitled to. In such case, however, should the patentee obtain a judgment in his favour, he will not be entitled to costs, unless, before the commencement of the suit, he has filed, in the office of the Island Secretary, a disclaimer, witnessed by one or more persons, disclaiming the portion to which he is not entitled; but to entitle himself to the benefit of this clause, he must not have unreasonably delayed recording his disclaimer.

Where a patent becomes inoperative, or invalid, through defective or insufficient description, or by reason of more being claimed than the patentee is entitled to, and this is not due to wilful default or intention to deceive, the Governor in Executive Committee may grant a new patent in place of the one surrendered, or if the original applicant be dead, the new patent may be granted to his representatives.

A patentee, or his legal representative or assignee, whether

of the whole or a portion of the patent, may, after obtaining the Attorney-General's fiat, enter at the office of the Island Secretary, a disclaimer of any portion of the specification or title, setting forth the reason for the disclaimer, and this may be entered and recorded at the office. A disclaimer must not extend the scope of the patent, and will be deemed to be part of the Letters Patent, and specification. Any person may enter a caveat at the office of the Island Secretary against the disclaimer, a copy being left with the Attorney-General, who will give notice when the application and opposition are to be heard. The disclaimer will not be admitted in any action or suit, excepting a proceeding by *scire facias*, which may be pending at the time of the disclaimer. Before granting his fiat for the disclaimer, the Attorney-General may require the applicant to advertise the disclaimer, in such manner as the Attorney-General shall think fit, and may certify in his fiat that the advertisement has been made. The Attorney-General may award costs, and, if these be not paid within four days, may make an order for payment, which may be made a rule of the Supreme Court of the Island.

An original patentee may add a specification, of an improvement upon an original invention, made by him subsequent to the date of the patent; he may, by applying, in a manner similar to that when applying for an original patent, have the new specification annexed to the original one, the Island Secretary certifying the time of the lodging of the new specification, which will afterwards have the same effect in law as if it had formed part of the original specification.

Infringers must pay to the patentee, a sum equal to three times the actual damage sustained by the patentee, and this is recoverable, together with the costs of the action, by an action in the Supreme Court of the Island.

Using the name of a *bona fide* patentee, in connection with articles made in imitation of the patented articles, without the permission of the patentee, or marking the goods as "Patent," "Letters Patent," "Queen's Patent," or the like, with a view of imitating the stamp or other device of the patentee, renders the offender liable to a penalty of £50, recoverable by an action of debt, bill, plaint, process, or information, in the Supreme Court of the Island, one-half of the penalty going to the Crown, and the other to the person suing. This penalty would not apply to a person marking the word "Patent" upon an article, for which a patent had been granted, although the patent might have expired.

In case of doubt, the Act must be construed by analogy to the laws of England at present in force, or subsequently coming into force, concerning the granting of patents for inventions, so far as such laws may be applicable.

The Governor may, from time to time, appoint whoever he thinks fit, to be commissioners under the Act during his pleasure, the commissioner being liable to be summoned to attend any meeting, or take part in any proceedings, of the Governor in Executive Committee, in any matter arising under this Act.

The words "invention," "discovery," or "improvement" are interpreted as meaning respectively, any manner of new manufacture, or new mode of manufacture, the subject of



Letters Patent, and grant of privilege within the meaning of the Act of the twenty-first year of the reign of King James I., chapter 8.

The previous law, 16 Victoria, chapter 12, of the Legislature of the Island, is repealed.

Letters Patent obtained in Great Britain are of no effect in the Island of Jamaica, where special patents must be obtained.

#### JAPAN.

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

Working : within two years, and every two years after.

Taxes : none.

International Convention : does not apply.

Patents in Japan are not granted to foreigners, but are granted to the Japanese under the Imperial Proclamation No. 17 of the 18th April, 1885, which came into force on the 1st July, 1885. This proclamation repealed the previous rules relating to patents, passed in April, 1871, and March, 1872.

Inventors of useful articles may apply to the Minister of Agriculture and Commerce for a patent, accompanying the application by a specification and drawings in triplicate, together with a specimen if necessary, and when there is more than one inventor, all of them must sign the documents. The applications and specifications are to be sent under seal, and will be forwarded, without opening, to the Minister of Agriculture and Commerce. The application must state the title of the invention, the term of the

patent desired, a declaration that it is not contrary to the regulations, and that there are no misrepresentations in the application, or specification. The specification must clearly describe the invention referring to the drawings, if any, and fully elucidate the manner of carrying out the invention, and the uses to which it may be applied, and must also state the social rank, name, and address of the inventor. The term of the patent will not exceed fifteen years from the date of the grant.

Patents are not granted for

Articles previously invented by others, unless the patents have been transferred by their owners.

Articles publicly known or used before the date of the application.

Articles that are injurious to health, or contrary to law or morality.

Medicines.

Patents will not be granted upon inventions considered necessary for the purposes of war, or of general use, an appropriate sum being awarded, by the Minister of Agriculture and Commerce, to the inventor, as compensation.

Patent privileges, as well as the patents themselves, may be hereditary, but the person inheriting them must, within three months, report the fact to the Minister of Agriculture and Commerce, who shall endorse the fact upon the Letters Patent, under a penalty of not less than one yen (one dollar), and not more than two yen, but the provisions of the Criminal Code, as to simultaneous commission of several crimes, do not apply to contraventions of this regulation.

Patents may be assigned, but permission from the Minister of Agriculture and Commerce must first be obtained.

A patentee making an improvement may apply for a fresh patent, which, however, will not extend in its effect beyond the original patent.

Persons who improve upon an existing patent, must obtain the consent of the original patentee, if they desire to patent the improvement; should the patentee refuse, the Minister of Agriculture and Commerce may, if he considers the refusal to be obstructive, give special permission for the grant of the patent upon the improvement, the improver to pay an appropriate amount of compensation to the original patentee. Two applications must be sent in by the improver in this case.

The date and term of patent must be marked upon the patented article, or where that is impracticable, on its cover; failing this, no claim for damages under the patent can be made. A register of patentees, and other matters relating to patents, is kept for public inspection by the Minister of Agriculture and Commerce.

Patentees must report to the Department of Agriculture and Commerce, within three months, any change of registration, residence, or name, under a penalty of not less than one yen, and not more than two yen, but the provisions of the Criminal Code, as to simultaneous commission of several crimes, do not apply to contraventions of this regulation. Should the patent certificate be lost or damaged, the patentee must apply for a fresh certificate to the Minister of Agriculture and Commerce.

A patent will be declared void, and the return of the certificate will be ordered, should it be found that the patent,

or the working of it, is contrary to the regulations, or should the specification, or application, be found to misrepresent the facts. A patent will also lapse if it has not been practically and publicly worked within two years from the grant of the patent, or if the working has been suspended for two years, without notification to the authorities, or when the subject of the patent has been imported from abroad, and sold.

Public notification is made by the Department of Agriculture and Commerce of the grant or cancelling of a patent, or other loss of the rights in the patent.

No official concerned, in the granting of Letters Patent, is allowed to apply for a patent.

Infringements of a patent, or the importation from abroad, or the secret use of the patent, renders the offender liable to imprisonment with labour, for a period of not less than one month, and not more than one year, and a fine of not less than four yen, and not more than forty yen.

The application of marks, resembling those used by the patentee, to similar articles not manufactured under the patent, renders the offender liable to imprisonment with labour, for a period of not less than fifteen days, and not more than six months, and a fine of not less than two yen, and not more than twenty yen.

Persons infringing the patent, or selling articles falsely marked, with guilty knowledge, are liable to a fine of not less than four yen, and not more than forty yen. The infringing articles, or the appliances used in effecting the infringement, will be confiscated, and handed to the patentees, and the price of articles actually sold must be repaid to the patentee by the infringer.

Obtaining a patent by fraudulent means, or obtaining a sham patent, renders the offender liable to imprisonment for not less than fourteen days, and not more than six months, and a penalty of not less than two yen, and not more than twenty yen.

Infringements may be dealt with at the instance of the patentee, and, when the patentee has made his appeal, the judge may, for the time being, suspend the sale of the articles concerned.

Persons desiring to patent articles invented after the publication of the rules of the 7th April, 1871, and reported under the notification, 105 of March, 1872, and before the date of the present proclamation, may apply for a patent within six months from the time of the present proclamation coming into force, even though the said articles are at the time well known, or in general use, but persons using such articles may, within one year from the date of the coming into force of the present proclamation, send in two applications, giving a detailed account of the previous use of such articles, to the Minister of Agriculture and Commerce, for special permission to continue their use; the cost of such an application will be the same as for a patent.

Applications and reports upon patents must be sent, through the local authorities, to the Department of Agriculture and Commerce.

A person desiring to assign the whole or a part of a patent, must submit two letters of application, together with a copy of the agreement between the assignor and the assignee, the Letters Patent, and the fee.

Duplicate Letters Patent may be obtained, but a detailed

account of the circumstances of the case must be submitted.

Amendments may be made in the specification and drawings, should the patentee discover omissions or misstatements, but he must send in two applications, giving a detailed account of the circumstances; no amendment enlarging the scope of the patent, or materially altering it, will be allowed. Where a patentee licenses another person to use the invention, the fact must be reported, and the document signed by both parties.

Where a patent obtained by a person, other than the true inventor, has been declared void, the original inventor may obtain a patent for the remainder of the term of the original patent.

#### LEEWARD ISLANDS.

Duration of Patent: fourteen years.

Working: none.

Taxes: before third and seventh years. Letters Patent must be forwarded.

International Convention: does not apply.

Patents are granted in the Leeward Islands under Acts No. 12 of 1876, and No. 16 of 1878.

The Attorney-General, the Auditor-General, the Treasurer of the Presidency of Antigua, and such other persons as the Governor of the Colony of the Leeward Islands (the five presidencies of Antigua, Montserrat, St. Christopher, Dominica, and the Virgin Islands) shall appoint, are to be Commissioners of patents for inventions, holding office during Her Majesty's pleasure, three of them, the Attorney-

General being one, constituting a quorum. Every application for patent, whether accompanied by a Provisional, or a Complete specification, is advertised in the Royal Gazette, and in one of the newspapers published in each presidency of the Colony, or should there be no such newspaper, by being attached to the door of the Court House, in the principal town of the presidency. Copies of all specifications, disclaimers, or memoranda of alteration, and of Provisional specifications, after the expiration of the protection, are to be enrolled in the Registrar's office in every presidency of the Colony, except Antigua, and open to public inspection. A copy of the register of patents, and of the register of proprietors, will also be kept at the Registrar's office in each presidency of the Colony, for public inspection. The Commissioners will provide a seal, with which all patent documents under this Act shall be sealed, and documents stamped with it will be received in evidence, as in the case of the great seal of the Colony. An office under the Commissioners, and a clerk, are appointed for carrying out the provisions of the Act.

An application must be accompanied by a petition, declaration, and a Provisional specification, describing the nature of the invention, and the day of filing will be recorded at the office, and endorsed upon the papers. The application is referred to the Attorney-General, who may call in expert evidence, and appoint the remuneration of the expert, and if satisfied that the Provisional specification describes the nature of the invention, he will give a certificate of allowance, which will be filed in the office of the Commissioners, and the invention will thereupon be provisionally

protected. The Attorney-General has power to allow, or to cause to be amended, either the title, or the specification, if too large, or insufficient.

A Complete specification may be left with the application, instead of the Provisional specification, the Complete specification particularly describing and ascertaining the nature of the invention, and in what manner the same is to be performed, and the invention will then be protected for the period of six months, the applicant having, during that term, the like powers and privileges as if he were in possession of a full patent, and during the protection, whether Provisional or Complete, the invention may be freely published in the Colony, without invalidating the patent. The Complete specification is open to public inspection immediately after deposit.

A patent obtained by the true inventor, will not be invalidated by protection obtained in fraud of him, nor by any use or publication, subsequent to the application, during the term of the protection.

The protection, whether Provisional or Complete, is advertised by the Commissioners.

As soon as the protection is granted, or upon the deposit of the Complete specification, the applicant may give notice to the Commissioners of his intention to proceed with the application, and this will be advertised by the Commissioners, and any person will then be at liberty to enter an opposition to the grant of the patent, in such manner, and at such time, as the Commissioners may appoint. As soon as the period expires, the whole case will be referred to the Attorney-General. The Attorney-General can make such



order as he thinks fit, as to costs, and, if these be not paid within four days after the amount has been ascertained, he may make an order for the payment, which order may be made a rule of the Supreme Court.

The Attorney-General may issue his warrant for the sealing of Letters Patent, and may direct the insertion therein of any restrictions or conditions he may think desirable.

The prerogative of the Crown, as to the granting or withholding the grant of a patent, is not to be affected by this Act, and the Governor may, by warrant, direct the Attorney-General to withhold his warrant for the grant of the patent, or to insert any special conditions, or cancel a Complete specification, should such have been filed, whereupon the protection will cease.

Patents are granted for a period of fourteen years, subject to the payment of taxes before the expiration of the third and seventh years, the receipt for these payments having to be endorsed upon the Letters Patent.

Application to seal the patent must be made within three months of the date of the warrant, and except in the case of destroyed or lost Letters Patent, none can be issued after the expiration of the period of protection, unless the sealing of the patent has been delayed by opposition.

In case of the death of the applicant, the Letters Patent may be granted to his personal representatives, during the time of protection, or within three months after the applicant's decease. Where Letters Patent have been destroyed or lost, duplicates may be issued.

Letters Patent may be dated as of the day of application, unless otherwise ordered by the Attorney-General, or

Governor, and when the patents are thus antodated, they will be of the same effect and validity as if actually sealed on the day of application.

Patents may be granted for inventions already patented abroad, and in that case the Colonial patent will lapse with the prior foreign patent, or with the first prior foreign patent, if there be more than one; should the Colonial patent have been granted, after the lapsing of a prior foreign patent, the Colonial patent will never have had any validity or force.

Letters Patent will not prevent the use, in foreign vessels resorting to the Colony, of the patented articles, excepting in those of foreign countries where a similar privilege is not accorded to British ships.

All Complete specifications, disclaimers, and memoranda of alteration, and Provisional specifications, after the period of protection has expired, are open for public inspection at the office of the Commissioners. Specifications are to be printed and sold by the Commissioners as soon as convenient after publication, and copies may be presented to public libraries and museums, and as many as twenty-five copies may be presented, free of cost, to the patentee. Certified printed copies are to be taken as *prima facie* evidence in Courts.

A register of patents is to be kept at the office of the Commissioners, in which are entered, in chronological order, all the patents granted, together with the various steps pertaining to their issue, as well as amendments, confirmations, extensions, expiration, or cancelling, and the dates of the various occurrences, the register to be open to public inspection. There will also be kept a register of proprietors,

in which all assignments, or licenses of patents, with all necessary particulars, as to names of proprietors, and dates, may be entered, and a certified copy of any entry in this book will be given to any person requiring it, upon payment, these certified copies to be proof of the matters to which they pertain. Until an assignment is registered, the person whose name appears upon the book will be regarded as the legal holder of the patent, and in case of the issue of a writ of *scire facias* to repeal a patent, the writ may be issued to the Provost-Marshal of the presidency, in which the patentee resided when the patent was granted, or if he did not reside in the Leeward Islands, the writ may be filed in the usual manner, and notice in writing be sent to the last known residence, or place of business, of such person. The register will be open to public inspection. Falsification, or forgery, of an entry in the register is a misdemeanour, and renders the culprit punishable by fine and imprisonment.

Any person aggrieved may apply by motion to the Supreme Court, or a judge, to have an entry expunged, vacated, or varied, and the Court may make such order as it thinks fit, upon the application, and also as to costs.

Disclaimers and alterations in patents and specifications may be made, the provisions 5 and 6 of William IV., chapter 83, and 7 and 8 Victoria, chapter 69, applying to the present Act, the applications and oppositions being referred to the Attorney-General for decision, and leave to make the amendment, being conclusive as to the right of the patentee to do so. No action can be brought for infringement, dated prior to the amendment, unless the Attorney-General gives his fiat to allow such action to be brought. Patents may

be confirmed, or the duration extended, in accordance with the provisions of the Acts 5 and 6 of William IV., chapter 88, and 2 and 8 Victoria, chapter 67, and 7 and 8 Victoria, chapter 69.

Actions for infringements of patents are to be regulated by the Code of Civil Procedure.

The Supreme Court, or, when the Court is not sitting, a judge, may make an order for injunction, inspection, or account.

“Invention” means any manner of new manufacture, the subject of Letters Patent, and grant of privilege, within the meaning of the existing law of England governing this subject.

#### LIBERIA.

Duration of Patent : twenty years.

Working : within three years.

Taxes : none.

International Convention : does not apply.

Patents are granted in Liberia under the Act of the 28rd December, 1864. The granting of patents is under the control of the Secretary of State, who attends to all matters concerning the granting of Letters Patent for new and useful discoveries, inventions, and improvements. Patents are issued in the name and under the seal of the Republic of Liberia, and are signed by the President of the Republic, and countersigned by the Secretary of State, the specifications, drawings, &c., being recorded in proper books kept for the purpose.

Patents are granted for terms of not exceeding twenty years, and contain a short title of the invention, correctly indicating its nature, a copy of the specification and drawings, being annexed to the patent.

Any citizen who has discovered or invented any "new and useful art, machine, manufacture, process, composition of matter, or any new and useful improvement therein, or application of any known substance or matter, or composition of matter, or new and useful application of any known article of manufacture, device, or apparatus," not known or used by others within the limits of the Republic, nor described in any book or publication therein, may apply for a patent. He must supply a specification of the invention, clearly setting forth the nature of the invention and the manner of applying it, so that any person skilled in that class of work may be able to make and apply the invention; he must also indicate particularly what he claims. Drawings must be supplied where necessary. The application must be accompanied by an oath or affirmation that the applicant believes himself to be the original and first inventor of the invention in question, that the same was not previously known or used within the limits of the Republic of Liberia, and that he is a citizen of the Republic.

An examination is made into the novelty of the invention as regards the Republic, and should the invention appear to be new, the patent will issue in ordinary course, but should the invention prove not to be new, the patent will be refused.

Foreigners may apply for, and have issued to them, Letters Patent for inventions new in the Republic, but

such applicant must deliver, with his application, a certificate signed and sealed by the Mayor or Governor of the city, or state where he resides, or by a Notary Public, setting forth that he is the original and first discoverer of the invention, or that he has purchased the right, title, and interest in the Republic of Liberia, to the said invention or discovery.

Where an alien has obtained a patent, he must put the invention into active operation within the Republic of Liberia, within three years from the date of the patent, under penalty of losing his patent. The amount payable with an application for a patent by a citizen of the Republic is one-half what an alien must pay. Patents can be assigned in whole or in part, and for the whole or any portion of the Republic, the assignment to be recorded in the office of the Secretary of State, within one year of its execution. Actions for infringement, and all suits or controversies appertaining to patents, may be conducted before the Supreme Court of the Republic of Liberia.

Copies of all specifications and drawings are classified and kept in the office of the Secretary of State, and are open to public inspection, certified copies being obtainable on reasonable terms.

#### LUXEMBOURG.

Duration of Patent : fifteen years.

Working : must be proved within three years of date of application, and annually thereafter.

Taxes : yearly.

International Convention : does not apply,

Patents are granted in Luxembourg under the law of the 30th June, 1880.

Now inventions, which are capable of being worked industrially, may form the subjects of patents, but not where the working would be contrary to the law or morals, or where the object of the invention is an article of food or consumption, pharmaceutical product, or is obtained by chemical means, excepting so far as it relates to a definite process of manufacture.

An invention which at the time of applying for the patent has been described in public prints, or publicly worked in the Grand Duchy, or one of the States of the German Customs Union, to such extent that others skilled in the art to which it relates could work the invention, would not be patentable.

The first applicant for the patent has the right to the patent.

Only the proprietor of the patent may commercially make, deal with, or expose for sale the subject of the invention, and should the invention be a process, machine, or implement, the said process or machine can only be used with the consent of the patentee.

Those who had already worked the invention before the date of the application for the patent, or made the necessary preparations to that end, would not be affected by the patent, and a patent does not affect a locomotive engine which merely passes through the Grand Duchy. A patent can be terminated by Royal Grand Ducal decree if it is considered by the Council of State that the invention, in the interests of the public, ought not to be worked; compensation, however, will be awarded to the inventor.

The right of obtaining a patent, as well as the right in it, can be transferred to the representatives of the inventor, and may be assigned, either wholly or partially, and may also be transmitted by testamentary bequest. Assignments of patents are free from taxes; deeds of assignment must be registered, a fixed tax being payable.

Patents are granted for a term of fifteen years, commencing from the day after that upon which the application is made. Patents of addition, to expire with the principal patent, are granted, such patents being granted for the benefit of all those interested in the principal patent. The patentee may take a new principal patent for changes or improvements in the invention. A person, other than the patentee, taking a patent of addition cannot work the principal patent without permission, and, similarly, the owner of a principal patent cannot work the patent of addition without permission.

Taxes are not returnable in any event. Only the first tax is payable upon patents of addition. In the case of a foreigner, he must appoint his domicile with a representative within the Duchy.

An application for a patent requires a declaration setting out the full name and elected domicile of the person applying, and of the representative, and containing a short title of the invention, and accompanied by a specification in French or German, and drawings, models or samples; the specification and drawings to be in duplicate. No alterations or interlineations in the specification are allowed, and any words erased must be counted and identified by passages and references; the specification must be clear and com-



plots, and terminate with a statement of claim. All papers must be signed by the applicant or his representative. The day and hour of the application is entered in a register kept for the purpose, which will be evidence of the fact.

No examination is made, and no guarantee given, as to the reality, novelty, or merit of the invention, or correctness of the specification. Should the application be refused, an appeal is allowed to the Judicial Committee of the Council of State. A statement of an application for a patent is inserted in the memorial.

All changes relating to the ownership of patents must be authenticated, and be published in the memorial, and no change will actually occur in the ownership of the patent until this has been done.

Specifications are open to public inspection at the Government Offices, and copies can be obtained upon payment of the cost.

A patent lapses at the end of its natural term, or by renunciation by the owner, or by a single default in the payment of the annual taxes, within a period of three months after they become due. A further cause of the lapsing of a patent arises in case a patent for the same invention be not, within three months, applied for in those States with which the Grand Duchy may be connected by treaties of "Customs Union"; or should such patent be refused or withdrawn, annulled, or otherwise terminated. Should the annulment of the patent in one of these foreign States be pronounced, upon the ground of the invention not having been worked, the Government may continue the life of the patent in the Grand Duchy.

A patent will not be valid or effective, should the subject-matter not be patentable, or should the invention have been appropriated from another without his consent, or should a fraudulent title have been given to the invention, or should the specification be insufficient or misleading.

Any person can bring an action for nullity before the Civil Tribunal of the arrondissement. Should the petition be directed against the owner of the patent and one or more licensees, it must come before the tribunal at the elected domicile of the owner. Notices of actions against patents are communicated to the Public Prosecutor, and the proceedings taken under Article 405, and the subsequent Articles of the Civil Procedure Code. The Public Prosecutor may intervene, and apply to have the patent declared completely void; he may bring an independent action. The annulment of a patent will be published.

The invention must be worked within three years, or the patent may be withdrawn by Royal Grand Ducal decree, subject, however, to an appeal to the Judicial Committee of the Council of State. Should it appear to the Council of State that the public interests require the working of the invention, compulsory right may be granted to one or more persons, who have applied for it, under proper compensation to the patentee. The lapsing, annulment, or withdrawal of patents will be published in the memorial.

Infringers are punishable by fines of from 100 to 2,000 francs, besides being liable to a civil action for damages, should such have arisen, and in case of repetition of the offence, to imprisonment for from one to six months. It would be considered a repetition, if a judgment for the

same offence had been given against the accused person within the preceding five years. Only the aggrieved party can institute prosecution; the judgment may be published at the expense of the convicted party. Infringing articles may be destroyed or confiscated.

Falsely marking articles as patented, or making announcements calculated to deceive in this respect, is punishable by a fine of from 20 to 200 francs. Penalties are not cumulative.

No action for infringement can be taken after the lapse of three years from the date of the infringement.

#### MAURITIUS.

Duration of Patent : fourteen years.

Working : none.

Taxes : none.

International Convention : does not apply.

Patents are granted in Mauritius under the Ordinance No. 16 of 1875.

Every inventor of any manufacture is entitled to the grant of Letters Patent.

Invention includes discoveries, new chemical products, new mode of application of known processes or forces, obtaining a new product or preparation, and new processes or forces whereby an old product or preparation is obtained. Improvements are included in invention. Manufacture includes any art, process, or manner of producing, preparing, or making an article, as well as the article itself. Inventor, or actual inventor, includes the heirs, executors, administrators,

or assigns, and the word "assigns," includes the grantees of the sole use or benefit of an invention in Mauritius, or of the sole use of the exclusive privilege, for a limited period.

Financial schemes and operations of credit are not patentable.

Patents are granted for the term of fourteen years from the date of the patent, and may be extended for a further term, not exceeding fourteen years, with the approval of the Government in Executive Council, but the petition for an extension must be presented by the inventor, not more than one year, and not less than six calendar months, before the expiration of the first period.

An application must be accompanied by a petition, signed by the inventor himself, or if he be out of the Colony, by his authorised agent, and by a specification fully describing the invention, and accompanied by diagrams, plans, and drawings if necessary. Also by a declaration to the effect, that the applicant is in possession of an invention which he believes will be of great public utility, and of which he is the true and first inventor, and that the same is not being used by any other persons to the best of his knowledge and belief, and that his specification fully describes the invention. If the applicant make a false declaration, he will be deemed to be guilty of perjury, and is liable to imprisonment for not exceeding two years, without prejudice to any action which the injured party may bring against him. The application is laid before the Procureur-General, who may issue his certificate, and the invention will be provisionally protected; should he refuse his certificate, the aggrieved party may appeal to the Governor in Executive Council, who may order the issue

of the certificate, in which case it will be issued by the Secretary of the Executive Council.

