

intimate his decision to the Governor in Council, and the Governor in Council shall, within three months from the date of such intimation, if the same be favourable to the person holding a Provisional Certificate, direct the issue of Letters Patent to such person with such reservations, provisoes, and conditions as may be meet. And in case the decision be adverse to the party holding the Provisional Certificate, he may appeal against such decision to the Governor in Council; and the Governor in Council shall, within three months from the date of such appeal, either direct the issue of Letters Patent to the appellant, subject to such reservations, provisoes, and conditions as he may deem fit, or make such other order as may be meet.

*Where Letters Patent have been granted for Inventions already patented in parts beyond the Colony—Proviso.*

XV. Where upon application made under this Ordinance for Letters Patent in respect of any invention first invented in parts out of the Colony, and Letters Patent for the exclusive use of such invention has been granted in such parts before the grant of such Letters Patent in this Colony, all rights and privileges under such Letters Patent last mentioned shall (notwithstanding any term in such Letters Patent limited) cease and be void immediately upon the revocation, cancellation, or other determination of such Letters Patent obtained in parts beyond the Colony; or where more than one such patent is obtained, then upon the revocation, cancellation, or other determination of the first of such Letters Patent: Provided that no Letters Patent shall be granted in respect of any invention for which Letters Patent have been granted in parts beyond the Colony and have expired, or if Letters Patent shall be granted in respect thereof the same shall not be of any validity.

*Letters Patent may be obtained for Inventions protected by Imperial Letters Patent.*

XVI. Any person holding Her Majesty's Letters Patent for any invention may obtain Letters Patent for the same in this Colony on satisfactory proof of the issue of such Letters Patent, provided the patent obtained in this Colony shall be subject to the provisions relating to patents obtained in places beyond the Colony contained in the next preceding section.

*Letters Patent to be registered.*

XVII. All Letters Patent and assignments of Letters Patent shall be registered in the Office of the Registrar-General on the payment of fees in respect thereof, as specified in Schedule F.

*Governor in Council may annul Letters Patent.*

XVIII. Letters Patent may be annulled by the Governor in Council if the same be proved to be prejudicial to the public interests, or if the special conditions on which the same have been granted are not observed. Notice of any Letters Patent being annulled, and the cause thereof, shall be inserted in the Royal Gazette. On the issue of any Letters Patent any petition, specification, and other documents and drawings referring thereto, shall be transferred from the Office of the Colonial Secretary to the Registrar-General, and shall be filed by him forthwith.

*Letters Patent to be for one Invention only.*

XIX. No Letters Patent will be allowed to include several distinct and separate inventions; but where one invention is applicable to the improvement of several manufactures, or where several inventions are applicable to the improvement of one and the same manufacture, the whole may be included in the same Letters Patent.

*Notice of Proceeding under Section IV. to be published.*

XX. The Attorney-General shall give at least one month's notice of his intention to proceed under Section IV., by notice in the Royal Gazette, and such notice shall be published in not less than three issues of the Royal Gazette, and the period of one month before mentioned shall commence from the date of the publication of the last of such notices, and such publication shall be in lieu of service of any writ or process required by the rules of the Supreme Court.

*Where Letters Patent may be cancelled or revoked by Order of Supreme Court.*

XXI. If upon any of the grounds set out in Section IV. of this Ordinance, the Supreme Court or a Judge thereof shall order any Letters Patent to be cancelled or revoked, a copy of such order shall be forthwith forwarded by the Registrar of

the Court to the Registrar-General, who shall record the same, and all right under any Letters Patent so cancelled or revoked shall cease.

*Supreme Court may order Amendments.*

XXII. The Court may order any specification or petition to be amended, and may reserve its decision for a time sufficient to allow of such amendment to be effected, and thereafter give judgment on such terms as to costs and otherwise as may seem fit.

*Penalty for making false Declaration.*

XXIII. Any person making a false declaration under this Ordinance shall be deemed guilty of perjury, and upon conviction be liable to imprisonment not exceeding two years, without prejudice to any action which any injured parties may bring against him.

*Fees.*

XXIV. The fees specified in Schedule F of this Ordinance shall be paid to the Colonial Treasurer for the several matters referred to therein. Provided that the Governor in Council may make additions, alterations, and amendments in the said Schedule, and such additions, alterations, and amendments so made and published in the Royal Gazette shall have the full force and effect of law.

*Ordinance No. XXIV. of 1877 repealed.*

XXV. From and after the passing hereof, Ordinance No. XXIV. of 1877 shall be, and the same is, hereby repealed: provided that nothing herein contained shall affect or prejudice any proceedings or thing lawfully done or taken, or any Letters Patent granted or protection issued by virtue of the said Ordinance.

*Short Title.*

XXVI. This Ordinance may be cited as "The Patent Ordinance, 1879."

Passed in Council this thirteenth day of January, in the year of our Lord One thousand eight hundred and seventy-nine.



## SCHEDULE A.

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

Whereas A.B., of                    in the Colony of Fiji                    hath represented that he is desirous of obtaining our Royal Letters Patent for securing unto him our special licence, that he, his executors, administrators and assigns, and such others as he or they should agree with, and no others, should and lawfully might make, use, exercise and vend within our Colony of Fiji and its Dependencies, an invention for [*insert the title of the invention*], and by an instrument in writing under his hand and seal deposited in the Office of the Colonial Secretary, the said A.B. hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed. And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said A.B. the privileges hereinafter mentioned. Know ye therefore that we, of our special grace, certain knowledge and mere motion, have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said A.B., his executors, administrators and assigns, our special licence, full power, sole privilege and authority, that he the said A.B., his executors, administrators and assigns, and every of them by himself and themselves, or his and their deputy or deputies, servants or agents, or such others as he or they shall at any time agree with, and no others, during the term herein expressed, shall, and lawfully may, make, use, exercise and vend his said invention within our said Colony and its Dependencies, in such a manner as to him, his executors, administrators and assigns, or any of them shall seem meet, and that he, his executors, administrators and assigns shall, and lawfully may, have and enjoy the whole profit, benefit, commodity and advantage from time to time coming, growing, accruing and arising by reason of the said invention during the said term. To have, hold, exercise and enjoy the said licences, powers, privileges and advantages unto and by the said A.B., his executors, administrators and assigns, for and during, and unto the full end and term of fourteen years now next ensuing. And to the end that he, his executors, administrators and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention according to our gracious intention, We do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic, corporate, and all other our subjects whatsoever, of what estate, quality, degree, name or condition soever, may be within our said Colony and its Dependencies, that neither they nor any of them at any time during the said term, either directly or indirectly, do make, use or put in practice the said invention, or any part of the same so attained unto by the said A.B. as aforesaid, nor in any-wise counterfeit, imitate or resemble the same, nor shall make or cause to

be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the consent, licence or agreement of the said A.B., his executors, administrators or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders, on their contempt of this our Royal Command, and further to be answerable to the said A.B., his executors, administrators and assigns, according to law, for his and their damages thereby occasioned. Provided always, and these our Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall appear that this our grant is contrary to law or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said A.B. is not the true and first inventor thereof within this Colony or its Dependencies, these our Letters Patent shall forthwith cease, determine and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding. Provided also that these our Letters Patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said A.B., his executors, administrators or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any of our subjects whatsoever, and publicly used or exercised, or unto whom our like Letters Patent or privileges have been already granted for the sole use, exercise and benefit thereof within our said Colony or its Dependencies, it being our will and pleasure that the said A.B., his executors, administrators and assigns, and all and every other person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and practise their several inventions by them invented and found out, according to the true intent and meaning of the said respective Letters Patent and of these presents. Provided likewise nevertheless, and these our Letters Patent are upon this express condition, that if the said instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said A.B., his executors, administrators or assigns shall not supply or cause to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the persons administering the department of our service, for the use of which the same shall be required in such manner, at such times and at and upon such reasonable prices and terms as shall be settled for that purpose by the said persons requiring the same, that then and in any of the said cases, these our Letters Patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding. Provided that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted. And lastly, we do by these presents for us, our heirs and successors, grant



unto the said A.B., his executors, administrators and assigns, that these our Letters Patent shall be in all things good, firm, valid and sufficient, and effectual in law, according to the true intent and meaning thereof, and shall be taken, construed and adjudged in the most favourable and beneficial sense for the best advantage of the said A.B., his executors, administrators and assigns, as well in all our Courts of Record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors in our said Colony and its Dependencies, and amongst all and every the subjects of us, our heirs and successors whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging. In witness whereof we have caused these our Letters to be made Patent.

Witness our trusted and well beloved Governor and Commander-in-Chief, &c., &c., of our said Colony, at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 18 .

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SCHEDULE B.

*Petition.*

I \_\_\_\_\_ of \_\_\_\_\_ do hereby humbly petition his Excellency the Governor for Letters Patent in respect of an invention [*state title of invention*].

I have furnished with this petition the necessary specifications or instruments particularly describing the nature of the said invention, and a solemn declaration that I am the true and first inventor thereof, in accordance with law.

Signed \_\_\_\_\_ Petitioner  
or Agent or Attorney for Petitioner.

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SCHEDULE C.

I \_\_\_\_\_ of \_\_\_\_\_ do solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as in petition*], which I believe will be of great public utility, that I am the true and first inventor thereof, and that the same is not in use by any other person or persons, to the best of my knowledge and belief, and that the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention, and the manner in which the same is to be performed.

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SCHEDULE D.

In obedience to his Excellency's commands, referring to me the Petition of \_\_\_\_\_ of \_\_\_\_\_, to consider what may be properly done therein, I do certify as follows:—

That the said petition sets forth that the petitioner [*state briefly the allegations of the petition*].

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

That there has also been laid before me a specification, or instrument in writing, particularly describing the nature of the said invention, and a certificate of the filing of the said petition, declaration and specification.

Having duly and carefully considered the same, I hereby certify that the petitioner is entitled, *primâ facie*, to protection on account of his said invention, provided the said application for Letters Patent be duly advertised according to Ordinance No. III. of 1879, and that the petitioner do otherwise comply with the enactments of the said Ordinance.

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

#### SCHEDULE E.

In the matter of the application of            of            for Letters Patent for

Notice is hereby given, that an application has been made for the issue of Letters Patent herein under the provisions of the "Patents Ordinance of 1879." And any person desirous of opposing such application is required to give notice of such opposition, and of the grounds thereof, to the Attorney General within three months from the date of the publication hereof.

A. B., Applicant.

#### SCHEDULE F.

	£	s.	d.
On depositing petition and specification . . . . .	5	5	0
For provisional certificate of protection . . . . .	3	3	0
For obtaining Letters Patent . . . . .	10	10	0
On lodging particulars of objections . . . . .	2	10	0
Every search and inspection . . . . .	0	4	0
Registration of Letters Patent . . . . .	0	5	0
Filing Memorandum of Alteration or Amendment of Specification . . . . .	1	1	0
Registration and Assignment of Letters Patent . . . . .	0	10	0
Copy or extract of, and writing, per folio of 72 words . . . . .	0	0	8

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**FINLAND.**

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*Supreme Decree of 30th March, 1876.*

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WE, ALEXANDER THE SECOND, by the grace of God, Emperor and Autocrat of all the Russias, Czar of Poland, Grand Duke of Finland, &c., &c., hereby make known: that upon the representation of the Finance Department of our Senate for Finland, and upon the recommendation of the Governor-General for this Territory, we have thought fit with regard to the mode and conditions for granting patents or privileges for the utilization and profitable working (to the exclusion of all other persons during a given period) of new inventions relating to handicraft industry and art, and also for improvements upon inventions already made—to decree as follows:—

**CHAPTER I.**

*Of the rights to be conferred by a Patent, and also the duration of time for which a Patent will be granted.*

**Sec. 1.**

A patent entitles the owner of the invention to make, exercise and vend, alone or through others, everywhere in Finland, the invention to which it relates, to the exclusion of all others, during the time specified by the Letters Patent. It is incumbent upon the owner that he should strictly conform to whatever is prescribed by the existing laws with regard to the manufacture and the sale of wares, without being obliged, in order to enjoy the advantages of the said right, to acquire the dignity of a master craftsman or the freedom of a citizen.



The patent right is to be considered as the personal property of the owner, and may in consequence be devised by will, and also, in accordance with the ordinary legal practice, be assigned to other persons, together with the rights acquired by the Letters Patent, but subject to the observance of what is hereinafter prescribed in sec. 11.

#### Sec. 2.

(1.) A patent may be granted for new inventions relating to handicraft, industry or art.

(2.) For improvements upon earlier inventions of the same kind, but without prejudice to any such previously granted patent right.

A patent cannot be granted for the preparation of medicines nor for any invention which is of such a nature that the employment of the same would be contrary to existing laws, to public safety, or to good morals.

Nor can any one by a patent acquire the exclusive right to make use of a new principle, but only to use the manner, method, and means for the employment of an invention which are mentioned and described in the petition for the patent.

#### Sec. 3.

A patent will be granted for the period of at least three years, and at the utmost twelve years, according to the nature and importance of the invention.

If any person has obtained a patent in a foreign country, and has thereby been compelled to publish a description of the manner in which the invention is to be applied, a patent may nevertheless be granted to him for a given time in Finland also, but not for a longer period than that within which the patent granted in the foreign country will expire.

#### Sec. 4.

The inventor only is entitled to the patent.

### CHAPTER II.

#### *On the manner in which Patents will be granted.*

#### Sec. 5.

If an inventor wishes to obtain a patent he must present his petition to the Finance Department of the Senate, and the said

petition must contain, together with a declaration of the object of the patent, the following particulars:—

A precise specification as to how far the invention for which the patent is desired is new, or whether it is an improvement upon an invention already in use; the novelty of the invention or of the eventual improvement is specially to be cited;

A statement of the period of time for which the petitioner desires to obtain the patent right;

A declaration whether the invention has previously been patented in any foreign country or not, and in the first case attested information is to be produced when such a privilege was granted, and for how long a time;

A full and accurate description of the invention and of the method of using the same, and accurate drawings or models are also to be annexed to the petition in cases where such drawings or models are considered necessary;

If the petitioner is not in a position at once to send in a full description, such fact must be mentioned in the petition, and he is then bound within one month after the presentation of the petition to send in a description; during this period the examination of the petition remains in abeyance. If the petitioner does not send in his description within the term named, his application will be refused. The petitioner is however not precluded from sending in a fresh petition, together with a full description with reference to the same object.

Petitions referred to in this section are, in case the petitioner has not his residence in Finland, to be presented through some person domiciled therein. The name and residence of such person are to be set out in the power of attorney to be executed in his favour by the petitioner, empowering such attorney to act for and represent him in all matters relating to the patent. This power of attorney is to accompany the petition and the documents relating to the same.

#### Sec. 6.

After the petition, together with the supplemental documents, has been sent in to the Finance Department of the Senate, and after subsequent examination and approval by the said Department, a patent will be issued for the invention.

In the patent are to be set out the principal contents of the petition of the applicant:—

The period for the duration of which the patent is granted;

The privileges which are to be conferred by the patent;  
And the obligations which the holder of the patent must fulfil in order to enjoy the privileges of the patent right.

The patent must further contain expressly a declaration, in terms which cannot be mistaken, of that for which he requires protection, that the invention is new, and that it can be used with advantage.

#### Sec. 7.

The "Manufactures-Direction" is to be informed of all petitions for patents granted by the Senate, and the whole of the collective documents belonging to the matters connected with the patent are to be made over to them.

The "Manufactures-Direction" is bound to include these documents together in a catalogue and arrange them in accordance with their nature, in such a manner as that every person who may desire to do so may be afforded an inspection of the same.

#### Sec. 8.

If two or more persons present themselves desiring to obtain a patent for inventions of a like nature, it shall be decided upon examination whether the one of them who has first sent in the completed documents before the others shall receive the patent, or whether all the petitions are to be refused.

#### Sec. 9.

In addition to the customary dues which are payable to the Senate for the issue of a patent, an impost duty of twenty marks per annum is to be paid into the State Treasury of Finland for every year for which the patent right is granted.

### CHAPTER III.

#### *Of the obligations and rights of the owners of Patents.*

#### Sec. 10.

Whoever has received a patent is obliged:—

1. To bring the patent right to public notice by means of the publication of the patent and the description three times in the official Swedish and Finnish newspapers of the country. The description must be in the same terms as that included in



the petition for the patent. Such publication is to be effected within two months, to be reckoned from the day of the issuing of the patent.

2. Within two years from the last-mentioned day, to send in evidence to the "Manufactures-Direction" that he is in full working of the patented invention; the said term may be limited by the Finance Department of the Senate at the granting of the patent to one year, and also extended, upon petition for that purpose, to at the utmost four years, as the scope and nature of the invention merit.

3. Afterwards, in every year during the whole duration of the patent, to give evidence to the "Manufactures-Direction" that the invention is being continuously worked.

#### Sec. 11.

If the holder of a patent wishes to assign the same to any other person, or if it comes by inheritance into the possession of another person, such fact must be notified to the "Manufactures-Direction," whereupon the matter is to be referred by a memorandum to the Finance Department of the Senate. The new patent holder will have brought to his notice by the medium of the memorandum, the obligations which are to be fulfilled by him during the continuance of the patent.

If a transfer should be effected to any person not domiciled in Finland, he is obliged, in accordance with the provisions contained in the last clause of section 5, to appoint an attorney to act for him.

#### Sec. 12.

The patent right ceases and becomes forfeited :

When the holder of a patent shall have omitted the observance of any of the provisions contained in section 10 ;

When, in consequence of any of the causes of complaint mentioned in section 14, the tribunal declares the patent to be annulled.

#### Sec. 13.

When a patent has become forfeited, and also when the time for which the patent was originally granted has expired, it is incumbent upon the "Manufactures-Direction" to publish in the official Swedish and Finnish newspapers of the country the fact that the patent has become cancelled.

## CHAPTER IV.

*Of the judicial conduct of actions relating to a Patent.*

## Sec. 14.

If a patent is granted for an invention similar to one previously patented, or which has already been discovered by some other person in Finland or elsewhere, or if the owner of the patent has falsely declared himself to be the inventor, or if it is proved that the patented invention is dangerous to the public safety or to the public health, or may lead to immorality, any person who believes his right to be prejudiced by the patent may, within one year after the patent resolution has been published for the third time in the newspapers named in section 10, and also the State Attorney, so soon as the protection of the commonweal requires it, may bring an action against the owner of the patent before the tribunal of the place wherein the owner—or, in case of his residing out of the country, his legally-appointed representative—is domiciled. The tribunal shall, in case any of the above enumerated events have happened, declare that the patent is to be revoked, in which case a copy of the judgment of the tribunal is to be forwarded to the “Manufactures-Direction” without delay. This latter shall proceed to act in the matter, after the judgment has become legally valid, in the manner prescribed in section 13.

## Sec. 15.

If the owner of a patent believes that after the granting of the patent another person works the patented invention illegally, he may bring his action against him by means of a citation before the public tribunal to which the person informed against belongs. If the owner of the patent is able to give proof that his rights are being infringed upon in the matter mentioned, the accused person shall be subject to a fine for the first time of from one hundred to three hundred Finnish marks, and in the case of repeated infringements of from three hundred to six hundred marks, and also be condemned each time to payment of compensation for the full amount of damages. Of the money fine, one half of the amount is to go to the owner of the patent, who alone can bring such action before the tribunal, and the other half to the Poor and Work-house Fund of the country. If the condemned person is not in a

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position to pay the fine, the same shall be, in accordance with the prescriptions now in force with regard to pecuniary amercement, exchanged for imprisonment.

Sec. 16.

Should it appear upon the trial of an action for the infringement of a patent right that the invention to which the patent relates has been known or used in the country or elsewhere before the petition for the patent was presented to the Finance Département, or that the holder of the patent has given an incorrect or incomplete description of the method and the means to be employed for working the invention, and that a trustworthy basis for forming a judgment as to the peculiar characteristics of the invention has not thereby been obtained; or if the owner of the patent has falsely held himself out as the inventor, the defendant is not answerable.

CHAPTER V.

*General provisions.*

Sec. 17.

Whenever in this decree "months" are spoken of within which particular obligations are to be fulfilled, in the application of this term each month is to be reckoned as 30 days.

Sec. 18.

This decree comes into force on the 1st June, 1876, without prejudice, however, to the legal validity of patents previously granted.

And hereto every person to whom the same relates must hereafter conform.



**FRANCE.**

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*Law of the 5th July, 1844.*

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## CHAPTER I.

## GENERAL PROVISIONS.

## Art. 1.

Every new discovery or invention, in all departments of industry, confers upon its author, under the conditions and for the time hereinafter mentioned, the exclusive right of working for his own profit the said discovery or invention.

This right is established by deeds delivered by the Government, under the name of *Patents of Invention*.

## Art. 2.

The following shall be considered as new inventions or discoveries:—

The invention of new industrial products;

The invention of new methods, or the new application of known methods, for obtaining an industrial result or product.

## Art. 3.

The following are not patentable:—

1. Pharmaceutical compositions or medicines of all kinds, the said objects remaining subject to the special laws and regulations for these matters, and especially to the decree of the 18th August, 1810, relating to secret remedies;

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2. Schemes and combinations relating to credit or finance.

Art. 4.

The duration of Patents shall be five, ten, or fifteen years.

Every Patent shall be subject to the payment of a tax fixed as follows:—

Five hundred francs for a Patent of five years;

One thousand francs for a Patent of ten years;

Fifteen hundred francs for a Patent of fifteen years;

This tax shall be paid by annuities of one hundred francs, under penalty of forfeiture if the Patentee allows any year to elapse without paying it.

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CHAPTER II.

FORMALITIES RESPECTING THE DELIVERY OF PATENTS.

SECTION I.

*Applications for Patents.*

Art. 5.

Any person who shall wish to obtain a Patent of Invention must deposit under seal, at the office of the Secretary of the Prefecture in the department in which he is domiciled, or in any other department, on electing domicile there,—

1. His petition to the Minister of Agriculture and Commerce;
2. A specification of the discovery, invention, or application forming the subject of the patent applied for;
3. The drawings or specimens which may be necessary for the comprehension of the specification; and,
4. A memorandum of the documents deposited.

Art. 6.

The application must be limited to a single principal object, with the details that constitute it, and the applications which shall be indicated.

It must mention the duration which the applicants wish to assign to their Patent within the limits fixed by Article 4, and must contain neither restrictions, conditions, nor reservations.

It must set forth a title containing a short and precise designation of the object of the invention.

The specification must not be written in a foreign language. It must be without alterations, or interlineations. Words erased must be counted and verified; the pages and references being initialed. It must not contain any denomination of weights or measures other than those inserted in the table annexed to the law of the 4th July, 1837.

The drawings must be made in ink and to a metrical scale.

A duplicate of the specification and drawings must be annexed to the petition.

All documents must be signed by the applicant or by an attorney, whose power shall remain annexed to the petition.

#### Art. 7.

No deposit shall be received except on the production of a receipt proving the payment of a sum of one hundred francs on account of the patent tax.

An entry made without charge by the General Secretary of the Prefecture on a register for this purpose, and signed by the applicant, shall prove every deposit, indicating the day and hour when the documents were delivered.

A copy of the said entry shall be delivered to the depositor on paying the cost of the stamp.

#### Art. 8.

The term of the Patent will run from the day of the deposit prescribed by Article 5.

### SECTION II.

#### *Delivery of Patents.*

#### Art. 9.

Immediately after the registration of the petitions, and within five days from the date of the deposit, the Prefects are to transmit the documents, under the seal of the inventor, to the Minister of Agriculture and Commerce, adding thereto a certified copy of the entry of the deposit, the receipt proving the payment of the tax, and, if there be one, the power of attorney mentioned in Article 6.



## Art. 10.

On the arrival of the documents at the Ministry of Agriculture and Commerce they shall be opened, the petitions registered, and the patents delivered in the order of the receipt of the said petitions.

## Art. 11.

Patents applied for in due form will be delivered, without previous examination, at the risk and peril of the applicants, and without guarantee either of the reality, novelty, or merit of the invention, or the accuracy or exactness of the specification.

A decree of the minister certifying the regularity of the application shall be delivered to the applicant, and shall constitute the Patent of Invention.

To this decree shall be annexed the certified duplicate of the specification and drawings (mentioned in Article 6), after its conformity with the original has been verified and, if necessary, established.

The first copy of patents shall be delivered gratis.

All subsequent copies required by the patentee or by persons entitled through him (*ses ayants cause*) shall be subject to a tax of twenty-five francs.

The cost of the drawings, if any, shall be paid by the person requiring them.

## Art. 12.

Every application in which the formalities prescribed by Nos. 2 and 3 of Article 5, and by Article 6, have not been observed shall be rejected.

One half of the sum paid shall belong to the Treasury; but the whole sum will be carried to the account of the applicant, if he renews his application within a term of three months, reckoning from the date of the notice of rejection of his application.

## Art. 13.

Whenever, in pursuance of Article 3, a patent cannot be granted, the tax shall be repaid.

