nal model, drawings, and description, with specification of the invention or discovery, verified by oath, as shall be required by the Commissioner; and such patent and copies of such drawings and descriptions, duly certified, shall be admissible as evidence in any judicial court of the United States, and shall protect the rights of the patentee, his administrators, heirs, and assigns, to the extent only in which they would have been protected by the original patent and specification.

1. Where a patent was obtained in 1834, the original of which and the drawings were destroyed by fire in 1836, and the patentee, under the act of 1837, filed in 1841 a copy of his patent, and deposited a drawing, which, however, was not verified, but which he verified in February, 1844, and subsequently in March, 1844, considering such copy imperfect, filed another and a fuller drawing, and commenced suit in May, 1844; *Held*, that a certified copy of such second drawing was properly received in evidence in such action. *Emerson* v. *Hogg*, 2 Blatchf., 9.—BETTS, J.; N. Y., 1845.

2. When such drawings are put on file they become public records, and copies of them must be received in evidence. If they are discordant, one may destroy the effect of the other. *Ibid.*, 12.

3. Under this section drawings when burnt may be restored, and if in some respects erroneous they can be corrected. *Hogg* v. *Emerson*, 11 How., 606.—WOODBURY, J.; Sup. Ct., 1850.

4. But it would not be proper to leave the drawings so long not restored or corrected as to evince neglect, or a design to mislead the public. *Ibid.*, 606.

5. The provisions of this section extended to patents granted prior to December 15th, 1836, but lost subsequent thereto. Act of 1842, § 2.

SECTION 4. *And be it further enacted*, That it shall be the duty of the Commissioner to procure a duplicate of such of the models destroyed by fire on the aforesaid fifteenth day of December, as were most valuable and interesting, and whose preservation would be important to the public; and such as would be necessary to facilitate the just discharge of the duties imposed by law on the Commissioner in issuing patents, and to protect the rights of the public and of patentees in patented inven-

tions and improvements: *Provided*, That a duplicate of such models may be obtained at a reasonable expense: *And provided, also*, That the whole amount of expenditure for this purpose shall not exceed the sum of one hundred thousand dollars. And there shall be a temporary board of commissioners, to be composed of the Commissioner of the Patent Office and two other persons to be appointed by the President, whose duty it shall be to consider and determine upon the best and most judicious mode of obtaining models of suitable construction; and, also, to consider and determine what models may be procured in pursuance of, and in accordance with, the provisions and limitations in this section contained. And said Commissioners may make and establish all such regulations, terms, and conditions, not inconsistent with law, as in their opinion may be proper and necessary to carry the provisions of this section into effect, according to its true intent.

SECTION 5. [Amending act of 1836, § 13.] *And be it further enacted*, That, whenever a patent shall be returned for correction and reissue under the thirteenth section of the act to which this is additional, and the patentee shall desire several patents to be issued for distinct and separate parts of the thing patented, he shall first pay, in manner and in addition to the sum provided by that act, the sum of thirty dollars for each additional patent so to be issued (*a*); *Provided, however*, That no patent made prior to the aforesaid fifteenth day of December, shall be corrected and reissued until a duplicate of the model and drawing of the thing as originally invented, verified by oath as shall be required by the Commissioner, shall be deposited in the Patent Office;

Nor shall any addition of an improvement be made to any patent heretofore granted, nor any new patent be issued for an improvement made in any machine, manufacture, or process, to the original inventor, assignee, or possessor, of a patent therefor, nor any disclaimer be admitted to record, until a duplicate model and drawing of the thing originally invented, verified as aforesaid, shall have been deposited in the Patent Office, if the Commissioner shall require the same; nor shall any patent be granted for an invention, improvement, or discovery, the model or drawing of which shall have been lost, until another model and drawing, if required by the Commissioner, shall, in like manner, be deposited in the Patent Office;

And in all such cases, as well as in those which may arise under the third section of this act, the question of compensation for such models and drawing shall be subject to the judgment and decision of the commissioners provided for in the fourth section, under the same limitations and restrictions as are therein prescribed.

(*a*) 1. If an original patent include two inventions, and its validity on that account is doubted, a separate renewal is just and proper. *Goodyear* v. *Day*, MS.—GRIER, J.; N. J., 1852.

2. With respect to reissues, this section, and section 13 of the act of 1836 are to be taken together in construction, and the most just and equitable extent to which the terms of the law in its true spirit will admit of, ought to be adopted. *Ball, Ex parte*, MS. (App. Cas.)—MORSELL, J.; D. C., 1860.

3. If the patent be defective or insufficient, either in the specification or *claim*, the patentee has a right, in the absence of fraud and deception, to have a reissue, for each separate and distinct part, effectually to cure the defect: and he has the right to *restrict* or *enlarge* his claim, so as to give it operation, and effectuate his invention. *Ibid.*

See also notes to section 13 of the act of 1836.

SECTION 6. [Enlarging act of 1836, § 5.] *And be it further enacted*, That any patent hereafter to be issued,

may be made and issued to the assignee or assignees of the inventor or discoverer, the assignment thereof being first entered of record, and the application therefor being duly made, and the specification duly sworn to by the inventor. And in all cases hereafter, the applicant for a patent shall be held to furnish duplicate drawings, whenever the case admits of drawings, one of which to be deposited in the office, and the other to be annexed to the patent, and considered a part of the specification.

1. This is an enabling statute. Prior to its passage, letters patent could only issue to the inventor: and after they were issued they were assignable, so as to give the assignee, in whole or in part, legal rights. This act gave the right to the assignee or assignees to have the patent issued to him or them, and not to the inventor. *Anon.*, 4 Opin., 400. —MASON, Atty.-Gen.; 1845.

2. But patents cannot issue jointly to the inventor as such, and to the assignee of a partial interest: but must issue to the assignee or assignees of the whole interest. *Ibid.*, 401.

3. A partial assignment before issue, does not entitle the partial assignee to have the patent issued to him to the extent of his interest. *Ibid.*, 401.

4. After the assignment of the invention, under this section, by which the inventor divests himself of all interest therein, and transfers it to the assignee, although the application for a patent must be in his name, still, for all substantial purposes, and in judgment of law, the assignee is the party making the application. *Gay* v. *Cornell*, 1 Blatchf., 509.—NELSON, J.; N. Y., 1849.

5. An assignment before patent issued, may be made after the rejection of the assignor's application, and after his appeal to the justices of the Circuit Court, and will be sufficient to enable such assignee to file his bill under section 16 of the act of 1836, amended by section 10 of the act of 1839, to compel the issue of a patent to him. *Ibid.*, 509, 510.

6. If an inventor assign all his right in an invention, the assignee may have the patent issued to himself. But if the assignment be only partial, though the part excepted is small, the assignee has no legal claim to the patent. It must be issued in the name of the inventor, and be held by him in trust for the use of the assignee, to the extent of the equities he has by virtue of his contract. *Ager's Case*, MS., Opin.—BLACK, Atty.-Gen.; 1859.

7. The provision of this section, requiring duplicate drawings, though directory in its terms, is not a condition: and it has reference, in point

of time, to the issuing of the patent, and not to the filing of the petition for it. Duplicate drawings need not be filed at the time of the application, and such is the interpretation of the Patent Office. *French* v. *Rogers*, MS.—KANE, J.; Pa., 1851. *O'Reilly* v. *Morse*, 15 How., 126—GRIER, J.; Sup. Ct., 1853.