The applicant must advertise the application in the Government Gazette, and any interested party may oppose the grant of the patent; if no opposition be entered within one calendar month from the date of the advertisement, the patent will issue, but if opposition be entered, the matter may be referred to the Procureur-General, who, with the consent of the parties, may give a final decision, but otherwise, he will refer it to the Supreme Court, which can hear and determine upon the case. According to the order the patent will issue, or the protection will cease.

A party opposing the grant of the patent, must give notice to the Colonial Secretary, stating the grounds of objection, and no other grounds can be considered at the hearing.

No guarantee is given by the Government. Before the sealing of the patent, the applicant must deposit with the Colonial Secretary a printed copy of his petition and specification, which are filed, and recorded in a book kept for the purpose, in the office of the Colonial Secretary, together with all orders made upon the application. This book is open to public inspection upon payment of a fee, and the Colonial Secretary must give a certified copy of any entry, to any person requiring it, on payment of the expense of copying. These certified copies are receivable in evidence in all proceedings in the Colony relating to Letters Patent, without further proof or production of the originals.

Disclaimers may be entered with the leave of the Governor in Executive Council, to correct any error, defect, or insufficiency in the specification, and the application to amend

must be accompanied by a petition, stating how the mistake occurred, and that it was not fraudulently intended, and by a declaration by the petitioner, or his authorised agent, that the contents of the petition are true to the best of his knowledge and belief. The proceedings, upon the application to amend, are substantially the same as those upon the application for the grant of the patent. An amendment must not enlarge the scope of the patent, and will not be available in suits pending at the time of the amendment.

Patents will not be granted for inventions of no utility, or not new at the date of the application, or if the petitioner was not the inventor, or if the specification is insufficient, or if the petition contained a wilfully fraudulent misstatement.

A patent will be withdrawn, if it be proved to the Governor in Executive Council, that the invention, or the mode of exercising it, is mischievous to the Colony, or prejudicial to the public, or if the patentee be proved guilty of a breach of any of the conditions under which it was granted; notice of such withdrawal, together with the reasons, will be inserted in the Government Gazette.

No patent will be granted for an invention upon which a foreign patent has been granted and expired.

An assignment will not be valid against third parties until it has been registered at the Mortgage Office.

Where more than one person is concerned in the invention, the patent must be taken in the joint names.

A patent will not be granted for several distinct inventions, but where the invention is applicable to several manufactures, or where several inventions are applicable to one manufacture, the whole may be included in a single patent.

The mere importing of an invention into Mauritius will not entitle the importer to the patent, unless he be the actual inventor.

A foreigner, whether resident abroad or not, may obtain a patent in Mauritius.

An invention will be deemed to be new if, before the date of the application, it has not been publicly used or disclosed by a written or printed document in Mauritius, or in any part of the United Kingdom. The public use or knowledge of the invention, obtained surreptitiously from the true inventor, will not invalidate the Letters Patent, if he apply for his patent within six months after the commencement of such public use, and has not previously acquiesced in such public use. The use of the invention in public, by the inventor or his nominees, for a period not exceeding one year, before the date of the application for the patent, will not prevent the issue of the patent.

An inventor, who has obtained Letters Patent in the United Kingdom, may, within twelve calendar months from the passing of the present ordinance, or of the date of the said Letters Patent, obtain a patent in Mauritius, even if the invention has been publicly known or used after the date of the British patent; but the patent in Mauritius will lapse with the British patent, and will in no case extend beyond the term of the British patent.

A person who used the invention in the Colony before the passing of this ordinance, may continue to use it, notwithstanding the issue of a patent upon it.

Actions for infringement may be brought in the Supreme Court, and the Court, or a judge in chambers, may issue a

writ of injunction, to restrain the defendant from infringing. In the defence, no defect, or insufficiency of the invention, may be brought against the patent, nor allegation of wilful misstatements in the petition or specification, nor may it be urged that the invention is not useful, or that the plaintiff was not the inventor, unless the defendant can prove that he (the defendant) is the actual inventor, or has obtained the right from the actual inventor. An action may be defended, upon the ground that the invention was not new. A patent may be attacked, upon the ground that the invention is of no utility, that it was not new, that the patentee was not the inventor, that the petition and specification, or any part thereof, are not sufficient, or contain wilful or fraudulent misstatements, or that some portion of the invention is wholly distinct from the rest, and is of no utility, or not new, or that the petitioner was not the inventor of that part. The Procureur-General may commence such an action, whenever he may think it necessary, on behalf of the public, and may serve notice upon the patentee or assignee. Only those breaches, or grounds of defence, specified in the declaration and plea, or of objections specified in the rule, to show cause, can be taken cognisance of by the Supreme Court in the action. The Supreme Court may cancel the whole or any portion of the patent, and make the rule absolute, and make such order as to costs as it may think right; a copy of the rule will be certified by the Registrar of the Supreme Court, and forwarded to the Colonial Secretary, and annexed to the original petition and specification. The Court may adjudge the patent cancelled, only as to the defective part, and, if satisfied that the defect was not due to any



fraudulent intention, and can be amended without injury to the public, it may order, upon terms, the amendment of the specification, the patentee to file the specification within the time fixed by the order, but no such amendment must enlarge the scope of the patent.

The Ordinance No. 11 of 1885 is repealed.

#### MEXICO.

Duration of Patent: twenty years.

Working: within five years.

Taxes: none.

International Convention: applies between Great Britain and Mexico.

Patents are granted in Mexico under the law of the 7th June, 1890.

Patents are granted to any person, Mexican or foreigner, for any discovery, invention, or improvement, having for its object a new industrial product, manner of production, or new application of means already known, for producing a result, or industrial product. Chemical or pharmaceutical products may be patented.

Should an invention have received, prior to the application for the patent, sufficient publicity in Mexico, or abroad, to enable it to be carried into effect, it will not be considered new, excepting the publicity due to the publication of a foreign patent specification, or publication in an exhibition held within the Republic, or abroad.

Patents are not granted for inventions contrary to the laws, or public security, or for speculative scientific principles or discoveries, not practically applied.

The grant of the patent does not guarantee the novelty or utility of the invention, the patent being granted without any examination into these points, or as to the sufficiency or otherwise of the specification. A patent is granted for only one object or industrial process; if two or more can be combined to produce the same industrial result, a separate patent must be obtained for each.

Where an invention has been previously patented abroad, or may subsequently be patented, the rights under the Mexican patent are independent of the rights under the foreign patent, and of the effects or results derived therefrom. The effect of a patent is to deprive others, without the consent of the patentee, of the right of making or selling the subject of the patent.

If a process, a machine, implement of labour, or other working device, be patented, it will have the effect of preventing others from practising, or realising, the object of the invention, without the consent of the patentee.

Any person who, prior to the filing of the application, has secretly put the invention into practice in the Republic, or has made all the necessary preparations for doing so, will not be prevented by the patent from working the invention.

Patents will not touch objects which are merely passing through the Republic, or temporarily abiding within its territorial waters.

Only the actual inventors, or improvers, or their legal representatives, of inventions patented abroad, can apply for patents in Mexico.

Only the patentee has the right of filing applications for

patents upon improvements, for one year from the date of the issue of the patent.

Patents are granted for twenty years, but where a prior foreign patent for the same thing exists, the Mexican patent will lapse at the expiration of such prior foreign patent, or of the earliest to expire, should there be more than one.

A patent may, at the discretion of the Executive, be extended for a period of five years beyond the original term, and should there be any patents for improvements upon the original patent, the extension of the original patent would involve the extension of the improvement patents.

The Executive has the power, upon payment of fair remuneration, to appropriate a patent to the public service, should it be found expedient to do so, or if the invention is of such a nature that its free use would prove a source of wealth to the Republic. This appropriation can only take place in case the patentee refuses to allow his patent to be worked, and the apparatus or process is capable of being made or used in the country.

The procedure to be observed with regard to the forfeiture of patents for the public good is set forth in the rules of practice.

An application for a patent must be made to the Department of Public Works, and the first applicant is presumed to be the first inventor, and also enjoys the right of possession.

Where the applicant cannot apply in person, he may appoint an attorney to do so for him, and also to conduct any law suit or other matters connected with the patent; a simple letter of authorisation is sufficient appointment by a citizen, but in the case of a foreigner, a regular power of

attorney, notarially attested, will be demanded, but this power of attorney ceases to be valid upon the issue of the patent, unless it is otherwise stated in the power.

At intervals of ten days, all petitions for the grant of patents are published by the Federal Government, in the Official Gazette, for a period of two months, during which time interference proceedings may be instituted by any person, for the purpose of stopping the grant of the patent. No proceeding can be taken after the above time has elapsed, and only the following are allowed as grounds upon which to base interferences :—

That the invention is not patentable.

That the applicant is not the true and first inventor, or his legal assignee, or that he has obtained the invention from some other person.

The first inventor will be entitled to the patent, where two have applied for a patent for the same thing, but if it cannot be ascertained who is the first inventor, the patent will be granted to the first applicant.

Where an interference is declared, the Department of Public Works will summon the parties, and reconcile their conflicting claims if possible, but if not, it will suspend proceedings, and transmit the evidence to the proper judicial authority. The party instituting the proceedings will be allowed two months in which to substantiate his claim, and if he cannot make good his case in that time, he will fail in his action.

Judicial sentences, after the period of appeal has passed, will be transmitted to the Department of Public Works, to be enforced.

Only a judicial sentence can cancel the decree of the Department of Public Works, granting a patent, and then only in case of the nullity of the patent. After the expiration of the two months, during which the patent is open to opposition, and after all formalities have been complied with, the patent will be issued, if a patent for a similar invention has not previously been granted.

The patent is granted in the name of the nation, and bears the signature of the President of the Republic, countersigned by the Secretary of Public Works, and under the great seal of Mexico. The patent contains a description of the invention patented, and the Letters Patent, with the specification, drawings, and samples, or models, constitute the title of the patent.

Patents are recorded in a special book kept for the purpose, wherein all entries appertaining to the patent are made.

All patents are published in the Official Journal, and every year a special publication, giving a clear and exact description of the inventions, with copies of the drawings, is made.

The subject of the patent must bear a mark, showing that it is patented, and the number and date of the patent.

The patent must be worked within five years from the date, and no extension of this term is allowed; an entry is made in the register of patents when this requirement has been complied with.

A patent is void—

(1) If issued contrary to the regulations; but should the patent contain more than the patentee is entitled to, the rest of the patent may be valid, so long as it is otherwise properly in order, and no fraud has been committed.

(2) If what is patented differs from what was demanded in the application.

(8) If the invention was not new at the date of the application.

All proceedings, to invalidate a patent, must be commenced within a period of one year, from the date of the working of it within the Republic. An action for invalidating a patent may be commenced in the name, or on behalf, of the District Attorney.

Any person already working the same industry will have the right of appearing in interference.

The patent will lapse—

(1) At the expiration of the legal term.

(2) If it is relinquished by the patentee.

(8) If not worked within the legal term.

Where a patent lapses through failure to work, the declaration of invalidity can only be made by the Court, upon the application of the District Attorney, or by the party interested, conducting an interference action; in other cases, the declaration may be made by the Department of Public Works. The nullity, or lapse of a patent, will be published in the Official Journal of the Federal Government, and recorded at the Department of Public Works. Lapsed patents revert to the public. Where only a portion of a patent is abandoned, only that part becomes public property, the patent remaining good for the rest. The abandoning of a patent must be done in writing, and recorded at the office of the Department of Public Works.

Patents may be assigned, in a manner similar to that adopted with regard to private property, but the assignment

only becomes operative against third parties, when recorded in the office of the Department of Public Works.

Infringement proceedings are conducted according to the provisions of the Criminal Code of the Federal District, and the Codes of Procedure.

All proceedings relating to applications pending at the date of this law, will be continued, and decided, in conformity with this law, and the proprietors of existing patents may avail themselves of the benefits of this law, upon payment of the fees set forth.

Regulations and rules of practice may be established by the Executive of the Union, as well as of the Patent Office, in connection with the Department of Public Works.

The law of the 7th May, 1882, is repealed.

#### NATAL.

Duration of Patent: fourteen years; may be extended.

Working: none.

Taxes: before the end of third and seventh years.

Letters Patent must be forwarded.

International Convention: does not apply.

Patents are granted in Natal under the Law No. 4 of 1870.

Patents are granted for a period not exceeding fourteen years from the date of the patent. Rules and regulations may be made by the Lieutenant-Governor and the Executive Council for carrying out the provisions of the law, all rules and regulations being laid before the Legislative Council within fourteen days after the making thereof, or within fourteen days of their next meeting.

An applicant for a patent must deposit, at the office of the Attorney-General, a Provisional specification, describing the nature of the invention, the date of which will be noted and endorsed upon it, whereupon the invention will be protected for six months, the applicant having, during that time, the like powers, rights, and privileges as if he possessed a full patent, and being at liberty to publish or use the invention without invalidating the Letters Patent, but the specification is kept secret until after the expiration of the six months. Should the title or the specification be too large or insufficient, the Attorney-General may allow or require amendment, and the specification, so amended, will then be considered to be a Complete specification, and liable to the conditions imposed upon a Complete specification.

Instead of a Provisional specification, a Complete specification, accompanied by drawings, if necessary, may be deposited with the application.

A patent obtained by the true inventor, will not be invalidated by protection obtained in fraud of him, nor by any use or publication subsequent to the application, during the term of the protection.

As soon as he pleases after the deposit of the specification, the applicant may give notice to the Attorney-General of his intention to proceed with his application for a patent, and the Attorney-General will deliver an "appointment," which is to be published once in the Government Gazette, once in some newspaper published in Pietermaritzburg, and twice in some newspaper published at the place where the invention is worked, or if he does not



work it, in or near where the applicant resides, and any person interested may oppose the grant of the patent, leaving particulars at the office of the Attorney-General, within such time, not less than one month, as may be directed in the "appointment." At the hearing, the applicant must produce the newspapers containing the notices, and the Attorney-General will then hear and consider the application and objections, calling in scientific aid, if necessary, and fixing the remuneration of the experts, and by whom they are to be paid, the applicant and the objector, with their respective witnesses, being heard separately.

The Attorney-General may grant his warrant for the sealing of the patent, with such restrictions as he may think necessary.

Patents may be repealed by a writ of *scire facias*, and the Lieutenant-Governor, with the advice of the Legislative Council, may order the Attorney-General to withhold his warrant for the grant of the patent, or to prevent the issuing of the patent, or to order any restrictions or conditions to be inserted in the patent, or to cancel any specification, thus terminating the protection under it.

Taxes are payable at the end of the third and seventh years, and the patent will expire if these be not paid. The payment must be endorsed upon the Letters Patent.

Letters Patent can only be issued, if application to seal be made within three months from the date of the Attorney-General's warrant, and the patent must be granted during the continuance of the protection. Should the application to seal, and the sealing, have been delayed from accident, and not from neglect, the patent may be sealed at any

time within a month after the expiration of the protection, as the Governor and Council may direct. Should the applicant for patent die while the application is pending, the patent may be granted to the executors during the period of protection, or within three months after the death of the applicant. Should the Letters Patent be destroyed or lost, duplicates may be issued, subject to such regulations as the Governor and Council may direct. The patent is dated as of the day of the application, and will be of the same validity as if it had actually been sealed on that day, and after the issue of the patent no enquiry can be made as to whether the formalities of the "appointment" have been duly carried out.

Patents may be granted upon inventions patented abroad, but the Colonial patent will lapse with the prior foreign patent, or with the first expiring thereof, and should the Colonial patent have been granted after the lapsing of a prior patent, the Colonial patent will never have had any validity.

The patent will not prevent the use of the invention upon any foreign ship or vessel in any part of the Colony, if the invention is not used for the manufacture of goods to be sold in, or exported from, the Colony. By the Law No 5 of 1871, the term "foreign ship or vessel" is defined as including "all ships and vessels used in navigation, not propelled by oars, nor being registered in, or hailing from, this Colony."

The specification and drawings are kept at the office appointed by the Lieutenant-Governor and Council.

The proprietor of a patent may apply to the Attorney-

General for leave to disclaim any portion of the title or specification, or to alter the same, but not so as to extend the scope of the patent; the disclaimer must be advertised in the same manner as with an application for a patent, and oppositions may be entered at any time, not less than one month, from the time directed by the Attorney-General. Where the application merely affects the title of the specification, the Attorney-General may dispense with the publication. At the hearing, the proprietor of the patent must produce the newspapers containing the advertisement, and the Attorney-General will consider the application, and the objections, if any, and deal with the case. Where the advertisement has been dispensed with, no hearing need take place, and the Attorney-General can, in either case, give his fiat allowing the disclaimer, which shall be evidence of the right of the party concerned to make the disclaimer, but no action can be brought for infringement committed before the date of the disclaimer, except by special leave of the Attorney-General. Excepting in case of an action by *scire facias*, the disclaimer cannot be received in evidence in an action pending at the time it was made.

Specifications and drawings are open to public inspection.

The proprietor of a patent may petition the Lieutenant-Governor for leave to extend the term of the patent, setting forth in his petition that he has not been properly remunerated for his labour and expense in perfecting the invention, and that further time is necessary; the Governor and Council may refer the application for consideration to the Supreme Court. A similar petition may be entered, where a verdict has been obtained in Court, to the effect that the

patentee was not the first inventor of the invention, or some portion thereof, by reason of some other person having previously invented or used the invention before the date of the patent, unknown to the patentee, and this application may be referred to the Supreme Court.

At least two months before the time fixed for considering his petition, the petitioner must publish, as in the case of an application for patent, the contents of his petition, and any person interested may enter an opposition at the office of the Attorney-General, at any time, not less than one week, before the time named for considering the petition. The petitioner will be heard by counsel and witnesses, and the publication of the advertisement must be proved; the opponents will also be heard by counsel and witnesses, the latter being examined upon oath, and the Court may report what extension, if any, may be granted, and the Lieutenant-Governor and Council will then grant new Letters Patent, for a term not exceeding fourteen years, from the period of the expiration of the original patent, the new patent commencing upon the day after the expiration of the term of the first patent. In the case of the confirmation of a patent, the Court being satisfied of the *bona fides* of the original inventor, and that his invention had not been publicly and generally used before the date of his patent, may accede to his request, and the Lieutenant-Governor and Council may concur, and confirm the patent. Any person who has been a party to a previous action touching the patent, is entitled to notice in writing, on behalf of the petitioner, of the fixture for the hearing of the petition. After the decision, it is not material to ascer-

tain whether the regulations, as to advertisement or notice, have been properly complied with.

Indices of all specifications and disclaimers are prepared by the Lieutenant-Governor, and are open to public inspection.

A register of patents will be kept, wherein are to be recorded, in chronological order, all patents, with notes of the filing of specifications, disclaimers, amendments, confirmations, or extensions, as well as the expiration or cancelling of patents, with dates and other matters affecting patents; this register, or a copy, to be open to public inspection. There will also be kept a register of proprietors, in which all assignments or licenses, and names of proprietors or licensees, and dates and other matters affecting the proprietorship of patents, will be entered, and a copy of any entry in this book will be given, upon payment, to any person requiring it, said copy to be *prima facie* proof of what it contains. Until an assignment is recorded, the patentee will be taken to be still the proprietor of the patent. The register will be open to public inspection. The making of false entries in the register, or forged extracts therefrom, renders the offender liable to imprisonment, with or without hard labour, for any period up to five years.

An aggrieved party may apply by motion to the Supreme Court, to have any entry expunged, vacated, or varied, and the Court may make the necessary order for this purpose.

Imitating the marks or devices of a patentee, or misleading the public by marking the goods with the words "Patent," "Letters Patent," "Queen's Patent," or the like, renders the perpetrator liable to a fine of £50, one-

half to go to the Colonial Government, and the other half, with full costs of suit, to the person suing.

Action for infringement can be taken in the Supreme Court during the life of the patent, and the defendant may not plead the defect or insufficiency of the specification, misdescription of the invention, or that the plaintiff was not the inventor, unless he can show that he (the defendant) was the actual inventor, or derives his title from the actual inventor. He may plead, however, that the invention was not new, if the defendant, or some person through whom he claims, before the date of the application for the patent, did publicly, or actually, use in the Colony of Natal, the invention, or part of it, infringed. Should the Court be of opinion that the patentee has included old matter, or matter of which he was not the inventor, or that the specification is defective, but that no fraud was intended, it may confirm the patent for the rest of the invention.

The plaintiff must deliver particulars of the breaches complained of, and the defendant, particulars of objections upon which they mean to rely in the action, and no other evidence will be allowed, unless the particulars be amended by leave of the judge. The places where the invention is alleged to have been used, before the date of the patent, must be fully stated.

In taxing the costs in an action for infringement, regard will be had to the particulars delivered, and costs will only be allowed for those particulars certified by the Court as being proved. The Court may certify that the validity of the Letters Patent came in question, and this certificate being given in evidence in any subsequent suit for infringement,

or repeal of the patent, will entitle the patentee, on obtaining a judgment in his favour, to his full costs as between attorney and client, unless the Court shall certify to the contrary.

By the Law No. 82 of 1884, it was enacted that, after the promulgation in the Colony of the Order in Council applying section 108 of the (British) Patents, Designs and Trade Marks Acts, 1888, all Letters Patent granted in the United Kingdom shall be deemed to have been granted under the provisions of the Natal Law No. 4 of 1870, and may be dealt with accordingly.

#### NEWFOUNDLAND.

Duration of Patent : fourteen years.

Working : within two years.

Taxes : none.

International Convention : does not apply.

Patents are granted in Newfoundland under that portion of the consolidated statutes relating to patents, and being Title xv., cap. liv., section 1.

Patents are granted for the term of fourteen years for any new and useful art, machine, manufacture, or composition of matter, the Governor in Council having power to issue Letters Patent under the great seal of the Island, conveying the full and exclusive right and liberty of making, constructing, using, and vending the invention. Patents are recorded in the office of the Colonial Secretary, in a book kept for the purpose, and the Governor in Council has the power to insert in the grant a provision, extending the operation of the patent,

for a further term of seven years. Before granting the patent, the application is referred to the Attorney-General, who, if he finds everything in order, may certify accordingly, and within fifteen days return the patent to the office of the Colonial Secretary, to be signed and issued. Patents may be granted for improvements upon a patented invention, but the patentee of the improvement will not have the right of working the subject of the original patent, and *vice versa*; merely changing the form or proportions, no matter to what extent, will not be considered a discovery or improvement, justifying the grant of a patent.

Copies of patents, specifications, or other papers relating to the application, can be obtained at the office of the Colonial Secretary.

The application must be accompanied by a petition, setting forth the facts, a specification, and an oath, taken before one of the Justices of the Supreme Court, or a Stipendiary Magistrate, or a Commissioner of Affidavits, to the effect that the applicant believes himself to be the inventor, or discoverer, of the invention, which has not, to the best of his knowledge and belief, been known or used in the Island, or elsewhere.

The specification must be ample and clear, distinguishing what is new, and such as to enable any person skilled in the art to which it appertains, to put the invention into operation, with the assistance of the specification and drawings only. If the invention relate to a machine, a model must also be filed, or, if to a composition of matter, specimens of the ingredients; enough for experimental purposes. The specification must be signed by the applicant, and attested by two



witnesses, and will be filed in the office of the Colonial Secretary; copies, certified by the Colonial Secretary, will be evidence in the Courts, of anything concerning the patent. Where the cost of the model would be so great as to prevent an ingenious, but poor person, from obtaining a patent for his invention, the Governor in Council may dispense with the model.

Patents may be assigned, the assignment to be recorded in the office of the Colonial Secretary.

An infringer must pay to the patentee a sum equal to three times the actual damage sustained by the patentee, in consequence of the infringement, the damages to be recovered with costs, by action in the Supreme Court. In defending such an action, the defendant may give in evidence any special matter, showing that the specification does not contain enough, or contains too much, either of these being for the purpose of misleading the public, or that the patentee was not the original inventor, as the invention had been in use, or publicly described, before the date of the alleged invention, or that the patentee had improperly obtained a patent for the invention of some other person, and should any of these pleas be sustained, judgment will be entered for the defendant with costs, and the Letters Patent will thereupon become void.

The proprietor of a foreign patent may obtain a patent in the Colony, provided the subject of the patent has not been introduced into public use in the Colony before the application, and that the Colonial patent shall not continue in force after the expiration of the prior foreign patent, or should there be more than one prior foreign patent, after the one

first lapsing. Should the Colonial patent have been applied for after the lapsing of a prior foreign patent, the Colonial patent will never have possessed any validity.

The Colonial patent may be issued by the Governor in Council to the assignee of the foreign patentee, but the Colonial patent will not be issued for a foreign invention, upon which no foreign patent has been obtained. The invention must not have been in public use in the Colony before the application for the patent, and the assignee of the foreign patent must file a duly legalised assignment, under which he claims the patent in the Colony, and must also file an affidavit, giving the date of the foreign patent, and stating that the patented article has not been in public use in the Colony, and that he is the assignee for a good consideration.

The patent must be worked within two years from the date of the patent, or the patent will lapse.