## Art. 14.

A Royal Ordinance inserted in the *Bulletin des Lois* shall every three months announce the patents delivered.

## Art. 15.

The term of patents can only be extended by a (special) law.

## SECTION III.

*Certificates of Addition.*

## Art. 16.

The patentee or parties entitled under the patent during the whole term of the patent shall be entitled to make alterations, improvements, or additions to the invention by complying, in the deposit of the petition, with the formalities prescribed by Articles 5, 6, and 7.

These alterations, improvements, and additions shall be authenticated by certificates, delivered in the same form as the principal patent, and having, from the respective dates of the petition and the delivery, the same effect as the said principal patent, with which they will expire.

Every application for a Certificate of Addition shall be subject to the payment of a tax of twenty francs.

Certificates of Addition taken by any person entitled inures to the benefit of all the others.

## Art. 17.

Every Patentee who, for an alteration, improvement, or addition, wishes to take a principal patent of five, ten, or fifteen years, instead of a Certificate of Addition expiring with the original patent, must comply with the formalities prescribed by Articles 5, 6, and 7, and pay the tax mentioned in Article 4.

## Art. 18.

None but the patentee or persons entitled through him, acting as above mentioned, can during one year legally obtain a patent for an alteration, improvement, or addition to the invention which forms the subject of the original patent.

Nevertheless, any person who shall wish to obtain a patent for an alteration, addition, or improvement in the discovery already patented, may during the said year make an application, which shall be transmitted to and remain deposited under seal at the Ministry of Agriculture and Commerce.

At the expiration of that year the seal shall be broken and the patent delivered.

Nevertheless, the original patentee shall have the preference for all alterations, improvements, and additions for which he shall have demanded during that year a Certificate of Addition or a patent.

## Art. 19.

Whoever has taken a patent for a discovery, invention, or application connected with the subject of another patent shall have no right to work the invention already patented; and, reciprocally, the owner of the original patent cannot work the invention which forms the subject of the new patent.

## SECTION IV.

*Assignment and Transfer of Patents.*

## Art. 20.

Every patentee may transfer the whole or part of the ownership of his patent.

The transfer of the whole or part of a patent, either gratuitously or for a consideration, can only be effected by notarial act and after the payment of the whole of the tax prescribed by Article 4.

No transfer shall be valid as regards third parties until it has been registered at the office of the Secretary of the Prefecture of the department in which the deed has been executed.

The registration of transfers and of all other acts making changes shall be made on the production and deposit of an authentic extract from the deed of transfer or change.

A copy of each entry of registration, together with the extract from the deed above mentioned, shall be forwarded by the Prefets to the Minister of Agriculture and Commerce within five days of the date of the entry.

## Art. 21.

There shall be kept at the Ministry of Agriculture and Commerce a register in which shall be inscribed the changes in the ownership of each patent, and every three months a Royal Ordinance shall publish, in the form prescribed by Article 14, the changes registered during the expired quarter.

## Art. 22.

Licenseses under a patent, and those who may have acquired from a patentee or from persons entitled through him the power to work the discovery or invention, shall have the right to the benefit of Certificates of Addition which may afterwards be delivered to the patentee or to persons entitled through him.



Reciprocally, the patentee or persons entitled through him shall have the benefit of Certificates of Addition which may afterwards be delivered to the licensees.

All those who may have a right to profit by Certificates of Addition may obtain a copy at the Ministry of Agriculture and Commerce, by paying a fee of twenty francs.

#### SECTION V.

##### *Inspection and Publication of Specifications and Drawings of Patents.*

###### Art. 23.

The specifications, drawings, specimens, and models of Patents delivered shall, until the expiration of the Patents, remain deposited at the Ministry of Agriculture and Commerce, where they may be inspected free of charge by every applicant.

Any person may obtain, at his own expense, a copy of the said specifications and drawings, according to the forms to be established by the regulations prescribed in accordance with Article 50.

###### Art. 24.

After the payment of the second annuity the specifications and drawings shall be published, either in full or by extracts.

Moreover, at the beginning of each year a catalogue shall be published, containing the titles of the Patents delivered in the course of the preceding year.

###### Art. 25.

The collection of specifications and drawings and the catalogue published according to the preceding Article shall be deposited at the Ministry of Agriculture and Commerce, and at the office of the Secretary of the Prefecture of each Department, where they may be inspected free of charge.

###### Art. 26.

On the expiration of patents the original specifications and drawings shall be deposited in the Royal Conservatory of Arts and Trades.

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## CHAPTER III.

## RIGHTS OF FOREIGNERS.

## Art. 27.

Foreigners may obtain Patents of Invention in France.

## Art. 28.

The formalities and conditions prescribed by the present law shall be applicable to patents applied for or delivered in compliance with the preceding article.

## Art. 29.

The author of an invention or discovery already patented abroad may obtain a patent in France ; but the duration of this patent must not exceed that of the patents previously obtained abroad.

## CHAPTER IV.

## ANNULMENTS AND FORFEITURES, AND ACTIONS RELATING THERETO.

## SECTION I.

*Annulments and Forfeitures.*

## Art. 30.

Patents delivered under the following circumstances shall be null and of no effect:—

1. If the discovery, invention, or application is not new ;
2. If the discovery, invention, or application is not patentable according to Article 3 ;
3. If the patents refer to theoretical or purely scientific principles, methods, systems, discoveries, and conceptions, the industrial applications of which are not indicated ;
4. If the discovery, invention, or application is found to be contrary to public order or safety, to morals, or to the laws of the country, without prejudice in such a case, and in that of the preceding paragraph, to any penalties which may be incurred by the manufacture or sale of the prohibited articles ;

5. If the title under which the Patent has been applied for fraudulently indicates an object other than the real object of the invention ;

6. If the specification annexed to the patent is not sufficient for working the invention, or if it does not point out in a complete and fair manner the real means employed by the inventor ;

7. If the patent has been obtained contrary to the provisions of Article 18.

Certificates comprising alterations, improvements, or additions which are not connected with the original patent shall likewise be null and of no effect.

#### Art. 31.

No discovery, invention, or application shall be considered as new which, in France or abroad, and before the date of the deposit of the application, has received sufficient publicity to enable the same to be worked.

#### Art. 32.

The following shall be deprived of all their rights :—

1. The patentee who has not paid his annuity before the beginning of each year of the term of his patent ;

2. The patentee who has not worked his discovery or invention in France within the term of two years from the date of the signature of his patent, or who has ceased to work it during two consecutive years, unless, in the one case or the other, he justifies himself as to the causes of his inaction ;

3. The patentee who has introduced into France articles manufactured abroad and similar to those which are protected by his patent. *Nevertheless the Minister of Agriculture, Commerce, and Public Works may authorise the introduction :—*

1. *Of models of machines.*

2. *Of articles made abroad intended for public exhibitions or for trials made with the consent of the Government.*

[NOTE.—The words in italics were substituted by the law of 31st May, 1856.]

#### Art. 33.

Whoever, in sign-boards, advertisements, prospectuses, placards, marks, or stamps, calls himself patentee, without possessing a patent delivered conformably to law, or after the expiration of an anterior patent ; or who, being a patentee,



mentions his title of patentee, or his patent, without adding the words, "without guarantee of the Government," shall be subject to a fine of from fifty to one thousand francs.

In the event of a repetition of the offence, the fine may be doubled.

## SECTION II.

### *Actions for Annulment and Forfeiture.*

#### Art. 34.

An action for annulment or an action for forfeiture may be brought by all persons interested therein.

These actions, as well as all disputes relating to the ownership of patents, shall be brought before the Civil Tribunals of first instance.

#### Art. 35.

If the claim is brought at the same time against the owner of the patent and one or several of the licensees, it shall be brought before the Tribunal of the domicile of the owner of the patent.

#### Art. 36.

The case shall be examined and decided in the form prescribed for summary matters by Article 405 and the following articles of the Code of Civil Procedure. It shall be communicated to the *Procureur du Roi*.

#### Art. 37.

In every instance tending to bring a patent under annulment or forfeiture, the Public Prosecutor may intervene and take steps to have the absolute nullity or forfeiture of the patent declared.

He may also proceed directly by original action, to have the annulment pronounced in the cases provided for in Nos. 2, 4, and 5 of Article 30.

#### Art. 38.

In cases coming under Art. 37, all persons entitled under the patent whose titles have been registered at the Ministry of Agriculture and Commerce, conformably to Article 21, must be parties to the action.

## Art. 39.

Whenever the absolute annulment or forfeiture of a patent has been pronounced by a judgment or final decree, notice shall be given to the Minister of Agriculture and Commerce, and the annulment or forfeiture shall be published in the form prescribed by Article 14, for bringing patents to public notice.

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CHAPTER V.

## INFRINGEMENTS, PROSECUTIONS, AND PENALTIES.

## Art. 40.

Every interference with the rights of a patentee, either by the manufacture of the products or by using the means forming the subject of his patent, constitutes the offence of infringement.

That offence shall be punished by a fine of from one hundred to two thousand francs.

## Art. 41.

Those who have knowingly received, sold, or exposed for sale, or introduced on French territory one or more infringing articles, shall be punished with the same penalties as the infringers.

## Art. 42.

The penalties established by the present law cannot be accumulated.

The highest penalty shall alone be inflicted for all offences previous to the commencement of the prosecution.

## Art. 43.

In case of a repetition of the offence, there shall be inflicted, in addition to the fine prescribed by Articles 40 and 41, imprisonment of from one to six months.

It shall be considered a repetition of the offence if the accused has during the five previous years undergone a first punishment for one of the offences coming under the present law.

Imprisonment of from one to six months may also be inflicted if the infringer is a workman or employé who has worked in the factory or establishment of the Patentee, or if the

infringer, having associated himself with a workman or an employé of the Patentee, has become acquainted through the latter with the processes described in the patent.

In the latter case, the workman or employé may be prosecuted as an accomplice.

Art. 44.

Article 463 of the Penal Code may be applied to offences provided for by the preceding provisions.

Art. 45.

The penal action, for imposing the above penalties, cannot be brought by the Public Prosecutor except on the complaint of the injured party.

Art. 46.

The Court (*tribunal correctionnel*) before which an action for the offence of infringement is brought, shall decide on the objections raised by the accused whether as to the nullity or forfeiture of the patent, or on questions relating to the ownership of the said patent.

Art. 47.

The proprietors of the patent may, by virtue of an order of the President of the Tribunal of First Instance, proceed, by the officers of the court, to have pointed out and fully described, with or without seizure, the articles said to be infringements.

This order shall be issued on a simple request and on the production of the patent; it shall contain, if necessary, the nomination of an expert to assist the officer in his description.

Whenever a seizure is to be made, the said order may require of the applicant security, which shall be given before proceeding in the matter.

Security shall always be required from a foreign Patentee who may demand a seizure.

A copy of the order and of the deed certifying that the security, if required, has been deposited, shall be left with the holder of the objects described or seized, under pain of annulment of the proceedings and of damages against the officer.



## Art. 48.

In default of the applicant suing, either by civil or criminal proceedings, within eight days, besides one day for every three myriamètres distance between the place where the objects seized or described were found and the residence of the infringer, concealer, importer, or seller; the seizure or description shall be legally void, without prejudice to the damages which may be claimed, if they have arisen, in the form prescribed by Article 36.

## Art. 49.

The confiscation of the objects held to be infringements, and if the case arises of the instruments or utensils specially designed for their manufacture, shall, even in case of an acquittal, be pronounced against the maker, concealer, importer, or seller.

The confiscated objects shall be delivered to the owner of the patent, without prejudice to his claiming greater damages, and the placarding of the judgment according to circumstances.

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**CHAPTER VI.****SPECIAL AND TRANSIENT PROVISIONS.**

## Art. 50.

Royal Ordinances for the regulation of the public administration shall prescribe the necessary provisions for the execution of the present law, which shall not come into force until three months after its promulgation.

## Art. 51.

Ordinances delivered in the same form may regulate the application of the present law to the colonies, with the modifications that may be judged necessary.

## Art. 52.

The following laws are to be abrogated from the day when the present law comes into execution; (viz.) the laws of the 7th January and 25th May, 1791; of the 20th September, 1792; the decree of the 17th Vendémiaire, of the year VII.; the decree of the 5th Vendémiaire, of the year IX.; the decrees of the 25th

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November, 1806, and 25th January, 1807; and all provisions anterior to the present law, relating to patents of invention, importation, and improvement.

Art. 53.

The patents of invention, importation, and improvement at present in force, delivered pursuant to laws anterior to the present or prolonged by Royal Ordinance, shall continue in force during the time originally assigned to them.

Art. 54.

Proceedings begun before the promulgation of the present law shall be terminated in accordance with the anterior laws.

All actions for infringement, annulment, or forfeiture of patents, not yet begun, shall be conducted according to the provisions of the present law, even if they refer to patents previously delivered.

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*Decree of 21st October, 1848.*

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Regulating the Application of the Patent Law of the 5th July, 1844, to the French Colonies.

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Art. 1.

The Law of the 5th July, 1844, on patents for inventions, shall be applicable to the Colonies from the promulgation of the present decree.

Art. 2.

Whoever wishes to obtain in the Colonies a Patent of Invention must deliver three copies of the papers prescribed by Art. 5 of the above mentioned law, at the office of the Director of the Interior.

The entry establishing the said delivery shall be made in a special register to be signed by the said officer and the applicant, agreeably to Art. 7 of the said law.

#### Art. 3.

Before making the said entry, the Director of the Interior shall require the production of:

1. The receipt of the Colonial Treasury for the payment of the sum of 100 francs due for the first annual instalment of the tax:
2. Three copies of each of the documents mentioned in paragraphs 1, 2, 3, and 4 of Art. 5 of the Law of the 5th July, 1844.

One copy of each of these documents shall be kept deposited under seal at the offices of the directors, to be consulted when required. The other two copies shall be enclosed in a single envelope closed and sealed by the applicant.

#### Art. 4.

The governor of each colony shall with the least possible delay, after the registration of the applications, forward to the Minister of Agriculture and Commerce, through the Minister of the Navy and Colonies, the sealed envelope containing the two sets of papers in question, annexing thereto a certified copy of the entry, the receipt for the payment of the first annual instalment of the tax, and, if there be one, the power of attorney.

#### Art. 5.

Patents issued shall be forwarded with the least possible delay to their owners, through the Minister of the Navy and Colonies.

#### Art. 6.

The registration of assignments of Patents mentioned in Art. 20 of the Law of the 5th July, 1844, shall take place at the offices of the Director of the Interior.

Copies of the entries of registration, accompanied with authentic abstracts of the deeds of assignment and the receipts for the total amount of the tax, shall be forwarded to the Minister of Agriculture and Commerce, conformably to Art. 4 of the present decree.



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**Art. 7.**

The taxes prescribed by Arts. 4, 7, 11 and 22 of the Law of the 5th July, shall be paid to the Treasurer of each colony, who shall deposit them in the Public Treasury, and forward to the Minister of Agriculture and Commerce, through the same channel, the returns of the payment of the taxes.

**Art. 8.**

Actions for infringement shall be tried before the Courts of Appeal in the Colonies.

The delay for distances, fixed by Art. 48 of said law, shall be modified conformably to the ordinances which in the Colonies regulate proceedings in civil actions.

**Art. 9.**

The Minister of Agriculture and Commerce, and the Minister of the Navy and Colonies, are respectively commissioned with the execution of the present decree.

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*Decree of June 5th, 1850.*

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Regulating the application of the Patent Law of the 5th July, 1844, to Algeria.

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**Art. 1.**

The law of the 5th of July, 1844, on patents for inventions, shall be applicable to Algeria from the promulgation of the present decree.

**Art. 2.**

The papers required by Art. 5 of the above mentioned law must be deposited in triplicate at the office of the Secretary of the Prefecture at Algiers, Oran or Constantine. One set of

these papers shall be kept deposited under seal at the general office of the Secretary of the Prefecture where the deposit has been made, to be referred to there if necessary; the other two sets shall be enclosed in a single envelope closed and sealed by the depositor, to be forwarded to the Minister of War.

Art. 3.

The Prefect shall with the least possible delay, after the registration of the applications, forward to the Minister of War, who shall transmit it to the Minister of Agriculture and Commerce, the sealed envelope containing the two sets of papers in question, annexing thereto the other papers required by Art. 7 of the law of the 5th of July, 1844. Patents issued shall be sent by the Minister of Commerce to the Minister of War, who will transmit them to the Prefects to be forwarded to the applicants.

Art. 4.

The taxes prescribed by Articles 4, 7, 11, and 22 of the law of the 5th of July shall be paid to the paymaster of the treasury, who shall lodge them in the treasury, and shall send to the Minister of War, to be transmitted to the Minister of Agriculture and Commerce, an account of the payment of the taxes.

Art. 5.

Actions for offences and infringements shall be tried by the proper Courts in Algeria. The delay for distances fixed by Art. 48 of the law of the 5th of July shall be modified according to the laws and decrees which in Algeria regulate procedure in civil matters.

Art. 6.

The Minister of War and the Minister of Agriculture and Commerce are charged, each as it concerns him, with the execution of the present law.

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**GERMANY.**

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*Law of 1st July, 1877.*

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WE, William, by God's grace Emperor of Germany and King of Prussia, Decree, in the name of the Empire—with the consent of the Federal Council and of the Reichstag—as follows:—

**FIRST SECTION.***Patent Rights.***§ 1.**

Patents are granted for new inventions which can be utilised for purposes of trade.

The following are excepted:—

1. Inventions the use of which would be contrary to the laws or public morals:
2. Inventions of articles of food and medicine as also substances produced by chemical process, so far as the invention does not relate to a definite method of producing such articles.

**§ 2.**

An invention is not regarded as new, if it has already been described in any printed publication, or publicly used in Germany at the time of application for a patent in accordance with this law, in such a manner that its employment appears possible by other skilled persons.

**§ 3.**

Whosoever first describes an invention according to the provisions of this law, has a claim to the grant of a patent.



The claim of the petitioner for the grant of a patent will not be allowed, if the essential contents of his description have without permission been taken from the descriptions, drawings, models, implements or contrivances of another, or from a method of manufacture used by the latter, if such person raises opposition on that account.

§ 4.

The patent has the effect that nobody is allowed without the permission of the patentee to use the subject of the invention for purposes of trade or commerce, or to offer it for sale.

If the subject of the patent is a process, a machine or other mechanical contrivance, a tool or other implement, the patent has, moreover, the effect that no one is allowed without the consent of the patentee to make use of the process or subject of the invention.

§ 5.

The patent has no effect against a person who, at the time the patentee made his application, had already been using the invention in Germany, or who had made the necessary preparations for using the same.

The patent, moreover, has no effect when the invention is to be used by order of the Imperial Chancellor for the army or navy, or in the interest of public welfare. Yet the patentee has in such case the right to claim proper compensation from the Empire or the State in whose special interest a limitation of the effect of the patent has been applied for. The amount of such compensation shall be fixed by a court of law in case an agreement cannot be arrived at.

Patents do not affect arrangements in means of conveyance, which come but temporarily within the boundaries of the empire.

§ 6.

The claim to the grant of a patent and the right to the patent pass to the heirs. The claim and the right may be transferred, wholly or partially, to others by agreement or in consequence of death.

§ 7.

The duration of a patent is 15 years: the term commences with the day following the day of description of the invention.

If an invention is an improvement upon another invention patented in favour of the applicant, the latter may apply for a patent of addition, which terminates with the patent for the original invention.

§ 8.

For every patent a fee of 30 marks (£1 10s.) is to be paid on the issue of it.

Except in the case of patents of addition (§ 7), a further fee must be paid for each patent at the commencement of the second and every subsequent year, amounting the first time to 50 marks (£2 10s.), and increasing by 50 marks each succeeding year.

A patentee who proves his poverty, may delay the payment of the fees for the first and second year until the third year of the duration of the patent; and if the patent lapses in the third year, they are entirely remitted.

§ 9.

A patent lapses if the patentee renounces the same, or if he fails to pay the fees within 3 months at the latest after they have become due.

§ 10.

A patent will be declared void if it is shewn:—

1. That the invention was not patentable according to §§ 1 and 2;
2. That the essential contents of the application were taken from descriptions, tools, contrivances, drawings, or models, of another, or from some means of working used by such other, without his consent.

§ 11.

A patent can be recalled after the expiration of three years:—

1. If the patentee fails to work his invention in Germany to an adequate extent, or at least to do everything that is necessary to ensure its being worked;
2. Whenever the grant of license to others to use the invention appears to be demanded in the public interest, and the patentee nevertheless refuses to grant such license upon adequate compensation and good security.

## § 12.

Persons not residing in the empire can only apply for a patent and claim the rights resulting therefrom by appointing a representative resident in Germany. The latter is authorised to act in all proceedings prescribed by this law, as well as in civil law-suits concerning the patent. Actions against a patentee must be brought before the tribunal of the district in which the representative resides, but if there be no representative, then before the court of the district in which the Patent Office has its seat.

## SECOND SECTION.

*Patent Office.*

## § 13.

The granting, the annulment, and the recalling of patents is performed by the Patent Office.

The Patent Office has its seat at Berlin. It consists of at least three permanent members, including the President, and of non-permanent members. The members are appointed by the Emperor; the other officials by the Imperial Chancellor. The appointment of the permanent members is made on the nomination of the Federal Council, and lasts, if they hold an office of the Empire or of a State, during the term of such office, in other cases for life. The appointment of the non-permanent members will be for five years. Of the permanent members at least three must be qualified for a judgeship, or for the higher government service; the non-permanent members must be expert in some branch of technical science. The regulations in § 16 of the law of May 31, 1873, concerning the legal status of Imperial officials, do not apply to non-permanent members.

## § 14.

The Patent Office consists of several divisions. These are formed in advance for at least one year. A member may belong to several divisions.

The quorum of any division, when dealing with the grant of a patent, must not be less than three, among whom there must be two non-permanent members.



For decisions relating to the nullity and the recalling of patents, a special division shall be formed. For decisions of this division, a quorum is required of two members, including the President, who are qualified for a judgeship, or for the higher government service, and of three other members. For other decisions the presence of three members will suffice.

The provisions of the code of civil law with regard to challenge or refusal of members of the court are applicable.

Experts who are not members may be summoned to attend the deliberations, but they are not permitted to take any part in the voting.

#### § 15.

The resolutions and decisions of the divisions are issued in the name of the Patent Office; the grounds of them must be issued in writing and placed before all interested parties.

Notices settling terms of delay will be sent by post in registered letters against receipt. If a notice cannot be delivered within the country, it will be forwarded by the proper official of the Patent Office by post, in accordance with the provisions of §§ 161 and 175 of the civil code.

An appeal lies from the decisions of the Patent Office.

#### § 16.

If the decision of a division of the Patent Office is the subject of appeal, such appeal shall be heard before another division or several divisions sitting together.

In such appeal no member must take part who voted in the decision which is the subject of appeal.

#### § 17.

The formation of the divisions, the fixing their duties, the forms of procedure and the order of business of the Patent Office, so far as these points are not regulated by this law, will be prescribed by the Emperor, with the consent of the Federal Council.

#### § 18.

The Patent Office is bound, on the request of the Law Courts, to give advice on all questions concerning patents. In other cases it is not authorised, without special leave of the Imperial Chancellor, to pass resolutions or give advice outside its official sphere.

## § 19.

A Register will be kept at the Patent Office, in which the subject and duration of Patents granted will be entered, together with the name and address of the patentees and of the representatives, if any, appointed by them at the time of application. The commencement, the termination, the expiration, the decree of annulment, and the recalling of patents, are to be entered in this Register, and simultaneously published in the *Reichsanzeiger* (Gazette).

Should a change take place in the person owning the patent, or his representative, such fact will likewise be entered in the Register and publicly notified by the *Reichsanzeiger*, when brought to the knowledge of the Patent Office in due form. As long as this is omitted, the former patentee and his former representative continue to be entitled to the benefits and subject to the provisions of this law.

The inspection of the Register, and of specifications, drawings, models and specimens on the basis of which patents have been granted, is open to everybody, unless the patent has been taken out in the name of the Imperial Administration for purposes of the army or navy.

The Patent Office will publish the essential parts of specifications and drawings, so far as their inspection is permitted to the public, in an official paper. In the same paper will also appear all notices which must be published by the *Reichsanzeiger* in accordance with this law.

## THIRD SECTION.

*Proceedings in Patent-matters.*

## § 20.

The application for the grant of a patent for an invention must be made in writing to the Patent Office. For each invention a separate application is required. The application must contain the petition for the grant of a patent, and must point out with precision the object sought to be patented. In a separate document the invention must be described in such a manner that its practicability appears possible to skilled persons. The necessary drawings, figures, representations, models and samples must be supplied at the same time.

The Patent Office will issue regulations respecting the other requisites of the application.

Up to the time of publication of the application, alterations in the description are permitted. With the application a fee of 20 marks (£1) must be paid for the cost of the proceeding.