See also DIGEST PAT. CASES, title ASSIGNEE, B. 3.

SECTION 7. *And be it further enacted*, That. whenever any patentee shall have through inadvertence, accident, or mistake, made his specification of claim too broad, claiming more than that of which he was the original or first inventor, some material and substantial part of the thing patented being truly and justly his own, any such patentee, his administrators, executors, and assigns, whether of the whole or of a sectional interest therein, may make disclaimer (*a*) of such parts of the thing patented as the disclaimant shall not claim to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent (*b*); which disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office, on payment by the person disclaiming in manner as other patent duties are required by law to be paid, of the sum of ten dollars. And such disclaimer shall thereafter be taken and considered as part of the original specification, to the extent of the interest which shall be possessed in the patent or right secured thereby, by the disclaimant, and by those claiming by or under him (*c*) subsequent to the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing the same. (*d*)

(*a*) 1. The law requiring and permitting a patentee to enter a disclaimer, is penal and not remedial. It is intended for the protection of the patentee as well as the public, and should not receive a construc-

tion that would restrict its operation within narrower limits than the law fairly imports. *O'Reilly* v. *Morse*, 15 How., 121.—TANEY, Ch. J.; Sup. Ct., 1853.

2. Whether a patent is illegal in part because of claiming more than he had described, or more than he has invented, the patentee must in either case disclaim, in order to save the portion to which he is entitled. *Ibid.*, 122.

3. A patentee has a right to disclaim any thing which has been claimed through "inadvertence or mistake." *Parker* v. *Sears*, MS.—GRIER, J.; Pa., 1850.

4. *Semble*, That a disclaimer, under this section, should not only disclaim what is not claimed as new, but should also distinctly set forth what part of the invention is still claimed, as it is manifestly designed to act as a new specification. *Lippincott* v. *Kelly*, 1 West. Law Jour., 513.—IRVIN, J.; Pa., 1844.

(*b*) 1. Under this section the disclaimer must state the interest of the person disclaiming. But where an administrator in whose name a patent had been extended, entered a disclaimer, stating that he was the patentee, and referring to the patent as showing his interest, it was held sufficient. *Brooks* v. *Bicknell*, 3 McLean, 439.—MCLEAN, J.; Ohio, 1844.

2. Where a disclaimer made by a patentee stated that "it was to operate to the extent of the interest in said letters patent vested" in the patentee, *Held*, that it fairly imported on its face, that the patentee was the owner of the entire interest in the patent, and if so, there was a substantial compliance with the statute, as to the disclaimer stating the interest of the party making it. *Foote* v. *Silsby*, 1 Blatchf., 461.—NELSON, J.; N. Y., 1849. *Silsby* v. *Foote*, 14 How., 221.—CURTIS, J.; Sup. Ct., 1852.

(*c*) 1. If a patent has been previously assigned in part, and a disclaimer has been filed by the patentee alone, such disclaimer will not operate in favor of the assignee, in any suit either at law or equity, unless he has joined in it. *Wyeth* v. *Stone*, 1 Story, 294.—STORY, J.; Mass., 1840.

2. A disclaimer of part of an invention cannot affect a prior grantee under the patent, unless he accepts of it; he may refuse to be affected by it. *Smith* v. *Mercer*, 5 West. Law Jour., 53.—KANE, J.; Pa., 1846.

3. Under section 7 of the act of 1837, the owner of a sectional interest in a patent may make a disclaimer of part of the thing patented, which will be considered as a part of the original patent, to the extent of his interest; but the patentee is not compelled to join in such disclaimer, nor will it affect any one except him making it, and those claiming under him. *Potter* v. *Holland*, MS.—NELSON, INGERSOLL, JJ.; Ct, 1838.

4. After such a disclaimer, a different claim of right is secured to the disclaimant from what is purported to be secured to the patentee.

Different claims of right in the same invention are thus secured to different sectional owners. *Ibid.*

5. A disclaimer, before it can be received in evidence, must be properly proved, either as an original paper, or by a certified copy, and if received at all, must have full effect given to it as a disclaimer. *Foote* v. *Silsby*, 1 Blatchf., 450, 461.—NELSON, J.; N. Y., 1849.

6. The disclaimer of part of an invention, provided such disclaimer arose from inadvertency, accident, or mistake, will not prevent the patentee from embracing the part so disclaimed, on a reissue of his patent. *Hayden, Ex parte*, MS. (App. Cas.)—MERRICK, J.; D. C., 1860.

(*d*) 1. The disclaimer mentioned in this section applies solely to suits pending when the disclaimer is filed; and the disclaimer mentioned in section 9, applies solely to suits brought after the disclaimer is filed. *Wyeth* v. *Stone*, 1 Story, 294.—STORY, J.; Mass., 1840.

2. A disclaimer to be effectual under this and section 9, must be filed before suit brought. If it is filed during the pendency of the suit, the plaintiff will not be entitled to the benefit thereof in that suit. *Reed* v. *Cutter*, 1 Story, 600.—STORY, J.; Mass., 1841.

3. If filed before suit, the plaintiff will be entitled to costs, if he establish that a part of his invention, not disclaimed, has been infringed by the defendant. *Ibid.*, 600.

4. But whether filed before or after suit brought, the plaintiff will not be entitled to the benefit thereof, if he has unreasonably neglected and delayed to file it. Such neglect or delay is a good defence to the suit. *Ibid.*, 600.

See also DIGEST PAT. CASES, title DISCLAIMER; and notes to section 9 of this act.

SECTION 8. [Repealed in part by act of 1861, § 9.] *And be it further enacted*, That, whenever application shall be made to the Commissioner for any addition of a newly discovered improvement to be made to an existing patent, or whenever a patent shall be returned for correction and reissue, the specification of claim annexed to every such patent shall be subject to revision and restriction, in the same manner as are original applications for patents; the Commissioner shall not add any such improvement to the patent in the one case, nor grant the reissue in the other case, until the applicant shall have entered a disclaimer, or altered his specification of claim in accordance with the decision of the Commissioner;

and in all such cases, the applicant, if dissatisfied with such decision, shall have the same remedy, and be entitled to the benefit of the same privileges and proceedings as are provided by law in the case of original applications for patents.

This section so far as it relates to patents for additions to existing patents, is repealed by the act of 1861, section 9.