Notice has to be given, for at least four weeks, in the Royal Gazette, and one other newspaper of the Colony, of the intention to apply for the patent, and this notice must in general terms describe the invention to be patented. The inclusion in a specification by inadvertence, accident, or mistake, and not wilfully, or for the purpose of misleading the public, of matter, of which the applicant was not the inventor, will not invalidate the rest of the specification, providing the remainder be a material and substantial part of the patent, and that it is plainly distinguishable from the parts improperly included, and the proprietor of the patent may maintain suit, at law or in equity, for infringement of the valid part of the patent, notwithstanding the invalid portion; but should

the proprietor succeed in such action, and obtain judgment, he will not be entitled to costs, unless he has previously disclaimed the portion he is not entitled to, the disclaimer to be filed in the office of the Colonial Secretary, and to be attested by a witness. Neglecting to obtain the disclaimer, or unreasonably delaying to do so, will prevent the patentee from availing himself of this section. The disclaimer must be in writing, and state the interest of the party, making the disclaimer, in the patent. It must be attested by a witness, and recorded in the office of the Colonial Secretary, and, after recording, it will form part of the original specification, to the extent of the interest possessed by the person making the disclaimer, or those persons claiming under him. The disclaimer will not affect any action pending at the time of record, except in so far as the question of unreasonable neglect or delay may arise.

A specification may be amended, so far as it relates to defective, or insufficient description, or too extensive claims, where this has arisen from inadvertence, accident, or mistake, and without fraudulent intent; the patent must be surrendered to the Governor in Council, with a petition for the issue of a new patent for the remainder of the term, the new patent to be in accordance with the amended specification. In case of the patentee's death, or the assignment by him of the whole or a portion of the original patent, the right will vest in his legal representatives, according to their respective interests in the patent.

Improvements may be patented, the patent for the improvement, made subsequent to the date of the original patent, passing through the same proceedings as the original

application, and being annexed to the original specification, the Colonial Secretary recording the time when it is annexed, after which the additional specification will have the same effect as if it had formed part of the original specification.

No patent granted in England, or elsewhere beyond the Colony, and extending to the English Colonies, will have any effect in Newfoundland, until copies of the original specification and drawings, or duplicates of the models, upon which the patent was granted, have been lodged in the office of the Colonial Secretary, who will grant a certificate when this has been done.

Any oath rendered necessary by this law may be taken in the Colony, before a judge of the Supreme Court, or a Commissioner for taking affidavits, or in Great Britain and Ireland, before the Mayor of a city or borough, certified under the Corporate Seal, or in other country, before the British Consul, or Vice-Consul, certified under his Seal of Office.

#### NEW SOUTH WALES.

Duration of Patent : fourteen years.

Working : none.

Taxes : none.

International Convention : does not apply.

The original law for the granting of patents was dated 6th December, 1852, but the present law chiefly dates from the 8th July, 1887.

Patents are granted to any person claiming to be the author or designer, or agent or assignee of the author or

designer, of any invention or improvement in the arts or manufactures. The application must be accompanied by a petition to the Governor setting forth the facts, and by a specification, with drawings where necessary, detailing the particulars of the invention. The application is examined on behalf of the Minister of Justice, and, if he report favourably to the Governor, the latter has power to grant the Letters Patent.

Instead of the Complete specification above referred to, the application may be accompanied by a Provisional specification, when, upon the application being approved, Provisional protection for twelve months will be granted, the protection lapsing, if within that time the applicant fails to complete his patent. Upon the completion of the patent, after the filing of the Complete specification, the Provisional protection will cease.

The holder of a certificate of Provisional protection may, during the term of such protection, use and publish his invention, without prejudice to the subsequent issue of the Letters Patent.

Letters Patent, unless otherwise ordered by the Minister of Justice, bear the date of the application for the patent, whether accompanied by a Complete or Provisional specification, but no action is maintainable on account of any infringement committed before the filing of the Complete specification, and the patentee cannot institute any such proceedings until after the actual registration of the Letters Patent.

The issue of a certificate of Provisional protection will not prevent the issuing of a similar certificate or of Letters

Patent upon a subsequent application for the same invention, but this will be in the discretion of the Minister of Justice.

Every certificate of Provisional protection, and every Letters Patent, may be assigned by an instrument in writing under the hand and seal of the holder thereof, and by similar means, a license, exclusive or not, and for the whole or any portion of the Colony, and giving the right "to manufacture, adopt, utilise, or exercise proprietary or co-proprietary rights over the whole or any portion of the invention or improvement which may be specifically protected by the said Letters Patent," may be granted. Every such assignment or license must be registered within the prescribed limit of time, and in the prescribed manner, at the office of the Examiner of Patents.

The Governor has power to appoint a fit and proper person to be Examiner of Patents under the Minister of Justice, and it will be his duty to report to the Minister upon all applications for Letters Patent.

The Governor has power to make all necessary regulations for carrying the Act into force, and these shall be valid in law upon publication in the Government Gazette; but a copy of each regulation shall be laid before both Houses of Parliament, within fourteen days from the issue thereof, or if Parliament be not in Session, within fourteen days after the commencement of the next Session.

By this Act, the prerogative of the Crown is not prejudiced.

Sections 2, 3, and 4 of the Act 16 Vict., No. 24, dated the 6th December, 1852, are repealed, and the parts remaining set forth that the Governor of the Colony, with

the advice of the Executive Council, has power to grant Letters of Registration for all inventions or improvements in the arts or manufactures, to the author or authors, designer or designers thereof, or to their agents or assignees, for a period of not less than seven nor more than fourteen years.

Any such Letters of Registration may be repealed by writ of *scire facias* for the same causes, and in the same manner, as other grants of the Crown.

#### NEW ZEALAND.

Duration of Patent: fourteen years from date of acceptance of application.

Working: none.

Taxes: before end of fourth year, and before end of seventh year.

International Convention: applies.

Patents are granted in New Zealand under the law of the 2nd September, 1889.

The New Zealand law is almost identical with the English law as in the Acts of 1883, 1885 and 1886, including Patents, Trade Marks and Designs, so that for all general particulars, the reader is referred to the English law, and only one or two points of difference need be pointed out.

Any person being the true and first inventor may apply for a patent, and, with him, other persons may join in the application, and if the application be made within six months of the death of the inventor, his heirs may be included in the application.

Patents are granted for fourteen years.

The patent differs from the English patent, inasmuch as it is dated and sealed as of the day of the acceptance of the application, and not the date when the application was made.

Renewal fees are payable before the end of the fourth year, and before the end of the seventh year.

Licenses and assignments must be registered, and compulsory licenses may be obtained as in Great Britain.

Proceedings for revocation or infringement are similar to those of Great Britain.

#### NORWAY.

Duration of Patent : fifteen years.

Working : must be proved within three years of grant, and continually.

Taxes : annually, from date of application.

International Convention : applies.

Patents are granted in Norway under the law of the 16th June, 1885, which came into force on the 1st January, 1886.

Patents are granted for new inventions, useful in the industrial arts, but inventions contrary to law, morality, or public order, or for articles of food or medicine, are not patentable, though a patent may be obtained for a process or apparatus for manufacturing articles of food or medicine.

An invention will not be considered new if, before the application for the patent, it was so well known in the country as to be capable of being worked by experts ; but publication by printed matter or public exhibition will not



invalidate the patent if applied for within six months from the date of such publication or exhibition. If the inventor at the time of such public exhibition announced (by a notice affixed to the article) his intention to apply for a patent, and gave previous notice thereof to the Patent Office, the patent will be effective from the date of such public exhibition.

The patent will be granted to the first inventor, or to any person who has obtained the right from him, but in case of dispute as to the rightful inventor, the patent will be granted to the earliest applicant.

During two years from the date of the application, only the proprietor of the patent is allowed to obtain patents of addition, and, in consequence, any application for an improvement of, or addition to, the invention will be detained under seal in the Patent Office, and will not be decided upon until the expiration of the two years, the original patentee not having himself applied in the interval.

The duration of patents will be fifteen years from the day of application.

The fee for lodging an application for patent is 30 crowns, and there is in addition an annual tax upon each patent, amounting to 10 crowns for the second year, and increasing 5 crowns each year. This tax is due at the beginning of each year, but may be paid at any time within the next three months, upon payment of a fine equal to one-fifth of the tax. Patented articles may not, without the consent of the patentee, be manufactured, imported, offered for sale, or sold, though a person may himself manufacture or import it for his own personal use. No unauthorised person is

entitled to use in his business the patented article, but the patent will be of no avail as against the patented article used on foreign vessels during their stay in Norwegian waters.

Those persons who have used the invention, or made the necessary preparations therefor, before the date of the application, may continue to do so.

The King has the power to order the patented invention to be used for the Government service, without obtaining the consent of the proprietor, and also that an invention of value to any particular trade may be appropriated to private use; in both cases the proprietor of the patent would be entitled to compensation, the amount of which may be settled by arrangement, or by arbitration.

Applications for patents are adjudicated upon by a Patent Commission sitting at Christiania, and consisting of a President, who must be specially qualified, and at least five expert technical members, all these being appointed by the King for periods not exceeding five years. Appointment of deputies for the technical members will also be made.

In applying for a patent, a petition for the grant must be presented to the Commission, together with a specification and drawings in duplicate, and models, and samples, if required, and a list of the documents, &c., comprised in the application.

An applicant not residing in Norway must appoint an attorney residing in the country. The specification must be clear and explicit, so that the invention can be carried into practice by qualified persons, and must end with a statement of claim; it must be in the Norwegian language.

The Patent Commission will order amendments in applications if found necessary, and fix the date within which they must be made, and should these not be carried out within the period fixed, the application will be rejected.

Where an application is manifestly not new, or according to law, the application will be at once rejected.

In the case of an application in proper form, the Patent Commission will, within four weeks, order a public announcement of the application, giving the subject-matter, and the name of the applicant, and the specification will then be open to public inspection. An additional fee of 20 crowns with the application, and a request, may result in the publication being delayed for a period of not more than four months from the date of the application. In this case a term of eight weeks is allowed for the preliminary examination instead of four, as in the former case, and experts may be called in.

During the eight weeks next following the date of publication, any person may enter an opposition to the grant of the patent; the opposition must be in writing, and be accompanied by the reasons.

Within sixteen weeks from the publication, the Commission will decide upon the application, and may require explanations from the parties in the case, or call in the assistance of experts. In case of dissatisfaction, the applicant may, within six weeks, lodge a protest against the decision of the Commission, who will then further consider the case. Notice of appeal from the final decision of the Patent Commission may, within four weeks, be given, and the appeal will be heard before a superior Patent Commission, consisting of

seven members, specially appointed for the particular investigation by the King. A fee of 150 crowns must be paid by the applicant for this special Commission, but this amount will be refunded him if the original decision be upset. An abstract of the specification, in the case of patents accepted, will be published by the Commission, or in case of refusal, the refusal will be published.

A register of patents will be kept at the Patent Office, in which important matters relating to patents, such as the expiration or assignment of a patent, will be entered, and will be also publicly announced. The register and specifications will be open to the public.

A patent lapses in case of failure to pay the annuities within the prescribed time, or if the appointed attorney fails in his duties, and the patentee does not register a new attorney within three months, after being warned by advertisements in the Gazette to do so.

A patent must be worked within three years from the date of the patent, or, at least, the patented articles must be put on sale in the kingdom, and such working or keeping on sale must not cease for one whole year, but the latter term may be extended by the Patent Commission upon petition. In special cases, the Patent Commission may decide what will be considered sufficient working.

Any person may bring an action to have a patent declared void. The action will be tried before the Court of Christiania. Four weeks' notice will be given in the summons.

Infringers must compensate the injured party, and if the infringement has been knowingly committed, but does not involve a more severe punishment, a fine of from 50 to

1,000 crowns, or if the offence be repeated, of 2,000 crowns, may be incurred. Infringing articles may be confiscated.

Neither penalties nor damages can be enforced, unless the action has been commenced within two years from the date of the infringement, or if the patentee has neglected to take proceedings, within one year from the time at which it is proved that he first became aware of the infringement, or if during the same period he fails to prosecute an action already commenced.

Antedating of specifications, corresponding with an application filed in a prior foreign country, may be made, if the application in Norway be filed within seven months of the date of the foreign application, provided the other State reciprocates in this respect. This, however, will not relate to patents granted before the present law came into force. The proprietor of a patent, granted before the present law came into force, may, within one year, apply to have that patent exchanged for one under the provisions of the present law. The term of such new patent will be reckoned from the date of the grant of the earlier patent, and the taxes will be payable accordingly.

#### ORANGE FREE STATE.

Duration of Patent : fourteen years.

Working : none.

Taxes : before end of third and seventh years.

International Convention : does not apply.

Patents are granted in the Orange River Free State under Ordinance No. 10 of 1888.

Every person making a new industrial invention, capable of being used as an object of trade or industry, has the right to obtain a patent therefor, whether he be a citizen of the Orange River Free State, or not, and the same right belongs to corporations and companies, if the inventor be one of the members, and be so distinguished in the application. Two or more persons may jointly obtain a patent.

With his application, the applicant may file either a Provisional or a Complete specification, the former will describe the nature of the invention, and, if necessary, be accompanied by drawings, the latter must clearly describe it with drawings, if necessary; both specifications must contain the title of the invention, and the use of the official language is compulsory.

A Provisional specification is deposited with the application, at the office of the States Attorney, and an entry of the date is made, and thereupon the inventor is protected for a period of six months, during which time he may publish his invention, without invalidating the patent to be subsequently obtained. The Provisional specification is kept secret. Should the States Attorney regard the specification as too voluminous, or not explicit enough, he may allow or require the title or specification to be altered, or amended, during the said period of six months, and before a patent is issued, and the specification, as amended, will be considered as a Complete specification, but the protection will, nevertheless, cease at the expiration of the six months, should the patent not be completed. Where a Complete specification is filed with the application, a note of the date is made, and Provisional protection for six months is obtained,

but the applicant is, during that period, in the same position as if he had the full patent, excepting that he cannot institute proceedings for infringement, until he obtains his patent.

An applicant desiring to obtain his patent, must give notice to the States Attorney of his intention to proceed, whereupon the States Attorney will provide a form of notice, appointing a hearing, not less than one month later than the date of the notice, to be forthwith published, once in the *Gouvernement's Courant*, and in one other newspaper published in Bloemfontein, and twice in some newspaper published at or near the place where the invention is worked, should that not be the place where the applicant lives, or, should no newspaper be published there, the publication must be made in some newspaper circulating there. Any person interested may give notice to the States Attorney of his intention to oppose the grant of the patent, supplying, within the time fixed in the previously named notice, a written statement of his objections.

At the time and place set forth in the notice, the applicant must produce the newspapers in which the notice appeared, and the States Attorney will then hear the applicant, and the objectors, and their respective witnesses, separately, and not in each other's presence, and determine as to the granting, or otherwise, of the application. He may call in expert assistance, and fix the amount to be paid therefor by either party, as well as the costs of the hearing. An order as to costs by the States Attorney is recoverable at law. If no objections are entered, or if after hearing the objection the States Attorney decides in favour of the applicant he will

issue his certificate for the grant of the patent, with any conditions to be embodied, and upon request, and as soon as possible, will prepare a patent in the terms of the certificate. This draft is sent to the office of the States Secretary, to be signed by the State President, and countersigned by the State Secretary, and to have the State seal affixed.

The patent may be refused if contrary to law, morals, or order, or if the application be sent in more than three months after the date of the States Attorney's certificate, or if the six months' term of protection has expired. If the application for signing and sealing is made in due time, and the completion is delayed through no fault of the applicant, the grant may be completed within one month after the expiration of the six months.

Should the applicant die during the six months, the patent may be granted to his legal representative, at any time during three months after his decease, whether that takes it beyond the six months limit, or not

The patent bears the date of the application, and runs for a period of fourteen years, subject to the payment of taxes before the expiration of the third and seventh years, the payment of these to be noted on the Letters Patent. In case of failure, through chance, mistake, or inadvertence, to pay these fees within the stipulated time, application to the Government may be made for an extension of the time, and this may be granted upon payment of a fine, for a period not exceeding three months, but in case an action for infringement be commenced after the payment was due, and before the extension was obtained, the Court may refuse to award damages to the patentee.



The patent having once been granted, no enquiry can be made as to whether all the formalities have been properly complied with.

A duplicate Letters Patent may be obtained in place of a lost or destroyed one, if the Government is satisfied that the original cannot be produced.

Where a prior foreign patent exists, the Colonial patent will expire with that, or with the first to lapse, if there be more than one. Should the foreign patent have lapsed before the Colonial one was granted, the latter will never have been of any validity.

The specifications and drawings deposited at the offices of the States Attorney, are removed for safe custody to an office, appointed by the President of the State, immediately after the granting of the patent, or, if the patent be not granted, immediately after the termination of the six months. The applicant for, or proprietor of, a patent may, at any time, apply to the States Attorney for leave to amend his specification, whether by cancelling, amending, or explaining it, giving the proposed amendment, and his reason for desiring to make the alteration; he will then receive a notice, which must be published, as in the case of applications for patents, and the States Attorney will ultimately decide whether the amendment be allowed or not, the order being registered in the office named by the States Attorney.

No amendment will be allowed which would make the specification more comprehensive than, or different from, the original.

Permission to make the amendment concedes the right

to make it, except in case of fraud, and the amendment will, for all purposes, be accepted as part of the specification.

In an action for infringement, or for the nullification of a patent, the Court can, at any time, make an order allowing the patentee to remove some portion of the specification, and may postpone the case to allow of this being done.

Where an amendment has been made, no damages will be given for infringement committed prior to the amendment, unless the patentee can satisfy the Court that his original application was made in good faith, and with proper care.

Compulsory licenses may be granted by the Government, upon the advice and consent of the Executive Council, if it be satisfied—

(1) That the refusal of the patentee to grant licenses, on reasonable terms, prevents the invention being made use of in the State.

(2) That the ordinary demand for the patented articles cannot be met, or

(3) That some person is prevented from using, and obtaining the benefit of, an invention of which he is possessed.

The proprietor of a patent may apply to the State President for an extension of the term of his patent, but the application must be lodged six months before the expiration of the patent. Such an application may be referred to the High Court, and, at least two months before the hearing, the applicant must publish, in the manner described for patent applications, a notice stating the nature of his application, and any person interested may lodge particulars

of objections with the States Attorney, at least one week before the hearing. The parties interested may, at the hearing, appear in person or by counsel, the applicant opening by proving that the notice has been duly published. The Court will consider the nature of the invention, and its value to the public, the profit made by the patentee, and other circumstances connected with the case, and will report if the extension should be granted, and, if so, the terms and conditions. The State President can issue a new patent for the extended time, not exceeding fourteen years, and with such conditions and restrictions as he may deem desirable. The new patent will date from the day of the termination of the old one.

The State President can order an inventory to be made of all applications, specifications, and other writings, which will be open to public inspection, under the regulations that may be made. A register of Letters Patent will be kept, and in this will be entered, in chronological order, the particulars of applications for patents, specifications, drawings, and amendments, extensions, and expirations of patents, and other matters concerning them; this register also will be open for public inspection.

A register of patent owners will also be kept, in which all transfers of patents, or alterations therein, licenses, and the like, will be entered. Certified copies of extracts from this register can be obtained, which will in itself be *prima facie* evidence; this register also will be open for public inspection. Falsifying an entry, or copy of an entry, in the register, or publishing the same, renders the offender liable to five years imprisonment, with or

without hard labour. The High Court can correct or alter the register, upon the application of an interested party, and may make any order as to costs, and may make an order upon any question arising as to the correction of the register.

The patent may be challenged upon any of the following grounds :—

(1) That the patent was obtained fraudulently, to the detriment of some one else's rights.

(2) That the person alleged as the first and true inventor, was not so.

(3) That the invention was not new, that is, that already before the issuing of the Letters Patent, it was published, or applied, in this State.

(4) That the invention is not suitable to be patented, in the terms of Article 1.

(5) That the description has reference to theoretical principles, theories, methods, systems, discoveries, or conceptions, of which the manner of application has not been explained.

(6) That the complete description is not sufficient, that is, that it has been neglected to make mention of one part of the secret, or that it is indicated in an insufficient way.

(7) That the invention, or its application, is in conflict with laws, public order, or good morals.

(8) That the title fraudulently indicates a different thing from the true invention.

(9) That the prescribed payments had not been made in time.

(10) That the Letters Patent had become void by reason of their having been lost or destroyed.

Only the following can challenge a patent on the above grounds :—

(1) The States Attorney.

(2) Every person expressly authorised thereto by the States Attorney.

(3) Every person who avers that the patent right has been obtained in opposition to his rights, or the rights of another person, from whom he derives his rights.

(4) Every one who avers that he, or another person from whom he derives his right, is the inventor of the invention in question.

(5) Every one who avers that he, or his partner, or another person from whom he derives his rights, has publicly made, used, or sold, before the time of the granting of the patent right, that which the patent right holder claims as his invention.

In an action for the cancellation of a patent, the plaintiff must in his application state the facts upon which he relies, and no other proof will be allowed, except by sanction of the Court, which, however, can allow the application to be amended. The defendant may begin with proofs in support of his patent, and if the complainant produces proof against the validity of the patent, the defendant may bring further proof.

Should a patent be cancelled on the ground of fraud, the true inventor may have a new patent issued to him dating from the cancellation of the original one ; this new patent will expire at the expiration of the term for which the original patent was granted.

The selling, as patented, of articles for which no patent has

been granted, is punishable by a fine not exceeding £25, but should the article be the subject of another person's patent, the fine will be increased to £50, half to go to the State, and the other half, with the costs of the action, to the proprietor of the patent, who may recover the amount by process of ordinary debt recovery. If the article bears the word "octrooi," "geoctrooieerd," "patent," "gepatenteerd," or the like, it will be deemed to be sold as patented.

An action for infringement may be brought in the High Court against anyone who, during the term of the patent, makes use of, sells, or imitates the invention, and all grounds allowed in an application to cancel a patent, may be used as a defence. The plaintiff must give particulars of infringement, and the defendant particulars of his objections, and must state his grounds, if he denies the validity of the patent, and if he alleges that the invention was not new, he must state the time and place of the alleged prior publication. Except with the consent of the Court, no proof, not stated in the pleadings, will be admitted at the hearing, but the plaint and answer may be altered later, by consent of the Court.

In taxing the costs, the nature of the plaint and answer will be considered, and no party will be allowed costs in respect of any statement, not proved, or not material to the case, irrespective of the general costs of the case. The Court can, of its own motion, or at the request of either of the parties, call in an expert, and fix his remuneration. The Court can, upon application, make an order for the suspension of work, production of accounts, inspection, or such other measures as may be necessary. It can certify that the

validity of the patent came in question, and where the Court so certifies, the patentee, in any subsequent action for infringement of his patent, can, upon obtaining judgment in his favour, claim the full costs as between attorney and client, unless the Court orders otherwise.

Only one invention can be included in the patent, but objection cannot be taken to the patent on the ground that it embraces more than one invention.

If the inventor dies before applying, his lawful representative may do so, and obtain the patent; but the application must be made within six months of the death, and the applicant must make a declaration that the deceased was the true inventor.

A patent to the rightful inventor will not be invalidated by an application, Provisional protection, or publication, after the deposit of the application, in fraud of him.

A patent can be assigned for the whole or any portion of the State.

Publication of an invention at an international or industrial exhibition, or in connection therewith, will not prejudice the inventor, if, previous to exhibiting, he informed the States Attorney, in writing, of his intention to apply for a patent, and made the application within six months from the opening of the exhibition.

The Government can require a model, upon payment of the cost, and in case of disagreement, the price can be fixed by arbitration.

Where a person is by youth, insanity, or otherwise incapacitated from carrying out anything under this law, his guardian or curator, or a person appointed by the High

Court, may do the needful, and the Act will have the same force as if actually done by the incapacitated person.

All fees paid in connection with patents go to the general revenue of the State. The State President can make regulations, and take measures for carrying out the law.

Ordinance No. 12 of 1884 is repealed.

### PERU.

Duration of Patent : ten years.

Working : within two years.

Taxes : yearly.

International Convention : does not apply.

Patents are granted in Peru under the law of the 28th January, 1869.

The person making any invention or discovery, in any branch of industry, has the exclusive right of working it for his own benefit, subject to the grant of the patent by the Government, under the conditions, and for the period, fixed by the law. New industrial products, or new methods, or the new application of known methods, for obtaining an industrial result or product, are patentable ; but pharmaceutical preparations, or remedies of any kind, schemes, or combinations of credit or funds, and processes for establishing known means for improving an industry already public property, in or out of the Republic, are not patentable. In the latter case, only proposals or contracts, permitted by law, will be admitted, and they must be put up to auction.

The limit of a patent is ten years, the annual taxes



going to the fund of Public Works of the Province where the invention is worked.

Patents are of two kinds: invention, or importation, and application must be made at the Prefecture of the Department where the invention is to be worked, or at the Prefecture of the domicile of the petitioner, if the invention is to be worked in two or more Departments.

An application must be accompanied by a specification or description of the invention, such plans or models as may be necessary, a list of the models, a statement of the term of the patent, and of the security offered for the carrying out of the project. The application must be in Spanish, and numbers, weights, and measures must be those known in the Republic.

A foreigner must explicitly renounce all diplomatic intervention, in connection with the patent, and must submit himself absolutely to the laws and tribunals of the Republic, otherwise the patent will not be granted. The Prefects will take the opinion of the Municipality, of the Fiscal, or Fiscal Agent, or other official, according to the nature of the case, and may also take expert opinions as well, and will deliver, with the preliminaries and report, the description, drawings, models, &c., to the Ministry concerned, at the cost of the applicant. The Ministry will take the opinion of the Fiscal of the Supreme Court, and such others as may be considered necessary, and grant or refuse the patent, according to the result of the investigation. Modifications or alterations of specifications, or prolongations of patents, can be granted only by a resolution of the Legislature, and must be solicited by the parties interested, supported by sufficient testimony.

A patent will be invalid—

(1) If the discovery, invention, or application is not new.

(2) If it is not comprised within the terms of Article 2.

(3) If it is based upon theoretical or scientific principles, methods, systems, or discoveries, to industrial application of which is not indicated.