#### § 21.

If an application does not fulfil all the prescribed requirements, the Patent Office will point out to the applicant the defects, and demand of him the amendment within a specified time. Should this demand not be complied with within the time, the application will be rejected.

#### § 22.

If the Patent Office finds the application in due form, and that there is no objection to the granting of a patent, it will order the application to be published. From the date of publication, the subject of the application will provisionally have the protection of a patent in favour of the petitioner (§§ 4 and 5).

If the Patent Office is of opinion that, according to §§ 1 and 2, the invention is not patentable, the application will be rejected.

#### § 23.

The publication of the application is made in such wise that the name of the applicant and the essential contents of his application will be advertised once in the *Reichsanzeiger*. At the same time the application and accompanying papers will be laid open at the Patent Office for public inspection, and a notice inserted to the effect that the subject of the application is provisionally protected against unauthorised use.

If the matter relates to a patent applied for in the name of the Imperial Government for the use of the army or navy, the publication of the application and accompanying papers is omitted.

#### § 24.

After the expiration of eight weeks from the day of publication (§ 23) the Patent Office will decide as to the granting of the patent. Until that date an objection against the granting can be lodged with the Patent Office. The objection must be made in writing, giving the grounds. It can only be founded on the assertion that the invention is not new, or that it comes under § 3, part 2.



Before deciding, the Patent Office may summon and hear the interested parties; it may also cause the grounds of objection to be examined by persons skilled in any branch of technical science, and otherwise take steps for elucidating the matter.

§ 25.

From a decision by which an application is rejected, the applicant—and from a decision relating to the granting of the patent, the petitioner or the opponent—may lodge an appeal within 4 weeks. On lodging the appeal, 20 marks (£1) must be paid for the cost of the proceeding; should this payment not be made, the appeal will not be entertained.

In the proceedings, § 24, part 2, applies.

§ 26.

If the grant of the patent is decided upon, the Patent Office will cause a notice to that effect to be published in the *Reichsanzeiger*, and issue a document to the patentee.

If the patent is refused, this will also be publicly notified. Upon the refusal, the provisional protection will be held void.

§ 27.

The commencement of proceedings relating to the annulment or the revocation of a patent is by motion. In cases provided for by § 10, part 2, only the injured party is entitled to make the motion. The motion must be in writing addressed to the Patent Office, and must set out the facts upon which it is based.

§ 28.

After the institution of proceedings the Patent Office, in communicating to the patentee that such motion has been made, will invite him to answer the same within four weeks.

If the patentee does not answer within this term, a decision may follow immediately, according to the motion, without summons or hearing, and for such decision all the facts asserted by the person making the motion will be treated as proved.

§ 29.

If the patentee answers in due time, or if, in the case of § 28, part 2, the motion is not decided upon immediately, the Patent Office will issue the necessary orders for investigating the

matter, and moreover, in the first case, communicate the answer to the person making the motion. It may also cause witnesses and experts to be examined. In this respect the regulations of the civil code will apply. The depositions must be taken down in writing by a sworn reporter.

The decision will be given after the parties interested have been summoned and heard.

If the recalling of a patent is based on § 11, part 2, the determination of the motion must be preceded by a warning of recalling, giving the reasons for it, and allowing a suitable delay.

### § 30.

In the decision (§§ 28 & 29) the Patent Office has full power to determine in what proportions the costs of the proceedings shall be borne by the parties.

### § 31.

The Law Courts are bound to render legal assistance to the Patent Office. The imposition of fines on witnesses and experts who have failed to appear, or who decline to give evidence, or to confirm it on oath, and also the attendance of witnesses who have failed to appear, will be ordered, on application, by the Courts.

### § 32.

An appeal is allowed against the decisions of the Patent Office (§§ 28 and 29). The appeal is to the Imperial Supreme Court of Commerce. It must within six weeks after the giving of the decision be presented in writing to the Patent Office, with a statement of the grounds.

The costs of the proceedings will also be determined by the Court in accordance with § 30.

In other respects the proceedings before the Court will be determined by a regulation which will be drawn up by the Court and established by Imperial Ordinance with the assent of the Federal Council.

### § 33.

Regarding the official language of the Patent Office, the provisions of the law concerning the organisation of the Courts, and the language to be used before them, are to be observed. Applications which are not made in the German language will not be considered.

## FOURTH SECTION.

*Fines and Indemnities.*

## § 34.

Whoever knowingly makes use of an invention contrary to the provisions of §§ 4 and 5, will be punished by fine up to 5000 marks (£250), or by imprisonment not exceeding one year, and is bound to indemnify the person injured.

Prosecutions are only instituted on motion.

## § 35.

If judgment is passed in criminal proceedings, the injured party is entitled to publish the sentence at the cost of the defendant. The manner and time of publication are to be fixed in the sentence.

## § 36.

Instead of an indemnity as provided by this law, the injured party may, in addition to the fine, demand compensation not exceeding 10,000 marks (£500). For this compensation all the persons condemned are jointly liable.

Such compensation precludes all further claim for damages.

## § 37.

The competency of the Imperial Supreme Court of Commerce, as determined by paragraph 12 of the law of June 12th, 1869, concerning the establishment of a Supreme Court of commercial affairs, is extended to all civil cases in which a complaint is made on the basis of the provisions of this law.

## § 38.

Complaints in respect of the infringement of patent right are barred with regard to each single case at the expiration of three years.

## § 39.

Whether damage has been caused, and to what amount, will be decided by the Court after due consideration of all circumstances according to its unbiassed conviction.



## § 40.

Fines not exceeding 150 marks (£7 10s.) or a term of imprisonment will be imposed:—

1. On any person placing on articles, or their packing, any mark calculated to cause the erroneous belief that such articles are protected by a patent in accordance with this law.
2. On any person who in public advertisements, on signboards, on business cards, or in similar notifications, employs any mark calculated to cause the erroneous belief that the articles mentioned therein are protected by a patent in accordance with this law.

## FIFTH SECTION.

*Transitory Provisions.*

## § 41.

All patents in force by virtue of State laws shall until their expiration remain valid according to such laws, but a prolongation of the term is inadmissible.

## § 42.

The owner of an existing patent (§ 41) may, in respect of the invention protected by it, apply for the grant of a patent according to the provisions of this law. The examination of the invention in such case is subject to the forms prescribed by this law. The granting of the patent shall be refused, if the holder of another patent in force for the same invention (§ 41) claims the grant of a patent or opposes the grant before such grant has been decided upon. For want of novelty, the grant of the patent will only be refused if the invention was not new in the sense of § 2 at the time when first patented in the country.

With the grant of a patent in accordance with this law all patents in force for the same invention (§ 41) shall become void if they are in possession of the holder of the new patent. So far as this is not the case, the legal operation of the new patent will first take effect in the district in which the existing patent is valid on the expiration of the latter.

## § 43.

From the lawful duration of a patent granted according to § 42 will be deducted the time during which the discovery has been already protected in the country by the oldest of the existing patents. The owner of the patent for the remainder of the duration of the patent is bound to pay the legal fees (§ 8). The date of payment and annual amount of the fees shall be fixed according to the time when the invention was first protected in the country.

## § 44.

By the grant of a patent according to the provisions of § 42, persons who had been using the invention without infringement of a patent right at the time a patent for the same was applied for, or who had made the necessary preparations for using the same, shall not be restrained from such use.

## § 45.

This law shall come into force on the 1st of July, 1877.

GREAT BRITAIN, IRELAND, AND THE  
ISLE OF MAN.

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1883—1888.

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46 & 47 Vict. c. 57 (so far as it relates to patents for inventions),  
as amended by 48 & 49 Vict. c. 63, 49 & 50 Vict. c. 37, & 51 &  
52 Vict. c. 50.

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

Be it enacted by the Queen's most Excellent Majesty, by and  
with the advice and consent of the Lords Spiritual and  
Temporal, and Commons, in this present Parliament  
assembled, and by the authority of the same, as follows:

PART I.

PRELIMINARY.

*Short title.*

1. This Act may be cited as the Patents, Designs, and Trade  
Marks Act, 1883.

51 & 52 Vict. c. 50, section 29.

*This Act may be cited as the Patents, Designs, and Trade Marks  
Act, 1888, and this Act and the Patents, Designs, and Trade Marks  
Acts, 1883 to 1886, may be cited collectively as the Patents, Designs,  
and Trade Marks Acts, 1883 to 1888.*



*Division of Act into parts.*

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

Part I.—PRELIMINARY.

Part II.—PATENTS.

Part III.—DESIGNS.

Part IV.—TRADE MARKS.

Part V.—GENERAL.

*Commencement of Act.*

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

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PART II.

PATENTS.

APPLICATION FOR AND GRANT OF PATENT.

*Persons entitled to apply for patent.*

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

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

48 & 49 Vict. c. 63, section 5.

*Whereas doubts have arisen whether under the principal Act a patent may lawfully be granted to several persons jointly, some or one of whom only are or is the true and first inventors or inventor; be it therefore enacted and declared that it has been and is lawful under the principal Act to grant such a patent.*

*Application and specification.*

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

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

48 & 49 Vict. c. 63, section 2.

*The declaration mentioned in sub-section two of section five of the principal Act may be either a statutory declaration under the Statutory Declarations Act, 1835, or not, as may be from time to time prescribed.*

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

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

49 & 50 Vict. c. 37, section 2.

*The requirement of sub-section four of section five of the Patents, Designs, and Trade Marks Act, 1883, as to drawings shall not be deemed to be insufficiently complied with by reason only that instead of being accompanied by drawings the complete specification refers to the drawings which accompanied the provisional specification. And no patent heretofore sealed shall be invalid by reason only that the complete specification was not accompanied by drawings, but referred to those which accompanied the provisional specification.*

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

*Reference of application to examiner.*

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

*Power for comptroller to refuse application or require amendment.*

7. (1) If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not or have not been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject matter of the invention, the comptroller may *refuse to accept the application or require that the application, specification, or drawings be amended before he proceeds with the application, and in the latter case the application shall, if the comptroller so directs, bear date as from the time when the requirement is complied with.*

(2) Where the comptroller *refuses to accept an application or requires an amendment*, the applicant may appeal from his decision to the law officer.

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

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

(5) *If, after an application for a patent has been made, but before the patent thereon has been sealed, another application for a patent is made, accompanied by a specification bearing the same or a similar title, the comptroller, if he thinks fit, on the request of the second applicant, or of his legal representative, may, within two months of the grant of a patent on the first application, either decline to proceed with the second application or allow the surrender of the patent, if any, granted thereon.*

[NOTE.—The words in italics in this section are additions and substitutions made by section 2 of 51 & 52 Vict. c. 50.]

*Time for leaving complete specification.*

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

48 & 49 Vict. c. 63, section 3.

*A complete specification may be left within such extended time, not exceeding one month after the said nine months, as the comptroller may on payment of the prescribed fee allow.*



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

*Comparison of provisional and complete specification.*

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

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

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

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

48 & 49 Vict. c. 63, section 3.

*A complete specification may be accepted within such extended time not exceeding three months after the said twelve months as the comptroller may on payment of the prescribed fee allow.*

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

*Advertisement on acceptance of complete specification.*

10. On the acceptance of the complete specification the comptroller shall advertise the acceptance; and the application and specification, or specifications with the drawings (if any), shall be open to public inspection.

*Opposition to grant of patent.*

11. (1) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification give notice at the Patent Office of opposition to the grant of the patent, on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative; or on the ground that the invention has been patented in this country on an application of prior date; or on the ground *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 specification and the leaving of the complete specification, but on no other ground.*

[NOTE.—The words in italics were substituted by section 4 of 51 & 52 Vict. c. 50.]

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

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

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

*Sealing of patent.*

12. (1) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, the comptroller shall cause a patent to be sealed with the seal of the Patent Office.

(2) A patent so sealed shall have the same effect as if it were sealed with the Great Seal of the United Kingdom.

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



- (a) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct.
- (b) If the person making the application dies before the expiration of the fifteen months aforesaid, the patent may be granted to his legal representative and sealed at any time within twelve months after the death of the applicant.

48 & 49 Vict. c. 63, section 3.

*A complete specification may be left and accepted within such extended times, not exceeding one month and three months respectively after the said nine and twelve months respectively, as the comptroller may on payment of the prescribed fee allow, and where such extension of time has been allowed, a further extension of four months after the said fifteen months shall be allowed for the sealing of the patent; and the principal Act shall have effect as if any time so allowed were added to the said periods specified in the principal Act.*

#### *Date of Patent.*

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

#### *Provisional Protection.*

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

#### *Protection by Complete Specification. Effect of Acceptance of Complete Specification.*

15. After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privi-



leges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification: Provided that an applicant shall not be entitled to institute any proceeding for infringement, unless and until a patent for the invention has been granted to him.

*Extent of Patent.*

16. Every patent when sealed shall have effect throughout the United Kingdom and the Isle of Man.

*Term of Patent.*

17. (1) The term limited in every patent for the duration thereof shall be fourteen years from its date.

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

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

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

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

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

*Amendment of Specification.*

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

(2) The request and the nature of such proposed amendment

shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

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

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

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

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

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

(8) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.

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

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

[NOTE.—The words in italics were substituted by section 5 of 51 & 52 Vict. c. 50.]

*Power to disclaim part of Invention during Action, &c.*

19. (1) In an action for infringement of a patent, and in a proceeding for revocation of a patent, the Court or a judge may at any time order that the patentee shall, subject to such terms as to costs and otherwise as the Court or a judge may impose, be at liberty to apply at the Patent Office for leave to amend

his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

*Restriction on Recovery of Damages.*

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

*Advertisement of Amendment.*

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

*Compulsory Licenses.*

22. If on the petition of any person interested it is proved to the Board of Trade that by reason of the default of a patentee to grant licenses on reasonable terms—

- (a) The patent is not being worked in the United Kingdom ; or
  - (b) The reasonable requirements of the public with respect to the invention cannot be supplied ; or
  - (c) Any person is prevented from working or using to the best advantage an invention of which he is possessed,
- the Board may order the patentee to grant licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Board, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.

*Register of Patents.*

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



(2) The register of patents shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.

(3) Copies of deeds, licenses, and any other documents affecting the proprietorship in any Letters Patent, or in any license thereunder, must be supplied to the comptroller in the prescribed manner for filing in the Patent Office.

*Fees in Schedule.*

24. (1) There shall be paid in respect of the several instruments described in the Second Schedule to this Act, the fees in that schedule mentioned, and there shall likewise be paid, in respect of other matters under this part of the Act, such fees as may be from time to time, with the sanction of the Treasury, prescribed by the Board of Trade; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the Treasury may from time to time direct.

(2) The Board of Trade may from time to time, if they think fit, with the consent of the Treasury, reduce any of those fees.

*Extension of Term of Patent on Petition to Queen in Council.*

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

(2) Any person may enter a caveat, addressed to the Registrar of the Council at the Council Office, against the extension.

(3) If Her Majesty shall be pleased to refer any such petition to the Judicial Committee of the Privy Council, the said Committee shall proceed to consider the same, and the petitioner and any person who has entered a caveat shall be entitled to be heard by himself or by counsel on the petition.

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

(5) If the Judicial Committee report that the patentee has been inadequately remunerated by his patent, it shall be lawful for Her Majesty in Council to extend the term of the patent for a further term not exceeding seven, or, in exceptional cases fourteen, years; or to order the grant of a new patent for

the term therein mentioned, and containing any restrictions, conditions, and provisions that the Judicial Committee may think fit.

(6) It shall be lawful for Her Majesty in Council to make, from time to time, rules of procedure and practice for regulating proceedings on such petitions, and subject thereto such proceedings shall be regulated according to the existing procedure and practice in patent matters of the Judicial Committee.

(7) The costs of all parties of and incident to such proceedings shall be in the discretion of the Judicial Committee; and the orders of the Committee respecting costs shall be enforceable as if they were orders of a division of the High Court of Justice.

#### *Revocation of Patent.*

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

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

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

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

(a) The Attorney-General in England or Ireland, or the Lord Advocate in Scotland :

(b) Any person authorised by the Attorney-General in England or Ireland, or the Lord Advocate in Scotland.

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

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

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

(5) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and no evidence



shall, except by leave of the Court or a judge, be admitted in proof of any objection of which particulars are not so delivered.

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

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

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

#### *Patent to bind Crown.*

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

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

#### LEGAL PROCEEDINGS.

##### *Hearing with assessor.*

28 (1) In an action or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, and shall on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try and hear the case wholly or partially with his assistance; the action shall be tried without a jury unless the Court shall otherwise direct.

(2) The Court of Appeal or the Judicial Committee of the Privy Council may, if they see fit, in any proceeding before them respectively, call in the aid of an assessor as aforesaid.



(3) The remuneration, if any, to be paid to an assessor under this section shall be determined by the Court or the Court of Appeal or Judicial Committee, as the case may be, and be paid in the same manner as the other expenses of the execution of this Act.

*Delivery of particulars.*

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

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

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

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

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

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

*Order for inspection, &c., in action.*

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

*Certificate of validity questioned and costs thereon.*

31. In an action for infringement of a patent, the Court or a judge may certify that the validity of the patent came in

question; and if the Court or a judge so certifies, then in any subsequent action for infringement, the plaintiff in that action on obtaining a final order or judgment in his favour shall have his full costs, charges and expenses as between solicitor and client, unless the Court or judge trying the action certifies that he ought not to have the same.

*Remedy in case of groundless threats of legal proceedings.*

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

MISCELLANEOUS.

*Patent for one invention only.*

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

*Patent on application of representative of deceased inventor.*

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

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

*Patent to first inventor not invalidated by application in fraud of him.*

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

*Assignment for particular places.*

36. A patentee may assign his patent for any place in or part of the United Kingdom, or Isle of Man, as effectually as if the patent were originally granted to extend to that place or part only.

*Loss or destruction of Patent.*

37. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the comptroller, the comptroller may at any time cause a duplicate thereof to be sealed.

*Proceedings and costs before Law Officers.*

38. The law officers may examine witnesses on oath and administer oath for that purpose under this part of this Act, and may from time to time make, alter, and rescind rules regulating references and appeals to the law officers and the practice and procedure before them under this part of this Act; and in any proceeding before either of the law officers under this part of this Act, the law officer may order costs to be paid by either party, and any such order may be made a rule of the Court.

*Exhibition at Industrial or International Exhibition not to prejudice Patent rights.*

39. The exhibition of an invention at an industrial or international exhibition, certified as such by the Board of Trade, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in



respect of the invention, or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely,—

- (a) The exhibitor must, before exhibiting the invention, give the comptroller the prescribed notice of his intention to do so; and
- (b) The application for a patent must be made before or within six months from the date of the opening of the exhibition.

49 & 50 Vict. c. 37, section 3.

*It shall be lawful for Her Majesty, by Order in Council, from time to time to declare that section thirty-nine of the Patents, Designs, and Trade Marks Act, 1883, shall apply to any exhibition mentioned in the Order in like manner as if it were an industrial or international exhibition certified by the Board of Trade, and to provide that the exhibitor shall be relieved from the conditions, specified in the said section, of giving notice to the Controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as to Her Majesty in Council may seem fit.*

*Publication of illustrated journal, indexes, &c.*

40. (1) The comptroller shall cause to be issued periodically an illustrated journal of patented inventions, as well as reports of patent cases decided by Courts of law, and any other information that the comptroller may deem generally useful or important.

(2) Provision shall be made by the comptroller for keeping on sale copies of such journal, and also of all complete specifications of patents for the time being in force, with their accompanying drawings, if any.

(3) The comptroller shall continue, in such form as he may deem expedient, the indexes and abridgments of specifications hitherto published, and shall from time to time prepare and publish such other indexes, abridgments of specifications, catalogues, and other works relating to inventions, as he may see fit.

*Patent Museums.*

41. The control and management of the existing Patent Museum and its contents shall, from and after the commencement of this Act, be transferred to and vested in the Department

of Science and Art, subject to such directions as Her Majesty in Council may see fit to give.

*Power to require models on payment.*

42. The Department of Science and Art may at any time require a patentee to furnish them with a model of his invention on payment to the patentee of the cost of the manufacture of the model; the amount to be settled, in case of dispute, by the Board of Trade.

*Foreign vessels in British waters.*

43. (1) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any of Her Majesty's Courts in the United Kingdom or Isle of Man, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from the United Kingdom or Isle of Man.

(2) But this section shall not extend to vessels of any foreign state of which the laws authorise subjects of such foreign state having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its Courts, where such inventions are not so used for the manufacture or preparation of anything intended to be sold in or exported from the territories of such foreign state.

*Assignment to Secretary for War of certain inventions.*

44. (1) The inventor of any improvement in instruments or munitions of war, his executors, administrators, or assigns (who are in this section comprised in the expression "the inventor") may (either for or without valuable consideration) assign to Her Majesty's Principal Secretary of State for the War Department (hereinafter referred to as the Secretary of State) on behalf of Her Majesty, all the benefit of the invention, and of any patent obtained or to be obtained for the same; and the Secretary of State may be a party to the assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the Secretary of State for the time being on behalf of Her Majesty, and all covenants and agree-



ments therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the Secretary of State for the time being.

(3) Where any such assignment has been made to the Secretary of State, he may at any time before the application for a patent for the invention, or before publication of the specification or specifications, certify to the comptroller his opinion that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the Secretary of State so certifies, the application and specification or specifications, with the drawings (if any), and any amendment of the specification or specifications, and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the comptroller in a packet sealed by authority of the Secretary of State.

(5) Such packet shall, until the expiration of the term or extended term during which a patent for the invention may be in force, be kept sealed by the comptroller, and shall not be opened save under the authority of an order of the Secretary of State, or of the law officers.

(6) Such sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by writing under the hand of the Secretary of State to receive the same, and shall if returned to the comptroller be again kept sealed by him.

(7) On the expiration of the term or extended term of the patent, such sealed packet shall be delivered to any person authorised by writing under the hand of the Secretary of State to receive it.

(8) Where the Secretary of State certifies as aforesaid, after an application for a patent has been left at the Patent Office, but before the publication of the specification or specifications, the application, specification or specifications, with the drawings (if any), shall be forthwith placed in a packet, sealed by authority of the comptroller, and such packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Secretary of State.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which the Secretary of State has certified as aforesaid.



(10) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, save as in this section otherwise directed, the provisions of this part of this Act shall apply in respect of any such invention and patent as aforesaid.

(11) The Secretary of State may at any time, by writing under his hand, waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State, or to any person or persons authorised by him to investigate the same or the merits thereof, shall not, nor shall anything done for the purpose of investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.

#### EXISTING PATENTS.

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

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

(3) In all other respects (including the amount and time of payment of fees) this Act shall extend to all patents granted before the commencement of this Act, or on applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.

(4) All instruments relating to patents granted before the commencement of this Act required to be left or filed in the Great Seal Patent Office shall be deemed to be so left or filed if left or filed before or after the commencement of this Act in the Patent Office.

#### DEFINITIONS.

46. In and for the purposes of this Act—

“Patent” means Letters Patent for an invention:

“Patentee” means the person for the time being entitled to the benefit of a patent:

“Invention” means any manner of new manufacture the subject of Letters Patent and grant of privilege within section six of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chapter three, intituled “An Act concerning monopolies and dispensations, with penal laws and the forfeiture thereof” [*see post*, p. 240]), and includes an alleged invention.

In Scotland “injunction” means “interdict.”

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## PART V.

### GENERAL.

#### PATENT OFFICE AND PROCEEDINGS THEREAT.

##### *Patent Office.*

82. (1) The Treasury may provide for the purposes of this Act an office with all requisite buildings and conveniences, which shall be called, and is in this Act referred to as, the Patent Office.

(2) Until a new Patent Office is provided, the offices of the Commissioners of Patents for inventions and for the registration of designs and trade marks existing at the commencement of this Act shall be the Patent Office within the meaning of this Act.

(3) The Patent Office shall be under the immediate control of an officer called the Comptroller-General of Patents, Designs, and Trade Marks, who shall act under the superintendence and direction of the Board of Trade.

(4) Any act or thing directed to be done by or to the comptroller may, in his absence, be done by or to any officer for the time being in that behalf authorised by the Board of Trade.

##### *Officers and Clerks.*

83. (1) The Board of Trade may at any time after the passing of this Act, and from time to time, subject to the approval of the Treasury, appoint the Comptroller-General of

Patents, Designs, and Trade Marks, and so many examiners and other officers and clerks, with such designations and duties as the Board of Trade think fit, and may from time to time remove any of those officers and clerks.

(2) The salaries of those officers and clerks shall be appointed by the Board of Trade, with the concurrence of the Treasury, and the same and the other expenses of the execution of this Act shall be paid out of money provided by Parliament.

*Seal of Patent Office.*

84. There shall be a seal for the Patent Office, and impressions thereof shall be judicially noticed and admitted in evidence.

*Trusts not to be entered in Registers.*

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

*Refusal to grant Patent in certain cases.*

86. The comptroller may refuse to grant a patent for an invention, of which the use would, in his opinion, be contrary to law or morality.