SECTION 9. [Enlarging act of 1836, § 15.] *And be it further enacted*, (any thing in the fifteenth section of the act to which this is additional to the contrary notwithstanding,) That, whenever by mistake, accident, or inadvertence, and without any wilful default or intent to defraud or mislead the public, any patentee shall have in his specification claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the first and original inventor, and shall have no legal or just right to claim the same, in every such case the patent shall be deemed good and valid for so much of the invention or discovery as shall be truly and *bona fide* his own; *Provided*, It shall be a material and substantial part of the thing patented, and be definitely distinguishable from the other parts so claimed without right as aforesaid. (*a*) And every such patentee, his executors, administrators, and assigns, whether of the whole or of a sectional interest therein, shall be entitled to maintain a suit at law or in equity on such patent for any infringement of such part of the invention or discovery as shall be *bona fide* his own as aforesaid, notwithstanding the specification may embrace more than he shall have any legal right to claim. (*b*) But, in every such case in which a judgment

or verdict shall be rendered for the plaintiff, he shall not be entitled to recover costs against the defendant, unless he shall have entered at the Patent Office, prior to the commencement of the suit, a disclaimer of all that part of the thing patented which was so claimed without right (*c*). *Provided, however*, That no person bringing any such suit shall be entitled to the benefits of the provisions contained in this section, who shall have unreasonably neglected or delayed to enter at the Patent Office a disclaimer as aforesaid. (*d*)

(*a*) 1. This section contemplates the rule of the common law, that if a patent embraces different machines, and any one of them is not new, or was not the invention of the patentee, or the like, the whole patent would be void, as being then in full force, and therefore sought to mitigate it by providing that under the cases therein mentioned, the patent should be good to the extent of the patentee's invention. *Wyeth* v. *Stone*, 1 Story, 288, 289.—STORY, J.; Mass., 1840.

2 It points throughout to a single invention, as the "thing patented," and does not justify the position that one patent can lawfully include divers distinct and independent inventions, having no connection with each other, nor any common purpose. It may therefore be deemed a legislative recognition and adoption of the general rule of law in cases not within its exceptive provision. *Ib d.*, 290.

3. This section is intended to cover "inadvertences and mistakes" of law, as well as inadvertences and mistakes of fact. *Ibid.*, 295.

4. Prior to the act of 1836, if the patentee claimed more than he had invented, his patent was void But under this section, his patent is not absolutely void, because the patentee claims more than he has actually invented, but is valid for as much as is truly and *bona fide* his own; but to secure the benefits of this section, the specification must state in what the improvement consists. *Peterson* v. *Wooden*, 3 McLean, 249.—MCLEAN, J.; Ohio, 1843.

(*b*) 1. Prior to the act of 1836, a patent was void if the claim extended beyond the invention. Under section 6 of the act of 1836, it was void if a substantial part had been patented or described in a printed publication. Section 15 of the same act saved the patent from being void, if the patentee believed himself to be the first inventor. Section 9 of the act of 1837, enlarged the right of the patentee, providing, notwithstanding section 15 of the act of 1836, that the patent should not be void, where the patentee had acted in good faith, if through mistake or inadvertence he had claimed more than he had invented, and that he might maintain suit on the part actually invented by him, provided he

filed within a reasonable time, a disclaimer of the parts not invented by him. *Smith* v. *Ely*, 5 McLean, 84, 85.—McLEAN, J., Ohio, 1849.

2. The doctrine that a party may take out a valid patent for a combination, and include in it a right to each distinct improvement, is confirmed by the obvious intent of this section, which gives a patentee a right of action for a piratical use of any one of his invented improvements, which is distinctly stated in his patent, though he may by mistake, accident, or inadvertence, have claimed others of which he was not the inventor. *Pitts* v. *Whitman*, 2 Story, 621.—STORY, J.; Mass., 1843.

(*c*) 1. The disclaimer mentioned in this section applies solely to suits brought after the disclaimer is filed. *Wyeth* v. *Stone*, 1 Story, 294.—STORY, J.; Mass., 1840.

2. Where a patent contains several claims, and the invention embraced in one seems to be not new, or useless, the patentee, under this and section 7 may still maintain an action for an infringement, although he did not, before action brought, make a disclaimer of the part claimed without right; but he will not be entitled to costs. *Hall* v. *Wiles*, 2 Blatchf., 198.—NELSON, J.; N. Y., 1851.

3. If in the progress of a trial, it turns out that a disclaimer ought to have been made, the plaintiff may still recover, but will not be entitled to costs. *Ibid.*, 198.

4. A disclaimer is necessary only where the thing claimed without right is a material and substantial part of the thing invented. If the part not new is not essential to the machine, and was not introduced into the patent through wilful default, or intent to defraud or mislead the public, the want of a disclaimer affords no ground for invalidating the patent. *Ibid.*, 199.

5. Under this section, in an action for infringement, the plaintiff cannot recover costs if he has claimed any thing of which he was not the first and original inventor, unless before suit brought he has disclaimed such part: and it makes no difference whether the infringement alleged was of or against the part so claimed, but not new, or of some other part claimed in the patent. *Seymour* v. *McCormick*, 19 How., 106.—NELSON, J.; Sup. Ct., 1856.

6. The omission to disclaim a part not new, prevents a plaintiff from recovering costs, and it makes no difference that such part is not alleged to be infringed. *Ibid.*, 106.

7. Though the neglect to file a disclaimer until after suit brought, will prevent the plaintiff recovering costs, it does not interfere with the power of the court to increase the verdict under section 14 of the act of 1836. *Guyon* v. *Serrell*, 1 Blatchf., 245, 246.—NELSON, J.; N. Y., 1847.

(*d*) 1. The plaintiff will not be entitled to the benefit of a disclaimer if he has unreasonably neglected and delayed to file it. Such neglect or delay is a good defence to a suit. *Reed* v. *Cutter*, 1 Story, 600.—STORY, J.; Mass., 1841.

2. An unreasonable delay to enter a disclaimer cuts off the patentee, not only from a right to costs, but also from a right of action. *Brooks* v. *Bicknell*, 3 McLean, 449.—McLEAN, J.; Ohio, 1844.

3. What is an unreasonable delay is a mixed question of law and fact. Less vigilance will be required from an administrator than from the original inventor. *Ibid.*, 449, 450.

4. Where a patentee has unintentionally claimed something which was not original, but has unreasonably neglected to file a disclaimer, he cannot, under this section, recover in an action of infringement, even if the defendant has infringed the parts of his invention which are new. *Parker* v. *Stiles*, 5 McLean, 56.—LEAVITT, J.; Ohio, 1849.

5. Under this section, the question of unreasonable negligence or delay in entering a disclaimer goes to the right of the action; and if the delay shows great negligence, the jury may find the patent void. *Hall* v. *Wiles*, 2 Blatchf., 199.—NELSON, J.; N. Y., 1851.

6. Where a claim has been held valid by the Patent Office, and has been sanctioned by a court below, the patentee will not be guilty of *unreasonable delay* in disclaiming it by waiting to obtain the decision of the highest court upon it. *O'Reilly* v. *Morse*, 15 How., 122.—TANEY, Ch. J.; Sup. Ct., 1853.

7. Under this section, where a patentee claims more than he has invented, or is entitled to, his patent will still be valid for what he has invented, provided he enters a disclaimer of what he has included in his patent which he has not invented, without unreasonable neglect or delay. *Silsby* v. *Foote*, 20 How., 387.—NELSON, J.; Sup. Ct., 1857.

See also DIGEST PAT. CASES, title DISCLAIMER; and notes to section 7 of this act.

SECTION 10. [Repealed by act of 1861, § 6.] *And be it further enacted*, That the Commissioner is hereby authorized and empowered to appoint agents in not exceeding twenty of the principal cities or towns in the United States as may best accommodate the different sections of the country, for the purpose of receiving and forwarding to the Patent Office all such models, specimens of ingredients and manufactures, as shall be intended to be patented or deposited therein, the transportation of the same to be chargeable to the Patent fund.