(4) If the discovery, invention, or application appears to be contrary to order, to public security, or to law; without prejudice in that case, to the penalties prescribed for the manufacture or sale of prohibited articles.

(5) If it is found that, in applying for the patent, fraud was committed, to obtain by that means another object distinct from the real invention.

(6) If, in carrying out the invention, it turns out to be not in accordance with the description which accompanied the application.

(7) If it was obtained in contravention of any of the provisions of this law.

(8) If in granting the privilege, there are also connected pecuniary subventions, not foreseen in the estimates of the Republic; or exemptions contrary to law. Authorisations which refer to changes, improvements, or additions, which are not comprised in the principal patents, are equally null, and of no effect.

An invention will not be considered new if, previous to the application for the patent, it had been sufficiently published either in Peru or abroad, to be put into operation.

Patents will lapse—

(1) If the annuity be not duly paid.

(2) If the invention be not worked within two years, or

such other term, as may be fixed in the patent, unless the delay is legally justified.

(3) If the articles manufactured abroad, are imported into Peru, excepting so far as relates to models of machinery, authorised by the Government, after investigation.

The assumption of the title of patentee, without legally possessing it, or after the patent has lapsed, renders the offender liable to a fine of from £8 to £160, the amount being doubled upon the repetition of the offence, and without prejudice to the penalties involved for the offence of fraud.

*Bona fide* interested parties are entitled to apply to the Courts for the revocation of a patent. The Fiscal will intervene, and if the patent be upset, he will notify the fact to the Ministry concerned.

Infringers are punishable with a fine, which goes to the injured party, and the confiscation of the infringing articles.

Patents granted prior to the passing of the present law, remain in force for the period for which they were originally granted.

#### PORTUGAL.

Duration of Patent : fifteen years.

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

Taxes : none.

International Convention : applies.

The Portuguese patent law dates partly from the Penal Code and a decree of the 31st December, 1852, and partly from the Civil Code, Chapter III., of the 1st July, 1867, by which Portuguese patents were extended to the Colonies; but by a decree of the 21st May, 1892, this extension was cancelled.

Patents are granted in Portugal for a period of fifteen years, for any new invention in any manufacture, product, or article of commerce or improvement therein, or for an easier or less expensive means of production. Where an inventor has patented his invention in a foreign country, the Portuguese patent will only run for the remainder of the term of the patent in the foreign country. Exclusive right of production is given under the patent. Patents will not be granted for inventions relating to unlawful industries or articles. The rights under the patent commence from the date of the grant of the patent. The exclusive property is strictly limited to the subject of the patent, and will not be allowed to extend beyond that upon the plea of intimate relation or connection. Patents of addition may be obtained during the life of the patent. Nobody but the original patentee can obtain a patent of improvement upon the invention during the first year; other persons applying during the year may deliver their applications in sealed packets, and a note of the delivery will be taken. This deposit will confer on the depositor priority over later applicants, other than the patentee, the latter having in every case the preference during the first year.

Assignment or transfer of patents, whether gratuitously or for a valuable consideration, can only be made by public

deed. Licensees under a principal patent will have the right to use patents of addition granted to the inventor or his representatives, excepting under special agreement to the contrary, and the patentee will enjoy the like privilege should the licensee obtain patents of improvement upon the original patent. Specifications, designs, and models are open to public inspection, and copies may be obtained upon payment of the cost. On the expiration of the second year of the patent, specifications are published wholly or in part, and public announcement is made of lapsed patents.

Any technical description at home or in foreign documents, or other form of publication, prior to the date of the application, would invalidate the patent, as also would the previous granting of a patent for the same object, and a patent would be invalid if the invention were prejudicial to public security or health, or contrary to law, if the title fraudulently set forth a different object, if the specification were insufficient, if the patent were obtained without the necessary formalities, or, in the case of a patent of addition, if it does not relate to something which facilitates the working or increases the utility of the invention, but merely changes the form or proportions, or relates to ornament.

The patent must be worked within two years from the date of the signing of the patent, and the working must not cease for two consecutive years, except by reason of difficulties beyond the control of the inventor. Actions for the nullity or withdrawal of a patent may be brought either by the Public Prosecutor or interested parties; if the action be brought by the Public Prosecutor, the interested

party may intervene, but the Public Prosecutor must always intervene. Where a previous patent has been granted for the same invention, an action for the nullity of the later patent upon that ground can only be brought during the first year of the later patent, but in all other cases action may be brought at any time during the life of the patent.

An infringer is responsible for the damage caused, and is also subject to the penalties of the Penal Code. Infringing articles, or implements that can only serve in their manufacture, may be seized after the patentee has given security, but the party seizing the goods must commence an action within fifteen days or the seizure becomes void, and the holder of the goods may sue the party who made the seizure for loss and damages. Where a successful action for infringement is concluded, the articles seized will be awarded to the plaintiff towards the compensation due, but if the matter has been tried by a criminal suit, the plaintiff can only obtain complete indemnification by a civil action.

A new law in Portugal is expected to come into force next December, of which the following are the chief provisions. The patent will only be granted to the actual inventor, and the maximum duration of the patent will be fifteen years, but it may be granted, at the request of the applicant, for any shorter period, the prolongation being effected by the payment of annual taxes, or these taxes may be paid in full at once.

Medicines and chemical products are not patentable, but processes of manufacture are patentable.

## QUEENSLAND.

Duration of Patent : fourteen years.

Working : none.

Taxes : before the end of fourth and eighth years.

International Convention : applies.

Patents are granted in Queensland under the law of the 18th October, 1884, amended by the Acts of 1886 and 1890, collectively known as the Patents, Designs and Trade Marks Acts, 1884 to 1890. The law is practically a reproduction of the English law, as disclosed in the Acts of 1888 to 1888, and for all general particulars of the Queensland law, the reader is, therefore, referred to the English law.

The patents date from the day of application and last for fourteen years, subject to the payment of a fee of £5 before the end of the fourth year from the date of the patent, and of £10 before the end of the eighth year from the date of the patent. Or, in lieu of these fees, annual fees of £1 each before the end of the fourth, fifth, sixth, and seventh years; £1 10s. before the end of the eighth and ninth years, and £2 before the end of the tenth, eleventh, twelfth, and thirteenth years, may be paid.

An application for patent may be made by the true and first inventor or inventors, or by the assignee of the true and first inventor, or by an assignee jointly with the inventor.

## RUSSIA.

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

Working : must be proved within first quarter of period for which patent is granted.

Taxes : none, but application can be extended to full or intermediate term before grant of patent, but not after.

International Convention : does not apply.

The granting of patents in Russia is regulated by a portion of the code of law of the Russian Empire, the third section of the statute of manufacturing industry.

Patents are granted for new and useful discoveries, or inventions relating to manufactures, compositions of matter, machines, or improvements, and convey the right to make, use, or dispose of the invention during the life of the patent. The Government does not guarantee either the ownership or the utility of the invention. Patents can be sold or bequeathed, or licenses granted, and infringers may be prosecuted. Patents are granted to foreigners as well as natives, and may be obtained upon inventions, the subject of previous foreign patents not expired, but in such case the Russian patent will not extend beyond the term of the prior foreign patent. Only by special favour of the Government can a patent be obtained for an article known but not patented abroad.

Patents are not granted for elementary principles, unless there is a special application of the principle involving special apparatus. Inventions of a trifling or unimportant nature, indicating only inventive genius, but not offering real



advantage to the public, cannot be patented, neither can inventions dangerous to society.

No patents are granted upon inventions relating to implements of war and the like, unless they are also useful to private persons; for example, small fire-arms, metallic cartridges, and so forth, but even then these patents must not be used to hinder the military or naval authorities.

Patents are granted to foreigners, who, without becoming naturalised in Russia, are allowed to construct manufactories, &c. The application must be accompanied by a clear specification, indicating the particular improvement or combination claimed. The specification must be in Russian, and where translated from a foreign language, the original must be annexed for purposes of verification.

A model or sample must be supplied if required. The year, month, day, and hour of the lodging of the application are noted.

All applications are examined by the Council of Trades and Manufactures. The examination is directed towards the novelty and utility, and formality, of the invention and papers; particular attention is directed to see whether the invention contains anything of an unhealthy nature, or deleterious to the welfare of the people, and, if necessary, the Council may confer with the medical Board. The Council fix the term for which the patent may be granted, according to the branch of industry to which it appertains, and may recommend to the Minister of Finance the granting of the patent or otherwise as they think best. When a patent is refused, the reasons are published in the official and the Warsaw Gazettes, and the official news-

papers of both capitals. Should the application be rejected on the ground of insufficient description, or lack of clearness in the drawings, the applicant may make the necessary corrections, and again apply for the patent. Should more than one person apply for a patent upon the same invention, the patent will not be granted at all, unless one of the applicants can prove by legal process that the other obtained the invention from him. Where the grant of a patent is refused, the money will be refunded.

Patents are granted for three, five, or ten years; the term of a patent for an invention already known, but not patented abroad, is limited to six years. No extension of a patent is obtainable.

The term of a patent dates from the day of signature, but legal proceedings for infringement of the patent may date from the day of filing. Publication of the issue of the certificate of filing is made in the Warsaw Gazette, and in the newspapers of both capitals.

As soon as a patent is delivered, a full and detailed account of the invention is published in the publications of the Ministry of that portion of the Empire to which it relates, in the Senate Gazette, in the Warsaw Gazette, and in the newspapers of both capitals. A register of patents is kept, and is open for public inspection.

A patent must be worked during the first quarter of the term for which it is granted, and within six months after the expiration of such term, the patentee must present to the department from which the patent was issued, a certificate from the local authorities concerned, showing that the invention has been put into practical use. Patents can be

assigned through the operation of the proper Courts according to law, and upon the making of such a transfer, or the entry into partnership, the original patentee must communicate with the department, who will advertise it in the newspapers. A patentee cannot form a Joint Stock Company for the working of his invention, excepting with the consent of the Government.

A person, other than the patentee, making an improvement, cannot patent it without the consent of the original patentee, excepting after the patent has lapsed. A patent for an improvement will only be granted for a shorter term than that of the original patent, and cannot be used to extend the term of the original patent, and if taken by another person, it will not be granted for more than half the term of the original patent.

The patent will cease at the expiration of the term for which it was granted, or if it be proved in a Court of law that the invention was not new, at the date when the patent was applied for. Or, that the applicant appropriated the invention from somebody else, or, that the specification is insufficient or parts had purposely been kept back, or, if the patentee failed to work the invention to the satisfaction of the authorities within the stipulated time.

Upon the lapsing of the patent, notice will be published in the Warsaw Gazette that the patent has lapsed.

The payments upon Russian patents are made with the applications, and are, for new patents taken out by the inventors themselves, for a three-year patent, Rs. 90; five-year patent, Rs. 150; for a ten-year patent, Rs. 450. Upon patents introducing inventions already known abroad for

one year, Rs. 60 ; two years, Rs. 120 ; three years, Rs. 180 ; four years, Rs. 300 ; six years, Rs. 360.

The Ministry is understood at the present time to be working out a new Russian patent law ; full details are not yet accessible, but it is believed that the duration of the patent will be twelve years instead of ten, as at present, and that the taxes will be paid annually instead of all at once, as under the present system.

#### ST. HELENA.

Duration of Patent : remainder of term of British grant.

Working : none.

Taxes : none.

International Convention : does not apply.

Patents are granted in St. Helena under the Ordinance No. 8 of 1872.

Patents granted under the great seal of the United Kingdom of Great Britain and Ireland, are extended to the Island of St. Helena, any extension of the patent in the mother country involving the extension of the rights in the Colony.

The British patentee must file in the registry of the Supreme Court, a copy of the Letters Patent, and of the specification, or, in case of renewal, a copy of the renewal thereof, certified as a true copy by the custodian of the original ; unless this be done, the rights do not extend to St. Helena.

Specifications are open to public inspection at the office of the Registrar of the Supreme Court, and the certified copies are *prima facie* evidence of the existence of the right. The

Registrar will permit copies to be made, and certify true copies.

All cases of doubt or difficulty relating to patents, not provided for under this ordinance, or in the local laws of the Island, will be settled, so far as practicable, by the law for the time being in force in England.

#### SOUTH AFRICAN REPUBLIC (TRANSVAAL).

Duration of Patent: fourteen years.

Working: none.

Taxes: before the end of third and seventh years.

International Convention: does not apply.

Patents are granted in the South African Republic under the law of the 1st June, 1887.

Every person making a new industrial invention, capable of being used as an object of trade or industry, has the right to obtain a patent therefor, whether he be a citizen of the South African Republic or not, and the same right belongs to corporations and companies, if the inventor be one of the members, and be so distinguished in the application. Two or more persons may jointly obtain a patent.

With his application, the applicant may file either a Provisional or a Complete specification; the former will merely outline the invention, the latter must clearly describe it, with drawings, if necessary; both specifications must contain the title of the invention, and the use of the official language is compulsory.

A Provisional specification is deposited with the application at the Office of the Attorney-General, and an entry of the

date is made, and thereupon the inventor is protected for a period of six months, during which time he may publish his invention, without invalidating the patent to be subsequently obtained. The Provisional specification is kept secret. Should the Attorney-General regard the specification as too voluminous, or not explicit enough, he may allow or require the title or specification to be altered or amended, during the said period of six months, and before a patent is issued; and the specification so amended will be considered as a Complete specification, but the protection will, nevertheless, cease, at the expiration of six months, should the patent not be completed. Where a Complete specification is filed with the specification, a note of the date is made, and Provisional protection for six months is obtained, but the applicant is, during that period, in the same position as if he had the full patent, excepting that he cannot institute proceedings for infringement, until he obtains his patent.

An applicant desiring to obtain his patent, must give notice to the Attorney-General of his intention to proceed, whereupon the Attorney-General will provide a form of notice, to be forthwith published, once in the Government Gazette and in one other newspaper printed in Pretoria, and twice in some newspaper published at or near the place where the applicant lives, or should no newspaper be published there, the publication must be made in some newspaper circulating there. Any person interested may give notice to the Attorney-General of his intention to oppose the grant of the patent, supplying, within the time fixed in the previously named notice, and not less than one month, a written statement of his objections.

At the time and place set forth in the notice, the applicant must produce the newspapers in which the notice appeared, and the Attorney-General will then hear the applicant, and the objectors, and their representative witnesses, separately, and not in each other's presence, and determine as to the granting, or otherwise, of the application. He may call in expert assistance, and fix the amount to be paid by either party, as well as the costs of the hearing. An order as to costs by the Attorney-General is recoverable at law. If no objections are entered, or, if, after hearing the objection, the Attorney-General decides in favour of the applicant, he will issue his certificate for the grant of the patent, with any conditions to be embodied, and upon request, and as soon as possible, prepare a patent in the terms of the certificate. This draft is sent to the office of the State Secretary, to be signed by the State President, and countersigned by the State Secretary, and to have the State seal affixed.

The patent may be refused, if contrary to law, morals, or order, or if the application be sent in more than three months after the date of the Attorney-General's certificate, or if the six months' term of protection has expired. If the application for signing and sealing is made in due time, and the completion is delayed through no fault of the applicant, the grant may be completed within one month, after the expiration of the six months.

Should the applicant die during the six months, the patent may be granted to his legal representative, at any time during three months after his decease, whether that takes it beyond the six months' limit or not.

The patent bears the date of the application, and runs for

a period of fourteen years, subject to the payment of taxes before the expiration of the third and seventh years, the payment of these to be noted on the Letters Patent. In case of failure, through accident, error, or negligence, to pay these fees within the stipulated time, application to the Government may be made for an extension of the time, and this may be granted, upon payment of a fine, for a period not exceeding three months; but in case action for infringement be commenced after the payment was due, and before the extension was obtained, the Court may refuse to award damages to the patentee.

The patent having once been granted, no enquiry can be made as to whether all the formalities have been properly complied with.

A duplicate Letters Patent may be obtained in place of a lost or destroyed one, if the Government is satisfied that the original cannot be produced.

Where a prior foreign patent exists, the Colonial patent will expire with that, or with the first to lapse, if there be more than one. Should the foreign patent have lapsed before the Colonial one was granted, the latter will never have been of any validity.

The specifications and drawings deposited at the office of the Attorney-General, are removed for safe custody to an office appointed by the President in Council, immediately after the granting of the patent, or, if the patent be not granted, immediately after the termination of the six months. The proprietor of a patent may, at any time, apply to the Attorney-General for leave to amend his specification, whether by effacing, improving, or adding to



it, giving his reason for desiring to make the alteration; he will then receive a notice, which must be published, as in the case of applications for patents, and the Attorney-General will ultimately decide whether the amendment be allowed or not, the order being registered in the office named by the Attorney-General.

No amendment will be allowed which would make the specification more comprehensive than, or different from, the original.

Permission to make the amendment concedes the right to make it, except in case of fraud, and the amendment will for all purposes be accepted as part of the specification.

In an action for infringement, or for the nullification of a patent, the Court can, at any time, make an order allowing the patentee to remove some portion of the specification, and may postpone the case to allow of this being done.

Where an amendment has been made, no damages will be given for infringement committed prior to the amendment, unless the patentee can satisfy the Court that the original specification was made in good faith, and with proper care.

Compulsory licenses may be granted by the Government, upon the advice and consent of the Executive Council, if it be satisfied—

(a) That the refusal of the patentee to grant licenses on reasonable terms, prevents the invention being made use of in the Colony.

(b) That the ordinary demand for the patented article cannot be met, or,

(c) That some person is prevented from using, and obtaining the benefit of, an invention of which he is possessed.

The proprietor of a patent may apply to the State President for an extension of the term of his patent, but the application must be lodged six months before the expiration of the patent. Such an application may be referred to the High Court, and, at least two months before the hearing, the applicant must publish, in the manner described for patent applications, a notice, stating the nature of his application, and any person interested may lodge particulars of objections, with the Attorney-General, at least one week before the hearing. The parties interested may at the hearing appear in person or by counsel, the applicant opening, by proving that the notice has been duly published. The Court will consider the nature of the invention, and its value to the public, the profit made by the patentee, and other circumstances connected with the case, and will report if the extension should be granted, and, if so, the term and conditions. The State President in Executive Council can issue a new patent for the extended term, not exceeding fourteen years, and with such conditions and restrictions as he may deem desirable; the new patent will date from the day of the termination of the old one.

The State President in Executive Council can order an inventory to be made of all applications, specifications, and other writings, which will be open to public inspection, under regulations that may be made. A register of patent right deeds will be kept, and in this will be entered, in chronological order, the particulars of applications for patents, specifications, drawings, and amendments, extensions and expirations of patents, and other matters concerning them; this register also will be open for public inspection.

A register of patent right holders will also be kept, in which all transfers of patents or alterations therein, licenses, and the like, will be entered. Certified copies of extracts from this register can be obtained, which will in themselves be *prima facie* evidence. This register also will be open for public inspection. Falsifying an entry, or copy of an entry, in the register, or publishing the same, renders the offender liable to five years' imprisonment, with or without hard labour. The High Court can correct, or alter, the register, upon the application of an interested party, and may make any order as to costs, and may make an order upon any question arising as to the correction of the register.

The patent may be challenged upon any of the following grounds:—

(1) That the patent has been obtained by the violation of another's rights.

(2) That the person named as the first and real inventor was not so.

(3) That the invention was not new, *i.e.*, that it had been published and made use of in this State, before the granting of the patent.

(4) That the invention cannot be patented in terms of Article 1.

(5) That the description refers to theoretical principles, systems, methods, inventions, and conceptions, the practical application of which is not given.

(6) That the description in detail is not sufficient, *i.e.*, that it has been omitted to make known the whole invention, or the invention has been insufficiently explained.

(7) That the invention, or the application of the same, is contrary to law, order, and good morals.

(8) That the title of the invention fraudulently points to another matter, instead of the true one.

(9) That the payments have not been made at the prescribed time.

(10) That the patent has lapsed by reason of the Letters Patent having been lost or destroyed.

Only the following can challenge a patent upon the above grounds:—

(1) The Attorney-General.

(2) Every person expressly authorised thereto by the Attorney-General.

(3) Every person who avers that the patent right has been obtained in opposition to his rights, or the rights of another person, from whom he derives his rights.

(4) Every one who avers that he or another person, from whom he derives his right, is the inventor of the invention in question.

(5) Every one who avers that he, or his partner, or another person, from whom he derives his rights, has publicly made, used, or sold before the time of the granting of the patent, that which the patent right holder claims as his invention.

In an action for the cancellation of a patent, the plaintiff must, in his application, state the facts upon which he relies, and no other proof will be allowed, except by sanction of the Court, which, however, can allow the application to be amended. The defendant may begin with proofs in support of his patent, and if the complainant produces proof against

the validity of the patent, the defendant may bring further proof.

Should a patent be cancelled on the ground of fraud, the true inventor may have a new patent issued to him, dating from the cancellation of the original one; this new patent will expire at the expiration of the term for which the original patent was granted.

The selling, as patented, of articles for which no patent has been granted, is punishable by a fine not exceeding £25, but should the article be the subject of another person's patent, the fine will be increased to £50, half to go to the State, and the other half, with the costs of the action, to the proprietor of the patent, who may recover the amount by process of ordinary debt recovery. If the article bears the words "patent," "patented," or the like, it will be deemed to be sold as patented.

An action for infringement may be brought in the High Court, against anyone who, during the term of the patent, makes use of, sells, or imitates the invention, and all grounds allowed in an application to cancel a patent may be used as a defence. The plaintiff must give particulars of infringement, and the defendant particulars of his objections, and must state his grounds, if he denies the validity of the patent, and if he alleges that the invention was not new, he must state the time and place of the alleged prior publication. Except with the consent of the Court, no proof, not stated in the pleadings, will be admitted at the hearing, but the plaint and answer may be altered later, by consent of the Court. In taxing the costs, the nature of the plaint and answer will be considered, and no party will be

allowed costs, in respect of any statement not proved, or not material to the case, irrespective of the general costs of the case. The Court can, of its own motion, or at the request of either of the parties, call in an expert, and fix his remuneration. The Court can, upon application, make an order for the suspension of work, production of accounts, inspection, or such other measures as may be necessary. It can certify that the validity of the patent came in question, and, where the Court so certifies, the patentee, in any subsequent action for infringement of his patent, can, upon obtaining judgment in his favour, claim the full costs as between attorney and client, unless the Court orders otherwise.

Only one invention can be included in the patent, but objection cannot be taken to the patent on the ground that it embraces more than one invention.

If the inventor dies before applying, his lawful representative may do so, and obtain the patent, but the application must be made within six months of the death, and the applicant must make a declaration that the deceased was the true inventor.

A patent to the rightful inventor will not be invalidated by an application for Provisional protection, or publication after the deposit of the application, in fraud of him.

A patent can be assigned for the whole, or any portion, of the State.

Publication of an invention at an international or industrial exhibition, or in connection therewith, will not prejudice the inventor, if, previous to exhibiting, he informed the Attorney-General, in writing, of his intention to apply for a

patent, and made the application within six months from the opening of the exhibition.

The Government can require a model, on payment of the cost, and in case of disagreement, the price can be fixed by arbitration.

Where a person is by youth, insanity, or otherwise, incapacitated from carrying out anything under this law, his guardian or curator, or a person appointed by the High Court, may do the needful, and the act will have the same force as if actually done by the incapacitated person.

All fees, paid in connection with patents, go to the general revenue of the State. The State President in Executive Council can make regulations, and take measures for carrying out the law.

#### SOUTH AUSTRALIA.

Duration of Patent : fourteen years ; by option of Governor, may be extended for another seven years.

Working : none.

Taxes : before the end of third and seventh years. Letters Patent are required for endorsement of tax.

International Convention : does not apply.

Patents are granted in South Australia under the Act of the 21st December, 1877, as amended by subsequent Acts, the last of which is the 9th December, 1887.

Patents are granted for fourteen years from the date of the application, to the true and first inventor of any new and useful art, machine, manufacture, or composition of matter, or improvement thereon, not publicly used or offered

for sale within the Province of South Australia, prior to the date of the application for patent. Where a prior foreign patent has been obtained and has lapsed, no patent can be obtained in South Australia; but should the said prior foreign patent be still in force when the South Australian patent is applied for, the latter will terminate with the foreign patent, or the earliest of such foreign patents, if more than one exists.

A patent may be granted to any person to whom the inventor has assigned or bequeathed the right of obtaining it, or to the executor or administrator of a deceased inventor. The application is accompanied by a petition containing the title of the invention and an address in the city of Adelaide, and by a specification, the inventor being protected for the term of six months after the filing, but during the said term of six months, the specification may be amended, or another and more sufficient specification filed upon the requirement of the Commissioner. The specification must be full and clear, and must be signed by the inventor, if he be alive, or, if dead, by the applicant, the signature being attested by two witnesses, who will state when and where the specification was signed, and drawings or models must be supplied where the invention admits of it, the drawings to be in duplicate; the Commissioner may dispense with the drawings, however.

Every application is published in the Government Gazette, and within a period of one month, or a longer period not exceeding three months, if allowed by the Commissioner, oppositions to the grant of the patent may be entered at the Patent Office. Within one week from the date of filing,



advertisements, giving notice of the application, must be inserted three times in at least two of the daily newspapers published in Adelaide, and stating that the specification may be inspected at the Patent Office. Should an opposition be entered, the Commissioner will give notice to the parties, appointing a hearing of the case, after which he will determine whether to grant or refuse the patent. The Commissioner, at the request of the applicant or the opponent, will issue summonses for the attendance of any witnesses, who, upon being paid their expenses upon the same scale as allowed to witnesses in trials in Courts, are bound to attend until the matter be disposed of, under a penalty of £20 and costs. The Commissioner may award costs in the opposition.

The Commissioner has power to refer any application to one or more experts, a proceeding for which the applicant for the patent must pay £8 8s.