*Entry of assignments and transmissions in Registers.*

87. Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, the comptroller shall on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, in the register of patents. The person for the time being entered in the register of patents as proprietor of a patent shall, subject to *the provisions of this Act and to any rights appearing from such register to be vested in any other person*, have power absolutely to assign, grant licenses as to, or otherwise deal with the same, and to give effectual receipts for any consideration for such assignment, license, or dealing. Provided that any equities in respect of such patent may be enforced in like manner as in respect of any other personal property.

[NOTE.—The words in italics were inserted by section 21 of 51 & 52 Vict. c. 50.]



*Inspection of and extracts from Registers.*

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

[NOTE.—The words in italics were inserted by section 22 of 51 & 52 Vict. c. 50.]

*Sealed copies to be received in evidence.*

89. Printed or written copies or extracts, purporting to be certified by the comptroller and sealed with the seal of the Patent Office, of or from patents, specifications, disclaimers and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all Courts in Her Majesty's dominions, and in all proceedings, without further proof or production of the originals.

*Rectification of Registers by Court.*

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

[NOTE.—The words in italics were added by section 23 of 51 & 52 Vict. c. 50.]

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

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

*Power for comptroller to correct clerical errors.*

91. The comptroller may, on request in writing accompanied by the prescribed fee,—

- (a) Correct any clerical error in or in connection with an application for a patent; or
- (b) Correct any clerical error in the name, style, or address of the registered proprietor of a patent.

*Falsification of entries in registers.*

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

*Exercise of discretionary power by comptroller.*

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

*Power of comptroller to take directions of law officers.*

95. The comptroller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to either of the law officers for directions in the matter.

*Certificate of comptroller to be evidence.*

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

*Applications and Notices by Post.*

97. (1) Any application, notice, or other document authorised or required to be left, made, or given at the Patent Office, or to

the comptroller, or to any other person under this Act, may be sent by a prepaid letter through the post; and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

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

*Provision as to Days for Leaving Documents at Office.*

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

*Declaration by Infant, Lunatic, &c.*

99. If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act, or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or, if there be none, any person appointed by any Court or Judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purposes of this Act be as effectual as if done by the person for whom he is substituted.

*Transmission of certified Printed Copies of Specifications, &c.*

100. Copies of all specifications, drawings, and amendments left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office,



shall be transmitted to the Edinburgh Museum of Science and Art, and to the Enrolments Office of the Chancery Division in Ireland, and to the Rolls Office in the Isle of Man, within twenty-one days after the same shall respectively have been accepted or allowed at the Patent Office; and certified copies of or extracts from any such documents shall be given to any person requiring the same on payment of the prescribed fee; and any such copy or extract shall be admitted in evidence in all Courts in Scotland and Ireland and in the Isle of Man without further proof or production of the originals.

48 & 49 Vict. c. 63, section 4.

*Where an application for a patent has been abandoned, or become void, the specification or specifications and drawings (if any) accompanying or left in connection with such application, shall not at any time be open to public inspection or be published by the comptroller.*

*Power for Board of Trade to make General Rules for regulating Business of Patent Office.*

101. (1) The Board of Trade may from time to time make such general rules and do such things as they think expedient subject to the provisions of this Act—

- (c) For making or requiring duplicates of specifications, amendment, drawings, and other documents:
- (d) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Board of Trade think fit, of specifications, drawings, amendments, and other documents:
- (e) For securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office; and providing for the inspection of indexes and abridgments and other documents:
- (f) For regulating (with the approval of the Treasury) the presentation of copies of Patent Office publications to patentees and to public authorities, bodies and institutions, at home and abroad:
- (g) Generally for regulating the business of the Patent Office, and all things by this Act placed under the direction or control of the comptroller, or of the Board of Trade.

(2) Any of the forms in the First Schedule to this Act may be altered or amended by rules made by the Board as aforesaid.

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

(4) Any rules made in pursuance of this section shall be laid before both Houses of Parliament, if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the then next session of Parliament, and they shall also be advertised twice in the official journal to be issued by the comptroller.

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

#### *Annual Reports of Comptroller.*

102. The comptroller shall, before the first day of June in every year, cause a report respecting the execution by or under him of this Act to be laid before both Houses of Parliament, and therein shall include for the year to which each report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act.

102A. (1) *All things required or authorised under this Act to be done by, to, or before the Board of Trade, may be done by, to, or before the President or a secretary or an assistant secretary of the Board.*

(2) *All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or by any person authorised in that behalf by the President of the Board, shall be received in evidence, and shall be deemed to be such orders without further proof, unless the contrary is shown.*

(3) *A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.*

[NOTE.—This section was added by section 25 of 51 & 52 Vict. c. 50.]



## INTERNATIONAL ARRANGEMENTS FOR PROTECTION OF INVENTIONS.

103. (1) If Her Majesty is pleased to make any arrangement with the Government or Governments of any foreign State or States for mutual protection of inventions, then any person who has applied for protection for any invention, in any such State, shall be entitled to a patent for his invention under this Act, in priority to other applicants; and such patent shall have the same date as the date of the *application* in such foreign State.

[NOTE.—This word was substituted for “protection obtained” by 48 & 49 Vict. c. 63, section 6.]

Provided that his application is made within seven months from his applying for protection in the foreign State with which the arrangement is in force.

Provided that nothing in this section contained shall entitle the patentee to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification.

(2) The publication in the United Kingdom, or the Isle of Man, during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention, shall not invalidate the patent which may be granted for the invention.

(3) The application for the grant of a patent under this section must be made in the same manner as an ordinary application under this Act.

(4) The provisions of this section shall apply only in the case of those foreign States with respect to which Her Majesty shall from time to time by Order in Council declare them to be applicable, and so long only in the case of each State as the Order in Council shall continue in force with respect to that State.

*Provision for Colonies and India.*

104. (1) Where it is made to appear to Her Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions patented in this country, it shall be lawful for Her Majesty from time to time, by Order in Council, to apply the provisions of the last preceding



section, with such variations or additions, if any, as to Her Majesty in Council may seem fit, to such British possession.

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

#### OFFENCES.

##### *Penalty on falsely representing articles to be patented.*

105. (1) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, shall be liable for every offence on summary conviction to a fine not exceeding five pounds.

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

##### *Penalty on unauthorised Assumption of Royal Arms.*

106. Any person who, without the authority of Her Majesty, or any of the Royal Family, or of any Government Department, assumes or uses in connection with any trade, business, calling, or profession, the Royal arms, or arms so nearly resembling the same as to be calculated to deceive, in such a manner as to be calculated to lead other persons to believe that he is carrying on his trade, business, calling, or profession by or under such authority as aforesaid, shall be liable on summary conviction to a fine not exceeding twenty pounds.

#### SCOTLAND, IRELAND, ETC.

##### *Saving for Courts in Scotland.*

107. In any action for infringement of a patent in Scotland the provisions of this Act, with respect to calling in the aid of an assessor, shall apply, and the action shall be tried without a jury, unless the Court shall otherwise direct, but otherwise

nothing shall affect the jurisdiction and forms of process of the courts in Scotland in such an action or in any action or proceeding respecting a patent hitherto competent to those courts.

For the purposes of this section "court of appeal" shall mean any court to which such action is appealed.

*Summary Proceedings in Scotland.*

108. In Scotland any offence under this Act declared to be punishable on summary conviction may be prosecuted in the sheriff court.

*Proceedings for Revocation of Patent in Scotland.*

109. (1) Proceedings in Scotland for revocation of a patent shall be in the form of an action of reduction at the instance of the Lord Advocate, or at the instance of a party having interest with his concurrence, which concurrence may be given on just cause shown only.

(2) Service of all writs and summonses in that action shall be made according to the forms and practice existing at the commencement of this Act.

*Reservation of Remedies in Ireland.*

110. All parties shall, notwithstanding anything in this Act, have in Ireland their remedies under or in respect of a patent as if the same had been granted to extend to Ireland only.

*General Saving for Jurisdiction of Courts.*

111. (1) The provisions of this Act conferring a special jurisdiction on the Court as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Scotland or Ireland in any proceedings relating to patents; and with reference to any such proceedings in Scotland, the term "the Court" shall mean any Lord Ordinary of the Court of Session; and the term "Court of Appeal" shall mean either Division of the said Court; and with reference to any such proceedings in Ireland, the terms "the Court" and "the Court of Appeal" respectively mean the High Court of Justice in Ireland and Her Majesty's Court of Appeal in Ireland.

(2) If any rectification of a register under this Act is required

in pursuance of any proceeding in a court in Scotland or Ireland, a copy of the order, decree, or other authority for the rectification shall be served on the comptroller, and he shall rectify the register accordingly.

*Isle of Man.*

112. This Act shall extend to the Isle of Man, and—

- (1) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man, in proceedings for infringement or in any action or proceeding respecting a patent competent to those courts;
- (2) The punishment for a misdemeanor under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the Court;
- (3) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

REPEAL; TRANSITIONAL PROVISIONS; SAVINGS.

*Repeal and Saving for past Operation of repealed Enactments.*

113. The enactments described in the Third Schedule to this Act are hereby repealed. But this repeal of enactments shall not—

- (a) Affect the past operation of any of those enactments, or any patent granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act; or
- (b) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or
- (c) Take away or abridge any protection or benefit in relation to any such action or proceeding.



*Former Registers to be deemed continued.*

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

*Saving for existing Rules.*

115. All general rules made by the Lord Chancellor or by any other authority under any enactment repealed by this Act, and in force at the commencement of this Act, may at any time after the passing of this Act be repealed, altered, or amended by the Board of Trade, as if they had been made by the Board under this Act, but so that no such repeal, alteration or amendment shall take effect before the commencement of this Act; and, subject as aforesaid, such general rules shall, so far as they are consistent with and are not superseded by this Act, continue in force as if they had been made by the Board of Trade under this Act.

*Saving for Prerogative.*

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

## GENERAL DEFINITIONS.

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

“Person” includes a body corporate;

“The Court” means (subject to the provisions for Scotland, Ireland, and the Isle of Man) Her Majesty’s High Court of Justice in England;

“Law officer” means Her Majesty’s Attorney-General or Solicitor-General for England;

“The Treasury” means the Commissioners of Her Majesty’s Treasury.

“Comptroller” means the Comptroller General of Patents, Designs, and Trade Marks;

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

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

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

In the application of this Act to Ireland, “summary conviction” means a conviction under the summary Jurisdiction Acts, that is to say, with reference to the Dublin Metropolitan Police District the Acts regulating the duties of justices of the peace and of the police for such district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and any Act amending it.

THE FIRST SCHEDULE (as altered by the Rules).

FORMS OF APPLICATION, &c.



FORM A.

*Form of Application for Patent.*

[*here insert name, and full address, and calling of applicant or applicants*], do hereby declare that            in possession of an invention for [*here insert title of invention*]; that [*in the case of more than one applicant state whether all or if not who is or are the inventor or inventors*] the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of            knowledge and belief; and            humbly pray that a patent may be granted to            for the said invention.

And I make the above solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Dated            day of            , 188            .

[*To be signed by applicant or applicants.*]



FORM A 1.

*Application for Patent for Inventions communicated from abroad.*

I [*here insert name, and full address, and calling of applicant*], do hereby declare that I am in possession of an invention for [*here insert title of invention*], which invention has been communicated to me from abroad by [*here insert name, address, and calling of communicant*]; that I claim to be the true and first inventor thereof; and that the same is not in use within this realm by any other person or persons to the best of my knowledge and belief; and I humbly pray that a patent may be granted to me for the said invention.

Dated            day of            , 188            .

[*To be signed by applicant or applicants.*]





## FORM A 2.

*Application for Patent under International  
and Colonial Arrangements.*

[*here insert name and full address and calling of applicant, or of each of the applicants*], do hereby declare that I (or we) have made foreign applications for protection of my (or our) invention of [*here insert title of invention*] in the following Foreign States and on the following official dates, viz.: [*here insert the names of each Foreign State, followed by the official date of the application in each respectively*] and in the following British Possessions and on the following official dates, viz.: [*here insert the names of each British Possession, followed by the official date of the application in each respectively*]. That the said invention was not in use within the United Kingdom of Great Britain and Ireland and the Isle of Man by any other person or persons before the [*here insert the official date of the earliest foreign application*] to the best of knowledge, information, and belief, and humbly pray that a patent may be granted to for the said invention in priority to other applicants, and that such patent shall have the date [*here insert the official date of the earliest foreign application.*]

[*Signature of Applicant or of each of Applicants.*]

## FORM B.

*Form of Provisional Specification.*

[*Here insert title as in Declaration.*]

[*here insert name, and full address, and calling of applicant or applicants as in Declaration*] do hereby declare the nature of my invention to be as follows:—[*here insert short description of invention.*]

[*Signature of Inventor.*]

Dated this        day of        , 18        .



## FORM C.

*Form of Complete Specification.*

[*Here insert title as in Declaration.*]

[*here insert name, and full address, and calling of applicant or applicants as in Declaration*] do hereby declare the nature of this invention and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement:—[*here insert full description of invention.*]

Having now particularly described and ascertained the nature of my said invention and in what manner the same is to be performed, I declare that what I claim is :—

1. [*Here state distinctly the features of novelty claimed.*]
- 2.
3. &c.

[*Signature of Applicant.*]

Dated this            day of            , 18            .

FORM D.

*Form of Patent.*

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

Whereas            , hath by his solemn declaration represented unto us that he is in possession of an invention for            ; that he is the true and first inventor thereof; and that the same is not in use by any other person to the best of his knowledge and belief :

And whereas the said inventor hath humbly prayed that we would be graciously pleased to grant unto him (herein-after, together with his executors, administrators, and assigns, or any of them, referred to as the said patentee) our Royal Letters Patent for the sole use and advantage of his said invention :

And whereas the said inventor hath by and in his complete specification particularly described the nature of his invention :

And whereas we, being willing to encourage all inventions which may be for the public good, are graciously pleased to condescend to his request :

Know ye, therefore, that we, of our especial grace, certain knowledge, and mere motion do by these presents, for us, our heirs and successors, give and grant unto the said patentee our especial license, full power, sole privilege, and authority, that the said patentee by himself, his agents, or licensees, and no others, may at all times hereafter during the term of years herein mentioned, make, use, exercise, and vend the said invention within our United Kingdom of Great Britain and Ireland, and Isle of Man, in such manner as to him or them may seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the date hereunder written of these presents : And to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, We do by these presents, for us, our heirs and successors, strictly command all our subjects whatsoever within our United Kingdom of Great Britain and Ireland, and the Isle of Man, that they do not at any time during the continuance of the said term of fourteen years either directly or indirectly make use of, or put

in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, licence, or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal command, and of being answerable to the patentee according to law for his damages thereby occasioned: Provided that these our Letters Patent are on this condition, that if at any time during the said term it be made to appear to us, our heirs, or successors, or any six or more of our Privy Council, that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof within our United Kingdom of Great Britain and Ireland, and Isle of Man, or that the said patentee is not the first and true inventor thereof within this realm as aforesaid, these our Letters Patent shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained: Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these Letters Patent, or in respect of any matter relating thereto at the time or times, and in manner for the time being by law provided; and also if the said patentee shall not supply, or cause to be supplied, for our service all such articles of the said invention as may be required by the officers or commissioners administering any department of our service in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided; then, and in any of the said cases, these our Letters Patent, and all privileges and advantages whatever hereby granted, shall determine and become void notwithstanding anything hereinbefore contained: Provided also that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted: And lastly, we do by these presents for us, our heirs and successors, grant unto the said patentee that these our Letters Patent shall be construed in the most beneficial sense for the advantage of the said patentee. In witness whereof we have caused these our Letters to be made Patent this one thousand eight hundred and \_\_\_\_\_, and to be sealed as of the one thousand eight hundred and \_\_\_\_\_





## THE SECOND SCHEDULE.

*Fees on Instruments for obtaining Patents and Renewal.**(a) Up to sealing.*

	£	s.	d.	£	s.	d.
On application for provisional protection . . . . .	1	0	0			
On filing complete specification . . . . .	3	0	0			
	<hr/>			4	0	0
<i>or</i>						
On filing complete specification with first application . . . . .				4	0	0

*(b) Further before end of four years from date of patent.*

On certificate of renewal . . . . .				50	0	0
				<hr/>		

*(c) Further before end of seven years, or in the case of patents granted after the commencement of this Act, before the end of eight years from date of patent.*

On certificate of renewal . . . . .				100	0	0
				<hr/>		

*Or in lieu of the fees of £50 and £100 the following annual fees:—*

Before the expiration of the fourth year from the date of						
the patent . . . . .						£ s. d.
						10 0 0
”	”	fifth	”	”		10 0 0
”	”	sixth	”	”		10 0 0
”	”	seventh	”	”		10 0 0
”	”	eighth	”	”		15 0 0
”	”	ninth	”	”		15 0 0
”	”	tenth	”	”		20 0 0
”	”	eleventh	”	”		20 0 0
”	”	twelfth	”	”		20 0 0
”	”	thirteenth	”	”		20 0 0

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## THE THIRD SCHEDULE.

*Enactments repealed.*

21 James I. c. 3. [1623.]	The Statute of Monopolies. In part; namely,— Sections ten, eleven, and twelve.
5 & 6 Will. 4. c. 62. [1835.] In part.	The Statutory Declarations Act, 1835. In part; namely,— Section eleven.
5 & 6 Will. 4. c. 83. [1835.]	An Act to amend the law touching letters patent for inventions.
2 & 3 Vict. c. 67. [1839.]	An Act to amend an Act of the fifth and sixth years of the reign of King William the Fourth, intituled “An Act to amend the law touching “letters patent for inventions.”
7 & 8 Vict. c. 69. [1844.] In part.	An Act for amending an Act passed in the fourth year of the reign of His late Majesty, intituled “An Act for the better administration of justice “in His Majesty’s Privy Council, and to extend “its jurisdiction and powers.” In part; namely,— Sections two to five, both included.
<i>NOTE.—Sections six and seven of this Act are repealed by the Statute Law Revision (No. 2) Act, 1874.</i>	
15 & 16 Vict. c. 83. [1852.]	The Patent Law Amendment Act, 1852.
16 & 17 Vict. c. 5. [1853.]	An Act to substitute stamp duties for fees on passing letters patent for inventions, and to provide for the purchase for the public use of certain indexes of specifications.
16 & 17 Vict. c. 115. [1853.]	An Act to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of letters patent and specifications to certain offices in Edinburgh and Dublin, and otherwise to amend the said Act.

22 Vict. c. 13. [1859.]	An Act to amend the law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war.
28 & 29 Vict. c. 3. [1865.]	The Industrial Exhibitions Act, 1865.
33 & 34 Vict. c. 27. [1870.]	The Protection of Inventions Act, 1870.
43 & 44 Vict. c. 10. [1880.]	The Great Seal Act, 1880. In part; namely, Section five.

*24th December, 1888.*

51 & 52 Vict. c. 50 (so far as it relates to patents for inventions, and is not inserted in the principal Act).

An Act to amend the Patents, Designs, and Trade Marks Act, 1883.

Whereas it is expedient to amend the Patents, Designs, and Trade Marks Act, 1883, herein-after referred to as the principal Act:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

*Register of Patent Agents.*

1. (1) After the first day of July one thousand eight hundred and eighty-nine, a person shall not be entitled to describe himself as a patent agent, whether by advertisement, by description on his place of business, by any document issued by him, or otherwise, unless he is registered as a patent agent in pursuance of this Act.



(2) The Board of Trade shall, as soon as may be after the passing of this Act, and may from time to time, make such general rules as are in the opinion of the Board required for giving effect to this section, and the provisions of section one hundred and one of the principal Act shall apply to all rules so made as if they were made in pursuance of that section.

(3) Provided that every person who proves to the satisfaction of the Board of Trade that, prior to the passing of this Act, he had been bonâ fide practising as a patent agent shall be entitled to be registered as a patent agent in pursuance of this Act.

(4) If any person knowingly describes himself as a patent agent in contravention of this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

(5) In this section "patent agent" means exclusively an agent for obtaining patents in the United Kingdom.

#### *Construction of principal Act.*

27. The principal Act shall, as from the commencement of this Act, take effect subject to the additions, omissions, and substitutions required by this Act, but nothing in this Act shall affect the validity of any act done, right acquired, or liability incurred before the commencement of this Act.

#### *Commencement of Act.*

28. This Act shall, except so far as is by this Act otherwise specially provided, commence and come into operation on the first day of January one thousand eight hundred and eighty-nine.

A.D. 1623. 21 *James I.*

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CAP. III.

An Act concerning monopolies and dispensations with penal laws, and the forfeitures thereof.

Forasmuch as your most excellent Majesty, in your Royal Judgment and of your blessed disposition to the weal and quiet of your subjects, did in the year of our Lord God one thousand six hundred and ten, publish in print to the whole Realm and to all posterity, That all grants of Monopolies and of the benefit of any penal laws, or of power to dispense with the law or to compound for the Forfeiture, are contrary to your Majesty's Laws, which your Majesty's Declaration is truly consonant and agreeable to the ancient and fundamental Laws of this your Realm (2) And whereas your Majesty was further graciously pleased expresly to command, that no suitor should presume to move your Majesty for matters of that nature (3) Yet nevertheless upon misinformations and untrue Pretences of publick good many such grants have been unduly obtained, and unlawfully put in Execution to the great Grievance and Inconvenience of your Majesty's Subjects contrary to the Laws of this your Realm and contrary to your Majesty's most Royal and Blessed Intention so published as aforesaid (4) For avoiding whereof and preventing of the like in time to come May it please Your Excellent Majesty at the humble suit of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled. That it may be declared and enacted (5) And be it declared and enacted by authority of this present Parliament. That all Monopolies and all Commissions Grants Licences Charters and Letters Patents heretofore made or granted or hereafter to be made or granted to any person or persons Bodies politick or Corporate whatsoever or for the sole Buying Selling Making Working or Using of any Thing within this Realm or the Dominion of Wales (6) or of any other Monopolies or of Power Liberty or Faculty to dispense with any others or to

give License or Toleration to do use or exercise any Thing against the Tenor or Purport of any Law or Statute (7) or to give or make any Warrant for any such Dispensation Licence or Toleration to be had or made or to agree to compound with any others for any penalty or Forfeitures limited by any Statute or of any grant or promise of the Benefit Profit or Commodity of any Forfeiture Penalty or Sum of money that is or shall be due by any Statute before Judgment thereupon had (8) and all proclamations Inhibitions Restraints Warrants of assistance and all other Matters and Things whatsoever any way tending to the Instituting Erecting Strengthening Furthering or Countenancing of the same or any of them (9) are altogether contrary to the Laws of this Realm and so are and shall be utterly void and of none effect and in no wise to be put in use or Execution.

\* \* \* \* \*

§ VI.—Provided also and be it declared and enacted That any Declaration before mentioned shall not extend to any Letters Patents and grants of privilege for the Term of fourteen years or under hereafter to be made of the sole Working or Making of any manner of new Manufactures within this Realm to the true and first Inventor and Inventors of such Manufactures which others at the time of making such Letters Patents and grants shall not use, so as also they be not contrary to the Law nor mischievous to the State by raising prices of commodities at home, or hurt of Trade, or generally inconvenient: The said fourteen years to be accounted from the date of the first Letters Patents or grant of such privilege hereafter to be made but that the same shall be of such force as they should be if this Act had never been made and of none other.



**HONGKONG.**

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*Ordinance No. 14 of 1862.*

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*Title.*

An Ordinance for granting Patents for Inventions within this Colony.

*Preamble.*

Whereas Patents for Inventions granted in England are not usually extended to the Colonies, and it is expedient that power should be vested in his Excellency the Governor, with the advice of the Executive Council to grant Letters Patent for the exclusive use of Inventions within this Colony, for which Letters Patent have already been granted in England. Be it therefore enacted by his Excellency the Governor of Hongkong, with the advice of the Legislative Council thereof as follows:—

*Authority to Owners of Inventions to petition for Letters Patent.*

I. It shall be lawful for the inventor, or for the owner by Assignment or otherwise from any inventor, of any invention or of the exclusive right thereto within this Colony, to petition His Excellency the Governor for Letters Patent for any invention for which Letters Patent have already been granted in England; and such petition may be in the form set forth in Schedule A hereto. Every such petition shall be accompanied by a Specification of the said invention, identical as far as practicable with the Specification filed on the petition for Letters Patent for the said invention in England, and by a Declaration which may be in the form set forth in Schedule B, or in such

other form not being less specific as to the Governor shall appear proper.

*Petition, Specification and Declaration to be filed in Office of Colonial Secretary, and to be advertised.*

II. Such Petition, Specification and Declaration shall be filed in the Office of the Colonial Secretary, and notice thereof and of any intention to apply for such Letters Patent, and of the time of the sitting of the Executive Council before which the matter of the petition will come for decision, together with such other particulars as the Governor shall require, shall be inserted, twice in the Hongkong Government Gazette, and shall be otherwise advertised as the Governor shall direct.