SECTION 11. *And be it further enacted*, That, instead of one examining clerk, as provided by the second section of the act to which this is additional, there shall be ap-

pointed, in manner therein provided, two examining clerks, each to receive an annual salary of fifteen hundred dollars; and also, an additional copying clerk, at an annual salary of eight hundred dollars. And the Commissioner is also authorized to employ, from time to time, as many temporary clerks as may be necessary to execute the copying and draughting required by the first section of this act, and to examine and compare the records with the originals, who shall receive not exceeding seven cents for every page of one hundred words, and for drawings and comparison of records with originals, such reasonable compensation as shall be agreed upon or prescribed by the Commissioner.

The Commissioner of Patents has now the power to appoint examiners, not to exceed four in each class. Act of 1861, § 7.

SECTION 12. [Repealed by act of 1861, § 9.] *And be it further enacted*, That, wherever the application of any foreigner for a patent shall be rejected and withdrawn for want of novelty in the invention, pursuant to the seventh section of the act to which this is additional, the certificate thereof of the Commissioner shall be a sufficient warrant to the treasurer to pay back to such applicant two-thirds of the duty he shall have paid into the Treasury on account of such application.

The right of withdrawal, as to any portion of the patent fee, in applications made subsequent to March 2d, 1861, is now taken away. Act of 1861, § 9.

SECTION 13. *And be it further enacted*, That in all cases in which an oath is required by this act, or by the act to which this is additional, if the person of whom it is required shall be conscientiously scrupulous of taking an oath, affirmation may be substituted therefor.

ACT OF 1837, CHAP. 45, § 14. IN FORCE.

1. The act referred to is that of 1836, section 6.
2. As to what persons may administer this oath, when the applicant is without the jurisdiction of the United States, see act of 1842, section 4.

SECTION 14. *And be it further enacted*, That all moneys paid into the Treasury of the United States for patents and for fees for copies furnished by the Superintendent of the Patent Office prior to the passage of the act to which this is additional, shall be carried to the credit of the Patent fund created by said act; and the moneys constituting said fund shall be, and the same are hereby, appropriated for the payment of the salaries of the officers and clerks provided for by said act, and all other expenses of the Patent Office, including all the expenditures provided for by this act; and also for such other purposes as are or may be hereafter specially provided for by law. And the Commissioner is hereby authorized to draw upon said fund, from time to time, for such sums as shall be necessary to carry into effect the provisions of this act, governed, however, by the several limitations herein contained. And it shall be his duty to lay before Congress in the month of January, annually, a detailed statement of the expenditures and payments by him made from said fund; And it shall also be his duty to lay before Congress in the month of January, annually, a list of all patents which shall have been granted during the preceding year, designating, under proper heads, the subjects of such patents, and furnishing an alphabetical list of the patentees, with their places of residence; and he shall also furnish a list of all patents which shall have become public property during the same period; together with such other information of the state and condition

of the Patent Office as may be useful to Congress or the public.

Approved March 3d, 1837.

The annual report of the Commissioner of Patents on mechanics is to be prepared so that the plates and drawings shall be comprised in one volume, not to exceed eight hundred pages. Act of 1859, § 4.

ACT OF 1839, CHAPTER 88.

(5 STATUTES AT LARGE, 353.)

[*This Act still in Force.*]

An Act in addition to "An act to promote the progress of the useful arts."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there shall be appointed, in manner provided in the second section of the act to which this is additional, two assistant examiners, each to receive an annual salary of twelve hundred and fifty dollars.

The Commissioner of Patents has now authority to appoint examiners, not to exceed four in each class. Act of 1861, § 7.

SECTION 2. *And be it further enacted*, That the Commissioner be authorized to employ temporary clerks to do any necessary transcribing, whenever the current business of the office requires it; *Provided, however*, That instead of salary, a compensation shall be allowed, at a rate not greater than is charged for copies now furnished by the office.

Fee for copies is ten cents per hundred words. Act of 1836, § 4. Act of 1861, § 10.

SECTION 3. *And be it further enacted*, That the Commissioner is hereby authorized to publish a classified and alphabetical list of all patents granted by the Patent Office previous to said publication, and retain one hundred copies for the Patent Office and nine hundred copies to be deposited in the library of Congress, for such distribution as may be hereafter directed; and that one thousand dollars, if necessary, be appropriated, out of the Patent fund, to defray the expense of the same.

SECTION 4. *And be it further enacted*, That the sum of three thousand six hundred and fifty-nine dollars and twenty-two cents be, and is hereby, appropriated from the Patent fund, to pay for the use and occupation of rooms in the City Hall by the Patent Office.

SECTION 5. *And be it further enacted*, That the sum of one thousand dollars be appropriated from the Patent fund, to be expended under the direction of the Commissioner, for the purchase of necessary books for the library of the Patent Office.

SECTION 6. [Enlarging act of 1836, § 8.] *And be it further enacted*, That no person shall be debarred from receiving a patent for any invention or discovery, as provided in the act approved on the fourth day of July, one thousand eight hundred and thirty-six (*a*), to which this is additional, by reason of the same having been patented in a foreign country more than six months prior to his application: *Provided*, That the same shall not have been introduced into public and common use in the United States, prior to the application for such patent: *And provided, also*, That in all cases every such patent shall be limited to the term of fourteen years (*b*) from the date or publication of such foreign letters patent. (*c*)

(*a*) For provision referred to, see act of 1836, § 8.

(*b*) Patents are now granted for the term of seventeen years. Act of 1861, § 16.

(*c*) 1. The date of a patent may be altered to correspond with that of a foreign patent, previously taken out by the inventor, where the mistake has not arisen from any fraudulent or deceptive intention. *Detmold's Case*, 4 Opin., 335.—NELSON, Atty.-Gen; 1844.

2. Under this section, if the domestic patent, in a case where a foreign patent has been previously obtained, purports to give an exclusive right for fourteen years from its date, instead of from the date of the foreign patent, it is void, as having been issued without authority of law; but the error is not fatal, and may be corrected on application to the Patent Office. *Smith* v. *Ely*, 5 McLean, 78, 80.—MCLEAN, J.; Ohio, 1849.

3. The proviso of this section as to when a home patent shall bear the date of a foreign patent, relates only to such patents as are *applied for* here *after* the issue of a foreign patent. *French* v. *Rogers*, MS.—KANE, J.; Pa., 1851.

4. Where, therefore, an application for a patent was made in this country in April, 1838, and acted on in that month, but a patent was not actually issued until June 20th, 1840, at which time the patent was dated, and a foreign patent was obtained in August, 1838; *Held*, as the application here was before the foreign patent, that the grant of the patent here was under the general enactments of the act of 1836, and its term runs properly from its date. *Ibid.*

5. A patent is not void because it does not, on its face, bear the same date with a foreign patent. If it is not, for any reason, exempt from the operation of the statute on such subject, the only effect is to limit the monopoly to fourteen years from the date of the foreign patent. *O'Reilly* v. *Morse*, 15 How., 112.—TANEY, Ch. J.; Sup. Ct., 1853.