The decision of the Commissioner is final as to the granting or refusal of a patent; but by giving not less than four weeks' notice in the Government Gazette, the applicant may make one or more fresh applications for a patent in respect of the same invention.

The patent must be sealed within the term of six months' protection, and the sealing fee must be paid within ten days after the issue of the notice to grant the patent. In case of opposition, the time for the sealing of the patent may be delayed as long as the Commissioner shall direct. In case of the patent not having been sealed within the prescribed time, but through no neglect or wilful default of the applicant, a month's extension of time may be granted, and,

in case of the death of the applicant, it may be granted at any time within three months after the death of the applicant.

The term of the patent may be extended for another seven years upon the direction of the Governor.

The prerogative of the Crown is preserved as against the proprietors of patents.

The patent would be invalid if the grant was contrary to law, or prejudicial or inconvenient to the general public, or if the invention were not new and useful, or if the patentee were not the true and first inventor, assignee, legatee, executor, or administrator of the inventor, or if the specification did not correctly and fully describe the invention.

A payment is required before the expiration respectively of the third and seventh years of the patent.

The subject of the patented invention may be used on foreign vessels, but not for the manufacture of goods or commodities to be sold within, or exported from, the Province of South Australia, should the country to which the said vessel belongs grant reciprocal privileges. The Government may appropriate any patented invention, paying compensation to the inventor.

Specifications may be amended by disclaimers, alterations, and confirmations, or by the granting of new patents for the unexpired term of the original patent. The Governor has the power of confirming an invalid patent, but before doing so, will appoint a Commission of three or more persons, one of whom will be a judge of the Supreme Court, to consider the patent, and caveats may be entered against the

confirmation. The Commissioners will hear all the parties, and report to the Governor. If it should appear to the Commissioners that the patentee believed himself to be the first and original inventor, and that the invention had not been publicly and generally used, or offered for sale, within the Province prior to the date of the patent, they may report to the Governor that the prayer of the petition may be complied with, whereupon the Governor may confirm the patent.

Where a portion only of the patent has been assigned, the petition can only be brought if joined in by all the parties having any legal interest in the patent.

A caveat lasting for twelve months, and accompanied by a description of the invention, and giving an address within the city of Adelaide, may be lodged and may be amended by the caveator during the said twelve months, during which period the caveat will be preserved in secrecy at the Patent Office, though copies may be obtained by the caveator on payment of charges. During the term of the caveat, should any other person file an application for a patent, which, in the opinion of the Commissioner, would interfere or affect the right of the caveator to obtain a patent for his invention described in his caveat, the Commissioner will send notice thereof to the caveator.

A patent must be worked within three years from the date of the grant, and should this not be done, the patent may be revoked upon the application of any person, but the Governor has discretion as to refusing such application.

A patent may be revoked by the Supreme Court of the Province upon a writ of *scire facias*.

Any person who desires to impeach a patent may obtain a copy of the patent from the Patent Office, together with the petition, declaration, specification, and drawings, certified under the seal of the Patent Office, and may file this in the office of the Supreme Court, to be held there as of record.

A certificate of any judgment voiding a patent shall be filed in the Patent Office by the prosecutor, on a suit of *scire facias*.

A patent may be assigned in whole or in part, the deed being executed by the assignor, or his agent, duly authorised in writing; every assignment will be in duplicate, and must be registered at the Patent Office, and until this is effected, the assignment will not be valid as against any subsequent assignment for valuable consideration.

All specifications, drawings, models, disclaimers, and other papers, excepting caveats, filed in the Patent Office, are open to public inspection.

A clerical error does not invalidate a patent, and it may be corrected by the authority of the Commissioner. Should a patent be lost or destroyed, any person properly entitled may obtain a certified copy.

Declarations must be made before the Commissioner or any Justice of the Peace, or Notary Public, in South Australia, or before any person authorised to administer oaths, if out of that Province.

Patent Agents are licensed by the Commissioner, and this license can be revoked if good cause be shown; before a Patent Agent is licensed, the Commissioner requires a bond from the person himself in the sum of £500, and two

sureties each in the sum of £250, and the Agent, before being appointed, has to solemnly swear to faithfully execute and perform his business.

No patent disclaimer, memorandum of alteration, caveat, assignment, or other instrument under the Act, will be received by the Commissioner without it has endorsed upon it a certificate that it is correct for the purposes of the Act, and a penalty, not exceeding £50, is incurred by the person falsely or negligently certifying to the correctness of the document.

A register of patents is kept at the Patent Office, in which are entered, in chronological order, all patents granted, and particulars as to the filing of specifications, disclaimers, amendments, assignments, expiration of patents, &c.; this register is open at all convenient times for the inspection of the public. There is also kept at the Patent Office a register of proprietors, in which assignments and licenses, and the names of the proprietors, are entered, and a copy of any entry therein, certified under the seal of the Patent Office, will be given to any person upon demand, and will be *prima facie* evidence of the facts to which it relates. Entries in this register may be expunged by order of the Court. A false entry in the register renders the perpetrator liable to imprisonment for any term not exceeding five years, and the same penalty attached to any person making a false oath or declaration.

A penalty of £100 is incurred for every offence by any person improperly leading the public to believe that an article is patented when such is not the case, or with the object of counterfeiting another person's patent; this

penalty, however, is not incurred where a patent has actually existed for the article in question, although the patent may have expired.

Appeal to the local Court of Adelaide of full Jurisdiction may be made from convictions of Justices of the Peace, or from orders dismissing any information laid under this Act.

By the amending Act No. 201 of 1881, the mere exhibiting or testing of an invention, whether publicly or privately, will not of itself be deemed a ground for refusing a patent, or justify infringement of the patent, if the application for the patent was filed within six months from the date of such exhibition.

By the amending Act No. 421 of 1887, Provisional protection for twelve months may be obtained, on depositing with the Commissioner a petition and specification, and a certificate of Provisional protection will be issued; and unless the patent be completed within the said period of twelve months, the protection will lapse. During the period of Provisional protection, the invention may be used and published without prejudice to the validity of the patent.

#### SPAIN.

**Duration of Patent :** for unpublished inventions, granted to inventors only, twenty years. For inventions not patented abroad for more than two years, ten years.

**Patents of Importation,** five years.

**Working :** must be proved within two years of grant, and annually after.

**Taxes :** annually, one day previous to date of grant.

**International Convention :** applies.

Patents are granted in Spain under the law of the 30th July, 1878. This law repeals all previous laws relating to patents of invention, but patents obtained under the old laws, and still in force at the date of the new law, will continue for the term for which they were originally granted.

Uncompleted applications made before the publication of the new law, will be completed in accordance with the old law, unless the applicants elect otherwise.

Patents may be acquired by Spaniards or foreigners, singly or collectively.

Patents will be granted for machines, apparatus, instruments, processes, or mechanical or chemical operations, wholly or partly the invention of the applicant for the patent, and not known prior to his application, or which have not been established or worked in the Spanish dominions. Also new industrial products or results, whether the means by which they are obtained are new or old, provided that their working tends to the establishment of a branch of industry in the Spanish dominions, but a patent for an industrial product or result will not prevent other patentees from working patents which produce the same result.

By "new" is meant that which is not known, or not established, or worked, in the Spanish dominions or abroad.

Patents can be transferred wholly or partly, according to the laws relating to private property, and such assignments must be made by public deed, certified by the Secretary, and signed by the Director of the Conservatory of Arts, and entered in the register of proprietors.

No deed of assignment or modification will prejudice a third party, until it has been registered. A notification of all assignments will be sent by the Director of the Conservatory of Arts to the Madrid Gazette.

Spanish patents include, as well as the Spanish Peninsula and the adjacent islands, provinces beyond the sea.

The results or products of patented processes or apparatus are not patentable, excepting as above set forth, and the use of natural products, or mere speculative scientific principles or discoveries, pharmaceutical or medicinal preparations, schemes or combinations of credit or finance, are not considered to be patentable subject-matter. Only one industrial object can form the subject of one patent.

No examination as to novelty or utility is made before the delivery of the patent, which is, therefore, delivered without any guarantee.

A Spanish patent lasts for twenty years, if the subject be a new and original invention, but if otherwise, the patent will last for five years only; but in the case of foreign inventions, the original inventor, even if he has patented the invention abroad, may, if he applies for the patent in Spain before the expiration of two years from the obtaining of the first foreign patent, obtain a Spanish patent for ten years.

Yearly taxes are payable upon Spanish patents at the rate of 10 pesetas for the first year, 20 for the second, 30 for the third, and in like proportion for the rest of the term of the patent.

In applying for a patent, a petition must be presented to the Minister of Commerce, stating the condition (new or



original or not) of the invention, the domicile of the applicant or his attorney, also a power of attorney, specification, drawings, and sample or models, all in duplicate. The specification must be in the Spanish language, without abbreviations, corrections, or erasures of any kind, on consecutively numbered sheets; it must be perfectly clear and precise in its terms, and must terminate with a statement of claim, clearly setting forth the particular features claimed. The patent will depend entirely upon the claims. Drawings must be made on cloth paper in ink, and to a metrical decimal scale. A signed list of all the documents and objects must accompany the application. The date, hour, and minute of the application will be entered in a special register, which will thus establish the right of priority of the applicant. Any amendments which may be required, must be made within a period of two months from the date of the application being made in the Spanish Peninsula or adjacent islands, but four months if in the Canaries or Antilles, and eight months if in the Philippine Islands. If these terms be allowed to pass without the required amendment being made, the application will be considered abandoned.

Patents bear a notification that they are issued without guarantee of the Government as to novelty, fitness, or utility. A copy of the specification, drawings, samples, and models is delivered to the applicant with the patent.

The register of patents at the office of the Secretary of the Conservatory of Arts is open to the public during fixed hours, and the dates in this register are taken as evidence in the Courts. The specification, drawings,

samples, and models are open for public inspection at the office of the Secretary of the Conservatory of Arts during office hours; copies may be made at his own expense, by a person who has previously obtained the consent of the Director of the Conservatory, who will fix the place, days, and hours at which they may be made.

In the second half of the months of January, April, July, and October, publication is made of all patents granted during the preceding quarter, clearly setting forth their objects. When a patent expires, the specification, &c., will remain at the Conservatory of Arts, and if considered worthy, will be exhibited in the museum thereof.

During the life of a patent, the owner, or those entitled through him, may make alterations, modifications, or additions to the subject of the patent, in preference to any other persons who may apply with the same object. Patents of addition are granted for these, a tax of 25 pesetas in Government paper being payable upon each patent of addition. A Spanish patent must be worked within a period of two years from the date of the patent, or patent of addition, and this term can only be prolonged by a law on equitable ground for a period not exceeding six months. A special officer is appointed to see that the working is efficient.

A patent will be invalid, if it be proved that the subject of the invention was not new at the date of the application, or that the invention is not being worked in the form set out in the specification, or that any other fact set out as fundamental in the application is not borne out. Or should the object of the patent be contrary to public order,

safety, or morals, or the specification not sufficiently explicit, the patent will be invalid. Only interested parties can bring an action for the annulment of a patent, but the Public Prosecutor can demand the annulment of a patent should it be faulty in any of the points above set forth. A patent will also lapse when the period for which it was granted has expired, or when the annual tax is not duly paid, or when the invention has not been properly worked in the Spanish dominions within the statutory time, or such working has ceased for a year and a day, unless the cause of such failure to work the invention was beyond the control of the patentee. The first declaration of the lapsing of a patent is made by the Minister of Commerce, upon the advice of the Director of the Conservatory of Arts, but an appeal may be lodged to the judicial committee of the Council of State within a period of thirty days. Should, however, the lapsing of the patent be due to the failure to work, the ordinary Courts of Justice can, at the instance of an interested party, make the declaration. A notice of lapsed patents is sent to the Madrid Gazette by the Minister of Commerce.

The infringement of a patent is punishable by a fine of from 200 to 2,000 pesetas, and for a second offence from 2,001 to 4,000 pesetas. It will be considered a second offence if the second conviction takes place within the following five years. Complicity in infringement renders the offender liable to a fine of from 50 to 200 pesetas, and a second offence from 201 to 2,000 pesetas. The patentee may claim all products made in infringement of his patent, and damages for loss or injury, and insolvent infringers

may suffer imprisonment under Article 50 of the Criminal Code. Falsifiers of patents incur the penalties set out in the first section of Chapter IV., Book 2, of the Criminal Code. Actions for infringement can only be entered by the Public Prosecutor at the instance of the aggrieved party. Patent cases are tried before industrial juries, and when an action is brought at the same time against the patentee, and one or more of his licensees, the action will take place at the domicile of the patentee.

#### STRAITS SETTLEMENTS.

Duration of Patent : fourteen years.

Working : none.

Taxes : none.

International Convention : does not apply.

Patents are granted in the Straits Settlements under Ordinance No. 12 of 1871.

In this ordinance the word "invention" includes "improvement," and the word "manufacture" includes any art, process, or manner of producing, preparing, or making an article, and also the article itself. The word "inventor," except when followed by the word "actual," includes the importer of an invention new to the Colony, and both expressions, "inventor" and "actual inventor," include heirs, executors, administrators, or assigns. An invention will be deemed new, if not publicly used in the United Kingdom, in the Straits Settlements, or any British possession, before the date of the application, and publication in fraud of the inventor will not be recognised, if the real inventor applies

within six months after the commencement of such publication, for leave to file a specification, and has not acquiesced in the public use. The use of the invention in public by the inventor, his servants, agents, or licensees, will not be deemed a public use.

An exclusive privilege is not applicable, if the invention is of no utility, or not new, or if the petitioner is not the inventor, or if the specification is not sufficient, or if the petition, or any subsequent petition relating to it, contain a wilful or fraudulent misstatement.

The prerogative of the Crown, as to the granting or withholding the grant of Letters Patent, will not be interfered with by this ordinance.

The inventor, whether native or foreign, of any new manufacture, may present a petition to the Governor in Council, for leave to file a specification. The petition must be in writing, and signed by the petitioner, or his authorised agent. The Governor in Council may allow the specification to be filed, and may call in expert assistance, who is entitled to remuneration by the petitioner, the amount, in case of dispute, to be settled by a Judge of the Supreme Court, summarily. The Governor in Council may refuse to allow a specification to be filed. The petition and specification must be left with the Colonial Secretary, accompanied by a declaration, which will be recorded in the office of the Colonial Secretary. Conditions may be made in the order for leave to file the specification. The specification must fully describe the invention, and be accompanied by drawings; further particulars must be supplied, if required by the Governor in Council. The specification must be filed

within six months from the date of the order, and the privilege lasts for fourteen years from the time of filing the specification; it may be extended for another term of fourteen years by leave of the Governor in Council, but the petition must be presented at a time, not more than one year, nor less than six months, from the expiration of the original term.

A specification or petition may be disclaimed or amended by leave of the Governor in Council, a petition being presented pointing out the part that requires correcting, and stating how the mistake arose, and that there was no fraudulent intent. The petition must be accompanied by a written declaration by the petitioner, or his agent, to the effect that the contents of the petition are true, to the best of his knowledge and belief. The petition will be published in the Government Gazette, and a time for the hearing appointed, and any interested party may give notice to the Colonial Secretary of his opposition to the petition, and will be heard by the Governor in Council. The amendment, if allowed, will be added to, and form part of, the original specification, and considered a portion thereof, excepting as regards proceedings pending at the time of the amendment. No amendment will be allowed which would extend or enlarge the scope of the privilege. An inventor who has obtained Letters Patent in the United Kingdom or another British possession, exclusive of this Colony, may petition for leave to file a specification thereof, and when this is filed, the petitioner will be in possession of the full rights in the Colony, during the remainder of the term of the said patent; the petition must give the

particulars of the prior patent. Any person who has obtained an exclusive privilege under the Indian Act No. 15 of 1859, before the 1st of April, 1867, will be entitled to his full rights under that grant, upon registering a certified copy at the office of the Colonial Secretary.

A copy of any amendment made to the patent in Great Britain, or other British possession, or under the provisions of the Electric Telegraph Exclusive Privileges Ordinance, 1870, may be ordered by the Governor in Council to be filed at the office of the Colonial Secretary, and thereafter read as part of the specification, but such amendment must not extend the scope of the grant.

Every petition for leave to file a specification, or for the extension of the term of the privilege, must be written on stamped paper.

All specifications are entered in a register kept at the office of the Colonial Secretary, which, or a copy thereof, is open to public inspection upon payment of a fee. Certified copies of any entry can be obtained on payment of the expense of copying, and will be *prima facie* evidence.

An address book will be kept at the office of the Colonial Secretary open to inspection free of charge, in which the addresses of all proprietors or part-proprietors of exclusive privileges will be entered, and any notices, relating to the exclusive privilege, will be sent to the address therein given. It is incumbent upon the proprietor of the privilege, to see that his name and address are entered, and should this not be done, then service of any rule or proceeding or process, may be effected by placing a copy in a conspicuous part of

the Supreme Court House, or in some other manner directed by the Court.

The privilege may be lost, if the Governor in Council notifies in the Government Gazette that the privilege, or the mode of exercising it, is mischievous to the State, or prejudicial to the public; or if any of the conditions under which the privilege was granted, or extended, should have been broken, the Governor in Council may, upon the order of the Supreme Court, declare the privilege forfeited.

Actions for infringement may be taken by the inventor in the Supreme Court. The plaintiff must deliver particulars of the breaches complained of, and the defendant his particulars of objections, and only evidence in support of the particulars delivered will be allowed at the hearing; but the Court has power to allow the particulars to be amended. In an action for infringement, the defendant may not plead any defect or insufficiency in the specification, or mis-description in the petition, nor that the invention is not useful, nor that the plaintiff was not the inventor, unless the defendant proves that he was the actual inventor, or obtained, either wholly or in part, the right from the actual inventor.

The privilege may, however, be challenged on the ground that the invention was not new, if the defendant, or some person through whom he claims, before the date of the petition to file the specification, had publicly or actually employed the invention in the Colony, or some part of the United Kingdom, or British possession. Where a privilege was granted to a person other than the inventor, in fraud of the actual inventor, and the actual inventor, within two years from the date of the petition to file the specification,



satisfies the Supreme Court of these facts, the person to whom the privilege was granted, may be compelled to assign the privilege to the real inventor, and account for, and pay, the profits of the invention.

Either the Attorney- or Solicitor-General may apply to the Supreme Court, and cause the proprietor of the privilege to show cause, why the question of the breach of any special condition, or the like, should not be tried as an issue directed by the Court, and the Court may direct such issue to be tried, and certify the result to the Governor in Council, the costs being at the discretion of the Court.

Any person may apply, by motion to the Supreme Court, for a rule to show cause against the Court, declaring that an exclusive privilege has not been acquired, upon any of the following grounds :—

That the invention was not new at the date of the application. That the petitioner was not the inventor, and, in addition, that the applicant was the inventor, or that the inventor had given over the invention to the public, or acquiesced in the public use of it. That the specification is insufficient. That the petitioner fraudulently included something not new, and of which he was not the inventor. That a wilfully false statement is included in the petition or specification, or that a portion of the specification is insufficient, and that such insufficiency is fraudulent or injurious to the public.

Notice of any rule obtained, or proceeding taken, will be served upon the persons appearing in the address book.

The Supreme Court may direct the trial of any question of fact, in the usual manner for trying such issues in the

Court. The Court may judge that the privilege has not been acquired, and may make any order that it may think just as to costs, and so long as the judgment continues in force, the proprietor of the privilege will cease to have the benefit of it.

Where some old matter, or of which the petitioner was not the inventor, has been included in the specification, or where the specification is defective or insufficient, but the cause was not fraudulently intended, the Court may decide that a valid privilege has been obtained, and may order the specification to be amended, should it appear that this can be done without injury to the public, and upon such terms as the Court considers reasonable, whereupon an amended specification may be filed. No amendment may be made which will enlarge the scope of the privilege.

Excepting in case of fraud, the privilege will not be defeated upon the ground of misdescription of the invention in the petition.

Where the Court finds that the privilege has not been acquired, the Colonial Secretary, upon production of a certified copy of the judgment, will make in the register an entry thereof.

Nothing in this ordinance will prevent the right of appeal to Her Majesty in Her Privy Council.

#### SWEDEN.

Duration of Patent : fifteen years.

Working : must be proved within three years of grant, and continually.

Taxes : yearly, from date of application.

International Convention : applies.

The granting of patents in Sweden is regulated by the law of the 16th May, 1884, amended by an Act of the 14th April, 1898, which came into operation on the 1st January, 1894. This law cancelled the previous statute relating to patents of the 19th August, 1856.

Patents are granted for industrial productions, or special methods of manufacturing such productions. Only inventors, whether Swedish or foreign, or their legal representatives, are entitled to obtain patents.

No patent will be granted for anything contrary to law or morals, and in the case of provisions or medicines, the patent will not be granted for the commodity itself, but only for the method of manufacture. An invention will not be considered new if, before the filing of the application, it has been described in a printed publication accessible to the public, or so fully worked that a person, skilled in the art to which it appertains, could work it from the knowledge thus obtained. Publication of foreign patent specifications, or the exhibition of the invention in international exhibitions, will not prevent the obtaining of a valid patent, if the application be filed within six months from the date of such publication or exhibition.

An application must be accompanied by a specification and drawings, in duplicate, and models or samples, if necessary. The specification must be full and complete, and indicate the novel features of the invention. Where the inventor resides abroad, he must appoint an attorney. A patent will only be granted for one invention. A fee of 50 crowns is payable with the application. If the application is not in order, notice to that effect will be sent, and should

the necessary amendment not be made within the time fixed, the application will be considered to be abandoned. Applications not complying with the requirements as to novelty, the identity of the inventor, or his legal representative, or the payment of the necessary fees, will be rejected. Upon acceptance of an application, it will be advertised in the newspapers with the main features thereof, and the specification will then be accessible to the public, and during the ensuing two months, any person may enter an opposition, in the form of a written protest, against the application. At the end of this period, the Patent authorities will decide as to the granting or otherwise of the patent.

The particulars of the patent and the grant will be entered in a register kept for the purpose, and will be advertised in the newspapers.

An applicant, dissatisfied with the decision of the Patent Office, may appeal to the King within sixty days after the decision.

Where several persons apply to patent the same invention, the patent will be granted to the one who first applied.

Patents are granted for a period of fifteen years from the date of the application. Patents of addition may be obtained upon the principal patent. Should an application for patent be rejected, one-half the sum paid with the application will be returned.

An annual tax of 25 crowns each for the second, third, fourth, and fifth years, and of 50 crowns for each of the next five following years, and of 75 crowns for each of the remaining five years, is payable. The tax must be paid in advance for each year, or if not paid within ninety

days after it becomes due, the patent will be forfeited, and if paid during the said ninety days, an increase of one-fifth will be demanded.

Notice of any assignments, together with the necessary documents, must be presented to the Patent authorities for entry on the records, and failing such notice, the patentee previously entered upon the records will be considered to be the owner of the patent.

A patentee about to reside abroad, or where the patent has been assigned to a person not resident in Sweden, must obtain a legal representative, and deposit a power of attorney with the authorities.

Patents must be worked to an adequate extent within three years from the date of grant, but this period may be prolonged upon request up to four years. The authorities may, in exceptional cases, determine what shall be considered sufficient working. The patent will be forfeited, if the patentee has failed to work his invention during the prescribed time, or discontinues the working for a period of one year. Any person who had worked the invention, or made extensive preparations to do so, prior to the application for the patent, will not be bound by the patent. A patent may be laid open to the free use of the public, or appropriated to the use of the State, upon compensation to the patentee, which may be fixed by a special jury appointed by the Court.

Making, selling, or importing the subject of the patent would be an infringement, for which the person knowingly infringing will be liable to a fine varying from 20 to 2,000 crowns, as well as damages, but only the patentee can take

action for recovering these penalties. Such infringing goods must be delivered up to the patentee against compensation for their value or deduction from the damages. Implements exclusively used for manufacturing infringing articles will be destroyed. Persons accused of infringement who continue the offence pending proceedings, will, where legally convicted, have to account for each separate time that a warrant has been taken out against them. Money fines go to the Crown; where these cannot be fully paid, they may be varied according to the common penal code.

A lapsed patent will be cancelled in the register, and a notification of the cancellation will be published in the newspapers.

A patent may bear the earlier date of a corresponding prior application, if filed within seven months of the date of such application, provided the foreign country concerned grants similar courtesy to Sweden.

A patent granted under the previous law may be exchanged for one under the present law.

#### SWITZERLAND.

Duration of Patent : fifteen years.

Working : before definitive patent granted, proof of existence of model required within three years.

Taxes : yearly, from date of application.

International Convention : applies.

Patents are granted in Switzerland under the law dated

the 20th June, 1888, which came into force on the 15th November, 1888.

Patents are granted to authors of new inventions, or to their assigns. The inventions must be applicable to the industrial arts, and must be capable of representation by models; they must be new, by which is meant that they must not be so well known in Switzerland, at the date of the application for patent, that they could be already carried out by a person skilled in the trade concerned. A patented article may not be made, or traded in, without the authorisation of the proprietor of the patent. If the patent covers a tool, machine, or other means of production, similar authority would have to be obtained for the use of it; but should the machine be placed upon the market without restrictive conditions, the authorisation would be deemed to be granted. Any person who has, previous to the application for the patent, worked the invention, or taken the necessary steps for doing so, would not be amenable to the patent.

Patents may be transmitted by succession, and may also be totally or partially assigned or mortgaged, and licenses may be granted under them, but such transmissions are not operative against third parties until they are registered.

The patent lasts for fifteen years, dating from the day of application, and is subject to a yearly progressive tax.

Taxes are payable in advance, upon the anniversary of the day of application; all or some of the taxes may be paid up before they are due, and should the patentee renounce his patent, the taxes overpaid would be refunded.