*Governor in Council to grant Letters Patent.*

III. His Excellency the Governor, with the advice of the said Executive Council, shall, at the sitting to be so appointed for deciding on such petition for Letters Patent as aforesaid, or at any adjournment thereof, determine on such application for Letters Patent, and grant or refuse the prayer of the said petition as shall appear expedient, and for such time or times not exceeding the then duration of the Letters Patent for the said invention or for any less period, and subject to such conditions in all respects as to His Excellency the Governor, with the advice of the said Executive Council, shall seem fit. The said Letters Patent may be in such form as is prescribed by the Patent Law Amendment Act, 1852, of the Imperial Parliament, or as near thereto as circumstances will permit.

*Effect of such Grant.*

IV. Letters Patent to be granted under this Ordinance shall confer all the rights and privileges, and shall subject the Grantees thereof to all the provisions affecting Letters Patent in England, as fully as if the same had been granted with an extension thereof to this Colony by Her Majesty under the provisions of the Statutes now in force in England, or as near thereto as the circumstances of this Colony will admit of.

*When and how Letters Patent may be granted for an extended period.*

V. In case Her Majesty shall, by the advice of the Judicial Committee of Her Majesty's Privy Council, extend the privileges

of any Letters Patent in England for any invention for any period, it shall be lawful for His Excellency the Governor, with the advice of the Executive Council, to extend in like manner such Letters Patent, if already granted for this Colony, or otherwise to grant original Letters Patent for a like extended period for the same invention.

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### SCHEDULE A.

#### FORM OF PETITION.

The humble petition of A. B. [*or as the case may be, of C. D. as agent for A. B.*], &c.

That your Petitioner [*or as the case may be, that A. B., of whom your Petitioner is the agent, assignee, executor, or administrator*] has obtained Her Majesty's Letters Patent, dated the        day of        18        for [*state the title of the invention as granted*] and that such Letters Patent are to continue in force for        years from the        day of        18        .

That your Petitioner believes that the said invention is not now and has not hitherto been publicly used in this colony.

That the following is the description of the said invention [*here state the particulars shortly in accordance with the Specification on which the Letters Patent in England were granted*].

Your Petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Ordinance No. 14 of 1862.

And your Petitioner will ever pray, &c.

### SCHEDULE B.

I [*here insert name, condition, and place of residence*] do solemnly and sincerely declare that I am [*or if made by an agent, that A. B. of        is*] in possession absolutely [*or if made in respect of a locally confined interest, then within the colony of Hongkong or according to fact*] of an invention for [*state the nature of the invention in terms of the English patent*], and which invention I believe will in all probability be of great public utility within Hongkong; and that the same is not publicly used within the said colony; and that to the best of my knowledge and belief the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention, and in what manner the same is to be performed.

Dated the        day of        18        .

(Signed)



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## ITALY.

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[NOTE.—*The Italian Law and Regulations of the 31st January, 1864, extended the Sardinian Law of the 30th October, 1859, to the whole Kingdom of Italy. Certain sections were repealed and all matters concerning patents were placed under the direction of the Minister of Agriculture, Industry and Commerce. The following is the Law thus amended, transitory provisions being omitted.*]

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### PART I.

#### RIGHTS DERIVED FROM INVENTIONS OR INDUSTRIAL DISCOVERIES AND TITLES THERETO.

##### CHAPTER I.

##### *Rights of Inventors.*

###### Art. 1.

The author of a new invention or discovery in industry has the exclusive right of working the same for his own profit, during the time, within the limits, and under the conditions prescribed by the present decree.

This exclusive right constitutes a Patent Privilege.

###### Art. 2.

An invention or discovery is said to belong to industry whenever the immediate object is,—

1. A product or result relating to industrial pursuits ;
2. An instrument, machine, tool, engine, or any mechanical arrangement ;
3. A process or method of manufacture ;

4. A motor, or the application of any known power to industrial purposes ;
5. Finally, the technical application of a scientific principle, provided immediate results in industry are obtained thereby.

In the latter case the patent is limited solely to those results which are expressly pointed out by the inventor.

#### Art. 3.

An invention or discovery in industry shall be considered as new when not before known ; or even when a general notion of it existed, without the particulars necessary for putting it into practice.

#### Art. 4.

A new invention or discovery in industry already patented abroad, although it may have been published pursuant to the provisions of foreign legislation, confers on its author, or on his assigns, the right of obtaining a patent in the kingdom, provided such patent be applied for before the expiration of the term of the foreign patent, and before other parties have freely imported and worked the same invention or discovery in the kingdom.

#### Art. 5.

Any modification of a patented invention or discovery gives the right to a further patent, but without prejudice to the patent which already exists for the original invention.

#### Art. 6.

The following are not patentable :—

1. Inventions or discoveries relating to trades which are contrary to law, morals, or public safety ;
2. Inventions or discoveries not relating to the manufacture of material objects ;
3. Inventions or discoveries of a mere theoretical nature ;
4. All kinds of medicines.

### CHAPTER II.

*Patents, their Force and Duration, and the Fees to be paid.*

#### Art. 7.

The legal title to the exclusive use of an invention is contained in a certificate [patent] delivered by the government.

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The patent does not guarantee the utility or reality of the invention or discovery as claimed by the petitioner, nor does it prove the existence of those properties which, according to law, an invention or discovery must possess in order to render the patent valid.

Art. 8.

Patents granted for new articles comprise the exclusive right of manufacturing and selling such articles.

Patents obtained for the application to any branch of industry of a chemical agent, process, method, instrument, machine, tool, apparatus, or mechanical arrangement of any kind which has been invented or discovered, confer on their holders the right of preventing others from making a like application.

But whenever the patentee himself has supplied to others the preparations or mechanical means whose exclusive use forms the subject of his patent, it is to be presumed that he has at the same time given to them the permission to use them, provided there exists no agreement to the contrary.

Art. 9.

The patentee, and those interested through him, may obtain a Certificate of Addition for any modification made by them in the original discovery or invention. Such certificate extends the effect of the patent to the modification for the whole term of the patent.

Art. 10.

Patents take effect with respect to third parties from the date and in the order of application.

The duration of a patent can never exceed fifteen years, nor be less than one year, always reckoning from the last day of one of the months of March, June, September, or December, whichever next follows the day whereon the application is made, no account being taken of any fraction of a year.

Art. 11.

The duration of a patent for an invention or discovery already patented abroad shall not exceed that of the foreign patent having the longest term, nor in any case shall the duration exceed fifteen years.



## Art. 12.

Patents granted for less than fifteen years may be prolonged for one or more years; the duration, however, of the prolongation added to the duration of the original patent shall in no case exceed fifteen years.

## Art. 13.

The prolongation of a patent includes the Certificates of Addition.

## Art. 14.

Patents granted in respect of applications made after the publication of the present decree shall take effect in the whole territory of the kingdom, and be subject to a proportional tax, payable at the time of the application, and to an annual tax.

The proportional tax shall consist of as many times ten lire as there are years in the duration of the patent applied for.

The annual tax shall be 40 lire for the first three years, 65 lire for the following three years, 90 lire for the seventh, eighth, and ninth years, 115 lire for the tenth, eleventh, and twelfth years, and 140 lire for the remaining three years.

## Art. 15.

The first annuity and the proportional tax are to be paid at the time of the application for a patent.

The other annuities are to be paid in advance on the first day of each year of the duration of the patent, and shall likewise be subject to the triennial increase in the case of a prolongation of the patent.

## Art. 16.

The delivery of a Certificate of Addition shall be subject only to the payment in advance of twenty lire.

## Art. 17.

Certificates of Prolongation shall be subject to the payment of 40 lire, besides the proportional tax and annuities. The annuity corresponding to the first year of the prolongation shall be paid at the time of application, and the subsequent annuities shall be paid in advance, conformably to Article 15.

## Art. 18.

In cases of patents of importation, whose term ends with that of the foreign patent, every fraction of a year is to be considered as an entire year with respect to the payment of the tax.

## PART II.

## CONDITIONS AND FORMALITIES ATTENDANT ON APPLICATIONS FOR PATENTS.

## CHAPTER I.

*The Application and its Conditions.*

## Art. 19.

All matters concerning patents are placed under the direction of the Minister of Agriculture, Industry and Commerce.

## Art. 20.

All applications for patents must be made to the Minister of Agriculture, Industry and Commerce, through the local Prefecture or Subprefecture.

The application must be made by the inventor or his attorney, and must contain,—

1. The name and christian name, as well as the birth-place and residence of the applicant, and of his attorney, if there be one;
2. A statement of the discovery or invention in the form of a title which expresses shortly, but with precision, its characteristics and scope.
3. A statement of the duration which the applicant desires to be assigned to his patent within the limits fixed by law.

An application must be limited to one patent, and to one invention or discovery.

## Art. 21.

Every application must be accompanied by,—

1. The description of the invention or discovery ;
2. The drawings, if any can be made, as well as the models, which the inventor may deem useful for the comprehension of his invention or discovery ;
3. The receipt for the payment into the public treasury of the fees due for the required patent ;
4. In cases of patents of importation, the original foreign patent, or a legalized copy of the same ;
5. If there be an attorney, the power in public or private form ; provided that in the latter case the signature of the principal is certified by a public notary, or by the syndic of his place of residence ;
6. A memorandum of the documents and objects delivered.

## Art. 22.

The description mentioned in the foregoing article is to be written in the Italian or French language, and must contain a clear and complete account of the details necessary for enabling a competent person to put the invention or discovery into operation.

The application must be accompanied by three copies of the description and drawings, the applicant alone being responsible for the conformity of these copies.

Whenever the description is accompanied by a model, the applicant is not exempt from annexing to the application a drawing, or drawings, in duplicate of the entire model, or at least of those parts which constitute the invention.

## Art. 23.

During the first six months of the duration of a patent, reckoning from the last day of the March, June, September, or December next after the date of application, proprietors of patents may require the same to be reduced to part of the invention forming the subject of the description annexed to the original application, distinctly pointing out those parts they intend to disclaim.

The parts disclaimed shall be considered as having never been comprehended in the patent.



## Art. 24.

Applications for Disclaimers must be accompanied by—

1. The receipt for the payment of 40 lire ;
2. The description in triplicate to be substituted for that previously filed ;
3. The drawings in triplicate which it may be necessary to substitute for those previously filed.

## Art. 25.

The Certificates delivered on such applications shall be called Certificates of Reduction [Disclaimers], and their duration shall be that of the original patent.

## Art. 26.

During the six months mentioned in Art. 23 a patent for a modification shall only be granted to the author of the patented invention or discovery, or to those interested through him. The applications of other persons for such certificates and the accompanying documents are to be delivered under sealed covers, and deposited as hereinafter stated.

At the expiration of the six months the seal shall be broken, and the patent shall be delivered, unless the interested party notifies his intention to withdraw the application, in which case the fees paid shall be returned to him.

The patent thus granted shall take effect relatively to patents of addition, from the day after the expiration of the six months ; but with respect to persons not interested in the original patent and applications founded thereon they shall take effect from the date of application.

## Art. 27.

An application for a Certificate of Addition shall not mention any term for its duration.

In other respects the provisions of the 20th and following Articles shall be observed.

## Art. 28.

Applications for Prolongations must be accompanied by—

1. The deed proving the ownership of the patent sought to be prolonged ;

2. The receipt for the payment of the fees mentioned in Art. 17;
3. The power of attorney and memorandum mentioned in paragraphs 5 and 6 of Art. 21.

## CHAPTER II.

### *Delivery of the Applications and accompanying Documents.*

#### Art. 29.

Applications of all sorts, with the documents and objects which may or ought to accompany the same, must be delivered, in Turin, at the office appointed by the Minister, elsewhere at the Prefecture.

[NOTE.—By the Royal decree of the 23rd of October, 1884, this office was transferred to Rome.]

#### Art. 30.

The public officer appointed to receive the application shall draw up a report, stating the day and hour of the delivery, and the object of the application.

The official report must show the real or elected domicile of the applicant or his attorney in the town where the delivery takes place, otherwise the municipality shall be legally considered as the elected domicile.

#### Art. 31.

With regard to the applications mentioned in Art. 26, the official report must contain the statement of the applicant, that he wishes to obtain in due time a patent for a modification in an original invention or discovery, as described in the specification under sealed cover, the title of which original invention shall be mentioned in the official report.

#### Art. 32.

Each such official report shall be recorded in a special register and be signed by the applicant or his attorney.

A copy of such official report shall be delivered to the applicant without charge, except for the stamp on the paper on which it is written.

#### Art. 33.

Within the five days following, the documents and objects left at the Provincial Offices shall be transmitted to the Ministry of Agriculture, Industry and Commerce, at the same time there shall be sent an unstamped copy of the official report.

## Art. 34.

All official reports from the provinces shall be copied into the registers of the Ministry.

## Art. 35.

If the legal formalities have been fulfilled, the applications shall be registered with the date of presentation, and the patents shall be granted.

## Art. 36.

Each patent shall be recorded in the register and signed by the chief of the office.

A copy, signed as aforesaid, shall be delivered to the interested party, together with one of the originals of the drawings, description and memorandum, initialled on each sheet by the said officer. This first copy of the patent shall be delivered free of cost; all other copies shall bear the consecutive number of the delivery, and for each 15 lire shall be paid.

## Art. 37.

With regard to inventions and discoveries relating to all kinds of beverages or eatables, the said office shall transmit the description and other related documents to the Superior Board of Health, to obtain its advice before delivering a patent.

## Art. 38.

If the Board of Health advise that the invention or discovery is injurious to health, or if there be the least doubt about it, the application for a patent shall be rejected.

If the advice be favourable, the following clause shall be inserted in the patent: "The Superior Board of Health having been consulted."

Such patents do not exempt their holders who put in practice the invention from fulfilling all other provisions of the sanitary laws.

## Art. 39.

Patents shall be refused :—

1. If the invention or discovery belong to one of the four classes mentioned in Art. 6;



2. If there is no written application, or if, in the application, the title of the invention or discovery is wanting;
3. If there be no description;
4. If a single patent is demanded for different inventions or discoveries, or if several patents of the same nature or of different kinds are demanded in the same application;
5. If the fees paid do not correspond with the kind of patent applied for.

Art. 40.

The grant of the patent shall be suspended in default of the fulfilment of any of the other conditions prescribed by the present decree, or when the description does not present the required features.

Art. 41.

The refusal or suspension, and the reasons which have determined the same, shall be communicated to the applicant or his attorney, through one of the Government officers, and by a notice left at his elected or real domicile, mentioned in the official report of the deposit.

Art. 42.

Within fifteen days after such notice, the applicant, or his attorney, may supply the deficiencies or appeal against the refusal or suspension.

The documents intended to supply such deficiencies, or the notices of appeal, shall be left at the Provincial, or Chief Office. An official report of the same shall be drawn up, and a stamped copy thereof be delivered to the interested party without any other charge than the stamp duty.

If within this term of fifteen days no documents have been deposited, and no appeal been lodged, the application shall be considered as not having taken place, the inventor preserving the right to renew his application.

Art. 43.

The Minister shall submit these appeals to a Commission composed of fifteen members, three of whom shall be magistrates for life, or members of the Faculty of Law at the

Royal University of Turin, and the remaining twelve chosen from :—

1. The members of the Section of Physical and Mathematical Sciences at the Royal Academy of Sciences ;
2. The professors and doctors of the Faculty of said Sciences at the Royal University ;
3. The professors at the Polytechnic schools.

The members of the said Commission shall be nominated every year by the minister.

The Commission shall be divided into three sections (mechanics, physics, and chemistry), each of which sections shall be composed of one legal member and four technical members.

Each appeal shall be heard by that section which corresponds with the nature of the patent applied for.

If the verdict of the section is not obtained unanimously, it shall be revised by the whole Commission.

If it relates to an invention deemed contrary to law, morals, or public safety, the Public Prosecutor shall be consulted, and his opinion shall be submitted to the Commission which hears the appeal.

#### Art. 44.

Appeals shall be considered as null and void unless they be accompanied by the deposit of 50 lire.

#### Art. 45.

If the verdict mentioned in Art. 43 is in favour of the applicant, the appointed officer shall deliver the patent and return the deposit mentioned in the foregoing Article.

In the contrary case the patent shall be positively refused, and the deposit shall be paid into the treasury.

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### PART III.

#### ASSIGNMENTS OF PATENTS.

#### Art. 46.

Assignments of patents must be registered at the Ministry, and published in the Official Gazette of the kingdom at the expense of the applicant.

Assignments take effect with respect to third parties only from the date of registration.

## Art. 47.

To effect this registration, the person in whose favour the assignment has been made must produce the deed and two memoranda on stamped paper, containing—

1. The name, christian name, and domicile of both the assignor and the assignee ;
2. The date and nature of the deed presented, and the name of the notary who received it, in case of its being a public act ;
3. The date of registry, if any ;
4. An exact statement of the rights assigned ;
5. The date of delivery of these notes, which shall be that of the registration.

## Art. 48.

Such deliveries may be made either at a Provincial Office or at the Chief Office.

In either case the deed shall be returned to its owner after having been visé for registration and signed by the secretary or head of the office.

At the Provincial Office, where delivery takes place, there shall be transcribed in a special register the contents of the memoranda mentioned in the preceding Article, and one memorandum shall be returned and the other shall be transmitted immediately to the Chief Office.

At the latter office all these memoranda, whether received directly or transmitted from the provinces, shall be recorded and kept.

## Art. 49.

The total assignment of patent rights to a single person obliges the latter to pay the fees ; if the assignment is made to several persons collectively, they are conjointly bound to make that payment. In case of a partial assignment to several distinct persons, or a partial alienation of the rights, the deed relating thereto cannot be registered unless it be accompanied by a receipt, proving the payment of the annuities due for the whole duration of the patent.

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## PART IV.

PRESERVATION AND PUBLICATION OF DOCUMENTS RELATING TO  
PATENTS.

## Art. 50.

The registers for recording patents, their progressive stages, annulments, disclaimers, forfeitures, and expirations; and the registers in which are inscribed assignments of patent rights, are public registers.

## Art. 51.

Whoever requires extracts therefrom must make an application on stamped paper; and the extracts shall be written on stamped paper at the expense of the applicant.

## Art. 52.

A copy of the specification and drawings shall be deposited at the Chief Office, but no person shall be allowed to inspect the same before the expiration of three months from the delivery of the patent.

Any person may, after the lapse of three months, inspect the description, drawings, and models, and make, at his own expense, one or several copies, in the manner and under the conditions determined by regulations.

## Art. 53.

Every three months a list of the patents delivered during the preceding quarter shall be published in the Official Gazette.

## Art. 54.

Every six months the specifications and drawings relating to inventions and discoveries patented during the preceding half-year shall be published in full.

The Head of the Office may, nevertheless, order that certain specifications shall be published only in the form of extracts, examined and deemed sufficient by him for the comprehension of the invention to which they relate. The drawings likewise may be reduced to their essential parts.

## Art. 55.

A copy of the subject-matter, indexes, descriptions and drawings published, shall be transmitted to each provincial office and chamber of commerce for public inspection.

## PART V.

## NULLITY AND ANNULMENT OF PATENTS.

## CHAPTER I.

*Causes of Nullity and Annulment.*

## Art. 56.

The preliminary examination and adjudication does not guarantee validity.

## Art. 57.

Patents are null and void,—

1. If they refer to inventions or discoveries mentioned in Art. 6.
2. If they relate to one of the inventions or discoveries mentioned in Art. 37, and the patent has by mistake been delivered against the advice of the Sanitary Authority. If granted in error without consulting the aforesaid Authority, the patent will become void when the advice on being taken is adverse.
3. If by the fraud of the applicant the title of the invention or discovery indicates other than its real object.
4. If the description annexed to the application is insufficient, or conceals some of the means necessary for working the patent invention or discovery.
5. If the invention or discovery is not new, or does not relate to industrial pursuits.
6. If a patent is granted to a third party for a modification in an invention within the six months allowed to the original inventor, and persons interested through him.

7. A Certificate of Addition is also null and void whenever the modification is not connected with the original invention.
8. A Prolongation is likewise null and void whenever it has been applied for after the expiration of the patent, or after its absolute annulment has been pronounced.

## Art. 58.

A patent ceases to be valid,—

1. If in a single instance the annual tax is not paid within the term of three months from the date of expiration.
2. If in the case of a patent granted for five years or less the invention or discovery has not been worked within the first year of the grant, or has ceased to be worked during a whole year.
3. If in the case of a patent granted for more than five years it has not been worked before the expiration of the second year, or if the working has been discontinued for two years.

In either case the patentee shall not forfeit his rights if his inaction arose from causes beyond his control. The want of pecuniary means is not included in these causes.

## CHAPTER II.

*Actions for Nullity and Annulment.*

## Art. 59.

The action to obtain a declaration of nullity or to annul a patent is brought before the provincial tribunal.

The cause is to be proceeded with and decided by summary process.

The documents are to be communicated to the public prosecutor.

## Art. 60.

If at the instance of interested parties the partial nullity or annulment of a patent has been twice pronounced, the public prosecutor of the place, or one of the places where the invention or discovery is worked, may demand, *ex officio*, the absolute and peremptory annulment of the patent.

The same power belongs to him without any civil action



having been brought in all cases coming under the provisions of paragraphs 1, 2, 3, and 8 of Articles 57 and 58.

In the two annulments mentioned in the first paragraph of the present Article there shall not be reckoned any that apply to those parts of the invention or discovery which have been cut out by Disclaimer within the term of six months accorded by the present law.

Art. 61.

In each of the two cases mentioned all persons are to be summoned who have a legal interest in the patent, and who are entered in the register of the chief office.

Art. 62.

Except the case mentioned in paragraph 8 of Article 57, the Court, before pronouncing the annulment, must, on the demand of one of the parties, take the advice of three experts; and, in case of appeal, the revision of such an opinion must be ordered whenever one of the parties demands it.

In all cases, however, the tribunal or court of appeal may order *ex officio* an examination, or the revision of an examination.

Art. 63.

The public prosecutor is to transmit to the Minister of Agriculture, Industry, and Commerce, through the Minister of Justice, an extract on unstamped paper of judgments declaring nullity or pronouncing absolute annulment. The operative part of these judgments shall be entered in a special register, and be published in the Official Gazette.

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PART VI.

*Infringement of Patent Rights and Actions relating thereto.*

Art. 64.

Whoever fraudulently and in contravention to a patent right, manufactures products, uses a machine or any other industrial means, trades in, sells, exposes for sale, or imports into the kingdom infringing articles, commits an offence, which offence shall be punished with a fine not exceeding 500 lire.

## Art. 65.

Besides in cases where a civil action is carried on conjointly with a penal action, or where it is carried on separately, all machines and other industrial objects used contrary to the patent right, all infringing objects, and the instruments for producing them, shall be seized, to the loss of the infringing party, and given over to the patentee.

The same shall take place with respect to dealers, traders, sellers, or importers of infringing articles.

## Art. 66.

The injured party shall, besides, be entitled to claim damages.

If the owner of the objects mentioned in the preceding article acted with honesty of purpose, he shall only be subject to the loss of these objects to the profit of the injured party.

## Art. 67.

Civil actions shall be carried on in the form prescribed for summary process.

Correctional actions against the offenders mentioned in Article 64 can only be carried on at the complaint of the injured party.

## Art. 68.

The President of the Provincial Tribunal may, on the demand of the patentee, order the seizure or inventory of the objects supposed to be infringements, or used contrary to the patent right, provided they be not destined for mere personal use.

By the same order the President shall delegate an officer to execute it, and, if required, can nominate one or more experts to assist the officers in drawing up the inventory.

He, moreover, shall cause the plaintiff to give security before proceeding to seizure.

## Art. 69.

The plaintiff may, if authorised by the president of the tribunal, be present at the seizure or at the drawing up of the inventory. In all cases he may convert the seizure into the taking of an inventory, on condition that he expresses his wish

to that effect, either in the official report of the seizure, or in a separate document, notified through a public officer both to the adverse party, and to the executive officer.

Art. 70.

A copy of the order of the President, of the deed proving the deposit of the security, and of the official report of the seizure or inventory, shall be left with the holder of the objects seized or inventoried.

Art. 71.

In default of the plaintiff [pursuing his action within a week, the seizure or inventory shall be null and void, and the party against whom the proceeding was brought shall be entitled to damages.



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**J A M A I C A.**

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1857. *Cap. XXX.*

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AN ACT for amending the Law for granting Patents for  
Inventions.

*Preamble.*

Whereas it is expedient to amend the Law concerning Letters Patent for inventions: Be it enacted by the Governor, Legislative Council, and Assembly of this Island, and by the authority of the same, as follows:

I.—AS TO THE MANNER OF APPLYING FOR AND OBTAINING LETTERS  
PATENT.