SECTION 7. [Qualifying act of 1836, §§ 7, 15.] *And be it further enacted*, That every person or corporation who has, or shall have, purchased or constructed any newly invented machine, manufacture, or composition of matter, prior to the application by the inventor or discoverer for a patent, shall be held to possess the right to use, and vend to others to be used, the specific machine, manufacture, or composition of matter, so made or purchased, without liability therefor to the inventor, or any other person interested in such invention; and no patent shall be held to be invalid by reason of such purchase, sale, or

use prior to the application for a patent as aforesaid, except on proof of abandonment of such invention to the public; or that such purchase, sale, or prior use has been for more than two years prior to such application for a patent.

1. This section, allowing the use and sale of an invention for two years before the application for a patent, is in the nature of a statute of limitations. *Hovey* v. *Henry*, 3 West. Law Jour., 155.—WOODBURY, J.; Mass., 1845.

2. It virtually extends the patentee's privilege to sixteen years instead of fourteen. *McCormick* v. *Seymour*, 2 Blatchf., 254.—NELSON, J.; N. Y., 1851.

3. The object of this section is twofold: first, to protect the person who has used the thing patented from any liability to the patentee, or his assignee; and second, to protect the rights granted to the patentee against any infringement by any other person. *McClurg* v. *Kingsland*, 1 How., 208, 209.—BALDWIN, J.; Sup. Ct., 1843.

4. This section relieved the patentee from the effect of the former laws, and their construction by the court, while it puts the person who has had such prior use on the same footing as if he had a special license from the inventor, which, if given before the application for a patent, would justify a continued use of it after it issued, without liability. *Ibid.*, 209.

5. It is not limited to patents for machines, manufactures, and compositions of matter, but embraces inventions for modes of doing a thing, or processes, as a new improvement in the art of casting iron. *Ibid.*, 209.

6. This section is not to be construed as confined to a specific machine as distinguished from an invention or thing patented, but the words "newly invented machine, manufacture, or composition of matter," and "such invention," mean the "invention patented," and the words "specific machine" refer to "the thing as originally patented," whereof the right is secured by patent, but not to any newly invented improvement on a thing once patented. *Ibid.*, 210.

7. This section has exclusive reference, in respect to the use of a machine, to an original patent, and not to a renewal or reissue of it. *Stimpson* v. *West Chester R. R.*, 4 How., 403.—MCLEAN, J.; Sup. Ct., 1845.

8. This section allows the use of an invention, even with leave of the inventor, for two years before application for a patent, without invalidating his right to a patent; *a fortiori*, the use by a third person, or a subsequent inventor, after the invention and before the issuing of a patent to the first inventor, without his consent, is no bar to the issuing of a patent to the first inventor. *Hildreath* v. *Heath*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1841.

9. Both before and since the act of 1839, an inventor might exercise a claim to an inchoate right to an invention, which was capable of being perfected to an exclusive right by obtaining letters patent, and the public may acquiesce in such claim. *Sargeant* v. *Seayrave*, 2 Curt., 555.—CURTIS, J.; R. I., 1855.

10. Before the act of 1839, he might, by way of experiment, bring the knowledge of his invention to the public, at the same time making known that he was about to apply for a patent; and since the act of 1839, he may sell any number of his machines to the public, during any period less than two years, accompanied by a claim to the inchoate right sufficient to show an intention not to abandon it to the public. *Ibid.*, 555.

11. Under this section the purchaser must be a purchaser from the inventor himself, before his application for a patent, and not from a wrongdoer, without his knowledge or against his will. *Pierson* v. *Eagle Screw Co.*, 3 Story, 406, 407.—STORY, J.; R. I., 1844. *Hovey* v. *Stevens*, 1 Wood. & Min., 301.—WOODBURY, J.; Mass., 1846.

12. A surreptitious knowledge and use of an invention, before the application by the inventor for a patent, does not, under this section, give any right to continue to use it after the inventor has obtained a patent for it. *Kendall* v. *Winsor*, 21 How., 330.—DANIEL, J.; Sup. Ct., 1858.

13. The sale of the product of an invention is not a sale of the thing invented within this section: the sale here spoken of is a sale of the invention or patented article. *Booth* v. *Garelly*, 1 Blatchf, 250.—NELSON, J.; N. Y., 1847.

14. This section gives no protection to those who may have seized upon an invention or discovery disclosed in a patent, whose specification may happen to be defective or insufficient. *Goodyear* v. *Day*, MS. —GRIER, J.; N. J., 1852.

15. This section provided a remedy for cases where the conduct of the party, as to the sale of his invention, did not show an actual abandonment. It also secures the rights of those who may have purchased or constructed any newly invented machine, prior to the application for a patent. *Sanders* v. *Logan*, 3 Wall., Jr.—GRIER, J.; Pa., 1861.

16. The obvious construction of it is, that a purchase, sale, or prior use, shall not invalidate, unless it amounts to an abandonment to the public. *Ibid.*

See also DIGEST PAT. CASES, title PRIOR USE.

SECTION 8. *And be it further enacted*, That so much of the eleventh section of the above recited act as requires the payment of three dollars to the Commissioner of Patents for recording any assignment, grant, or conveyance of the whole or any part of the interest or right

under any patent, be, and the same is hereby, repealed; and all such assignments, grants, and conveyances shall, in future, be recorded without any charge whatever.

Fees for recording assignments are again required, according to certain rates, by the act of 1843, section 2, and the act of 1861, section 10.

SECTION 9. [Obsolete; temporary enactment.] *And be it further enacted*, That a sum of money not exceeding one thousand dollars, be, and the same is hereby, appropriated, out of the Patent fund, to be expended by the Commissioner of Patents in the collection of agricultural statistics, and for other agricultural purposes; for which the said Commissioner shall account in his next annual report.

By an act passed May 15, 1862, a "Department of Agriculture" was established, to which supervision of every thing relating to agriculture was given. No further provisions relating to agriculture will therefore be inserted.

SECTION 10. [Extending act of 1836, § 16.] *And be it further enacted*, That the provisions of the sixteenth section of the before recited act shall extend to all cases where patents are refused for any reason whatever, either by the Commissioner of Patents or by the Chief Justice of the District of Columbia, upon appeals from the decision of said Commissioner, as well as where the same shall have been refused on account of, or by reason of, interference with a previously existing patent; and in all cases where there is no opposing party, a copy of the bill shall be served upon the Commissioner of Patents, when the whole of the expenses of the proceeding shall be paid by the applicant, whether the final decision shall be in his favor or otherwise.

1. An assignee of an invention, by virtue of an assignment made

before patent issued, may file a bill in his own name under section 16 of the act of 1836, and this section, against a patentee to whom a patent issued, upon an interference with complainant's assignor, for the purpose of having the patent so issued set aside, and one granted to the complainant. *Gay* v. *Cornell*, 1 Blatchf., 507.—NELSON, J.; N. Y., 1849.