Patents of addition are granted upon payment of a single tax, the patent of addition expiring with the principal patent. A person proving that he is without resources, may have the payment of the first three annuities postponed until the commencement of the fourth year, and if he allows the patent then to lapse, these taxes will be remitted.

**Patents will lapse—**

If renounced by the proprietor by a declaration in writing addressed to the Federal Office of Industrial Property.

If the annual taxes are not paid at the latest within three months after the time when they become due.

If the invention has not been worked before the expiration of the third year from the date of application.

If the patented article is imported into Switzerland from abroad, and the proprietor has refused to grant, upon equitable terms, licenses to Swiss manufacturers.

Forfeiture of the patent under the last two provisions will be pronounced by the Courts upon the application of any interested person.

**A patent will be invalid from the first—**

If the invention was not new, or not applicable to the industrial arts, or if the patentee was not really the author of the invention, or his assignee, but pending proof of this the patent will be held to be valid.

If an incorrect title be applied to the invention for purposes of misleading the public as to the true object of the invention.



If the specification be not sufficient to enable a person, skilled in the art to which it appertains, to carry the invention into effect.

If the specification does not correspond with the model. Any interested person can bring an action for annulment.

A foreigner must nominate an attorney domiciled in Switzerland, who will represent him before the Patent Office.

Where the patentee is unable to work his invention, without infringing a previous patent, he may demand from the previous patentee the grant of a license after the lapse of three years from the date of the earlier patent, but only if the new invention is of real industrial importance. In such a case, the proprietor of the first patent may demand a license from the second patentee.

A patent may be appropriated, at the expense of the Federation, or of a Canton, for the benefit of the public; the amount to be paid as indemnity will be fixed by the Federal Tribunal.

Applications for patent must be lodged at the Federal Office of Industrial Property. Only a single principal object, and the details necessarily relating thereto, may be included in one patent.


The title must point out clearly and precisely the nature of the invention. The application must be accompanied by a specification, ending with a claim, drawings to enable the description to be properly understood, and some proof that a model of the invented article, or the invented article itself, exists. All applications must be in one

of the three national languages. Should the patent be refused, the first annuity will be returned. The Federal Council may require models to be produced in certain cases.

Provisional patents are granted in Switzerland, but these merely assure to the applicant the right, during the ensuing two years, of obtaining a full patent, notwithstanding publication in the interval, the Provisional patentee having no right of action for infringement. If, before the expiration of the two years, the application be not fully completed, it will lapse. A complete patent does not afford a right of action for infringement committed during the term of the Provisional patent, and its duration will be calculated from the date of the original application. The Federal Office will reject every informal application, but an appeal is allowed to the Superior Administrative Authority during the ensuing four weeks. Amendments may be made, to comply with the requirements of the Office.

Patents, whether Provisional or Complete, are delivered at the risk of the applicants, and without guarantee of the Government.

A register of proprietors and patents is kept at the Federal Office, in which any matters affecting the patents, or the ownership thereof, such as licenses, lapsing or appropriation of the patent, judicial decisions, &c., are entered.

Every patented article must be clearly marked with the Federal cross  and the number of the patent; should the nature of the articles not allow of their being so marked, then the mark and number must be borne by the packages. No action can be instituted by a patentee, who has failed to

comply with this requirement. The patentee may require any person, who may have worked the invention previous to his application for the patent, or taken the necessary steps for so doing, to similarly mark his goods.

Oral or written information may be obtained from the Federal Office as to the contents of the register, for which information the Office will fix the fee. Immediately upon delivery of a patent, the Federal Office will publish the title and number and names and addresses of the patentees and their attorneys, and, similarly, every annulment or lapsing, or change in the ownership, of a patent, will be published. Specifications are to be published, and to be on sale at a moderate price; they are to be supplied to the public departments and establishments of higher education, and to industrial museums, and to be exchanged for similar publications of other countries.

Publication of the specification may be postponed for six months, at the request of the applicant, so as not to interfere with foreign patents, but the patentee cannot proceed against infringers until the actual publication has taken place.

Imitating the patented articles, or illicitly using them, selling, or putting on sale, or in circulation, the infringing articles, or assisting in these acts, or refusing to disclose the origin of infringed articles, all constitute infringements.

Infringers are liable to be condemned to fines of from 30 to 2,000 francs, or to imprisonment for from three days to a year, or both, and in case of repetition of the offence, the penalty may be doubled, but these penalties will not be applicable if the infringement was committed through error,

imprudence, or negligence. Any interested person may commence an action for infringement. No proceeding for infringement can be commenced more than two years after the date of the last infringement. The Civil or Commercial Tribunals may, upon production of the patent, cause an exact inventory of the infringing articles, and the tools employed in their manufacture, to be drawn up, and the articles seized, but the plaintiff may be required to deposit security; the articles seized may be confiscated up to the amount of the damages and fines. The judgment may be published in one or more papers at the cost of the convicted person. Improperly placing upon commercial papers, an intimation or indication stating or suggesting the existence of a patent, when the patent does not, in fact, exist, is punishable by a fine of from 80 to 500 francs, or imprisonment for from three days to three months, or both, the penalty being doubled in case of repetition of the offence. An appeal from a decision may be presented to the Federal Tribunal. Fines which are not paid, will be commuted by the judge for an equivalent term of imprisonment.

The International Convention is applicable to Switzerland, and Article 32 of the law specially confirms the right of priority of seven months from the date of the application of a foreign patent to the foreign applicant.

Temporary protection for six months is granted to the exhibitors at national or international exhibitions in Switzerland, dating from the date of the first admission of the patented article to the exhibition; and, during this period, other applications for patents or acts of publication

will not prevent the inventor from making an application for and obtaining a valid patent. The same protection will be extended to international exhibitions held outside the Swiss territories, in countries which have entered into the Convention with Switzerland.

Patents running at the date of the present law by virtue of Cantonal laws, will remain protected in the respective Cantons until the expiration of their legal term.

This law was amended by an amending Act, which took effect on the 1st August, 1898, in the following particulars:—

The duration of Provisional patents is extended to three years instead of two, this extension relating to Provisional patents applied for after the 31st July, 1891.

The proof of existence of the model can also be made at any time within three years instead of two, and more easy means of proof are accepted than was the case under the previous Act. The permanent deposit of photographs will be accepted in those cases where models are not to be permanently deposited, and the subject of the invention admits of being photographically represented; in such cases, the proof of existence of the model will be dispensed with by the Patent Office, but in case of an action of law, the Courts would decide whether the photographs were sufficient proof. However, where no permanent model has been required, and the photographs are not acceptable, the question of the proof of existence of the model must be determined by the Patent Office. (These photographs should always be filed, and a sufficient number of views given, to clearly show all those parts of the patented

object which form the subject of the claims of the patent.)

Under the law as it now stands, the permanent deposit of models is absolutely essential for certain classes of inventions, amongst which may be mentioned watches, fire-arms, and other complicated inventions. The permanent deposit of photographs is permitted in all cases where the models are not permanently deposited. Where neither models nor photographs are deposited, the question of the proof of the existence of the model should be submitted to the consideration of the Swiss Patent Office.

#### TASMANIA.

Duration of Patent : fourteen years.

Working : none.

Taxes : before the end of third and seventh years.

International Convention : applies between Great Britain and Tasmania.

Patents in the Colony of Tasmania are granted by the Act No. 6 of the 29th September, 1898, which repealed all previous Acts, and in many of its chief provisions is similar to the Acts now in force in Great Britain.

Any person, whether a British subject or not, may apply for a patent, and a patent may be granted to two or more persons jointly, at least one of whom must be the true and first inventor; in case of the decease of the inventor, his legal representative may apply at any time within six months of the date of the decease.

An application for a patent must be accompanied by a

declaration, attested by a witness, stating that the applicant is the true and first inventor, and by a Provisional or a Complete specification, which must be signed by the applicant. The Provisional specification must describe the nature of the invention, but the Complete specification must go fully into details; both specifications to be accompanied by drawings, if required. Where an applicant resides out of the Colony, an address within the Colony must be given.

Every application for a patent and specification will be examined by the Registrar, to ascertain if the invention has been fairly described, if the papers are in proper form, and if the title sufficiently indicates the nature of the invention. Amendment may be required, but the applicant may appeal from a decision of the Registrar to a judge. Should a second applicant, before the first patent has been sealed upon a similar invention, desire it, the Registrar may, within two months of the grant of the first patent, either decline to proceed with the second application, or allow the patent thereon, if granted, to be surrendered.

The Complete specification must be left within nine months from the date of the application for the patent, and if it be not accepted within twelve months, the application will lapse. No specifications are published where the application is not completed.

Acceptances of Complete specifications are advertised once in the Gazette, and twice in some newspaper published in Hobart and Launceston, the specification being open for public inspection after the first advertisement. Within two months from the date of the last advertisement, any person may enter an opposition to the grant of the patent,

and must state the grounds of his objection, no special grounds of opposition being fixed by the Act. Within fourteen days after such notice, the opponent can apply to a judge to appoint a day for the hearing, and must notify the applicant of the fixture; the judge may hear the parties either in each other's presence, or absence, as he shall think fit, and may decide on the case, subject to appeal to the Court, which, however, will only hear an opponent who is, in their opinion, entitled to be heard in opposition to the grant. Either the judge or the Court may make orders as to the expenses and costs.

A patent must be sealed within fifteen months from the date of the application, excepting where the sealing is delayed by an appeal to the Court, or where the sealing is delayed through accident, or the death of the applicant; in the former case, the Governor in Council may direct when the patent shall be sealed, but in the latter case it must be sealed within twelve months after the death of the applicant.

The time for leaving and accepting specifications may be extended, in the case of leaving a specification for one month beyond the nine months, and, in the case of acceptance, for three months beyond the twelve months, upon payment of the fees prescribed, and where such extension of time has been obtained, a further time of four months beyond the fifteen months may be allowed for the sealing of the patent.

The patent dates from the day of the acceptance of the application, but no proceedings for infringement, committed before the application of the Complete specification, may be



taken. The patent covers Tasmania and its dependencies, and runs for a term of fourteen years from the date of the acceptance of the application.

A patent is granted for one invention only, though it may contain more than one claim, but it cannot be attacked upon the ground that it comprises more than one invention.

The patent is subject to the payment of taxes at or before the expiration of the third and seventh years, the time for paying which may, in proper cases, be extended for three months, upon application to the Registrar; should an infringement take place during the period of extension, the Court may refuse to award damages in respect of such infringement.

During the term of Provisional protection, the applicant may give notice in writing to the Registrar to abandon his application, whereupon protection will cease.

Upon the acceptance of the Complete specification, the applicant for the patent enjoys the full rights of a patentee, but cannot commence an action for infringement until the patent is sealed.

A patent may be amended by way of disclaimer, correction, or explanation, the application to amend being published once in the Gazette, and twice in some newspaper published in Hobart or Launceston, and opposition to the amendment may be entered at any time within one month from the date of the last advertisement. In case of opposition, the Registrar will hear the applicant and opponent, subject to appeal to a judge. Should the amendment be refused by the Registrar, appeal may be made to a

judge. No amendment will be allowed which will extend the scope of the specification, but leave to amend having been granted, will be conclusive as to the right of the party to make the amendment, except in case of fraud.

During an action for infringement, or revocation of a patent, the Court may, at any time, allow the patentee, subject to terms and costs, to apply for leave to amend, the trial of the action being postponed meantime.

Where a specification has been amended, no damages will be given in respect of infringement committed before the date of the amendment, unless the patentee can satisfy the Court that the original claim was framed in good faith, and with reasonable skill and knowledge.

The Governor has power to grant compulsory licenses if it be shown that—

- (1) The patent has not been worked in the Colony; or
- (2) The reasonable requirements of the public with respect to the invention cannot be supplied; or
- (3) Any person is prevented from working, or using to the best advantage, an invention of which he is possessed.

A petition may be presented at least six months before the expiration of the patent to the Governor in Council, for extending the term of the patent; any person may enter a caveat against the extension. The Governor may refer such petition and caveat to a Court or judge, who may extend the term of the patent for a term of seven, or, in exceptional cases, fourteen years, or may order a new patent to be granted for the new term, containing any restrictions, conditions, or provisions that the Court or judge may order.

A patent may be revoked upon petition to the Court by the Attorney-General or his nominee, or by any person alleging that the patent was obtained in fraud of him, or that he was the true and first inventor, or that he, or those concerned with him, had publicly manufactured or used the invention in Tasmania before the date of the patent.

Where a patent has been revoked on the ground of fraud, the Registrar may grant to the true inventor another patent in lieu of that revoked, bearing the date of revocation of the previous patent, but ceasing with the term of the original patent.

A patent will be effective as against the Crown, but the authorities may use an invention on terms to be agreed, or settled by the Minister having control of the Department. An assessor may be appointed in an action for infringement or revocation, and a Court may, upon the application of either party, make an order for an injunction, inspection, or account, and impose terms. Where the patentee has threatened another person with proceedings for infringement under his patent, the aggrieved party may bring an action against him, and obtain an injunction against the continuance of the threats, and may also recover damages, if any, unless the patentee, with due diligence, brings and prosecutes an action for infringement.

A register of patents is kept at the Patent Office, in which all acts and deeds relating to patents, assignments, and licenses are entered.

A patent may be assigned, or licenses under it granted, for the whole Colony, or any place or part thereof. Duplicate Letters Patent may be sealed where the patent is lost

or destroyed, and its non-production is satisfactorily accounted for. Exhibiting an invention at a Colonial, inter-colonial, or international exhibition, duly declared by a notice in the Gazette to be an industrial exhibition, will not invalidate a patent subsequently obtained, if the exhibitor, before exhibiting, gave the Registrar notice of his intention to apply for a patent, but the application must be made within six months from the date of the opening of the exhibition. Where the exhibition is held at a place outside the Colony, the Governor in Council may exempt the exhibitor from the necessity of giving notice.

The Registrar may demand a model of any patented invention, but must pay for it.

The patent will not prevent the use of the invention for the purposes of navigation of foreign vessels within the jurisdiction of the Supreme Court of Tasmania, nor the use of the invention on a foreign vessel within that jurisdiction, if it be not used in connection with the manufacture of anything intended to be sold in, or exported from, the Colony, always supposing that the country to which the foreign vessel belongs, grants similar privileges to the colonists.

An application for a patent, relating to instruments or munitions of war, may, with the consent of the inventor, be sealed up, and kept secret, pending a reference to Her Majesty's principal Secretary of State for the War Department.

Patents existing at the date of the passing of this Act, will be subject only to the payment of such fees, and at such times as is specified in the previous Act, but in other

respects this Act will extend to patents granted before it came into force, and in the case of applications pending at the date of this Act, the patent will be issued subject to this Act.

International and inter-colonial arrangements, in many respects very similar to those of the International Convention, are provided in this Act, Section 108 of the British Patents, Designs, and Trade Marks Acts being mentioned, and the time limit being given as twelve months in the case of a patent, and six months for a design or trade mark, from the date of the application in England, or the foreign State with which the arrangement is in force. The publication in Tasmania during these periods will not entail the invalidity of the subsequent patent or registration.

A special seal is provided for the Patent Office, and impressions thereof will be admitted as evidence. No notice of any trust, whether expressed, implied, or constructed, will be entered in the registers. No patent will be granted, or trade mark or design registered, which, in the opinion of the Registrar, would be contrary to law or morality. All assignments or transmissions of patents, designs, or trade marks must be entered on the respective registers, and the persons for the time being thereon appearing as entitled, will have power to deal with the respective patents, designs, or trade marks.

The registers are at all convenient times open to public inspection. Copies of documents, and extracts from the registers, sealed with the seal of the Patent Office, are to be received in evidence, as also will be the certificate of the Registrar. An entry in any register may be rectified

by order of the judge. The judges of the Supreme Court may make rules under the Act. The Registrar may, upon request in writing, correct clerical errors in the documents or registers. The falsification of an entry in a register would be a misdemeanour. The Registrar has power to call and examine witnesses or documents, and can adjourn the consideration of cases.

Applications may be sent by post to the Registrar, and should the leaving of documents or paying of fees at the Patent Office fall due on Christmas Day, Good Friday, or on a Saturday, or Sunday, or Bank Holiday, or other day observed as a public holiday, fast or thanksgiving, or upon any day when the Patent Office is closed for the whole day, the said leaving or paying may be effected on the first business day following the holiday.

The Registrar will prepare an annual report, to be laid before both Houses of Parliament.

Representing an article to be patented, when no patent has been granted for it in Tasmania, or describing an article as registered, when no trade mark or design has been registered for it, renders the offender liable, upon summary conviction, to a penalty not exceeding £50. The use of the Royal Arms, without proper authority, renders the offender liable, upon summary conviction, to a penalty not exceeding £20, and a similar penalty is incurred by falsely representing that goods are made by a person holding a royal warrant, or the like.

This Act does not take away, abridge, or prejudicially affect the prerogative of the Crown, so far as it relates to the granting or refusing to grant Letters Patent.

**TRINIDAD.**

Duration of Patent : fourteen years.

Working : none.

Taxes : none.

International Convention : does not apply.

Patents are granted in Trinidad under the Ordinance No. 25 of the 2nd September, 1867.

Patents are granted for a period of fourteen years, to any person claiming to be the inventor, within the Colony, of the invention, and supplying to the Registrar-General a declaration to that effect, together with a specification signed by himself, or his agent, and fully describing the invention, and its mode of application. The Registrar-General will deliver a certificate, a copy of which will be inserted in the Royal Gazette. Specifications can be delivered to the Registrar-General either open or closed, and if the latter, they will be opened at the expiration of six calendar months from the date of the certificate, or earlier at the request of the applicant, or his representative.

A "Book of Inventions" is kept by the Registrar-General, in which inventions are entered, in chronological order, together with the date of the certificate, and the names of the inventor, this book, and the specifications, being open to the public.

A disclaimer, or memorandum of alteration, may be left with the Registrar-General, and, so long as it does not extend the scope of the patent, will be filed by him, and will then be taken to be part of the specification, but no action can be taken for any infringement committed prior

to the making of the amendment. Where part of the patent has been assigned, the original patentee, and the assignee, may together make the amendment or disclaimer, and, where the patent has been entirely assigned, the assignee may make the amendment or disclaimer, and it cannot afterwards be contended that the party so making the disclaimer, was not fully entitled to do so.

Disclaimers and alterations are entered by the Registrar-General, in a special book kept for the purpose, and are numbered to correspond with the patents to which they refer, the date of the amendment being entered. The proprietor of a patent has the same right of action against an infringer, as the grantee of Letters Patent would, in a similar case, have under the law of England.

The patent will lapse, if it should be proved that the invention was not new as to public use and exercise thereof in the Colony, at the date of the application, or that the invention is prejudicial, or inconvenient to the public generally.

The fees upon patents are paid to the Registrar-General, and by him paid over to the Receiver-General, for the use of the Colony.

#### TUNIS.

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

Working: within two years, and every two years after.

Taxes: yearly.

International Convention: applies.

Patents are granted in Tunis under the law of the 26th December, 1888.



Patents are granted for every new discovery or invention in all departments of industry, new industrial products, and new methods, or the new application of old methods, for obtaining industrial results, being considered patentable. Schemes and combinations of credit or finance, or objects contrary to the law or morality, are not patentable, and should the invention relate to food or medicine, the patent will be granted only for special processes of manufacture, and not for the article itself.

Patents are granted for five, ten, or fifteen years, subject to the payment of yearly taxes.

An application for a patent must be addressed to the Prime Minister, and comprises a petition, a specification of the invention, accompanied by drawings or specimens necessary to its comprehension, and a memorandum of the documents deposited; the date and hour of the application are noted in an arrival register, where applications are entered in the order of their receipt, and numbered. A receipt will be given if required.

Only a single principal object, and its details, may be comprised in one patent, and the application must indicate the number of years for which the patent is desired, and must not contain any restrictions, conditions, or reservations. The title of the invention, and a short and precise description, must be given, and the specification must be in the French language, without alterations or interlineations; erased words must be counted and verified, and the objects and references initialled. Measures and weights must be on the metrical system; drawings must be in ink, and to a metrical scale. Specifications and drawings must be in

duplicate, and all documents must be signed by the applicant, or his attorney; should an attorney be employed, he must be provided with a power of attorney, which will remain annexed to the petition. The first payment must be lodged with the application, and this will be retained, even if the patent be refused.

If the application is in order, the Prime Minister will publish a notice of the application in the Official Journal, giving a summary of its contents, and within two months after the publication, any person may enter an opposition in writing to the grant of the patent. Should no opposition be entered, and everything being found in order, the applicant will receive a decree of the Prime Minister, or his delegate, which will constitute the Letters Patent; it will be inscribed in a register of patents, and notice thereof will be published in the Official Journal. Should the patent be refused, notice will be given to the applicant, or his attorney. Should the application be opposed, the patent will not be delivered until, the applicant has satisfied the appropriate tribunal.

Patents are issued at the risk and peril of the applicants, and without any guarantee as to the reality, novelty, or merit, or the correctness of the specification. The patentee, or other proprietor, during the life of the patent, is entitled to make alterations, improvements, or additions, applying in a manner similar to that for the Provisional application, and to obtain patents of addition for them, expiring with the original patent. A patent of addition, taken by one of the parties, will be for the benefit of all the parties interested in the patent.

A new and independent patent may be obtained for an alteration, improvement, or addition, instead of a patent of addition.

Only the patentee, or person claiming through him, can obtain a patent of addition during the first year; any other person, in the same circumstances, must deposit his application under seal, in the hands of the Prime Minister. The seal will be broken at the end of the year, and the patent delivered in the usual manner. In any case, the patentee will have the preference, should he have applied for a patent of addition during the year.

The patentee of an invention connected with the subject already patented, cannot work the subject of the previous patent, and, similarly, the proprietor of the previous patent cannot work the subject of the new patent.

The whole or a part of the patent can be assigned, but this, whether for a consideration or not, can only be done by a notarial deed, and after the payment of the taxes for the whole term of the patent. An assignment is not binding upon third parties, until it has been entered in the register of patents; until this is done, the last proprietor appearing in that register will be recognised as the owner.

Licenses are entitled to the full benefit of patents of addition, procured by the patentee, or others claiming through him, and, similarly, the patentee will benefit in the patents of addition procured by the licensees. Copies of patents of addition can be obtained at the Ministry of Agriculture and Commerce. At the expiration of a patent, the specification, drawings, specimens, or models may be inspected, without payment, by every applicant for a patent.

Copies of expired specifications, and drawings, may be obtained by anybody, at his own expense.

The titles of all the patents granted during the preceding year, will be published at the beginning of each year, in the Tunis Official Gazette. Every Tunisian, or foreigner, or assignee, having an invention to patent, or design to register, may, upon the admission of the exhibit into a public exhibition, authorised by the Administration, obtain a descriptive certificate of the article deposited, from the Prime Minister, conferring upon him the same rights as he would have had under a patent or design registration, and dating from the day of admission, until three months after the closing of the exhibition. This certificate will not prejudice the subsequent patent or registration, but the application for the certificate must be made during the first month of the exhibition; it must be addressed to the Prime Minister, and be accompanied by a specification of the article, accompanied by drawings, if necessary. These applications, and the decisions of the Prime Minister, are entered in a special register, open to the public. No charge is made for these certificates.

Patents issued under the following circumstances are invalid, *ab initio*:—

If the invention is not new, or not patentable according to the terms of the law.

If it relates to theoretical, or purely scientific principles, methods, systems, discoveries, or conceptions, without indicating the industrial application.

If contrary to public order or safety, or the laws of the country—in these cases without prejudice to any penalties,

which may have been incurred for infraction of the laws of the country.

If the title is fraudulently misleading.

If the specification is insufficient or misleading, or has been illegally obtained.

These objections would apply equally to patents of addition.

An invention will not be considered new, if, whether in the Regency or abroad, it has, prior to the date of the application for patent, been sufficiently known to enable it to be worked.

The rights of a patentee will be forfeited—

If he fails to pay the tax at the beginning of each year during the life of the patent, or if he fails to work the invention in Tunis within two years from the date of the grant of the patent, or ceases to work it during two consecutive years, unless he is able to justify such inaction.

If he has introduced into Tunis articles similar to those protected by the patent, but manufactured abroad. However, models of machines, and foreign made articles for public exhibitions, or for experiments sanctioned by the Government, may be introduced.

A fine of from 50 to 1,000 piastres is incurred by anyone who in any way designates himself as a patentee without possessing a patent, or having had a patent, after it has lapsed, or having a patent, omits to state that it is without the guarantee of the Tunisian Government. Repetition of the offence entails the doubling of the fine.

Any interested party may bring an action for the annulment or forfeiture of a patent before the French Tribunal

of First Instance, and if this be pronounced by a judgment or final decree, notice is given to the Prime Minister, and an announcement thereof will be made in the Official Journal. Should the action be brought against the proprietor of the patent, and a licensee, the hearing will be at the tribunal in the domicile of the owner. The case will be adjudicated upon in the summary manner prescribed by Articles 405 and following of the Code of Civil Procedure, and will be communicated to the Procureur de la Republique. The Public Prosecutor may intervene, and have the absolute nullity, or forfeiture, of the patent declared, in a case tending in that direction, or he may initiate an action for the annulment of a patent, and all parties interested in the patent, whose titles have been registered with the Tunisian Government, must be parties to the action.

Infringement is punishable with a fine from 100 to 2,000 piastres, and any interference with the rights of a patentee, whether by manufacturing the patented articles, or using the subject of the patent, would be considered an infringement.

Receiving, selling, or exposing for sale, or introducing the infringing articles into the territory of the Regency, renders the offender liable to the same penalties. Penalties are not cumulative, and the highest penalty is only inflicted for acts committed previous to the commencement of the proceedings. Imprisonment, from one to six months, may be added, upon a repetition of the offence, and it will be considered a repetition, if the accused person has undergone a first punishment for infringement during the previous five years.