*Patents for Invention may be granted by the Governor on Petition.—*  
*Proviso.*

First.—From and after the publication of this Act, whenever any person whosoever shall, by himself, or if he be an absentee, by his attorney, apply to the Governor, by way of petition, to be lodged at the office of the Executive Committee, and alleging that he hath invented or discovered some new and useful art, machine, manufacture, or composition of matter, not theretofore known or used within this Island, or some improvement in any such invention or discovery, and praying to obtain an exclusive property in such new invention and discovery or improvement, and that Letters Patent be granted for the same, it shall be lawful for the Governor, in the name, or, and on behalf of, Her

Majesty, her heirs and successors, by and with the advice and consent of the Executive Committee, to direct Letters Patent, under the broad seal of this Island, to be issued, which Letters Patent shall recite the allegations and suggestions of the said petition, so to be referred as aforesaid, and shall therein give a short description of the said invention or discovery or improvement, and thereupon shall grant to such person so applying for the same, his executors, administrators, or assigns, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing, and using, and vending to others to be used, the said new invention or discovery or improvement; and such Letters Patent shall be signed by the Governor, and shall be good and available to the grantee therein named by force of this Act; provided that it shall be lawful for the Governor in Executive Committee, if they should deem it expedient, to insert in any such Letters Patent a provision extending the operation thereof for a further term of seven years.

*Petition to be first referred to the Attorney-General, who shall grant his fiat, or certify his refusal.*

Second.—Before any Letters Patent shall be signed and issued, the petition, specification, and declaration delivered therewith shall be referred to Her Majesty's Attorney-General of this Island, who shall examine the same, and shall be at liberty to call to his aid such scientific or other person as he may think fit, and to cause to be paid to such person, by the applicant, such remuneration as the Attorney-General shall appoint, not exceeding five pounds; and if the Attorney-General shall be satisfied that the application is such as may properly be granted under the provisions of this Act, and that the specification describes the nature of the invention, discovery, or improvement, he shall allow the same, and give a certificate of his allowance, and return the same petition, specification, and declaration, together with his certificate, into the office of the Executive Committee; and if the Attorney-General shall not allow such application, he shall certify to the Governor his reasons for not so doing.

*Petitioner to make Declaration that he is the true Inventor, &c.*

Third.—Before any person shall obtain or receive any Letters Patent under this Act, such person, or if he be an absentee, his attorney, shall make solemn declaration, in writing, before a

Justice of the Peace in this Island, that he doth verily believe that he is the true inventor or discoverer of the art, machine, composition of matter, or improvement for which he solicits Letters Patent, and that such invention or discovery, or improvement hath not, to the best of his knowledge or belief, been known or used in this Island, which declaration shall be delivered, together with the petition for such Letters Patent.

*And deliver Specification of Invention, &c.—Proviso.*

Fourth.—Before any person shall receive or obtain any Letters Patent as aforesaid, such person, or his attorney, shall also deliver, together with such petition and declaration as aforesaid, a written description or specification of his invention, and of the manner of using, or process, or compounding the same, in such full, clear, and exact terms as to distinguish the same from all other things before known or used in this Island, and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected, to make, compound, and use the same, and in case of any machine shall deliver a model thereof, and shall explain the principle and the several modes in which such person hath contemplated the application of that principle, or character, by which it may be distinguished from other inventions, and shall accompany the whole with drawings and written references where the nature of the case admits of drawings, or with specimens of the ingredient, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter, which description or specification shall be signed by such person, or his attorney, as aforesaid, so applying for such Letters Patent, and attested by two witnesses: Provided that, where from the complicated nature of any machinery the cost of a model thereof may be so great as to prevent any ingenious but poor persons from obtaining patents for their useful inventions, it shall and may be lawful for the Governor, by and with the advice and consent of the Executive Committee, if they shall see fit and proper under all the circumstances so to do, to dispense with the delivery of such model previous to the granting any such patent; and in such case, the requisitions of this Act being in all other respects complied with, the person applying for any patent shall be entitled thereto in the same manner as if such model had been so lodged as aforesaid.



*Five Pounds to be deposited by Petitioner.*

Fifth.—That together with the said petition, the applicant for such Letters Patent shall pay and deposit a sum of five pounds, to be paid by way of fee to the Attorney-General, on such reference of such petition as aforesaid.

*Notice to be given of Application in Gazette.*

Sixth.—No Letters Patent shall be granted under or by virtue of this Act until notice shall be published in the Jamaica Gazette by authority, and one other of the newspapers of this Colony, for at least four weeks, of the intention of the applicant to apply for such Letters Patent; and such notice shall contain, in general terms, the description of invention or improvement for which such Letters Patent shall be desired.

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II.—LIMITATION OF TIME FOR BRINGING LETTERS PATENT INTO OPERATION.

*Patent must be brought into operation within Two Years.*

Seventh.—If any Letters Patent, which may be taken out under or by virtue of this Act, shall not have been brought into operation within two years next ensuing from and after the date thereof, such Letters Patent shall, at the expiration of the said period of two years, be deemed to be forfeited, and shall thence be and become void and of no effect.

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III.—AS TO THE SEALING, DATE, TIME OF ISSUE, AND RENEWAL OF LETTERS PATENT.

*Patents to be sealed and dated as of the Day of Application.*

Eighth.—It shall be lawful to cause any Letters Patent to be issued, under this Act, to be sealed, and bear date, as of the day of the application for the same, or where the Attorney General, or the Governor in Executive Committee may think fit, any such Letters Patent as aforesaid may be sealed and bear date as of the day of the sealing thereof, or of any other day, between the day of such application and the day of such sealing.

*And be of Legal Force.*

Ninth.—Any Letters Patent issued under this Act, sealed and bearing date as of any day prior to the day of the actual sealing thereof, shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date.

*They must be applied for within Three Months after Filing of Petition.*

Tenth.—Provided that no Letters Patent, save in the case of Letters Patent destroyed or lost, shall issue, unless the same shall be applied for within three months after the date of the filing of the applicant's petition.

*And in case of Death of Applicant, within Three Months after his Death.*

Eleventh.—Provided that, where the applicant for Letters Patent dies during the pendency of his application, such Letters Patent may be granted to the executors or administrators of such applicant at any time within three months after his death, and the Letters Patent so granted shall be of the like force and effect as if they had been granted to such applicant during his life-time.

*Patents lost or mislaid may be renewed.*

Twelfth.—Provided that in case any Letters Patent to be issued under this Act shall be destroyed or lost, other Letters Patent, of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the Governor in Executive Committee may direct to be issued, under the authority of the grant in pursuance of which the original Letters Patent were issued.

*Patents obtained by Fraud not to invalidate that of true Inventor.*

Thirteenth.—In case of any Letters Patent for any invention being obtained in fraud of the true and first inventor, any Letters Patent granted to the true and first inventor of such invention shall not be invalidated by reason of such other Letters Patent as aforesaid, or of any use or publication of the invention, subsequent to the granting of such other Letters Patent as last mentioned.

IV.—MUTUAL RIGHTS IN INVENTION, AND IN ANY IMPROVEMENT THEREIN.

*Patents granted for Improvements ; how mutual Rights to be regulated.*

Fourteenth.—Where any Letters Patent shall be obtained by any person under this Act for any new and useful invention or discovery in any art, machine, or composition of matter, and thereafter any other person shall discover or make any improvement in the principle or process of any such art, machine or composition of matter for which such patent hath been granted, and shall make application for and obtain Letters Patent under this Act for the exclusive right of such improvement, it shall not be lawful for the person who shall obtain and procure Letters Patent for any such improvement to make, use, or vend the original invention or discovery, nor for the person who shall have procured Letters Patent for the original invention or discovery to make, use, or vend any such improvement; provided that simply changing the form or the proportions of any machine or composition of matter, in any degree, shall not be deemed a discovery or improvement within the meaning of this Act.

V.—RIGHT OF PATENTEE ELSEWHERE TO PROCEED UNDER THIS ACT FOR LETTERS PATENT.

*Applicant may receive a Patent in this Island although he may possess a Patent elsewhere.—Proviso.*

Fifteenth.—No applicant shall be deprived of his right to a patent in this Colony, upon the like proceedings being had in all respects as in case of an original application for his invention, by reason of his having previously taken out Letters Patent therefor in any other country: Provided that such invention shall not have been introduced into public and common use in this Colony prior to the application for a patent therein, and that the patent granted in this Colony shall not continue in force after the expiration of the patent granted elsewhere, and that where more than one such patent or like privilege is obtained abroad, then, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges, the patents granted in this Colony shall cease to be in force: Provided further, that no



Letters Patent for or in respect of any invention for which any such Patent or like privilege as aforesaid shall have been obtained elsewhere, and which shall be granted in this Colony after the expiration of the term for which such patent or privilege was granted, or was in force, shall be of any validity.

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#### VI.—POWER OF ASSIGNMENT.

##### *Patentees may assign their Rights.*

Sixteenth.—Any patentee under Letters Patent issued under this Act, his executors, administrators, or assigns, may assign and transfer [the whole or] any part of his right, title and interest in the said invention and discovery in the Letters Patent to him granted, to any person whomsoever, and the assignee thereof, having recorded the said assignment in the office of the Island Secretary, shall thereafter stand in the place and stead of the original patentee, as well as to all or the part assigned of the right, privilege, and advantage, as also in respect of all or proportionate liability or responsibility as to the said Letters Patent, and the invention and discovery thereby secured; and in like manner shall the assignees of any such assignee stand, and be considered to be in the place and stead of the original patentee or inventor.

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#### VII.—RIGHT OF ASSIGNEE OF PATENTEE ELSEWHERE TO APPLY UNDER THIS ACT FOR LETTERS PATENT.

##### *Rights of Assignees.—Proviso.*

Seventeenth.—Letters Patent may, upon the like proceedings being had in all respects as in the case of an original application, be issued by the Governor in Executive Committee to the assignee of any person who may have taken out Letters Patent for his invention or discovery in any other country, but not for any invention or discovery made abroad for which no Letters Patent have been there obtained: Provided, that the invention or discovery so assigned shall not have been introduced into public and common use into this Colony prior to the application for a patent; and that the assignee of such foreign patent shall file with his application the assignment duly proved, under which he claims a patent in this Colony, and an affidavit setting

forth the date of the patent abroad, that the article thereby patented has not been in public and common use in this Colony, and that he is the assignee for a good consideration.

VIII.—AS TO CLAIM FOR LARGER INVENTION THAN ACTUALLY INVENTED, OR DEFECTIVE OR INSUFFICIENT SPECIFICATION.

*Patents to be valid in Law only for so much as shall be proved to be of new Invention.*

Eighteenth.—If in any suit or action it shall be proved, or specially found by the verdict of a jury, that by mistake, accident, or inadvertence, and without any wilful default or intent to defraud or mislead the public, a patentee under this Act shall in his specification have claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, but of which part he was not the original or first inventor, and shall have no just or legal right to claim the same, his patent in such case shall be deemed good and valid for so much of the invention or discovery or improvement as shall be actually his own, provided it is a material and substantial part of the thing patented, and be plainly distinguishable from other parts patented without right; and every such patentee, and his legal representatives or assignees, whether holding the whole or a particular interest in the patent, may maintain suits at law or in equity for any infringement of such part of the same as is actually the invention or discovery of such patentee, although his specification may embrace more than he has a legal right to claim; but if in such case the plaintiff shall obtain a verdict or judgment, he shall not be entitled to costs, unless before the commencement of the suit he shall have filed in the office of the Island Secretary a disclaimer, attested by one or more than one witness, of that part of the thing patented which was claimed without right: Provided, that no person bringing a suit shall be entitled to the benefits of this section, if he shall, in the opinion of the Court before which any such matter shall be tried, have unreasonably neglected or delayed to record his disclaimer.

*Patents void by defective Description, arising from Error, may be renewed.*

Nineteenth.—If any patent shall become inoperative or invalid by reason of a defective or insufficient description, or



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

IX.—AS TO MODE OF ENTERING DISCLAIMERS AND ALTERATIONS  
OR ADDING TO SPECIFICATIONS.

*Disclaimers of any Part of Patents may be recorded.—Proviso.*

Twentieth.—Every patentee under this Act, or his legal representative or assignee, whether holding the whole or any particular interest, may conjointly or separately, as the case may require, enter and record at the Island Secretary's Office, having first obtained the leave of Her Majesty's Attorney-General, certified by his fiat and signature, a disclaimer of any part of either the title of the invention or improvement, or of the specification, stating the reason for such disclaimer, or may, with such leave as aforesaid, enter and record at the said office a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said Letters Patent; and such disclaimer or memorandum of alteration being recorded by the said Island Secretary, shall be deemed and taken to be part of such Letters Patent or such specification in all Courts whatever; Provided, that any person may enter a caveat at the said office of the Island Secretary against such disclaimer or alteration, which caveat being so entered, and a copy thereof being left with the Attorney-General, shall give the party entering the same right to have notice of the application being



heard by the Attorney-General: Provided also, that no such disclaimer or alteration shall be receivable in evidence in any action or suit (save and except in any proceeding by scire facias) pending at the time when such disclaimer or alteration was entered; but in every such action or suit the original title and specification alone shall be given in evidence, and deemed and taken to be the title and specification of the invention for which the Letters Patent have been or shall have been granted: Provided also that it shall be lawful for the Attorney-General, before granting such fiat, to require the party applying for the same to advertise his disclaimer or alteration in such manner as to such Attorney-General shall seem right, and shall, if he so require such advertisement, certify in his fiat that the same has been duly made.

*How Costs on Alteration or Disclaimer to be paid.*

Twenty-first.—It shall be lawful for the Attorney-General, if he see fit, by certificate under his hand, to order by or to whom the costs of any hearing or inquiry for any such alteration or disclaimer shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid be not paid within four days after the amount thereof shall be so ascertained, it shall be lawful for the Attorney-General to make an order for the payment of the same, and every such order may be made a rule of the Supreme Court of this Island.

*Additions may be made to Specification.*

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

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X.--As TO FILING AND RECORDING PROCEEDINGS, OFFICE COPIES, DRAWINGS, &c.

*How Petitions to be presented and filed.—Proceedings thereon to be recorded.*

Twenty-third.—Every petition for the grant of Letters Patent under this Act, and the declaration and specification required to accompany such petition, and every certificate or warrant thereon, shall be left at the office of the Executive Committee, and the day of the delivery of every such petition, declaration, and specification, certificate, or warrant, and the date of every reference, shall be endorsed or written thereon respectively by the Secretary of the Executive Committee, and an acknowledgment of receipt therefor, either separately or together, as the same may be delivered, shall be given to the petitioner or person delivering the same respectively, or his agent; and all such petitions, declarations, and specifications, references, certificates, or warrants, when Letters Patent shall be granted, and all Letters Patent, disclaimer, and memoranda of alteration and assignments, shall be lodged, filed, and preserved in the office of the Secretary of this Island, and shall be there recorded in or in continuation of the Books of Records of Patents hitherto kept at such office, and a receipt therefor shall be given by the Island Secretary, and a registry of such petitions, declarations, specifications, references, certificates, warrants, Letters Patent, disclaimers, and memoranda of alteration, and of all proceedings thereon, shall be kept at such office; and for recording every such petition, declaration, specification, reference, certificate, or warrant, Letters Patent, disclaimer, and memorandum of alteration, and for every receipt granted therefor, as aforesaid, there shall be paid to the Island Secretary, by the person lodging the same, the like respective fee, or at the like rate, as is payable in the case of every deed recorded in the said office, and as is payable for every receipt granted by the Island Secretary for every deed there recorded.

*Office Copies may be obtained from Island Secretary.*

Twenty-fourth.—It shall and may be lawful for any person to obtain and receive from the office of the Island Secretary, any copy or copies certified by him, of any such Letters Patent, or of the petition, declaration, specification, reference, certifi-



cate, or warrant, wherever the same were granted or issued, or of any disclaimer, memorandum, document, or paper connected therewith, or any drawing relating to the same, on payment for such copy or copies of the like fees as are now payable at the office of the Island Secretary for copies of other documents, and every such certified copy shall be evidence in all Courts.

*Drawings connected with Specifications to be furnished and bound up.*

Twenty-fifth.—In case reference is made to drawings in any specification deposited or filed under this Act, an extra copy of such drawings shall be left with such specification, and the same shall be bound up in a suitable book, to be kept for such purpose, and plain, accurate, and sufficient notes of reference to the specification wherewith such drawing shall have been deposited shall be made on or annexed to such drawings, and bound up with the same, in such manner as that such reference may be easily seen and understood.

*Island Secretary to supply Indexes to the Records of Patents, &c.*

Twenty-sixth.—The Island Secretary shall cause indexes to all petitions, declarations, specifications, Letters Patent, disclaimers, and memoranda of alterations enrolled or recorded as aforesaid, to be prepared in the form of the indexes now used in the said office; and such indexes and the books of record of such documents respectively shall be open to the inspection of the public at the usual times, and on payment of the usual fees, in cases of searches or reference to other records at the said Island Secretary's office.

XI.—AS TO PLEADINGS AND COSTS IN ACTIONS.

*In Actions for Infringement of Patents, Particulars of Breaches to be delivered; and also Particulars of Objections on Scire Facias to repeal same.—Proviso.*

Twenty-seventh.—In any action for the infringement of Letters Patent, the plaintiff shall deliver with his declaration, concise particulars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his plea, and the prosecutor in any proceedings by scire facias to repeal Letters Patent, shall deliver with his declaration,



concise particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration in the proceedings by scire facias, and at the trial of such action or proceeding by scire facias, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such Letters Patent, which shall not be contained in the particulars delivered as aforesaid: Provided that the place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the Letters Patent shall be stated in such particulars: Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff, or defendant, or prosecutor respectively to amend the particulars delivered as aforesaid upon such terms as to such judge shall seem fit; Provided also, that at the trial of any proceeding by scire facias to repeal Letters Patent, the defendant shall be entitled to begin and to give evidence in support of such Letters Patent; and in case evidence shall be adduced on the part of the prosecutor, impeaching the validity of such Letters Patent, the Defendant shall be entitled to the reply.

*General Issue to be pleaded.—Proviso.*

Twenty-eighth.—In any action for the infringement of Letters Patent, the defendant shall not plead any other plea than the general issue, which shall put the plaintiff to such proof in support of his action, and let in such evidence for the defendant, as in any action under such plea the defendant may, or the plaintiff at present is required to adduce; nevertheless the defendant shall be at liberty, along with such plea, to give notice by endorsement thereon or annexed to such plea of any special defence which he might by the present practice offer under a special plea, and for which he would be required to plead specially: Provided, that the defendant shall at the trial be bound by such notice, and not be at liberty to go into evidence of any other defence which by the present rules of pleading he would be restricted from giving, except under some plea for that purpose specially pleaded; and if the plaintiff would under the present rules of pleading be entitled to set up one of two answers to such special defence, he shall be required to endorse upon his similitur to the defendant's plea the nature of such answer, and shall at the trial be precluded from entering into evidence in support of any other answer: Provided

further, that nothing herein contained shall be construed to prevent any party to an action or suit from filing a general or a special demurrer.

*The Court or a Judge in Chambers may grant Injunctions, &c.*

Twenty-ninth.—In any action in any of Her Majesty's Courts of Record in this Island for the infringement of Letters Patent, it shall be lawful for the Court in which such action is pending, if the Court be then sitting, or if the Court be not sitting, then for a Judge of such Court, on the application of the plaintiff or defendant respectively to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such Court or Judge may seem fit.

*As to Costs in Actions for Infringement of Patent Rights.*

Thirtieth.—In taxing the costs in any action, in any of Her Majesty's Courts of Record in this Island, commenced after the passing of this Act, for infringing Letters Patent, regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particulars, unless certified by the Judge before whom the trial was had, to have been proved by such plaintiff or defendant respectively without regard to the general costs of the cause; and it shall be lawful for the Judge before whom any such action shall be tried, to certify on the record that the validity of the Letters Patent in the declaration mentioned came in question, and the record with such certificate being given in evidence in any suit or action for infringing the said Letters Patent, or in any proceeding by scire facias to repeal the Letters Patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by scire facias, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, taxed as between attorney and client, unless the Judge, making such decree or order, or the Judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs.



XII.—PENALTY FOR USER OR FOR IMITATION OR COUNTERFEIT WITHOUT CONSENT.

*Treble Damages to be paid to Patentee for the unlawful Use of his patented Invention.*

Thirty-first.—Whenever in any case any Letters Patent shall be, or shall or may have been granted to any person under and by virtue of this Act, and any person without the consent of the patentee, his executors, administrators, or assigns, first had and obtained in writing, shall make, devise, use, or sell the thing, invention, or discovery whereof the exclusive right is secured to the said patentee by such Letters Patent, such persons so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns, a sum equal to three times the actual damage sustained by such patentee, his executors, administrators, or assigns, from or by reason of such offence, which sum shall and may be recoverable, together with costs of suit, by action on the case founded on this Act in the Supreme Court of this Island.

*Using the Name of a Patentee for the Sale of an unpatented Invention, declared subject to a Penalty.*

Thirty-second.—If any person shall write, paint, or print, or mould, cast, or carve, or engrave or stamp upon any thing made, used, or sold by him, for the sole making or selling of which he hath not or shall not have obtained Letters Patent, the name, or any imitation of the name, of any other person who hath or shall have obtained Letters Patent for the sole making and vending of such thing, without leave in writing of such patentee, or his assigns; or if any person shall, upon such thing not having been purchased from the patentee, or some person who purchased it from or under such patentee, or not having had the licence or consent in writing of such patentee, or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the words "Patent," the words "Letters Patent," or the words "By the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee or shall in any other manner imitate or counterfeit the stamp, or mark, or other device of the patentee, he shall for every such offence be liable to a penalty of fifty pounds, to be recovered by



action of debt, bill, plaint, process or information in Her Majesty's Supreme Court of this Island, one half to Her Majesty, her heirs and successors, and the other to any person who shall sue for the same; provided that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping, or in any way marking, the words "Patent" upon any thing made for the sole making or vending of which a patent before obtained shall have expired.

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### XIII.—AS TO FORMS AND STAMPS.

*The Forms of this Act may be varied.*

Thirty-third.—The several forms in the Schedule to this Act may be used for and in respect of the several matters therein mentioned, and the same may be varied as occasion may require.

*Stamps stated in Schedule to be impressed.*

Thirty-fourth.—The respective stamp duties set forth in the Schedule hereunto annexed shall be charged on Letters Patent, and the other instruments therein stated under this Act respectively, and no other stamp duties shall be chargeable thereon respectively.

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### XIV.—AS TO THE WRIT OF SCIRE FACIAS.

*Scire facias for the Repeal of Patents.*

Thirty-fifth.—Provided that the writ of scire facias shall lie for the repeal of any Letters Patent issued under this Act, in the like cases as the same would lie for the repeal of Letters Patent which may now be issued under the Great Seal in England.

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### XV.—CONSTRUCTION OF ACT.

*Doubts as to Construction to be construed by Analogy.*

Thirty-sixth.—If any doubt should arise in the construction of this Act, the same may be construed by analogy to the laws now or hereafter to be in force in England relating to the granting of Letters Patent for inventions, so far as the provisions of such laws shall be applicable.

## XVI.—COMMISSIONERS TO BE ASSOCIATED.

*The Governor to appoint Commissioners under this Act.*

Thirty-seventh.—It shall be lawful for the Governor from time to time, by warrant under his sign manual, which shall be free from stamp duty, to appoint such persons as he may think fit to be Commissioners under this Act; and every person so appointed shall continue such Commissioner during the Governor's pleasure, and may be summoned to attend any meeting, and take part in any proceedings of the Governor in Executive Committee in any matter or proceeding arising under this Act.

## XVII.—MISCELLANEOUS CLAUSES.

*Interpretation of Words.*

Thirty-eighth.—In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context; that is to say, “the expression, invention, discovery, and improvement” respectively, shall mean any manner of new manufacture or new mode of manufacture, the subject of Letters Patent and grant of privilege within the meaning of the Act of the twenty-first year of the reign of King James the First, chapter three [see *ante*, p. 240]; the expressions “petition,” “declaration,” “reference,” “certificate,” or “warrant,” and “Letters Patent” respectively, shall mean instruments in the form and to the effect in the Schedule hereto annexed, subject to such alterations as may from time to time be made therein, under the powers and provisions of this Act.

*Short Title of Act.*

Thirty-ninth.—In citing this Act in other Acts, instruments, and proceedings, it shall be sufficient to use the expressions “The Patent Law Amendment Act, 1857.”

*16th Vict. cap. 12, repealed.*

Fortieth.—A certain Act of the legislature of this Island, made and passed in the sixteenth year of the reign of Her present Majesty, for ascertaining and declaring the law with

regard to Patents, of exclusive privileges in trade, manufacture, and inventions in connection therewith, is hereby repealed.

*No Patents granted in Great Britain for exclusive Privilege to trade to be valid in this Island, unless granted in pursuance of this Act.*

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

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SCHEDULE OF STAMP DUTIES.