2. And it will be sufficient if such assignment is recorded before patent is issued. *Ibid.*, 509.

SECTION 11. [Amending act of 1836, § 7.] *And be it further enacted*, That in all cases where an appeal is now allowed by law from the decision of the Commissioner of Patents to a board of examiners, provided for in the seventh section of the act to which this is additional, the party, instead thereof, shall have a right to appeal to the Chief Justice of the District Court of the United States for the District of Columbia (*a*), by giving notice thereof to the Commissioner, and filing in the Patent Office, within such time as the Commissioner shall appoint (*b*), his reasons of appeal, specifically set forth in writing (*c*), and also paying into the Patent Office, to the credit of the Patent fund, the sum of twenty-five dollars. And it shall be the duty of said Chief Justice, on petition, to hear and determine all such appeals, and to revise such decisions in a summary way, on the evidence produced before the Commissioner (*d*), at such early and convenient time as he may appoint, first notifying the Commissioner of the time and place of hearing, whose duty it shall be to give notice thereof to all parties who appear to be interested therein, in such manner as said judge shall prescribe. The Commissioner shall also lay before the said judge all the original papers and evidence in the case, together with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal, to which the revision shall be con-

fined. (*e*) And at the request of any party interested, or at the desire of the judge, the Commissioner and the examiners in the Patent Office may be examined under oath, in explanation of the principles of the machine or other thing for which a patent, in such case, is prayed for. (*f*) And it shall be the duty of said judge, after a hearing of any such case, to return all the papers to the Commissioner, with a certificate of his proceedings and decision, which shall be entered of record in the Patent Office; and such decision, so certified, shall govern the further proceedings of the Commissioner in such case (*g*); *Provided, however*, That no opinion or decision of the judge in any such case, shall preclude any person interested in favor or against the validity of any patent which has been, or may hereafter, be granted, from the right to contest the same in any judicial court, in any action in which its validity may come in question.

(*a*) 1. Appeals were afterwards allowed to be made to either of the assistant judges of the Circuit Court of the District of Columbia. Act of August 18th, 1852, § 1.

2. By the act of March 3d, 1863, section 3, establishing the Supreme Court of the District of Columbia, the justices of such court were clothed with the same powers theretofore exercised by the judges of the Circuit Court.

(*b*) 1. The filing of the reasons of appeal is essentially the appeal itself. *Greenough* v. *Clark*. MS. (App. Cas.)—MORSELL, J.; D. C., 1853.

2. Where the reasons of appeal are not filed within the time prescribed by the Commissioner of Patents, the right of appeal is lost. *Ibid.* Also, *Wade* v. *Matthews*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1850.

3. But the Commissioner may enlarge the time to file such reasons. *Justice* v. *Jones*, MS. (App. Cas.)—MERRICK, J.; D. C., 1859.

4. An appeal cannot be made after the time limited in the notice of appeal. *Linton, Ex parte*, MS. (App. Cas.)—MERRICK, J.; D. C., 1860.

See also DIGEST PAT. CASES, title APPEALS, B. 1.

(*c*) 1. The reasons of appeal must not be vague and unsatisfactory, as "that the decision of the Commissioner was in opposition to a clear apprehension of the merits of the case." *Winslow, Ex parte*, MS. (App.

Cas.)—CRANCH, Ch. J.; D. C., 1850. *Douglass* v. *Blakinton*, MS. (App. Cas.)—MERRICK, J.; D. C., 1859.

2. No reason of appeal can be considered as valid, which would not justify the Commissioner in refusing a patent. *Wade* v. *Matthews*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1850.

3. No assignment is sufficiently explicit which does not, with reasonable certainty, point out the precise matter of alleged error. *Douglass* v. *Blakinton*, MS. (App. Cas.)—MERRICK, J.; D. C., 1859.

4. The reasons of appeal should be so expressed that the judge may gather from their language what is meant by them, but they need not be according to any technical formula. *Laidley* v. *James*, MS. (App. Cas.)—MERRICK, J.; D. C., 1860.

See also DIGEST PAT. CASES, title APPEALS, B. 4.

(*d*) 1. The questions are to be decided by the judge according to the evidence produced before the Commissioner. *Warner* v. *Goodyear*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1846. *Perry* v. *Cornell*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1847.

2. The provision requiring the judge to hear and determine appeals "on the evidence produced before the Commissioner," is to be construed with reference to section 7 of the act of 1836, providing that reasonable notice shall be given both to the party appealing, and the Commissioner, "so that they may have an opportunity of furnishing such facts and evidence as they may deem necessary to a just decision." *Fultz, Ex parte*, MS. (App. Cas.)—MORSELL, J.; D. C., 1853.

3. There is nothing in the act of 1839, which takes away or impairs that right, but there is every reason to infer that it was intended to be saved to the fullest extent. *Ibid.*

4. Where, therefore, a party has been prevented before the Commissioner from producing his proofs to support his claim, it is the duty of the judge, by reasonable regulations, similar to those directed by section 12 of the act of 1839, to pursue such a course, as will afford the party an opportunity to produce such proofs, and he may make an order, authorizing the party to take and file his proofs as to the originality and utility of his invention. *Ibid.*

(*e*) 1. All the conditions prescribed by this section must be complied with as prerequisites before the judge can take jurisdiction. His jurisdiction is special and limited, and no other power can be exercised except that expressly given. *Greenough* v. *Clark*, MS. (App. Cas.)—MORSELL, J.; D. C., 1853.

2. The powers and jurisdiction of the judges on appeal, are special and limited, and must be exercised and construed strictly. *Pomeroy* v. *Connison*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1842.

3. The power of the justices on appeal from the decision of the Commissioner of Patents is confined to the points involved in the reasons of appeal. *Kemper, Ex parte*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1841. *Arnold* v. *Bishop*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1841. *Smith* v. *Flickinger*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1843.

Cochrane v. *Waterman*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1844. *Warner* v. *Goodyear*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1846. *Winslow, Ex parte*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1850. *Aiken, Ex parte*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1850. *Burlee* v. *O'Neil*, MS. (App. Cas.)—MORSELL, J.; D. C., 1853.

See also DIGEST PAT. CASES, title APPEALS, B. 2, 3.

(*f*) 1. The provision of this section as to the examination of the Commissioner, &c., must be considered in connection with section 7 of the act of 1836, as to the powers of the old Board of Examiners. The statute means that the explanation may be so full and clear an explanation of the *principles* of the thing, as to enable the judge to weigh and apply the evidence offered, and is not to be limited to a mere exposition of the terms used; and such explanations the judge is bound to respect as a part of the case. *Richardson* v. *Hicks*, MS. (App. Cas.)—MORSELL, J.; D. C., 1854.

2. The judge succeeds to all the authority conferred upon the Board of Examiners by section 7 of the act of 1836, to require of the Commissioner and examiners information relative to the subject-matter under consideration, and to the full extent. *Seeley, Ex parte*, MS. (App. Cas.)—MORSELL, J.; D. C., 1853.

3. The officer of the Patent Office attending before the judge is not to be considered as counsel for the Patent Office, or for either of the parties, but only attends to explain the decision of the Commissioner. *Perry* v. *Cornell*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1847.

(*g*) 1. The provision that "the decision of the judge shall govern the further proceedings of the Commissioner in the case," applies only to so much of the case as is involved in the reasons of appeal; and the appeal itself can only be considered as an appeal to so much of the decision of the Commissioner as is affected by such reasons. *Arnold* v. *Bishop*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1841.

2. If, therefore, after the judge shall have decided in favor of an applicant, upon the points involved in the reasons of appeal, other grounds remain for rejecting the claim, it would seem the Commissioner might still reject it; whether such new rejection would be the subject of appeal; *query*. *Ibid.*

3. As to who may appeal, see notes to section 8, act of 1836.

See also DIGEST PAT. CASES, title APPEALS, B. 3 and 5.