Imprisonment, of from one to six months, may be inflicted upon an infringer who is employed in the establishment of the patentee, or if the infringer has associated with an employé, and has so become acquainted with the subject of the patent; in the latter case, the employé will also be prosecuted as an accomplice. Article 468 of the French Penal Code may be applied to these offences. Actions for the applications of these penalties can only be brought by the Public Prosecutor, upon the complaint of the injured party.

The Court for the trial of misdemeanours trying an action for infringement, will decide the points as to nullity or forfeiture of the patent, and questions relating to the ownership of the patent.

Having obtained an order from the President of the Tribunal of First Instance, the proprietor of a patent may, by officers of the Court, have pointed out, and fully described, articles said to be infringements, and may seize these or not. Such an order is issued upon a simple request, the Letters Patent being produced. In the order, an expert will, if necessary, be nominated to assist the officer. Where a seizure is to be made, the applicant may be required by the order, first to give security, and a copy of the order and of the certificate, that the security has been deposited, if this has been required, must be left with the holder of the objects to be described or seized, and should this not be done, the proceedings may be annulled, and damages given against the officer.

A seizure or description of goods will be legally void (without prejudice to damages) if the injured party does

not commence his action within eight days, plus one day more for every three myriamètres distance between the residence of the infringer, and the place where the objects were found.

Articles held to be infringements, or instruments or utensils specially designed for their manufacture, will, as against the maker, concealer, importer, or seller, be confiscated, even in the case of an acquittal, and delivered to the proprietor of the patent, without prejudice to greater damages which he may claim, and the placarding of the judgment.

#### TURKEY.

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

Working: must be proved within two years of filing, and every two years.

Taxes: yearly, from date of application.

International Convention: does not apply.

Patents are granted in Turkey under the law of the 18th February, 1880.

Patents are granted for new inventions in all branches of industry, new industrial products or works, and new means for their production or application. Pharmaceutical compounds and medicines, financial and banking schemes and combinations, are not patentable.

Patents are granted for five, ten, or fifteen years. Taxes are payable yearly, at the rate of two Turkish pounds at the commencement of each year, and failure to pay these taxes will result in the lapsing of the patent. An application for



a patent must be accompanied by a specification, drawings, and samples. Only the principal object, and details appertaining to it, can be included in one patent. A short title of the invention must be given, and no erasures, alterations, or interlineations are allowed. Drawings must be in ink, to a metrical scale; the specification must be in duplicate. A memorandum of the application is entered in the register at Constantinople, under the care of the Ministry of Commerce and Agriculture; the patent runs from the date of the deposit.

No examination is made, and no guarantee is given as to reality, novelty, utility, or merit, or the correctness of the specification. Applications concerning instruments and munitions of war must first be submitted to the Master of Artillery, or the Minister of the Navy. A useless application of this nature would be rejected, but if a favourable report was made upon the invention, the patent may be granted, together with a medal. A copy of the specification and drawings accompanies the Letters Patent; further copies must be paid for.

The inventors of inventions useful to the country, whether natives or foreigners, will be decorated, according to the extent of the utility, with gold, silver, or copper medals, but they must impress a representation of these upon the object.

Where the application is not in proper form, or for a patentable subject-matter, the application will be rejected, and half the fee returned; within three months, the application may be renewed, and the sum confiscated will then be credited as part of the application fee.

When an application is made to patent an invention not capable of being patented, upon the rejection of the application, the whole of the tax paid will be returned. A list of patents issued will be published officially every six months. The duration of a patent can only be extended by a special law.

Patents of addition may be added to the principal patent, and will expire with it. A patentee who has assigned his patent forfeits the right to obtain a patent of addition. No one, excepting the patentee, or those entitled through him, can obtain a patent of addition during the first year, but such an application would remain deposited under seal at the Ministry of Commerce and Agriculture, and at the expiration of the year the seal would be broken, and the patent issued. The original patentee has the preference over other applicants for patents of addition during the first year. A patent of addition issued to another party, does not carry with it the right to work the original invention, and, similarly, the proprietor of the original patent cannot work the subject of a patent of addition obtained by another party, except with consent.

Assignments of the whole or part of a patent can only be made by notarial act, or by an act of a Tribunal of First Instance, and by the payment of the taxes for the whole term of the patent; all assignments must be registered, to be valid against third parties.

Should the subject-matter of a patent be of a dangerous nature, it can only be worked upon the production of proper security, and under Government supervision.

A register of assignments is kept at the Ministry of Agri-

culture and Commerce, and published every six months. All licensees participate in the benefits of patents of addition taken by the patentee, and, similarly, the patentee benefits by patents of addition taken by other parties.

Specifications may be inspected at the Ministry of Commerce and Agriculture, and copies may be obtained upon paying for them. After the payment of the second year's tax, specifications and drawings are published in whole, or in part, and a yearly catalogue of the patents delivered is issued.

In the case of an invention already patented abroad, the Turkish patent would expire with the prior foreign patent.

Patents will be invalid, if the subject-matter of the invention be not new or not patentable, or if the invention be a purely theoretical or scientific method, principle, or discovery, without the indication of the industrial application. Or, if the invention be contrary to public order, safety, or morals, or have a misleading title, or if the specification be insufficient or incorrect, or the applicant was, in fact, not entitled to the patent.

An invention will not be considered new, if, before the date of the application, it has received sufficient publicity, whether in Turkey or abroad, to enable it to be worked. The patent will be forfeited if the annual taxes be not duly paid, or if the invention be not worked in Turkey within two years from the date of the patent, or if the working cease for two consecutive years, or if the patentee has introduced into Turkey articles similar to those protected by his patent, but manufactured abroad. However, models of machines, or other articles made abroad, and intended to be placed in a

public exhibition, or for experiments made under the special permission of the Government, and authorised by the Ministry of Commerce and Agriculture, are excepted. A fine of from 2 to 45 Turkish pounds, and in case of repetition of the offence, double that amount, is incurred by any person who is not a patentee announcing himself as such, or, being a patentee, mentioning his title without adding the words "Without guarantee of the Government."

Any person interested may bring an action for the annulment of a patent before the Civil Tribunal of First Instance. Judgment will be published by the Ministry of Commerce and Agriculture. Infringements are punishable by fine of from 5 to 100 Turkish pounds, and knowingly receiving, selling, or exposing for sale, would be counted as infringements. No person is allowed, without special authorisation from the Government, to sell instruments or munitions of war; contravening this regulation is punishable by the penalties imposed by Article 166 of the Appendix of the Penal Code. Penalties of the patent law are not cumulative. In case of repetition of the offence within five years from a previous conviction, imprisonment from one to six months may be inflicted.

The President of the tribunal may, upon production of the patent, and at the request of the patentee, order an inventory of infringing articles to be made, and the articles seized. Security will always be required of foreigners, but should not all the formalities be complied with, the seizure will be unlawful, and the injured party may claim damages against the officers. The party making the requisition must present himself before the tribunal

within eight days, plus one day for each day's journey between the place where the objects are seized and the domicile of the infringer. The infringing objects may be confiscated, or the tools used in their manufacture, and these may be delivered to the owner of the patent, without prejudice to his right to damages, or the publication of the judgment, if necessary.

#### UNITED STATES OF AMERICA.

Duration of Patent : seventeen years.

Working : none.

Taxes : none.

International Convention : applies.

Patents are issued under the revised statutes approved at the forty-third Congress on the 27th June, 1884, and amended by subsequent enactments in 1880 and 1888.

Patents are issued under the seal of the Patent Office, and in the name of the United States of America; they are signed by the Secretary of the Interior, or one of the assistant secretaries, and countersigned by the Commissioner of Patents, and are on record at the Patent Office. Patents are granted to the original and first inventor or discoverer, who, in applying for the patent, has to make an oath to that effect, and that he does not know or believe that the same was ever before known or used. This oath must be attested by any person in the United States entitled by law to administer oaths, or, in the case of foreigners, before any Minister, Chargé d'Affaires, Consul, United States Commercial Agent, or Notary Public.

Each patent is granted for the term of seventeen years (unless restricted by some prior foreign patent), and gives to the patentee, his heirs or assigns, the exclusive right to make, use, and vend the subject of the patent in the United States and its territories. A copy of the specification forms part of the Letters Patent.

The patent must be issued within six months from the date of the allowance, and if the final fee be not paid within that period, the application will lapse.

A patent may be obtained for "any new and useful art, machine, manufacture, or composition of matter, or any new or useful improvement thereon not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country" before the invention or discovery, "and not in use or on sale for more than two years prior to the application, unless the same is proved to have been abandoned."

Patents may be obtained upon inventions patented abroad, unless the invention has been in public use in the United States for more than two years previous to the application; every patent, however, upon an invention previously patented in a foreign country, will expire at the same time as the foreign patent, or, if there be more than one, with that one having the shortest term; in no case shall the patent run for more than seventeen years.

The specification must be as clear as possible, full and concise, accompanied by drawings if necessary, so that any person, skilled in the art to which the invention appertains, will be able to carry it out fully from the specification and drawings. The patentee must describe in his specification

the best mode known to him of carrying his invention into effect, and must distinctly claim the features of novelty which he desires to protect. The specification must be signed by the inventor, and attested by two witnesses. The drawings, which have to be most carefully prepared with absolutely black and unbroken lines, must also be signed by the inventor or his attorney, and attested by two witnesses. Models and specimens must be supplied, if required.

An examination is instituted into every application, with a view to ascertaining the novelty or otherwise of the invention, and this examination is not restricted to specifications of American patents, but includes those obtainable from all other countries, as well as the general state of public information upon the subject.

An application must be completed for examination within two years of the date of the original application, failing which the application will be regarded as abandoned, and a similar penalty attaches if no action be taken within two years of the date of notification, when amendment is required by the examiner. Patents may be issued to an assignee where the applicant for the patent has made an assignment before issue, and recorded it at the Patent Office.

A patent may be applied for by an executor or administrator of a deceased inventor, who may obtain the patent, but must make an oath setting forth the facts of the case; the patent would be granted in trust for the heirs-at-law of the deceased in case he has left no will, or should a will have been made, the patent may be devised with the rest of the property.

Where a patent has been allowed, and ordered to issue

within six months, upon payment of the final fee, but such fee has not been paid, any person interested, whether as inventor, discoverer, or assignee, may make an application for the patent at any time within two years after the allowance of the original application. Upon the hearing of such an application, the question of the abandonment of the invention will be considered according to the facts brought forward.

A patent may be assigned for the whole or any particular part of the United States, either by the patentee or his assigns, or legal representatives. The assignment must be recorded at the Patent Office within three months from the date thereof, or it will be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice. Any person purchasing from the inventor the subject of the subsequent patent, or with his knowledge constructing, selling, or using one so constructed before the application by the inventor for the patent, will be entitled to use and sell to others, who, in like manner, may use the specific thing so made or purchased without liability.

Every patented article must bear the word "Patented," together with the date, or where, from the nature of the article, this cannot be done, this must appear upon the package. Should the patentee fail in this requirement, no damages could be recovered by him in a suit for infringement, except on proof that the infringer had been duly notified of the infringement, and continued to infringe after such notification.

Falsely marking or labelling articles which are not the subject of a patent with the name, or an imitation of the



name, of a person who has obtained a patent for it, without consent of the patentee, or his assigns, or legal representatives, renders the offender liable for every offence to a penalty of not less than \$100 with costs, one-half of the penalty going to the person who sues for it and the other half to the United States Treasury. The suit may be taken in any district Court of the United States within whose jurisdiction the offence was committed. A similar penalty is incurred for falsely using the word "Patent," "Patented," "Letters Patent," or the like, with the object of imitating the mark or device of the patentee without consent, and also for marking an unpatented article as "Patent," or otherwise leading the public to suppose that the article is patented, when such is actually not the case.

Any citizen of the United States is entitled to file a caveat of any invention he may have made with a view to obtaining further time in which to develop his invention, without, at the same time, running the risk of some other person forestalling him. The caveat comprises a specification, with drawings, if necessary, of the invention; it is filed in the confidential archives of the Patent Office, and remains in force for one year, from the date of filing. Should any person during that period apply for a patent which would in any way interfere with the subject of the caveat, the papers appertaining to such application will also be deposited by the Commissioner in the confidential archives, and notice will be given to the person who filed the caveat. Should he then desire to avail himself of his caveat, he must, within three months, plus the time occupied in transmission, from the mailing of the notice,

file his Complete application for patent in the usual manner. The privilege of filing a caveat is given to an alien, who has resided in the United States for one year before the filing of the caveat, and has made oath of his intention to become an American citizen.

Where during the examination a patent is rejected, notice is sent to the applicant, with brief reasons for the rejection, and such information and references as may be necessary, and should he then persist in his application, a re-examination is ordered by the Commissioner.

Where an application for patent would, in the opinion of the Commissioner, interfere with another application or unexpired patent, he will notify the parties interested, and direct the Primary Examiner to ascertain with which application the priority of invention lies, and may then issue a patent to the first inventor. Within a period, to be settled by the Commissioner, but not less than twenty days, an appeal may be lodged from the decision of the Primary Examiner, or of the Board of Examiners in Chief.

The Commissioner has power to make rules for taking evidence in cases before the Office; the affidavits and depositions required can be taken before any officer duly authorised by law. The attendance of any witness can be compelled under subpoena, to be issued by the clerk of any Court in the United States for the district or territory concerned, but the place of attendance must not be more than forty miles from the place where the subpoena was served. Witnesses in patent cases are allowed the same fees as if giving evidence before the ordinary Courts of the United

States. Failing to attend under the subpoena, renders the delinquent liable to punishment as in ordinary law cases, but no penalty will be incurred, unless the witness's fees and travelling expenses, and one day's attendance at the place of examination, are paid or tendered to him when the subpoena is served. He need not disclose any secret invention or discovery of his own.

An application for a patent, or for a reissue, any of the claims of which have been twice rejected, and all parties to an interference, may, having paid the fee, appeal from the decision of the Primary Examiner, or of the Examiner in charge, to the Board of Examiners in Chief, and from the Board of Examiners in Chief he may appeal to the Commissioner in person. Except in the case of a party to an interference, he may appeal from the Commissioner to the Supreme Court of the District of Columbia, giving notice thereof to the Commissioner. Certified copies of all the original papers and evidence in the case will have to be laid before the Court, and the Commissioner will, in writing, supply the Court with the grounds of his decision; any party interested, or the Court itself, can have the Commissioner and the Examiners examined upon oath concerning the principles of the invention upon which the patent is demanded.

Where a patent is refused by the Commissioner, or by the Supreme Court, the applicant may still obtain his patent by filing a bill in equity, and the Court having notified the adverse parties, may adjudicate upon the application, and if it see fit, decide that the applicant is entitled to his patent, and upon filing at the Patent Office a copy of the adjudica-

tion, and generally complying with the legal requirements, the patent may be issued. Whether the decision be in his favour or not, the applicant would have to pay all the expenses.

Where a patent is inoperative or invalid, through defective or insufficient specification, or by too wide a claim, and the error having arisen by inadvertence, accident, or mistake, and without fraudulent or deceptive intention, the patent may be surrendered and reissued, a new patent being granted for the invention upon payment of the required fees; the new patent may be issued to the original patentee, or in the case of assignment or death, to the assignee, or the patentee's executors or administrators. The new patent will be issued only for the unexpired term of the original patent, and will be subject to examination and revision like any other application, and if the Commissioner should think fit, he may order the patent to be divided into two or more patents, upon each of which the fees will have to be paid. No new matter may be introduced into the specification, and models or drawings may not be amended, "except each by the other," but in the absence of models or drawings, amendments may be made with the leave of the Commissioner, when he is satisfied that the new matter formed part of the original invention, but was omitted through inadvertence, accident, or mistake.

A patent which, through inadvertence, accident, or mistake, and without fraudulent or deceptive intention upon the part of the patentee, includes in its claims more than the inventor was entitled to, will still be valid for such part as the inventor was legally entitled to, supposing that to be a

material or substantial part of the patent, and the patentee, his heirs, or assigns, may disclaim the portion to which the inventor was not entitled. The disclaimer must be in writing, and attested by one or more witnesses, and must be recorded at the United States Patent Office, after which it will form a portion of the specification. A disclaimer will not affect an action pending at the time at which it is made, excepting as concerns the question of neglect or delay in making it.

In the case of interfering patents, a suit in equity may be brought by any of the parties interested, for relief against the interfering patentee, and either of the patents may be declared by the Court to be void in whole or in part, or inoperative or invalid, in any particular part of the United States, but such decision will not affect the rights of anybody, except the parties to the suit. Damages for infringement may be given, and when the verdict is for the plaintiff, judgment may be entered for any sum larger than the amount given by the verdict as the actual damages sustained, but such sum must not exceed three times the amount of the verdict, together with the costs.

Any of the following objections may be pleaded in an action for infringement:—

(1) That for the purpose of deceiving the public, the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or

(2) That the patentee had surreptitiously or unjustly obtained the patent for that which was in fact invented by

another, who was using reasonable diligence in adapting and perfecting the same; or,

(8) That it had been patented or described in some printed publication prior to his supposed invention or discovery thereof; or,

(4) That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

(5) That it had been in public use or on sale in the country for more than two years before his application for a patent, or had been abandoned to the public.

Where previous patents are cited in anticipation of a patent, full particulars must be given, as well as the names and residences of any persons alleged to have had knowledge of the thing before the date of the patent. Injunctions may be granted to stop infringements of a patent, and in addition to the profits to be accounted for by the defendant, the complainant is entitled to recover damages sustained; these may be assessed by the Court, or under its direction, and may be increased in its discretion.

If a patentee, at the time of applying for his patent, believed himself to be the original and first inventor, the patent will not be invalid by reason of the invention being known in a foreign country before the date of his invention thereof, unless it had been patented or described in a printed publication.

A weekly paper, known as the Official Gazette, is issued by the Patent Office, and contains reproductions of one or more of the drawings, a copy of the claims, and in some

cases a brief of the specification, of all applications for patents and design patents.

All Acts of Congress prior to the 1st December, 1878, relating to patents, were repealed and substituted by the revised statutes.

### URUGUAY.

Duration of Patent : three, six, or nine years.

Working : variable term, fixed by Executive.

Taxes : yearly.

International Convention : applies between Great Britain and Uruguay.

Patents are granted in Uruguay under the law of the 12th November, 1885.

Patents are granted for three, six, and nine years, at the option of the applicant, for inventions or improvements upon inventions, and also in the case of foreign patentees, who apply for leave to establish their industry in the country, during the first year of the patent, the applicant in this case to be the inventor, or his attorney or assignee. Patents are granted for new discoveries or inventions in all industries, new industrial products, new means, or the new application of old means, for obtaining an industrial result. Financial schemes or inventions already published in print in the country or abroad, or purely theoretical inventions without practical application, pharmaceutical preparations, or anything contrary to morality, or the laws of the Republic, are not patentable.

No guarantee is given as to novelty or merit of the invention. An annual tax is payable during the life of the patent, during the first ten days of each year, and if this be not paid, the patent will lapse, and the patent will not be issued until the first of these payments is made. Should the first payment not be made during the said ten days, subsequent applications for the same thing may be entertained, and if considered advisable, may have preference over that of the original applicant. Patents must be worked or established in the country, within a period to be fixed by the Executive, after a report by the Council of Public Health, where the invention relates to an unhealthy or objectionable industry. The patentee must give notice at the Patent Office, of the working of the invention, and a note will be made of this at the Department of Public Works, and the Council of Health, so that these bodies may ascertain if the condition has actually been complied with. An application may be made for an extension of the period during which the working has to be proved, but sufficient ground, in the nature of *force majeure*, or fortuitous circumstances, must be shown, and the petition must be made at least three months before the expiration of the period fixed.

Patents are issued on stamped paper, by the Office of Patents for Inventions, Trade Marks and Commerce, and are signed and sealed by the Minister of the Interior, and countersigned by the Chief of the Patent Office.

No person employed in the Patent Office may have any interest in a patent passing through it, upon pain of instant dismissal. The Patent Office is directly attached to the Ministry of the Interior.



A petition, on stamped paper, for the grant of the patent has to be presented, and the day and hour of presentation will be noted; the petition must be accompanied by a clear specification, in duplicate, together with specimens, drawings, or models, according to the nature of the invention, the petitioner swearing that he is the owner of the invention, and prays for the patent. Specifications must be written upon durable material, and without abbreviations; no restrictions, conditions, or reservations will be allowed in the petition, and the specification must indicate the title by which the invention is to be known, and must be in Spanish, and must confirm any alterations or additions which may be made in the text. Drawings must be in ink, and to a scale, where possible, on the metric system adopted in the Republic. The duplicate copy of the specification and drawings will accompany the Letters Patent, when issued.

A detailed statement of the patents issued, is published by the Government every three months, and the General Direction of statistics is supplied by the Chief of the Patent Office, every year, with a list of the patents granted, their duration, and the sums paid. Every two years the Patent Office publishes the specifications.

Patents of addition may be obtained by the improver of a patented invention, and will expire with the principal patent; the same formalities are required as in the case of the original patent, but the tax is only one-third of that required for the original patent, if the application be made by the proprietor of the patent, or two-thirds if by some other person. Where a patent of addition is obtained by a person not the pro-

prietor of the original patent, he is bound to pay to the proprietor of the original patent, an amount to be fixed by two experts appointed by the parties, with a third person in case of disagreement, who will take into consideration the importance of the improvement, and the part of the original invention retained in the improvement. The original patentee may either accept this payment, or may elect to work the improvement concurrently with the inventor of the improvement; in the latter case, two patents of addition will be granted, one to each, but the improver will, in no case, have the right to work the original invention exclusively, nor will the original patentee be allowed to work the improvement exclusively, where he has relinquished his right to the payment to be settled by the experts. Where two parties apply at the same time for the same patent, neither patent will be granted, unless the parties come to terms.

Any patentee can transfer his rights upon any conditions that he thinks fit, by public deed, but only after notice has been given to the Patent Office, without which the assignment will not be effective as against third parties. All rights appertaining to the patentee, appertain also to the patent, and are assigned therewith, unless it is otherwise expressly stated in the deed of assignment.

Patents granted for the prohibited subjects, or fraudulently obtained, or upon inaccurate or incomplete specifications, or where a foreign invention is represented as originating in the country, will be invalid, and the person making the false statement in the last case, is punishable with a fine of \$500, or six months' imprisonment.

Patents validly granted will lapse, if the proprietor fails to work his patent within the stipulated term, or if the working ceases for one year, unless the party interested is able to prove, within a period of one month, that it was beyond his power, or by some fortuitous circumstance, that he failed to comply with the requirement. Otherwise the Chief of the Patent Office will publicly advertise that the patent has lapsed. Patents also lapse at the expiration of the term for which they were granted.

Should the patentee fail to give notice that he has put into operation his invention, within the stipulated time, the proper authority will give him notice, and one month's time, and if he has not complied with all the requirements of the law within that period, the patent will be declared forfeited.

Actions against patents are tried before the judge of the Civil Court, and can be brought by interested parties only.

The subject of a patent can be freely used, should the patent, in fact, be invalid, as it is not necessary for a judicial declaration of the invalidity to have been made. Should the proprietor of an invalid patent interfere with the free use of it, any person may apply to the judge for the declaration of invalidity. A summary judgment may be issued, and lawful means of proof are allowed, but the patentee cannot produce any in contradiction of the Letters Patent; twenty days only is allowed for proof, and judgment will be given ten days after the expiration of that period, with costs against the defeated party. An appeal may be made to the Superior Court of Appeal, which will receive a report from the Patent Office, and give final judgment. Upon the completion of the judgment, the judge will communicate the

fact of the annulment of the patent to the Chief of the Patent Office, who will forthwith publish it.

Infringements are punishable by a penalty of \$100 to \$500, or imprisonment for from one to six months, as well as the forfeiture of the infringing articles, and compensation to the proprietor of the patent, for damages and prejudice. Any person assisting in the infringement, is liable to the same penalties, which are doubled, upon the repetition of the offence within five years after conviction.

The fact of the infringer having been in the employ of the patentee, or surreptitiously obtaining from him the knowledge of the invention, will be an aggravation of the offence. The action for the enforcement of these penalties takes place in private before the criminal judge, but no action will be taken until the Letters Patent are produced. The only pleas allowed, in reply, are the nullity or forfeiture of the patent, or participation in, or the exclusive ownership of, the patent. The plaintiff may demand security, if the accused person decides to continue using the invention, to prevent interruption of his work; in default, the plaintiff may demand the stoppage of the infringing work, and an attachment of all the effects concerned, but must give suitable security.

Falsely assuming the privileges of a patentee, renders the offender liable to the same penalties as an infringer.

During the life of a patent, copies thereof, and of models, etc., may be applied for in writing, at the Patent Office, only by the proprietors of patents, or their representatives, but after the lapse of the patent, any person may apply for them. They are issued on stamped paper of the second class, and

at the cost of the applicant; where plans, models, designs, or the like, are required, the cost will be settled by the Direction of Public Works. A register of patents, and a register of proprietors of patents, are kept at the Patent Office, in which all the necessary entries are made.

This law repeals the previous law of the 20th June, 1853, and all other enactments contrary to the present law.

### VENEZUELA.

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

Working : six months, one year, or two years, according to term of patent.

Taxes : annually, but those for first half of term must be paid before patent issues.

International Convention : does not apply.

Patents are granted in Venezuela under the law of the 25th May, 1882.

Any person being an inventor or discoverer of a new and useful art, machine, manufacture, or composition of matter, or improvement thereof, may obtain a patent, but the invention must not have been previously known to others in the country, or patented or described in a printed publication either in the Republic or abroad, and must not have been in public use, or on sale, for more than two years before the date of the application, unless it is proved to have been abandoned.