	£	s.	d.
Letters Patent . . . . .	5	0	0
Petition . . . . .	0	1	6
Declaration . . . . .	0	1	6
Specification . . . . .	0	5	0
Reference . . . . .	0	0	0
Certificate or Warrant of Attorney-General . . . . .	0	0	0
Disclaimer or Memorandum of Alteration . . . . .	0	1	6
Assignment . . . . .	0	10	0

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FORMS.

*Petition.*

To his Excellency, &c., &c. [*here insert name and title of Governor.*]

The humble petition of [*here insert name and address of petitioner*], for, &c.

Sheweth,

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

Your petitioner, therefore, humbly prays that your Excellency will be



pleased, in the name and on behalf of Her Majesty the Queen, to grant unto him, his executors, administrators, and assigns, Her Majesty's Letters Patent for this Island, for the term of fourteen years, pursuant to the statute in that case made and provided.

And your petitioner will ever pray, &c.

*Declaration.*

I , of , in the County of , do solemnly and sincerely declare that I am in possession of an invention for, &c., &c. [*the title as in petition*], which invention I believe will be of great public utility; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of my knowledge and belief; and that the instrument in writing, under my hand and seal, hereunto annexed, particularly describes and ascertains the nature of the said invention and the manner in which the same is to be performed; and I make this declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed.

A. B.

Declared at , this day of , A.D., before me,  
 , Justice of the Peace.

*Specification.*

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

Know ye, that I, the said , do hereby declare the nature of my invention for [*insert title as in petition*], and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement; (that is to say)—

[*Here describe the invention.*]

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

We attest:—

C. D., of , &c.

E. F., of , &c.

*Reference.*

(To be endorsed on the petition.)

His Excellency is pleased to refer this petition to Her Majesty's Attorney-General, to consider what may be properly done therein.

Secretary to the Executive Committee.

*Warrant.*

In obedience to his Excellency's command, referring to me the petition of , of , to consider what may be properly done therein, I do hereby certify as follows, that the said petition sets forth that the petitioner,

[*Allegations of the petition.*]

And the petitioner most humbly prays

## [Prayer of the petition.]

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

## [Allegations of the declaration.]

That there has also been laid before me a specification signed , and attested by two witnesses, and also a certificate of the filing thereof.

That it appears that the said application was duly advertised. Upon consideration of all the matters aforesaid, and as it is entirely at the hazard of the said petitioner whether the said invention is new, or will have the desired success, and as it may be reasonable for his Excellency to encourage all arts and inventions which may be for the public good, I am of opinion that his Excellency may grant Letters Patent unto the petitioner, his executors, administrators, and assigns, for his said invention within this Island, for the term of fourteen years, according to the statute in that case made and provided, if his Excellency shall be graciously pleased so to do, to the tenor and effect following:—

(See Forms, Letters Patent.)

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

Attorney-General, Jamaica.

*Letters Patent.*

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

Whereas            hath, by his petition, humbly represented unto Our Captain-General and Governor-in-Chief of Our Island of Jamaica that he is in possession of an invention for [*insert title of invention*], which the petitioner conceives will be of great public utility; that he is the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of his knowledge and belief. The petitioner, therefore, most humbly prayed that We would be graciously pleased to grant unto him, his executors, administrators, and assigns, Our Royal Letters Patent for the sole use, benefit, and advantage of his said invention within Our said Island of Jamaica for the term of fourteen years, pursuant to the statute in that case made and provided:

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

And We, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the request:

Know ye, therefore, that We, of Our special grace, certain knowledge, and mere motion, have given and granted, and by these presents, for Us, Our heirs and successors, do give and grant unto the said            , his executors, administrators, and assigns, Our especial licence, full power, sole



privilege, and authority that he, the said \_\_\_\_\_, his executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as he, the said \_\_\_\_\_, his executors, administrators, and assigns, shall at any time agree with, and no others, from time to time and at all times hereafter during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within Our said Island of Jamaica, in such manner as to him, the said \_\_\_\_\_, his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet, and that he, the said \_\_\_\_\_, his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, and enjoy from time to time coming, growing, accruing, and arising by reason of the said invention, for and during the term of years herein mentioned, to have, hold, exercise, and enjoy the said licences, powers, privileges, and advantages herein-before granted or mentioned to be granted unto the said \_\_\_\_\_, his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years from the \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_ next and immediately ensuing, and according to the statute in such case made and provided, and to the end that he, the said \_\_\_\_\_, his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit, and the sole use and exercise of the said invention, according to our gracious intention herein-before declared, We do by these presents, for Us, Our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other Our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within Our said Island of Jamaica, that neither they nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said \_\_\_\_\_, as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the consent, licence, or agreement of the said \_\_\_\_\_, his executors, administrators, or assigns, in writing under his or their hands and seals, first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this Our royal command; and further, to be answerable to the said \_\_\_\_\_, his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned; and moreover, we do by these presents, for Us, Our heirs and successors, will and command all and singular the justices of the peace, constables, and all other officers and ministers whatsoever, Our heirs and successors for the time being, that they, or any of them, do not nor shall at any time during the said term hereby granted, in anywise molest, trouble, or hinder the said \_\_\_\_\_, his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful



use or exercise of the aforesaid invention, or anything relating thereto: Provided always, and these Our Letters Patent are, and shall be upon this condition, that if, at any time during the said term hereby granted, it shall be made appear to Us, Our heirs or successors, or any six or more of Our, or their, Privy Council of Our said Island of Jamaica, that this Our grant is contrary to law or prejudicial or inconvenient to Our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said            is not the true and first inventor thereof within this Island as aforesaid, these Our Letters Patent shall forthwith cease, determine, and be utterly void, to all intents and purposes, anything herein-before contained to the contrary thereof in anywise notwithstanding: Provided also, that these Our Letters Patent, or anything herein contained, shall not extend, or be construed to extend, to give privilege unto the said           , his executors, administrators, and assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of Our subjects whatsoever, and publicly used or exercised, unto whom Our like Letters Patent or privileges have been already granted for the sole use, exercise, and benefit thereof; it being Our will and pleasure that the said           , his executors, administrators, and assigns, and all and every other person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and practise their several inventions by them invented and found out, according to the true intent and meaning of the same respective Letters Patent, and of these presents: Provided likewise, nevertheless, and these Our Letters Patent are upon this express condition, that if the said instrument in writing, filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also, if the said           , his executors, administrators, or assigns, shall not supply, or cause to be supplied, for Our service, all such articles of the said invention as he or they shall be required to supply by the Officers or Commissioners administering the department of Our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said Officers or Commissioners requiring the same, that then, and in any of the said cases, these Our Letters Patent, and all liberties and advantages hereby granted, shall utterly cease, determine, and become void, anything herein-before contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted; and lastly, We do, by these presents, for Us, Our heirs and successors, grant unto the said           , his executors, administrators, and assigns, that these Our Letters Patent, on the filing thereof, shall be, in and by all things good, firm, valid, sufficient, and effectual in the law according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favourable and beneficial sense for the best advantage of the said           , his executors,

administrators, and assigns, as well as in all Our Courts of Record as elsewhere, and by all and singular the officers and ministers whatsoever of Us, Our heirs and successors, in Our said Island of Jamaica, and amongst all and every the subjects of Us, Our heirs and successors, within Our said Island of Jamaica, notwithstanding the not full and certain describing the nature and quality of the said invention, or of the materials thereunto conducing and belonging: Provided further, that if the said , his heirs, administrators, or assigns, shall, upon petition, presented to Our Captain-General and Governor-in-Chief, or officer administering the government of Our said Island, before the expiration of the term of years hereby granted, show that he or they has or hath been unable to obtain a due remuneration for his or their expense or labour in perfecting the aforesaid invention, and Our Captain-General and Governor-in-Chief, or officer administering the government as aforesaid, in Executive Committee, shall be of opinion that an extension of the term of years aforesaid should be granted, it shall be lawful for Our Captain-General and Governor-in-Chief, or officer administering the government as aforesaid, to extend the term of years aforesaid for any further period not exceeding seven years, and to sign and issue in the name and on the behalf of Us, Our heirs or successors, new Letters Patent, in the form or of the tenor or effect aforesaid, unto the said , his executors, administrators, or assigns, for the aforesaid invention, for any such further period not exceeding seven years as aforesaid accordingly; and to the end aforesaid, We have caused these Our Letters Patent to be sealed with the broad seal of Our said Island of Jamaica.

(Seal.) Witness, his Excellency, &c., &c., &c., Captain-General and Governor-in-Chief [*or administering the government*] of Our said Island of Jamaica, and the territories thereon depending, Chancellor and Vice-Admiral of the same, at Saint Jago de la Vega, this            day of            annoque domini            , and in the            year of Our reign.

**LEEWARD ISLANDS.**

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*Act No. 12 of 1876.***AN ACT for amending the law for granting Patents  
for inventions.**

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WHEREAS it is expedient to amend the law concerning Letters Patent for inventions,

Be it enacted by the Governor and General Legislative Council of the Leeward Islands, as follows :

1. *The first section has been repealed—See sections 1 & 5 of Act No. 16, 1878, post.*

*Seal of the Commissioners.*

2. It shall be lawful for the commissioners to cause a seal to be made for the purposes of this Act, and from time to time to vary such seal, and to cause to be sealed therewith all the warrants for Letters Patent under this Act, and all instruments and copies proceeding from the office of the commissioners, and all courts, judges, and other persons whomsoever, shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the Great Seal of the Colony are received in evidence, and shall also take notice of and receive in evidence, without further proof or production of the originals, all copies or extracts certified under the seal of the said office, of or from documents deposited in such office.

*Power to Commissioners to make rules and regulations to be approved by Governor in Council.*

3. It shall be lawful for the commissioners from time to time to make such rules and regulations (not inconsistent with the



provisions of this Act) respecting the business of their office, and all matters and things which under the provisions herein contained are to be under their control and direction, as may appear to them necessary and expedient for the purposes of this Act, and all such rules when approved by the Governor in Council shall have the force and effect of law.

*Office of the Commissioners.*

4. It shall be lawful for the Governor to provide and appoint from time to time a proper place for an office for the purposes of this Act.

*Commissioners with consent of Governor to appoint Clerk.*

5. It shall be lawful for the commissioners with the consent and approval of the Governor, from time to time to appoint a clerk for the purposes of this Act, and it shall be lawful for the commissioners from time to time, with the approval of the Governor, to remove such clerk so appointed.

*Petition and Declaration to be accompanied with a Provisional Specification.*

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

*Every application to be referred to Attorney-General.*

7. Every applicant for Letters Patent made under this Act shall be referred by the commissioners according to such regulations as they may think fit to make, to the Attorney-General.

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

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

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

9. The applicant for Letters Patent for an invention, instead of leaving with the petition and declaration a provisional specification as aforesaid, may, if he think fit, file with the said petition and declaration an instrument in writing under his hand and seal (hereinafter called a complete specification) particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, which complete specification shall be mentioned in such declaration, and the day of the delivery of every such petition, declaration, and complete specification shall be recorded at the office of the commissioners, and endorsed on such petition, declaration, and specification, and a certificate thereof given to such applicant or his agent, and thereupon subject and without prejudice to the provisions hereinafter contained, the invention shall be protected under this Act for the term of six months from the date of the application, and the applicant shall have



during such term of six months the like powers, rights, and privileges, as might have been conferred upon him by Letters Patent for such invention issued under this Act, and duly sealed as of the day of the date of such application; and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any Letters Patent to be granted for the same; and where Letters Patent are granted in respect of such invention, then in lieu of a condition for making void such Letters Patent in case such invention be not described and ascertained by a subsequent specification, such Letters Patent shall be conditioned to become void, if such complete specification, filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed; and a copy of every such complete specification shall be open to the inspection of the public as hereinafter provided, from the time of depositing the same, subject to such regulations as the commissioners may make.

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

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

*Commissioners to cause protection to be advertised.*

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



*Application for Letters Patent to be advertised, and also oppositions to same.*

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

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

13. So soon as the time for the delivery of such objections shall have expired, the provisional specification or complete specification (as the case may be), and particulars of objection (if any) shall be referred to the Attorney-General.

*Power to Attorney-General to order by, or to whom costs shall be paid.*

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

*Power of Attorney-General to cause a Warrant to be made for sealing of Letters Patent.*

15. It shall be lawful for the Attorney-General after such hearing, if any, as he may think fit, to cause a warrant to be made for the sealing of Letters Patent for the said invention, and such warrant shall be sealed with the seal of the commissioners, and shall set forth the tenor and effect of the Letters Patent thereby authorized to be granted, and the Attorney-General shall direct the insertion in such Letters Patent of all such restrictions, conditions, and provisoes as he may deem usual and expedient in such grants, or necessary in pursuance of the provisions of this Act; and the said warrant shall be the warrant for the making and sealing of Letters Patent under this Act according to the tenor of the said warrant.

*Nothing to affect the prerogative of the Crown in granting or withholding grant of Letters Patent.*

16. Provided always that nothing herein contained shall extend to abridge or affect the prerogative of the Crown in relation to the granting or withholding the grant of any Letters Patent, and it shall be lawful for the Governor by warrant under his hand, to direct the Attorney-General to withhold such warrant as aforesaid, or that any Letters Patent for the issuing whereof he may have issued a warrant as aforesaid shall not issue, or to direct the insertion in any Letters Patent to be issued in manner herein provided of any restrictions, conditions, or provisoes, which he may think fit, in addition to, or in substitution for, any restrictions, conditions, or provisoes which would otherwise be inserted therein under this Act, and it shall also be lawful for the Governor by like warrant to direct any complete specification, which may have been filed under the provision hereinbefore contained, and in respect of the invention described, in which no Letters Patent may have been granted, to be cancelled, and thereupon the protection obtained by the filing of such complete specification shall cease.

*Letters Patent to be for 14 years, and to be made subject to avoidance on non-fulfilment of certain conditions.*

17. All Letters Patent for inventions granted under the provisions hereinbefore contained shall be for fourteen years,



and shall be made subject to the condition, that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid before the expiration of the said three and seven years respectively the sum or sums of money in the schedule to this Act annexed; and the payment of the said sums of money shall be endorsed on the warrant for the said Letters Patent, and the Clerk of the Commissioners shall issue under the seal of the Commissioners a certificate of such payment, and shall endorse a receipt for the same on any Letters Patent issued under the authority of the said warrant; and such certificate duly stamped shall be evidence of the payment of the several sums respectively.

*Letters Patent to be sealed with the Great Seal of the Colony.*

18. The Commissioners, so soon after the sealing of the said warrant as required by the applicant for the Letters Patent, shall cause to be prepared Letters Patent for the invention according to the tenor of the said warrant, and it shall be lawful for the Governor to cause such Letters Patent to be sealed with the Great Seal of the Colony.

*No Letters Patent to be issued after Three Months from date of Warrant.*

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

*No Letters Patent (except in lieu of those lost, &c.) to be issued after expiration of protection given by this Act.*

20. Provided also that no Letters Patent (save Letters Patent issued in lieu of others, destroyed or lost) shall be issued or be of any force or effect, unless the same be granted during the continuance of the provisional protection under this Act, or where a complete specification has been deposited under this Act, then unless such Letters Patent be granted during the continuance of the protection conferred under this Act by reason of such deposit, save that where the application to seal such Letters Patent has been made during the continuance of such



provisional or other protection as aforesaid, and the sealing of such Letters Patent has been delayed by reason of a caveat, or an application to the Governor against or in relation to the sealing of such Letters Patent, then such Letters Patent may be sealed at such time as the Governor shall direct.

*Letters Patent may be granted to Personal Representatives of the Applicant during the term of protection or within Three Months of Applicant's decease.*

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

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

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

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

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

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

24. Any Letters Patent issued under this Act sealed and bearing date as of any day prior to the day of the actual sealing thereof

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

*Letters Patent for patented Foreign Inventions not to continue in force after the expiration of the Foreign Patent.*

25. Where, upon any application made after the passing of this Act, Letters Patent are granted in this colony for or in respect of any invention first invented in any foreign country, or by the subject of any foreign Power or State, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any foreign country is there obtained before the grant of such Letters Patent in this colony, all rights and privileges under such Letters Patent shall (notwithstanding any term in such Letters Patent limited) cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such foreign country shall continue in force, or where more than one such patent or like privilege is obtained abroad immediately upon the expiration or other determination of the term which shall first expire or be determined of such several patents or like privileges, provided always that no Letters Patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained in any foreign country, and which shall be granted in this colony after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

*Letters Patent not to prevent the use of Inventions in Foreign Ships resorting to this Colony, except ships of Foreign States in whose Ports British ships are prevented from using Foreign Inventions.*

26. No Letters Patent for any invention (granted after the passing of this Act) shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel, which may be in any port of this colony, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported



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

*Specifications to be filed.*

27. All Letters Patent to be granted under this Act (save only Letters Patent granted after the filing of a complete specification) shall require the specification thereunder to be filed in the office of the Commissioners.

*Specification to be filed.*

28. Every specification to be filed in pursuance of the condition of any Letters Patent shall be filed in the office of the Commissioners.

*Copies of Specifications to be open to inspection at Office of Commissioners.*

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

*Specification and other Documents to be printed and published.*

30. The Commissioners shall cause to be printed, published, and sold at such prices and in such manner as they may think fit, all specifications, disclaimers and memoranda of alterations deposited or filed under this Act, and such specifications (not being provisional specifications), disclaimers and memoranda respectively shall be so printed and published as soon as conveniently may be after the filing thereof respectively, and all such provisional specifications shall be so printed and published as soon as conveniently may be, after the expiration of the pro-



visional protection obtained in respect thereof, and it shall be lawful for the Commissioners to present copies of all such publications to such public libraries and museums as they may think fit, and to allow the person depositing or filing any such specification, disclaimer or memoranda of alteration to have such number, not exceeding twenty-five, of the copies thereof so printed and published, without any payment for the same, as they may think fit.

*Copies of Specification, &c., as printed by the Queen's Printer, to be in evidence.*

31. Printed copies, certified by the Commissioners or one of them, of specifications, disclaimers, and memoranda of alterations, shall be admissible in evidence and deemed and taken to be *prima facie* evidence of the existence and contents of the documents to which they purport to relate, in all Courts and in all proceedings relating to Letters Patent.

*Register of Patents to be kept.*

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

*Registers of Proprietors to be kept.*

33. There shall be kept at the office of the Commissioners a book or books entitled "The Register of Proprietors," wherein shall be entered in such manner as the Commissioners shall direct the assignment of any Letters Patent, or of any share or interest therein, any license under Letters Patent, and the district to which such license relates, with the name or names of any person having any share or interest in such Letters Patent or license, the date of his or their acquiring such Letters

Patent, share and interest, and any other matter or thing relating to or affecting the proprietorship in such Letters Patent or license; and a copy of any entry in such book, certified under the seal of the Commissioners, shall be given to any person requiring the same on payment of the fees hereinafter provided, and such copies so certified shall be received in evidence in all Courts and in all proceedings, and shall be *primâ facie* proof of the assignment of such Letters Patent or share or interest therein or of the license of proprietorship, as therein expressed; provided always that until such entry shall have been made the grantee or grantees of the Letters Patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such Letters Patent and of all the licenses and privileges thereby given and granted, and any writ of *scire facias* to repeal such Letters Patent may be issued to the Provost Marshal of the Presidency in which the grantee or grantees resided at the time when the said Letters Patent were granted, and in case such grantee or grantees do not reside in the Leeward Islands, it shall be sufficient to file such writ in the usual manner in which writs are filed, and serve notice thereof in writing at the last known residence or place of business of such grantee or grantees, and such register or a copy shall be open to the inspection of the public at the office of the Commissioners, subject to such regulations as the Commissioners may make.

*Falsification or Forgery of Entries a Misdemeanour.*

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

*Entries may be expunged.*

35. If any person shall deem himself aggrieved by any entry made under colour of this Act in the said register of proprietors, it shall be lawful for such person to apply by motion to the Supreme Court or any Judge thereof for an order that such entry may be expunged, vacated or varied, and upon any such application the said Court or Judge may make such order for



expunging, vacating or varying such entry, and as to the costs of such application as to the said Court or Judge may seem fit, and the officer having the care and custody of such register, on the production to him of any such order for expunging, vacating or varying any such entry, shall expunge, vacate or vary the same, according to the requisitions of such order.

*Provisions of 5 & 6 W. 4, c. 83, and of 7 & 8 Vict. c. 69, as to Disclaimers and Memoranda of Alterations to apply to Patents under this Act. Application for Disclaimers and Caveats to be at Office of Commissioners.*

36. All the provisions of the Imperial Acts of the Session holden in the fifth and sixth years of King William the Fourth, Chapter eighty-three, and of the Session holden in the seventh and eighth years of Her Majesty, Chapter sixty-nine, respectively relating to disclaimers and memoranda of alterations in Letters Patent and specifications, except as hereinafter provided, shall be applicable and apply to any Letters Patent granted and to any specification filed under the provisions of this Act, provided always that all applications for leave to enter a disclaimer or memorandum of alteration shall be made, and all caveats relating thereto shall be lodged at the office of the Commissioners, and shall be referred to the Attorney-General, provided that every such disclaimer or memorandum of alteration shall be filed in the office of the Commissioners with the specifications to which the same relates; provided also that such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the law officer in the first recited Act mentioned certified as therein mentioned shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under the Acts aforesaid and this Act, and no objection shall be allowed to be made in any proceeding upon or touching such Letters Patent, specification, disclaimer or memorandum of alteration, on the ground that the party entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf; provided also that no action shall be brought upon any Letters Patent in which or on the specification of which any disclaimer or memorandum of alteration shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the Attorney-General shall certify in his *fiat* that any such action



may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration.

*Provisions of 5 & 6 W. 4, c. 83, 2 & 3 Vict. c. 67, and 7 & 8 Vict. c. 69, as to confirmation and prolongation to apply to Patents under this Act.*

37. All the provisions of the said Act of the fifth and sixth years of King William the Fourth for the confirmation of any Letters Patent and the grant of new Letters Patent, and all the provisions of the said Act, and of the Acts of the Session holden in the second and third years of Her Majesty, chapter sixty-seven, and of the Session holden in the seventh and eighth years of Her Majesty, chapter sixty-nine, respectively relating to the prolongation of the term of Letters Patent and to the grant of new Letters Patent for a further term, shall extend and apply to any Letters Patent granted under the provisions of this Act, and it shall be lawful to grant new Letters Patent as in the said Acts mentioned, provided always that such new Letters Patent shall be sealed and bear date as of the day after the expiration of the term of the original Letters Patent which may first expire.

*Actions for infringement of Letters Patent to be regulated by "Code of Civil Procedure."*

38. All actions for the infringement of Letters Patent granted under the authority of this Act shall be regulated by the provisions of "The Code of Civil Procedure."

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

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

*Fees on Letters Patent to be as in Schedule.*

40. There shall be paid to the clerk of the Commissioners in respect of Letters Patent applied for or issued, as herein mentioned, the filing of specifications and disclaimers, certifi-

cates, entries and searches, and all other matters and things mentioned in the schedule to this Act, such fees as are mentioned in the said schedule; and such fees shall be payable into the public treasury of the Presidency where such Letters Patent shall be applied for or issued, save and except such portions thereof as may be allotted under section 42 of this Act.

*Fees to be paid to Attorney-General in cases of opposition, &c.*

41. In cases of opposition to the granting of Letters Patent, and in case of disclaimers and memoranda of alterations, such fees shall be paid to the Attorney-General as may be appointed by the Commissioners as the fee to be paid on the hearing of such oppositions, and in the case of disclaimers and memoranda of alterations respectively, and such reasonable sums for office or other copies of documents in the office of the Commissioners, as the Commissioners may from time to time appoint to be paid for such copies; and the Commissioners are hereby authorized and empowered to appoint the fees to be so paid in respect of such oppositions, disclaimers and memoranda of alterations respectively, and for such office and other copies.

*Fees of Clerk.*

42. It shall be lawful for the Commissioners to allot to the clerk such portions of the fees received by them as they may deem right.

*Forms in Schedule may be used.*

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

*Interpretation of Terms.*

44. In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context. That is to say:—The expression "Governor" shall mean the officer administering the general Government of the Colony; the expression "the Commissioners" shall mean the Commissioners for the time being acting in execution of this Act; the ex-

pression "invention" shall mean any manner of new manufacture, the subject of Letters Patent and grant of privilege within the meaning of the existing law of England governing this subject; the expressions "petition," "declaration," "provisional specification," "warrant," and "Letters Patent," respectively, shall mean instruments in the form and to the effect in the schedule hereto annexed, subject to such alterations as may from time to time be made therein under the powers and provisions of this Act.

*Short Title.*

45. This Act may be cited as the "Patent Law Act, 1876."

*Commencement of Act.*

46. This Act shall commence and take effect on such day as shall hereafter be fixed by Proclamation under the hand of the Governor, to be published in the "Gazette."

THE SCHEDULE TO WHICH THIS ACT REFERS.