SECTION 12. [Repealing act of 1836, § 7: Enlarged by act of 1861, § 1.] *And be it further enacted*, That the Commissioner of Patents shall have power to make all such regulations in respect to the taking of evidence to be used in contested cases before him, as may be just and reasonable. And so much of the act to which

this is additional, as provides for a board of examiners, is hereby repealed.

1. The power granted to the Commissioner under this section to make rules as to the taking of evidence, gives no right to make new rules of evidence, or to make new rules of law so as to divest vested rights. *Dyson, Ex parte*, MS. (App. Cas.)—DUNLOP, J.; D. C., 1860.

2. The rules as to evidence, made under this section by the Commissioner of Patents, in conformity with the law, while they remain unabrogated, are as binding as the law itself, and as well upon the Commissioner as on others. *Arnold* v. *Bishop*, MS. (A. Cas.)—CRANCH, Ch. J.; D. C., 1841. *O'Hara* v. *Hawes*, MS. (App. Cas.)—MORSELL, J.; D. C., 1859.

3. After a deposition has been taken while the rules were in force, a revocation of them cannot affect such deposition. A revocation can affect only subsequent proceedings. *Arnold* v. *Bishop*, MS. (App. Cas.)—CRANCH, Ch. J.; D. C., 1841.

4. The rules of the Patent Office as to taking evidence, prescribed under this section, must be *just and reasonable*, according to the established principles and precedents in like cases. *Nichols* v. *Harris*, MS. (App. Cas.)—MORSELL, J.; D. C., 1854.

5. The power of the Commissioner to make rules as to evidence is now extended to all cases pending before the Patent Office. Act of 1861, § 1.

See also DIGEST PAT. CASES, title EVIDENCE, C. 3.

SECTION 13. [Obsolete: Repealed by act of 1852, § 3.] *And be it further enacted*, That there be paid annually, out of the Patent fund, to the said Chief Justice, in consideration of the duties herein imposed, the sum of one hundred dollars.

Approved March 3d, 1839.

This section was repealed by section 3 of the act of 1852; and it was also provided that, in case of an appeal to the chief justice, or to either of the assistant justices, there should be paid to the judge to whom appeal should be made, the $25 required to be paid by this section. Act of 1852, § 2.

ACT OF 1842, CHAPTER 263.

5 STATUTES AT LARGE, 543,

[*This Act still in Force.*]

An Act in addition to an act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose. (*a*)

(*a*) This act purports, from its title, to repeal all acts and parts of acts heretofore made to promote the progress of the useful arts; but though it extends some of the existing laws to new cases, it in fact repeals no act or part of any act whatsoever. *Stimpson* v. *Pond*, 2 Curt., 506.—CURTIS, J.; Mass., 1855.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Treasurer of the United States be, and he hereby is, authorized to pay back, out of the Patent fund, any sum or sums of money, to any person who shall have paid the same into the Treasury, or to any receiver or depositary to the credit of the Treasurer, as for fees accruing at the Patent Office through mistake, and which are not provided to be paid by existing laws, certificate thereof being made to said Treasurer by the Commissioner of Patents.

SECTION 2. [Extending act of 1837, § 3.] *And be it further enacted*, That the third section of the act of March, eighteen hundred and thirty-seven, which autho rizes the renewing of patents lost prior to the fifteenth of December, eighteen hundred and thirty-six, is extended to patents granted prior to said fifteenth day of December, though they may have been lost subsequently: *Provided*,

however, The same shall not have been recorded anew under the provisions of said act.

SECTION 3. [Obsolete: Superseded by act of 1861, § 11.] *And be it further enacted*, That any citizen or citizens, or alien or aliens, having resided one year in the United States and taken the oath of his or their intention to become a citizen or citizens, who by his, her, or their own industry, genius, efforts, and expense, may have invented or produced any new and original design for a manufacture, whether of metal or other material or materials, or any new and original design for the printing of woollen, silk, cotton, or other fabrics, or any new and original design for a bust, statue, or bas relief or composition in alto or basso relievo, or any new and original impression or ornament, or to be placed on any article of manufacture, the same being formed in marble or other material, or any new and useful pattern, or print, or picture, to be either worked into or worked on, or printed or painted or cast or otherwise fixed on, any article of manufacture, or any new and original shape or configuration of any article of manufacture not known or used by others before his, her, or their invention or production thereof, and prior to the time of his, her, or their application for a patent therefor, and who shall desire to obtain an exclusive property or right therein to make, use, and sell and vend the same, or copies of the same, to others, by them to be made, used, and sold, may make application in writing to the Commissioner of Patents expressing such desire, and the Commissioner, on due proceedings had, may grant a patent therefor, as in the case now of application for a patent: *Provided*, That the fee in such cases which by the now existing laws would be required

of the particular applicant shall be one-half the sum, and that the duration of said patent shall be seven years, and that all the regulations and provisions which now apply to the obtaining or protection of patents not inconsistent with the provisions of this act shall apply to applications under this section.

SECTION 4. *And be it further enacted*, That the oath required for applicants for patents may be taken, when the applicant is not, for the time being, residing in the United States, before any minister, plenipotentiary, *chargé d'affaires*, consul, or commercial agent holding commission under the Government of the United States, or before any notary public of the foreign country in which such applicant may be.

Oaths required by act of 1836, section 6; affirmation substituted therefor in certain cases by act of 1837, section 13.

SECTION 5. *And be it further enacted*, That if any person or persons shall paint or print or mould, cast, carve, or engrave, or stamp, upon any thing made, used, or sold, by him, for the sole making or selling 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 consent of such patentee, or his assigns or legal representatives; or if any person, upon any such thing not having been purchased from the patentee, or some person who purchased it from or under such patentee, or not having the license or consent of such patentee, or his assigns or legal representatives, shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise make or affix the word "patent," or the words "letters patent," or the word "patentee," or

any word or words of like kind, meaning, or import, with the view or intent of imitating or counterfeiting the stamp, mark, or other device of the patentee, or shall affix the same, or any word, stamp, or device, of like import, on any unpatented article, for the purpose of deceiving the public (*a*), he, she, or they, so offending, shall be liable for such offence to a penalty of not less than one hundred dollars (*b*), with costs, to be recovered by action in any of the Circuit Courts of the United States, or in any of the District Courts of the United States having the powers and jurisdiction of a Circuit Court (*c*); one-half of which penalty, as recovered, shall be paid to the Patent fund, and the other half to any person or persons who shall sue for the same.

(*a*) The penalty mentioned in this section is incurred as to all articles made, and having the word "patent" affixed, with a guilty purpose or intent. *Stephens* v. *Caldwell*, MS.—SPRAGUE, J.; Mass., 1860.

(*b*) 1. This section—though its phraseology, 'a penalty of not less than one hundred dollars," is peculiar—authorizes the infliction of a penalty of just one hundred dollars for the offence therein described and no more. *Stimpson* v. *Pond*, 2 Curt., 506.—CURTIS, J.; Mass., 1855.

2. The penalty may be recovered in an action of debt. *Ibid.*, 506.

(*c*) The two years' limitation of suits for penalties, contained in section 32 of the Crimes act of 1790 (1 Stat. at Large, 119), is repealed by implication by section 4 of the act of 1839 (5 Stat. at Large, 322), which extends the time to five years. *Ibid.*, 503.