Patents are granted in the name of the United States of Venezuela, by the Federal Executive, and countersigned

by the Minister of the Interior, but neither the novelty, correctness, nor the utility is guaranteed.

The application must be accompanied by a clear specification, with drawings or specimens, if necessary, and a petition, in which the application declares under oath, that he is the real inventor, any dispute upon the declaration being settled by the ordinary Federal Tribunals.

Patents may be obtained for five, ten, or fifteen years, and will lapse in the case of a five-year patent at the end of the first six months, of a ten-year patent at the end of the first year, and a fifteen-year patent at the end of the second year, from the date of the grant, if the invention has not been put into practice.

The patent runs from the date of the issue, and upon it are stated the term for which it is granted, and the period within which it must be worked.

Applications are addressed to the Federal Executive Power through the Minister of the Interior, and cover the dependencies, as well as the United States, of Venezuela.

Both patents for invention and improvement are subject to the payment of an annual tax, but the tax for one-half the number of years demanded, has to be paid before the patent is granted. If the patent be refused, the amount paid is confiscated for the benefit of popular education; if the patent be granted, the amount will go towards the total taxes upon the patent. Taxes may be remitted by the Federal Executive, in the case of specially worthy inventions. A patentee, announcing the fact by advertisements, or trade mark, does not thereby imply any guarantee on the part of the Government.

The proprietor of a foreign patent may also obtain a

patent in Venezuela, provided that no one else has already patented it there, but such patent will only be granted for the remainder of the term of the foreign patent.

A description of the invention will be published in the Official Gazette, upon the expiration of the patent, whereupon the working of the invention becomes free to the public, and the same applies where the patent is annulled by the operation of the law.

Specifications, and drawings, and specimens are deposited at the Ministry of the Interior.

An application for a patent is published in the Official Gazette, and if the patent be granted, it will not be issued for thirty days after such publication.

Patents are not granted, if the sub-*jet* of the invention is detrimental to health or public order, to morals, or to existing rights. Patents are not granted for pharmaceutical compositions, or remedies of any sort, these being subject to special laws.

Patents are of no effect, when the Federal Tribunals declare them to have been granted in prejudice of the rights of other persons, or if the invention has not been worked during a whole year, unless the proprietor of the patent can prove fortuitous circumstances, or that it was beyond his power to effect the working.

Infringements are tried by the Federal Tribunals, according to the appropriate codes.

This law repeals the previous law of the 20th May, 1878.

Where an exemption from taxation has been granted, it will be revoked, if it be proved that the patent relates to the sale of raw materials or imported articles, and in case of

such revocation, the proprietors of the industry will, besides the loss of the patent, be liable to pay duties upon everything that they have improperly imported, and 10 per cent. in addition, upon the gross total.

A patent becomes void, if the industry be not established within the appointed time, or if the working of the invention be discontinued for a period of more than one year.

### VICTORIA.

Duration of Patent : fourteen years.

Working : none.

Taxes : before the end of third and seventh years.

International Convention : does not apply.

There have been many Acts relative to the granting of patents in Victoria in 1854, 1857, 1865, 1872, 1881, 1884, and 1889, all of which, however, are absolutely or practically repealed by the Act of the 10th July, 1890.

Any person, whether a British subject or not, may apply for a patent, and a patent may be granted to two or more persons jointly. The actual inventor, or his assigns, or the two jointly, or the legal representatives of a deceased inventor, or of his assigns, or any person to whom the invention has been communicated by the actual inventor, his legal representatives or assigns (not resident in Victoria), may apply for a patent.

An application must be accompanied by a solemn declaration in the prescribed form, stating that he is in possession of the invention of which he claims to be the true and first inventor, and by a Provisional or Complete



specification, accompanied by drawings, if necessary, the Complete specification ending with a distinct statement of claim. The application is referred by the Commissioner to an examiner, to ascertain and report whether all formalities have been complied with, and also whether the invention is novel or not, or whether it is already in the possession of the public with the consent or allowance of the inventor, and upon any other matters required by the Commissioner. The Commissioner may refuse to accept an application, or may require amendment, and in the latter case, the Commissioner may, if he please, cause the application to bear the date when the amendment was complied with. Appeal to the Law Officer is permitted from decisions of the Commissioner; he will hear the applicant, and the Commissioner, and make such order as he thinks right. Where an application is made similar to one already in the Office, but upon which a patent has not yet been sealed, the Commissioner may, upon the request of the second applicant, within two months of the grant of the patent upon the first application, decline to proceed with the second application, or allow the surrender of the patent, if it has been granted.

Where a Provisional specification has been filed with the application, the Complete specification must be filed within nine months of the date of application; another month may be obtained with the consent of the Commissioner, and upon payment of a fine, and unless the Complete specification is left within that time, the application will be considered to be abandoned. A Complete specification must be accepted within twelve months from

that date of application, or upon extension, two months more, and should it not be accepted within that time, the application will, except in the case of an appeal from refusal to accept, become void. Reports of examiners are not published, or open to public inspection, except upon the certificate of a Court, or a proper officer. The acceptance of a Complete specification will be advertised, and the specification will then be open to the public inspection. In the case of an abandoned application, the specification is not published.

Any person may enter an opposition to the grant of a patent, within two months from the date of the advertisement of the Complete specification, the grounds being—

(1) That the applicant fraudulently, or without authority, obtained the invention from the opponent, or from a person of whom he is the legal representative or assignee ;

(2) That the invention has not been communicated to the applicant by the actual inventor, or his legal representatives, or assigns, should these not be resident in Victoria ; or

(3) That the invention has been patented in Victoria on an application of prior date ; or

(4) On the ground of want of novelty, or of the invention having been already published, or publicly used ; or

(5) That the Complete specification describes or claims an invention other than that described in the Provisional specification, and that such other invention forms the subject of an application made by the opponent, in the interval between the leaving of the Provisional and

Complete specifications. The Commissioner will hear the parties, and decide upon the opposition after the expiration of the two months.

A patent will be sealed as soon as possible, but not after the expiration of sixteen months from the date of the application, except where—

(a) The sealing has been delayed by appeal to the Law Office, or to the Supreme Court, or by opposition to the grant of the patent, in which case the sealing may take place at any time ordered by the Law Officer, or the Court;

(b) Where extensions of time have been obtained, in which case the sealing must take place within eighteen months from the date of application.

(c) In the case of the death of the applicant within the aforesaid period of sixteen months, the patent may be granted to his legal representatives, and sealed at any time within twelve months from the date of his death.

The patent bears the date of application, but no proceedings can be instituted for infringement committed before the publication of the Complete specification. The sealing of a patent for the same invention, upon one application, will not prevent the sealing of a patent upon an earlier application.

Where the Complete specification has been accepted, the applicant is in the position of a full patentee, excepting that he cannot commence an action for infringement until the patent is sealed.

The patent runs for fourteen years from its date, but is subject to the payment of a tax of £2 10s. before the expiration of the third and seventh years. An enlargement

of time, not exceeding six months, for these payments may be obtained upon application to the Commissioner, and payment of a fine, but no action for infringement, committed in the interval between the expiration of the legal date and the date when the tax was actually paid, can be undertaken. The receipt of the third and seventh year taxes must be endorsed upon the Letters Patent themselves.

A copy of the Complete specification is issued with, and attached to, the Letters Patent.

A specification may be amended by disclaimer, correction, or explanation. The application for amendment will be advertised, and opposition may be entered at any time within one month from the date of the first advertisement. In case of opposition, the Commissioner will hear the parties, and decide the case. No amendment will be allowed which increases the scope of the patent, but leave to amend will be conclusive as to the right to make the amendment. The Court may grant leave for an amendment to be made during the progress of an action for infringement or revocation, and may stay the proceedings pending the completion of an amendment.

Where an amendment has been allowed, no damages will be given in respect of the use of the invention before the date of the amendment. Every amendment will be advertised. Appeal from the decision of the Commissioner is allowed to the Law Officer, if the appellant has, within fourteen days, given notice in writing of his intention to appeal. The Law Officer will hear both the Commissioner and the appellant, and decide the dispute ; the Law Officer may call

in the aid of a scientific expert, or other person, if he thinks fit, and either the Law Officer, or the Commissioner may require the attendance of witnesses, and may examine them on oath, and administer oaths, and may make an order as to remuneration and costs, and may fix the amount thereof; such order may be made a rule of the Supreme Court. A penalty of £20 is incurred for neglecting such a summons. Every person having a special interest in the matter is entitled to be present at the hearing.

When a patent is refused by the Law Officer, the applicant may appeal to the Supreme Court, but before doing so he must have paid all costs ordered by the Commissioner or Law Officer.

A register of patents is kept at the Patent Office, in which a complete list of all patents granted, with the names and addresses of the patentees, notifications of assignments, licenses, amendments, and so forth, will be entered; this register, or a copy, will be open at all convenient times for public inspection. The person for the time being, entered on the register as the proprietor of a patent, will be considered to be the proprietor, and to have power to grant licenses, or to deal with the patent. Making, or causing to be made, a false entry in the register, is a misdemeanour, and the perpetrator, on conviction, is liable to imprisonment for a term not exceeding five years. An aggrieved party may apply to the Supreme Court, or by summons to a judge, for an order to expunge or vary any entry in the register.

The term of a patent may be extended, upon petition to the Commissioner, lodged at least six months before the

expiration of the patent, and a patent which is found to be invalid may be confirmed by the Commissioner, or a new patent may be granted in lieu of the original one, the Commissioner being previously satisfied as to the propriety of such confirmation or new issue. An application for extension or confirmation must be advertised in the Government Gazette, and three times in some newspaper published in the city of Melbourne, and three times in some newspaper published or circulating in any locality in which the petitioner may exercise the invention, at least forty clear days before the date named by the Commissioner, for the consideration of the petition, and any person having an interest in opposing the petition may give notice, not less than one week before the time appointed for the hearing, of his intention to oppose the petition. The Commissioner will hear the parties, as well as witnesses, and counsel or agents, and decide upon the case.

A patent may be revoked on petition to the Supreme Court, the grounds of objection being those used in the old action of *scire facias*. The following parties are entitled to present a petition for revocation, viz.: the Law Officer or his nominee, any person alleging that the patent was obtained in fraud of his rights, or of some person through whom he claims, any person alleging that he, or the person through whom he claims, was the true and first inventor of an invention included in the claims. Any person alleging that he, or the person through whom he claims, had publicly manufactured, used, or sold the subject of the invention within the Colony of Victoria before the date of the patent, or, lastly, any person alleging that the

patentee was not the actual inventor, or his assignee or legal representative, and that the claim of the patentee was not communicated to him by the actual inventor or his legal representative. Where a patent has been revoked upon the ground of fraud, the Commissioner may grant a new patent, in lieu of that revoked, bearing the date of the original one, and expiring at the date when the original one would naturally have expired.

The patent will have the same effect against the Crown as against a subject, but a responsible Minister of the Crown, or head of a department, may appropriate for the public service a patented article, on terms to be agreed on, or settled by arbitration.

In legal proceedings, the judge may call in an assessor at the request of either party to the proceedings, and settle his remuneration. The pleadings in the action are substantially similar to those for a similar action in Great Britain.

An order may be made, on the application of either party, for an injunction, inspection, or account, upon such terms as the judge may think fit. The judge may certify that the validity of the patent came into question, so that in any subsequent action, the plaintiff, after obtaining a final order or judgment, may have his full costs as between solicitor and client, unless the Court orders otherwise.

Any person aggrieved by a patentee, who, by circulars, advertisements, or otherwise, threatens him with legal proceedings, or liability for infringement of a patent, may obtain an injunction, and recover damages, if any, unless it be proved that the alleged infringement was actually an infringement; but this will not apply if the person threatening,

with due diligence, commences and prosecutes an action for infringement of his patent.

Where the Governor in Council has made a reciprocal arrangement with the Government of any Australian Colony, or with the Colony of New Zealand, or of Fiji, for the mutual protection of inventions, then a person who has applied for a patent in one of those places, and applies in Victoria, within six months of the date of such application, will have priority over any other person who may, in the interval, have applied for a Victorian patent, the publication of the invention in Victoria not invalidating the subsequent patent.

Where, by an order in Council, section 108, or any portion thereof, of the Patents, Designs and Trade Marks Act 1888 of the Imperial Parliament, has been applied to the Colony of Victoria (subject to amendment by any subsequent Victorian Act), the above provisions may be extended to inventions patented in the United Kingdom.

Where a foreign patent has been granted, a patent in Victoria may be granted at any time during twelve months from the date of the granting of the foreign patent, and the publication or use of the invention in Victoria, within that period, will not invalidate the subsequent patent, unless the use or publication has taken place with the consent of the true and first inventor.

A patent is intended to be granted for one invention only, but may contain more than one claim, and may not be objected to on the ground that it contains more than one invention.

Where the inventor dies without making application,



his legal representatives may do so within twelve months of the date of his decease, and may make the declaration instead of the inventor.

A patent may be assigned for the whole or any part of the Colony of Victoria. A patent granted to the true and first inventor shall not be invalidated by an application made in fraud of him.

Duplicate Letters Patent may be sealed in the place of those lost or destroyed, if the non-production of the original be accounted for satisfactorily to the Commissioner.

The exhibition of the invention at an industrial or international exhibition, or the publication of the description of the invention during the period of the exhibition, or the use of the invention for the purpose of the exhibition in the exhibition grounds, or the use of the invention during the holding of the invention by another person without the inventor's consent, will not prejudice the right of the inventor, or his legal representative, to the grant of a patent, provided that he has given to the Commissioner, before exhibiting the invention, one month's notice of his intention to apply for the patent; the application must, however, be made within twelve months of the date of the opening of the exhibition.

A patent does not prevent the use of the invention in any foreign ship in any part of Victoria, or the waters within the jurisdiction of the Courts of Victoria, unless such invention be used in the manufacture of goods and commodities to be vended in, or exported from, Victoria, and provided that the ship belongs to a country granting similar privileges in the case of British ships.

No patent will be granted for anything contrary to law or morality, or dangerous or injurious to the public interest. Clerical errors may be corrected, whether pertaining to the specification, or the name, style, or address of the registered proprietor.

Communications may be made with the Patent Office through the post.

Where the last day for leaving any document, or paying any fee, at the Patent Office, shall fall on a Sunday or public holiday, the day next following such excluded day or days, if more than one of them occur successively, may be substituted.

In the case of infancy, lunacy, or other inability to make declarations, or comply with the requirements of the Act, the guardian or committee of such incapable person, or other person appointed by the Court, may make the declaration, or otherwise comply with the requirement.

The fraudulent marking of goods, in imitation of the name of another patentee, and the marking of the word "Patent," "Patented," "Letters Patent," "Royal Letters Patent," "Queen's Patent," or the like, with the object of counterfeiting or imitating the mark or device of a patentee, or of deceiving the public, or of selling, as patented, in Victoria an article not so patented, renders the perpetrator guilty of a misdemeanour, and liable to a penalty not exceeding £100, or to imprisonment for a period not exceeding six months.

Nothing in this Act abridges or affects the prerogative of the Crown, as to the granting or withholding of a patent.

All patents granted in the United Kingdom of Great Britain and Ireland after the 31st day of December, 1857, will, so far as they relate to the Colony of Victoria, be deemed to have been void, and of no effect, but all such patents granted on or before that date, which would have been effective in Victoria but for the passing of this or other Victorian Act, will be deemed to have been granted under this Act, and will be dealt with accordingly.

#### WESTERN AUSTRALIA.

Duration of Patent : fourteen years.

Working : none.

Taxes : before the end of fourth and seventh years.

International Convention : applies.

Patents are granted in Western Australia under the Act of the 26th November, 1888, which came into force on the 1st January, 1889, and the amending Acts of the 18th March, 1892, and the 10th October, 1894.

Any person, whether a British subject or not, is entitled to make an application for a patent, and a patent may be granted to two or more persons jointly. The applicant may be the actual inventor, or his assignee, or the actual inventor jointly with the assignee of a part interest in the invention, or the legal representatives of a deceased actual inventor or his assigns, or any person to whom the invention has been communicated by the actual inventor, his legal representatives or assigns (if the actual inventor, his legal representatives or assigns, is or are not resident in Western Australia). An application for a patent must be accom-

panied by a statutory declaration, stating that the applicant is in possession of the invention, and claims to be the true and first inventor. The application may be accompanied by either a Provisional or a Complete specification; a Complete specification must end with a distinct statement of claim.

The application is referred to an examiner, to ascertain if the application is in proper form. Amendment may be ordered by the Registrar, from whose decision an appeal may be made to the Attorney-General, who will hear the applicant and the Registrar, and make such order as may appear to him desirable.

Where, after an application has been filed, but before the patent has been sealed, another application, bearing the same or a similar title, is filed, the Registrar may refer the matter to an examiner, to report whether both specifications comprise the same invention, and if so the Registrar will give notice to both parties. The Registrar may refuse to seal a patent upon the second application, subject to appeal to the Attorney-General.

Where a Provisional specification is lodged with the application, a Complete specification must be left within nine months of the date of application, but this time may be extended by the Registrar to ten months. Unless the Complete specification is left within this period, the application will be considered abandoned. Amendments may be ordered in Complete specifications which do not agree with the Provisionals, or for any informality, and the Registrar may refuse to accept such specification until the amendment has been made, subject to appeal to the Attorney-General.

A Complete specification must be accepted within twelve months from the date of the application, unless the Registrar extends that time to fifteen months, upon payment of a fine, and unless so accepted the application will become void. Should the applicant have lodged an appeal against a refusal of the Registrar to accept the specification, the above time limit would not apply.

The acceptance of a Complete specification is advertised in the Government Gazette, and the specification is then open to public inspection.

Within two months from the date of such advertisement, any person may enter an opposition upon one of the following grounds:—

(1) That the applicant had obtained the invention from him, or from a person of whom he is the legal representative.

(2) That the invention has been patented in the Colony upon an application of prior date.

(3) That the examiner has reported to the Registrar that the specification appears to comprise the same invention as is comprised in a specification bearing the same or a similar title, and accompanying a previous application.

Where notice of opposition is given, the Registrar may require the opponent to give security to the extent of £25 for the cost of the opposition, and if such security is not given within the said two months, the opposition will lapse.

The Registrar will give notice of the opposition to the applicant, and upon the expiration of the two months, and

after hearing both parties, will decide upon the case, subject to appeal to the Attorney-General, who, upon appeal, will also hear the applicant, and, if in his opinion entitled to be heard in opposition to the grant, the opponent also, and will determine upon the case. The Attorney-General may obtain the assistance of an expert, and may fix his fee. Either the Attorney-General or the Registrar may, after the decision, make an order as to the payment of costs by either party, and this order may be made a rule of the Court, on an *ex parte* application.

Specifications are not published, unless the applications are accepted. A patent is sealed with the seal of the Patent Office as soon as may be, but not after the expiration of fifteen months from the date of application, excepting where the sealing is delayed by an appeal to the Attorney-General, or by opposition to the grant, in which case the patent may be sealed at such time as the Attorney-General may direct. Or should the applicant die before the expiration of the fifteen months, the patent may be granted to his legal representative, and sealed within six months of the time of the applicant's death. Where the time for leaving or accepting the Complete specification, or both, has been extended, the period of such extension will be added to the fifteen months. Patents are sealed as of the date of application, and are issued in duplicate, one copy to be retained at the Patent Office; but no proceedings can be taken for infringement committed before the publication of the Complete specification, though otherwise the applicant for the patent is in the position of a full patentee. In the case of two applications for the same

invention, the sealing of one of the patents will not prevent the subsequent sealing of the patent upon the earlier application

Patents run for fourteen years from their date, but are subject to the payment, before the expiration of the fourth year, of £4, and a similar amount before the expiration of the seventh year. The time for making these payments may, in case of accident, mistake, or inadvertence, be extended by the Registrar, if satisfied as to the validity of the excuse, for a period not exceeding six months, and subject to a fine. In the case of an action for infringement committed during such enlarged time, the Court may refuse to give damages.

Specifications and drawings may be amended by way of disclaimer, correction, or explanation, but the application to amend will be advertised in the Government Gazette, and any person is at liberty to give notice of opposition, at any time within one month from the date of the first advertisement. Opposition to an amendment is conducted in a manner similar to that described with reference to the opposition to the grant of a patent, excepting that the requirement of the £25 security for costs is not made in the case of opposition to an amendment.

During an action for infringement, the Court may empower a patentee to apply for a disclaimer of a portion of his specification, and stay the hearing of the action meanwhile. Where a specification has been amended, no damages will be given for infringement committed before the amendment, unless the patentee is able to satisfy the Court that his original claim was framed in good faith, and

with reasonable skill and knowledge. The amendment of a specification will be advertised in the Government Gazette.

The Governor in Council has power to grant compulsory licenses, if he can be satisfied that by the default of the patentee to grant licenses upon reasonable terms—

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

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

(c) Any person is prevented from working, or using to the best advantage, an invention of which he is possessed. The Governor in Council may fix the terms upon which the licenses shall be granted.

A register of patents will be kept at the Patent Office, in which all matters affecting the patents are entered, and this register will be *prima facie* evidence of any matters inserted therein in compliance with the Act. Copies of deeds, licenses, and other documents must be supplied to the Registrar for filing in the Patent Office.

The term of a patent may be extended, but the application must be made to the Governor in Council at least six months before the expiration of the patent; the application will be advertised, and any person may enter a caveat against the extension. The Governor may refer the application to the Supreme Court, which will take into consideration in its decision the nature and merits of the invention as regards the public, and the profits made by the patentee, and generally all the circumstances of the case. The limit of the extension is seven, or in exceptional cases, fourteen years; a new patent may be granted for



either of these terms, containing any conditions, restrictions, or provisions that the Court may require.

A patent may be revoked upon petition to the Court, and every ground which might be taken under the former action of *scire facias* will be available to either party. The petition may be presented by the Attorney-General, or his nominee, by any person alleging the patent was obtained in fraud of him, or of any person under whom he claims, or that he, or the person under whom he claims, was the true inventor of any invention included in the claims, or that he, or any person through whom he claims an interest in a trade or business, had publicly manufactured, used, or sold within the Colony, before the date of the patent, anything claimed by the patentee.

Where a patent has been revoked, the Registrar may grant to the true inventor a patent in lieu of the revoked patent, and bearing the date of revocation, the new patent to expire at the date when the original patent would have expired.

The patent has the same effect against the Crown as against a subject, but the heads of departments in the service of the Crown may use the invention for the service of the Crown, on terms to be settled between the parties, or by the Court.

In proceedings for infringement or revocation, the Court may, at the request of either party, call in an assessor, whose remuneration shall be determined by the Court. The pleadings in the action are substantially similar to those for a similar action in Great Britain. The Court may make an order for injunction, inspection, or account,

and impose such terms as may seem fit, and may certify that the validity of the patent came in question, and, as a consequence, the plaintiff, in any subsequent action for infringement, on obtaining a final order or judgment in his favour, will have his full costs, charges, and expenses as between solicitor and client, unless the Court specially certifies that he is not to have them.

Any person aggrieved by a patentee, who, by circulars, advertisements, or otherwise, threatens him with legal proceedings, or liability for infringement of a patent, may obtain an injunction, and recover damages, if any, unless it be proved that the alleged infringement was actually an infringement; but this will not apply if the person threatening, with due diligence, commences and prosecutes an action for infringement of his patent.

Patent agents may be licensed, and the license withdrawn for malfeasance or incapacity of the agent, or non-payment of the annual fee for such license. A patent is intended to be granted for one invention only, but objection cannot be afterwards taken to it on the ground that it comprises more than one.

A patent granted to the true and first inventor, is not invalidated by an application in fraud of him, or by use or publication of the invention subsequent to the fraudulent application.

A patent may be assigned for the whole Colony, or for any part thereof; if a patent is lost or destroyed, the Registrar may cause another copy to be sealed in place thereof.

Witnesses may be summoned, and caused to give evidence

on oath in patent actions, being paid their expenses as in trials in local Courts.

Inventions may be exhibited at industrial or international exhibitions, certified as such by the Registrar, and such exhibition, or description, or use of the invention, for the purpose of the exhibition in the exhibition grounds, or the use of the invention during the exhibition by other persons elsewhere, without the knowledge or consent of the inventor, will not prejudice his patent rights, but before exhibiting he must notify the Registrar of his intention so to do, and must apply for the patent within six months of the date of the opening of the exhibition.

The Registrar may require the patentee to furnish him with a model of his invention, on payment of the cost.

A patent for instruments or munitions of war may be assigned to the Colonial Secretary, who may certify to the Registrar that, in the interests of the public service, the invention should be kept secret, in which case the documents relating to the invention, instead of being left in the ordinary manner at the Patent Office, will be delivered to the Registrar in a sealed packet, which will remain sealed during the period of time during which the patent is in force. No proceedings for the revocation of such a patent can be taken. The communication of a warlike invention to the Colonial Secretary, or to any person or persons authorised by him, will not be deemed use or publication to invalidate the patent.

Hitherto, letters of registration were granted to the *bonâ fide* holder or assignee of a patent in any foreign country, but according to the Act of 10th October, 1894, taking effect on 1st

January, 1895, Western Australia joined the International Union for the protection of industrial property.

Nothing in the Act will abridge, take away, or prejudicially affect the prerogative of the Crown in the matter of granting or withholding the grant of Letters Patent.

A patent will not prevent the use of an invention for the purposes of navigation of a foreign vessel within the jurisdiction of the Supreme Court of Western Australia, or the use of an invention upon a foreign vessel within that jurisdiction, if it be not used in connection with the manufacture or preparation of anything intended to be sold or exported from Western Australia. This clause will not extend to countries which will not grant similar privileges to British vessels in their ports.



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