*Fees to be paid.*

	£	s.	d.
On leaving Petition for grant of Letters Patent . . . . .	2	10	0
On notice of intention to proceed with the application . . . . .	2	10	0
On sealing of Letters Patent . . . . .	5	0	0
On filing Specification . . . . .	5	0	0
At or before the expiration of the third year . . . . .	10	0	0
At or before the expiration of the seventh year . . . . .	20	0	0
On leaving notice of objections . . . . .	2	0	0
Every search and inspection . . . . .	0	1	0
Entry of assignment or licence . . . . .	0	5	0
Certificate of assignment or licence . . . . .	0	5	0
Filing application for disclaimer . . . . .	3	0	0
Caveat against disclaimer . . . . .	1	0	0

The following fees shall be paid to the Attorney-General:—

On every application for Letters Patent referred to Attorney-General under section 7 . . . . .	3	0	0
Examining provisional specification under section 8 . . . . .	5	0	0
„ amended „ „ . . . . .	1	0	0
„ complete specification under sections 9 and 13 . . . . .	5	0	0
Perusing particulars of objections under section 13 . . . . .	2	0	0
Certificate of allowance . . . . .	3	0	0



	£	s.	d.
Every Certificate under section 14 . . . . .	1	0	0
„ order for costs „ . . . . .	1	0	0
„ Warrant for the sealing of Letters Patent under section 15 . . . . .	5	0	0
Considering application for disclaimer or memorandum of alteration under section 36 . . . . .	2	0	0
Every Certificate or fiat that action may be brought under section 36 . . . . .	3	0	0

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FORMS.

*Petition.*

No.

To

The humble Petition of [*here insert name and address of Petitioner*] for, &c.

SHEWETH,

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

Your Petitioner therefore humbly prays that will be pleased to grant unto him, his executors, administrators, and assigns, Letters Patent for the Leeward Islands for the term of fourteen years pursuant to the statute in that case made and provided.

And your Petitioner will ever pray, &c.

*Declaration.*

No.

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

A.B.

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

*Provisional Specification.*

No.

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

Dated this day of A.D. .

[To be signed by applicant or his agent.]

*Reference.**(To be endorsed on the Petition.)*

The Governor is pleased to refer this Petition to the Attorney-General to consider what may be properly done therein.

Clerk of the Commissioners.

*Warrant.*

In humble obedience to            command referring to me the Petition of  
of            to consider what may be properly done therein; I do  
hereby certify as follows: that the said Petition sets forth that the  
Petitioner [*allegations of the Petition*]. And the Petitioner most humbly  
prays [*prayer of the Petition*].

That in support of the allegations contained in the said Petition the  
declaration of the Petitioner has been laid before me, whereby he solemnly  
declares, that [*allegations of the declaration*].

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

in pursuance of the statute; That it appears that the said applica-  
tion was duly advertised; Upon consideration of all the matters aforesaid,  
and as it is entirely at the hazard of the said Petitioner whether the said  
invention is new or will have the desired success, and as it may be reason-  
able for Her Majesty to encourage all arts and inventions which may be  
for the public good, I am of opinion that the Governor may grant Letters  
Patent unto the Petitioner, his executors, administrators and assigns, for  
his said invention within the Leeward Islands, for the term of fourteen  
years according to the statute in that case made and provided, if his  
Excellency shall be graciously pleased so to do, to the tenor and effect  
following [*see next form*].

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

[Seal of the Commissioners.]

*Letters Patent.*

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

To all to whom these presents shall come greeting:

Whereas            hath, by his Petition, humbly represented to Us that  
he is in possession of an invention for

which the Petitioner conceives will be of great public utility; that he is  
the true and first inventor thereof; and that the same is not in use by  
any other person or persons, to the best of his knowledge and belief; the  
Petitioner therefore most humbly prayed that We would be graciously  
pleased to grant unto him, his executors, administrators, and assigns, Our  
Royal Letters Patent for the sole use, benefit, and advantage of his said  
invention within Our Leeward Islands, for the term of fourteen years,  
pursuant to the statutes in that case made and provided:



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

And We being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the Petitioner's request: Know ye, therefore, that We, of Our especial grace, certain knowledge, and mere motion, have given and granted and by these presents for Us, Our heirs and successors, do give and grant unto the said                   , his executors, administrators, and assigns, Our especial licence, full power, sole privilege and authority, that he the said                   , his executors, administrators, and assigns, and every of them by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as he the said                   , his executors, administrators, or assigns, shall at any time agree with and no others from time to time, and at all times hereafter during the term of years herein expressed, shall and lawfully may, make, use, exercise, and vend, his said invention within Our said Leeward Islands, in such manner as to him the said                   , his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet, and that he the said                   , his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity and advantage from time to time coming, growing, accruing, and arising, by reason of the said invention for and during the term of years herein mentioned; to have, hold, exercise, and enjoy the said licences, powers, privileges and advantages hereinbefore granted or mentioned to be granted unto the said                   , his executors, administrators, and assigns, for and during, and unto the full end and term of fourteen years from the                    day of                    A.D. next, and immediately ensuing according to the statute in such case made and provided; and to the end, that he the said                   , his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention according to Our gracious intention hereinbefore declared. We do by these presents, for Us, Our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other Our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within Our said Leeward Islands, that neither they nor any of them at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly to make, use, or put in practice the said invention, or any part of the same so attained unto by the said                    as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the consent, licence, or agreement of the said                   , his executors, administrators, or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be



justly inflicted on such offenders, for their contempt of this Our Royal command, and further to be answerable to the said \_\_\_\_\_, his executors, administrators, and assigns, according to law for his and their damages thereby occasioned: And, moreover, We do by these presents for Us, Our heirs and successors, will and command all and singular the magistrates, justices of the peace, and all other officers and ministers whatsoever of Us, Our heirs, and successors, for the time being, that they or any of them do not nor shall at any time during the said term hereby granted, in any wise molest, trouble, or hinder the said \_\_\_\_\_, his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always, and these Our Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall be made to appear to Our Governor of Our said Leeward Islands in council that this Our grant is contrary to law, or prejudicial or inconvenient to Our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said \_\_\_\_\_ is not the true and first inventor thereof within the Leeward Islands as aforesaid, these Our Letters Patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein contained to the contrary thereof in anywise notwithstanding; Provided also that these Our Letters Patent, or anything herein contained shall not extend, or be construed to extend, to give privilege unto the said \_\_\_\_\_, his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of Our subjects whatsoever and publicly used or exercised unto whom Our like Letters Patent or privileges have been already granted for the sole use, exercise and benefit thereof: It being Our will and pleasure that the said \_\_\_\_\_, his executors, administrators, and assigns, and all and every other person and persons to whom the like Letters Patent and privileges have been already granted as aforesaid, shall distinctly use and practise their several inventions, by them invented and found out, according to the true intent and meaning of the same respective Letters Patent and of these presents, provided likewise nevertheless, and these Our Letters Patent are upon this express condition, that if the said \_\_\_\_\_ shall not particularly describe and ascertain the nature of his said invention and in what manner the same is to be performed, by an instrument in writing under his hand and seal, and cause the same to be filed in \_\_\_\_\_ within \_\_\_\_\_ calendar months next and immediately after the date of these Our Letters Patent [*and also if the said instrument in writing filed as aforesaid does not particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed*], and also if the said \_\_\_\_\_ his executors, administrators, or assigns, shall not pay, or cause to be paid, at the office of Our Commissioners of Patents for inventions the sums following, that is to say, the sum of \_\_\_\_\_ pounds on or before the \_\_\_\_\_ day of \_\_\_\_\_ A.D., and the sum of \_\_\_\_\_ pounds on or before the \_\_\_\_\_ day of \_\_\_\_\_ A.D.;

and also if the said \_\_\_\_\_, his executors, administrators, or assigns, shall not supply, or cause to be supplied, for Our service, all such articles of the said invention as he or they shall be required to supply by the Officers or Commissioners administering the department of Our service for the use of which the same shall be required in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said Officers or Commissioners requiring the same; that then and in any of the said cases these Our Letters Patent and all liberties and advantages whatsoever hereby granted shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof notwithstanding; Provided that nothing herein contained shall prevent the granting of licenses in such manner and for all such considerations as they may by law be granted; and lastly, We do by these presents for Us, Our heirs and successors, grant unto the said \_\_\_\_\_, his executors, administrators, and assigns, that these Our Letters Patent on the filing thereof shall be in and by all things good, firm, valid, sufficient, and effectual in the law according to the true intent and meaning thereof; and shall be taken, construed, and adjudged in the most favourable and beneficial sense for the best advantage of the said \_\_\_\_\_, his executors, administrators, and assigns, as well in all Our Courts of Record as elsewhere, and by all and singular the officers and ministers whatsoever of Us, Our heirs and successors in Our said Leeward Islands, and amongst all and every the subjects of Us, Our heirs and successors whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging.

In witness whereof We have caused these Our Letters to be made patent  
 this \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_ and to be sealed and bear date  
 as of the said \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_ in the \_\_\_\_\_ year of  
 Our reign.

#### *Specification.*

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

Whereas His Excellency \_\_\_\_\_, Governor of the Leeward Islands, by Letters Patent, bearing date the \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_ in the \_\_\_\_\_ year of Her Majesty's reign, did for Her Majesty, her heirs and successors, give and grant unto me the said \_\_\_\_\_, his special license that I the said \_\_\_\_\_, my executors, administrators, and assigns, or such other as I the said \_\_\_\_\_, my executors, administrators, and assigns, should at any time agree with and no others, from time to time and at all times thereafter during the term therein expressed, should, and lawfully might make, use, exercise, and vend, within the Colony of the Leeward Islands, an invention for [*insert title as in Letters Patent*] upon the condition (amongst others) that I the said \_\_\_\_\_, by an instrument in writing under my hand and seal, should particularly describe and ascertain the nature



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

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

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No. 16 of 1878.

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An Act to amend the Act No. 12 of 1876, entitled "An Act for amending the Law for granting Patents for Inventions."

1. Certain persons constituted Commissioners of Patents for Inventions, three of whom may act, the Attorney-General being one.
2. Applications for Letters Patent, &c., to be advertised.
3. Copies of Specifications, &c., to be enrolled in each Presidency.
4. Registers of Patents and Proprietors to be kept in each Presidency.
5. Section 1 of Act 12, 1876, repealed.

Whereas it is expedient to amend the law concerning Letters Patent for Inventions:

Be it enacted by the Governor and General Legislative Council of the Colony of the Leeward Islands as follows:—

*Certain persons constituted Commissioners of Patents for Inventions, three of whom may act, the Attorney-General being one.*

1. Her Majesty's Attorney-General, the Auditor-General, and the Treasurer of the Presidency of Antigua for the time being respectively, together with such other person or persons as may be from time to time appointed by the Governor, shall be Commissioners of Patents for Inventions, and every person so appointed shall continue to hold office during Her Majesty's



pleasure; and all the powers vested in the Commissioners by the Act No. 12 of 1876 may be executed by any three or more of them, of whom the Attorney-General shall be one.

*Applications for Letters Patent, &c., to be advertised.*

2. Every provisional protection, every protection on deposit of a complete specification, and every application for Letters Patent, shall be advertised in the Royal Gazette and in one of the public newspapers in each Presidency of the Colony, or where there shall be no such newspaper, then by being attached to the door of the Court House in the principal town of the Presidency.

*Copies of Specifications, &c., to be enrolled in each Presidency.*

3. In addition to the copies prescribed by the above recited Act to be kept at the office of the Commissioners, true copies of all specifications (other than provisional specifications), disclaimers, and memoranda of alterations filed in pursuance of the said Act, and of all provisional specifications after the expiration of the term of protection, shall be enrolled in the Registrar's Office in every Presidency of the Colony (Antigua excepted), and shall be open to the inspection of the public at all reasonable times, subject to such regulations as the Commissioners may think necessary.

*Registers of Patents and Proprietors to be kept in each Presidency.*

4. A true copy of the "Register of Patents" and of the "Register of Proprietors" prescribed by sections 32 and 33 of the above recited Act, shall be kept at the Registrar's Office in each Presidency of the Colony, and shall be open to the inspection of the public at all reasonable times, subject to such regulations as the Commissioners may think necessary.

*Section 1 of Act 12, 1876, repealed.*

5. The first section of the Act No. 12 of 1876 is hereby repealed.

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**LUXEMBOURG.**

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*Law of the 30th June, 1880.*

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**CHAPTER I.***General Provisions.***Art. I.**

Patents will be granted for new inventions capable of being worked industrially, excepting :—

1. Inventions of which the working would be contrary to law or morals.
2. Inventions which have for their object food or other articles of consumption, pharmaceutical products or substances obtained by chemical means, unless they relate to definite processes for the manufacture of these articles.

**Art. II.**

An invention is not considered as new when, at the time of making the declaration under the present law, it has been described sufficiently clearly in public prints, or it has been sufficiently publicly worked either in the Grand Duchy or in one of the States of the German "Customs Union," for it to be possible for other experts to work it.

**Art. III.**

The right of obtaining the patent belongs to him who is the first to declare the invention in accordance with the present law, except as is enacted hereafter by No. 2 of Art. 16.

## Art. IV.

The effect of the patent shall be, that without the authorization of the owner, no one may industrially make, commercially deal with, or expose for sale the object of the invention.

If the object of the invention consists in any process, machine, or industrial apparatus, a tool, or any other implement, the effect of the patent shall be besides, that without the authorization of the patentee none may industrially apply the process or make use of the object of the invention.

## Art. V.

The effect of the patent does not extend to those who at the time the owner of the patent made his declaration had already worked the invention in the Grand Duchy, or had already made the preparations necessary to that end.

The effect of the patent does not extend to locomotive engines which only enter for the purpose of passing through the Grand Duchy.

The patent shall cease to have effect from the time that a Royal Grand Ducal Decree by the advice of the Council of State shall have declared that in the interest of the public the invention should be worked. In this case the patentee has the right, at the charge of the State, to compensation, which in default of agreement shall be fixed judicially.

## Art. VI.

The right of obtaining a patent, as well as the rights conferred by the patent itself, passes to the representatives of him having the right. These rights can be transferred wholly or in part either by deed *inter vivos* or testamentary.

The transmission of the patent is free from all taxes. Deeds of assignment *inter vivos* shall be registered, the fixed tax being 1 franc 70 centimes.

## Art. VII.

The term of the patent is fifteen years. It commences from the day after the invention has been declared according to Art. 10 of the present law.

If the invention consists of an improvement on another invention for which the applicant already has a patent in the Grand



Duchy, he can obtain a certificate of addition which expires with the principal patent.

Certificates of addition taken by any person entitled inures to the benefit of all the others. The patentee shall have the option of taking a principal patent for changes or improvements in his invention.

A third party who shall have taken a patent for an invention, or application, relating to the object of a patent, shall have no right to work the invention already patented, and reciprocally the owner of the first patent cannot without licence work the invention which is the object of the new patent.

#### Art. VIII.

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

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

and so on up to the fifteenth year, for which the tax shall be 150 francs.

The tax shall be paid in advance to the receiver of the Registry. It will not be returned in any case. Certificates of addition require only a single tax of 10 francs.

#### Art. IX.

No one can obtain a patent nor exercise rights under a patent unless he has elected domicile in the Grand Duchy. If he is a foreigner, he must elect domicile with someone holding a power to represent him, and to whom all communications may validly be made. The domicile elected determines jurisdiction, and will be valid so long as it is not replaced by a new election of domicile, in the form prescribed by Art. 13.

### CHAPTER II.

#### *The Delivery of Patents.*

#### Art. X.

Whoever wishes to take a patent must make his declaration in writing before an officer who will be appointed for that purpose by the Government. A separate declaration is required for each invention. The declaration shall set out the Christian and

surnames, the quality and the real and elected domicile of the declarant, and, when the case arises, that of his representative. It shall set forth a title stating shortly and precisely the object of the invention.

The declaration shall be accompanied by:—

1. A description in French or German of the object invented.
2. The drawings, models, or samples, which may be necessary to render the description intelligible. The description and drawings must be in duplicate. The description must be written without alteration or interlineation; words erased must be counted and identified, the pages and references being given. It must make known the invention in a clear and complete manner, and must terminate with a precise enunciation of its characteristics.

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

All the papers must be signed by the declarant or by his representative, whose power shall remain annexed to the declaration.

#### Art. XI.

No application shall be received without the production of the receipt for the payment of the first year's tax.

A memorandum, signed by the declarant, setting out the day and hour of the delivery of the papers, and entered without charge on the register kept for this purpose, shall prove the deposit.

A duplicate of the entry shall be given without charge to the depositor.

#### Art. XII.

Patents for which applications have been made in due form shall be delivered without previous examination at the risk and peril of the applicants, and without guarantee either of the reality, novelty, or merit of the invention, or of the truth or accuracy of the description.

A certificate of the member of the Government having charge of matters of commerce and industry, certifying the regularity of the application, shall be delivered without charge to the applicant, and shall constitute his patent of invention.

To this certificate shall be affixed the certified duplicates of the description and drawings mentioned in Art. 10.

An extract from the same certificate shall be inserted in the *Memorial*. From the refusal of the Government to deliver the patent there is an appeal to the Judicial Committee of the Council of State who have jurisdiction.

Art. XIII.

Changes in the ownership of patents which occur, or in the representatives and elected domiciles of patentees, and also all partial assignments of patents, must be brought, in an authenticated form, to the knowledge of the member of the Government having charge of matters of commerce and industry, and shall be published in the *Memorial*. So long as these formalities are not fulfilled, he who has previously appeared as the patentee or his representative remains invested with the rights and liable to the obligations of the present law, and all notices, announcements, etc., given at the domicile previously elected shall be valid.

Art. XIV.

The public shall be allowed to see in the Government Offices the specifications of patents which have been issued, and copies of them can be obtained on payment of the cost.

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CHAPTER III.

*Extinction of Patents ; Annulments and Lapsings.*

Art. XV.

The patent becomes extinct:—

1. By the expiration of the time for which it was granted.
2. By renunciation by the owner.
3. By a single default of payment of the annual tax within three months of its being due.
4. If a patent for the same object is not applied for within three months in the States with which the Grand Duchy may be connected by treaties of "Customs Union;" or if, having been applied for within that time, the patent is refused; or if, having been granted, it is withdrawn, annulled, or terminated in any other manner.

Nevertheless, in case the annulment of the patent has been pronounced in a country of this Union because the invention has not been worked, it shall be lawful for the Government to continue the patent in the Grand Duchy.



## Art. XVI.

The patent shall be null and of no effect if it is shown :—

1. That in terms of Arts. 1 and 2 the invention is not patentable.
2. That the essential element of the application has been taken from the descriptions, drawings, models, instruments, tools, or processes of another without his consent.
3. If the title under which the patent was applied for fraudulently indicates an object other than the true object of the invention.
4. If the specification of the patent is not sufficient to enable the invention to be carried out, or if it does not show in a faithful and complete manner the true means employed by the inventor.

## Art. XVII.

An action for nullity can be brought by any person interested.

These actions, and also all disputes relating to the ownership of patents, shall be brought before the Civil Tribunal of the arrondissement.

If the petition is directed at the same time against the owner of the patent and against one or more licensees, it shall be brought before the tribunal of the elected domicile of the owner of the patent.

Patent cases shall be proceeded with and decided in the form prescribed for summary cases by Art. 405 and the following Articles of the Code of Civil Procedure. The matter shall be communicated to the Public Prosecutor.

The Public Prosecutor may intervene in the action, and apply to have the patent declared absolutely void. He may also for the same purpose himself bring an independent action.

In the cases mentioned in the two preceding paragraphs, all those entitled under the patent whose titles have been registered with the Government in accordance with Art. 13, must be made parties to the cause.

The costs of the intervention of the Public Prosecutor and of the official proceedings shall be taxed, liquidated, and recovered as in a criminal matter.

When the patent has been pronounced absolutely void by a judgment or by final decree, the Government shall be informed of it in view of the publication prescribed by Art. 19.

## Art. XVIII.

The patent may be withdrawn after three years by Royal Grand Ducal Decree, but with an appeal to the Judicial Committee of the Council of State, if the patentee neglects to work his invention in the Grand Duchy to a suitable extent, or at least to do all that is necessary to secure this working.

Similarly, after three years it may be declared by a Royal Grand Ducal Decree, on the advice of the Council of State, that the interests of the public require that the right of working a patented invention shall be granted to one or more persons who have made application. In this case the compensation and the guarantees due to the patentee from the new claimants for the working shall in case of non-agreement be fixed by judicial decision.

## Art. XIX.

The extinction of patents, their annulment or withdrawal, shall be brought to public knowledge by means of the *Memorial*.

## CHAPTER IV.

*Infringement, Prosecutions, and Penalties.*

## Art. XX.

Anyone who has knowingly made use of an invention contrary to the provisions of Arts. 4 and 5 shall be punished with a fine of from 100 francs to 2000 francs, without prejudice to a civil action for damages if they have arisen.

In case of repetition of the offence he shall be sentenced, in addition to the fine, to imprisonment for from one month to six months. It is a repetition when there has been given against the accused within the five preceding years a prior judgment for the same offence.

The prosecution shall only be instituted on the complaint of the party aggrieved.

The Tribunal may order the publication of the judgment at the expense of the person convicted. The judgment will fix the mode and time of publication.

The judgment may order either the destruction, or the confiscation for the benefit of the State or of the party aggrieved, as

deduction from the damages, of articles used for or intended for the commission of the offence, and of those which are the product of it.

Art. XXI.

The Correctional Tribunal having charge of the action shall remit the parties before a competent Civil Court to decide on pleas raised by the accused, either as to the extinction, the nullity, or the lapsing of the patent, or on questions relating to the ownership of the patent.

Art. XXII.

Anyone who, without having a valid patent, shall affix on articles or their envelopes a mark calculated to give rise to the error that the articles are patented under the present law, or who shall use a like notice in announcements, posters, advertisements, prospectuses, or sign boards, shall be punished by a fine of from 20 francs to 200 francs.

Art. XXIII.

The penalties fixed by the present law shall not be cumulative. The heaviest of the penalties incurred by reason of all acts prior to the commencement of proceedings shall alone be imposed.

Art. XXIV.

Provisions in force relating to extenuating circumstances may be applied to offences provided for in the preceding provisions.

Art. XXV.

Right of civil action for the infringement of a patent is lost by lapse of time at the end of three years from the date of any matter which might have given rise to it.

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CHAPTER V.

*Transitory Provisions.*

Art. XXVI.

The Law of the 25th of January, 1817, and all enactments, prior to the present law, relating to patents of invention, importation, or improvement, are repealed.



Provided that patents actually in force shall continue to be governed by the provisions in force at the time of their issue so long as their owners do not avail themselves of the following provisions.

Art. XXVII.

The owners of patents actually in force may convert them into patents governed by the present law by making, within three months from the publication of the present law, a declaration on this head in conformity with what is prescribed in Art. 10, except that it will suffice if they attach to it the original patent and papers annexed thereto.

The term of fifteen years fixed by Art. 7 runs from the date of the original patent.

The annual taxes shall be reckoned to start from the same date upon which also depend the annual lapsings.

The tax paid on the original patent shall be deducted from the annuities due or to become due; if it is not sufficient to cover the annuities already due, the difference must be paid before the deposit of the declaration.

Art. XXVIII.

Applications for patents deposited prior to the present law, and upon which we have not yet decided, must be converted by their authors, within three months from the publication of the present law, into declarations in accordance with the provisions of the foregoing Chapter II., under penalty of the lapse of the original application. The patents which issue in consequence shall be governed by the present law; nevertheless, the time elapsed since the original applications shall be deducted from the term of fifteen years fixed by Art. 7.

Art. XXIX.

Against those to whom patents shall have been issued according to the preceding Arts. 27 and 28, the publication of descriptions and notorious working, as referred to in Art. 2, cannot be adversely raised unless they occurred prior to the date of the original patent or to the date of deposit of a pending application respectively.

Art. XXX.

A Royal Grand Ducal Administrative Decree shall determine the provisions necessary for the execution of the present law.

**MAURITIUS.**

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*Ordinance No. 16 of 1875.*

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AN ORDINANCE enacted by the Governor of Mauritius and its Dependencies, with the advice and consent of the Council of Government thereof, to grant, regulate, and protect certain privileges to inventors.

Whereas it is expedient that certain privileges be granted to inventors, and that the same be regulated and protected: Be it enacted by his Excellency the Governor, with the advice and consent of the Council of Government, as follows:

*Privilege granted to Inventors.*

1. Every inventor of any manufacture shall be entitled, under the conditions and restrictions hereinafter enacted, to the sole exclusive right of and in such new invention.

*Definition of Words.*

2. Within the meaning of the word "invention" are included discoveries, and also the invention of new chemical products; also every new mode of application of known processes or forces whereby a new product or preparation is obtained or made; and also every new process or force whereby an old product or preparation is obtained or made.

Improvements are also included within the word "invention."

The word "manufacture" shall be deemed to include any