SECTION 6. [Superseded by act of 1861, § 13.] *And be it further enacted*, That all patentees and assignees of patents hereafter granted, are hereby required to stamp, engrave, or cause to be stamped or engraved, on each article vended, or offered for sale, the date of the patent; and if any person or persons, patentees or assignees, shall neglect to do so, he, she, or they, shall be liable to the same penalty, to be recovered and disposed of in the manner specified in the foregoing fifth section of this act.

Approved August 29th, 1842.

1. Under this section it was held, that it was not the selling the articles unstamped that made the party liable to the penalty, but the omitting to put the stamp on. *Palmer* v. *Allen*, MS.—BETTS, J.; N. Y., 1854.

2. The assignees of an interest in a patent are no more liable for articles purchased and sold by them, without the date of the patent stamped on them, than any other persons, unless the articles were manufactured with their connivance. *Ibid.*

3. Held, also, that the penalty attaches for each separate article sold. *Ibid.*

4. It is necessary that each article should be stamped with the day of the month, as well as the year; but if this is done it is sufficient, even if the word "patented" is abbreviated. *Hawley* v. *Bagley*, MS. —BETTS, J.; N. Y., 1855.

ACT OF 1848, CHAPTER 47.

9 STATUTES AT LARGE, 231.

[*This Act still in Force.*]

An Act to provide additional examiners in the Patent Office, and for other purposes.

SECTION 1. [Amending act of 1836, § 18.] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there shall be appointed, in the manner provided in the second section of the act entitled "An act to promote the progress of useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," approved July fourth, eighteen hundred and thirty-six, two principal examiners, and two assistant examiners, in addition to the number of examiners now employed in the Patent Office; and that hereafter each of the principal examiners employed in the Patent Office shall receive an annual salary of twenty-five hundred dollars, and each of the assistant examiners an annual salary of fifteen hundred dollars (*a*):

IN FORCE. ACT OF 1848, CHAP. 47, § 1.

Provided, That the power to extend patents now vested in the board composed of the Secretary of State, Commissioner of Patents, and Solicitor of the Treasury, by the eighteenth section of the act approved July fourth, eighteen hundred and thirty-six, respecting the Patent Office, shall hereafter be vested solely in the Commissioner of Patents (*b*); and when an application is made to him for the extension of a patent according to said eighteenth section, and sixty days' notice given thereof, he shall refer the case to the principal examiner having charge of the class of inventions to which said case belongs, who shall make a full report to said Commissioner of the said case, and particularly whether the invention or improvement secured in the patent was new and patentable when patented; and thereupon the said Commissioner shall grant or refuse the extension of said patent. upon the same principles and rules that have governed said board; but no patent shall be extended for a longer term than seven years. (*c*)

(*a*) 1. The Commissioner of Patents is now authorized to appoint, from time to time, examiners, not to exceed four in each class. Act of 1861, § 7.

2. As to the gradation and pay of examiners and clerks in the Patent Office, see act of 1853, chapter 97, section 3, and act of 1860, section 5, and act of 1861, section 7.

(*b*) 1 This act is not a repeal of section 18 of the act of 1836, providing for the extension of patents, and the enactment of a new system for that purpose, but simply a repeal of so much of it as related to the action of the Secretary of State, and the Solicitor of the Treasury, leaving the Commissioner of Patents alone to go on in the execution of the duty. *Colt* v. *Young*, 2 Blatchf., 473.—NELSON, J.; N. Y., 1852.

2. Where an application for an extension of a patent under section 18 of the act of 1836 was pending at the time of the passage of the act of 1848, which conferred upon the Commissioner of Patents solely, the power previously vested in the Board created by the act of 1836, *Held*, that it was not necessary to renew the application, but that the Commissioner had the power to go on with the proceedings as having

been already properly instituted, and complete them by gran extension. *Ibid.*, 473.

3. For reference to other decisions bearing upon the exten f patents, see section 18 of the act of 1836, and the notes thereto.

(c) The extension of all patents granted subsequently to March 2d, 1861, except patents for designs, which may be extended for seven years, is now prohibited. Act of 1861, § 16.

SECTION 2. [Re-enacted by act of 1861, § 10.] *And be it further enacted*, That hereafter the Commissioner of Patents shall require a fee of one dollar for recording any assignment, grant, or conveyance of the whole or any part of the interest in letters patent, or power of attorney, or license to make or use the thing patented, when such instrument shall not exceed three hundred words; the sum of two dollars when it shall exceed three hundred and shall not exceed one thousand words; and the sum of three dollars when it shall exceed one thousand words; which fees shall in all cases be paid in advance.

The original provision as to fees for recording assignments, was contained in the act of 1836, section 11. That section was repealed by act of 1839, section 8. Fees for recording were again restored by this section, which is also re-enacted in act of 1861, section 10.

SECTION 3. *And be it further enacted*, That there shall be appointed, in manner aforesaid, two clerks, to be employed in copying and recording, and in other services in the Patent Office, who shall each be paid a salary of one thousand two hundred dollars per annum.

SECTION 4. *And be it further enacted.* That the Commissioner of Patents is hereby authorized to send by mail, free of postage, the annual reports of the Patent Office, in the same manner in which he is empowered to send letters and packages relating to the business of the Patent Office.

Approved May 27th, 1848.

ACT OF 1849, CHAPTER 108.

9 STATUTES AT LARGE, 395.

[*This Act still in Force.*]

Extract from the act entitled "An Act to establish the Home Department, and to provide for the Treasury Department as Assistant Secretary of the Treasury and a Commissioner of the Customs."

SECTION 2. *And be it further enacted*, That the Secretary of the Interior shall exercise and perform all the acts of supervision and appeal in regard to the office of Commissioner of Patents, now exercised by the Secretary of State; and the said Secretary of the Interior shall sign all requisitions for the advance or payment of money out of the Treasury on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the First or Fifth Auditor and First Comptroller of the Treasury.

Approved March 3d, 1849.

ACT OF 1851, CHAPTER 32.

9 STATUTES AT LARGE, 617.

[*This Act still in Force.*]

Extract from the act entitled "An Act making appropriations for the civil and diplomatic expenses of government," &c.

SECTION 2. *And be it further enacted*, That there shall

be appointed and paid, in the manner now provided by law, two principal examiners and two assistant examiners of patents, in addition to the examining force now employed in the Patent Office.

Approved March 3d, 1851.

The Commissioner of Patents is now authorized to appoint, from time to time, examiners, not to exceed four in each class. Act of 1861, § 7.

ACT OF 1852, CHAPTER 107.

10 STATUTES AT LARGE, 75.

[*This Act still in Force.*]

An Act in addition to an act to promote the progress of the useful arts.

SECTION 1. [Enlarging act of 1839, § 11.] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That appeals provided for in the eleventh section of the act entitled "An act in addition to an act to promote the progress of the useful arts," approved March the third, eighteen hundred and thirty-nine, may also be made to either of the assistant judges of the Circuit Court of the District of Columbia, and all the powers, duties, and responsibilities imposed by the aforesaid act, and conferred upon the chief judge, are hereby imposed and conferred upon each of the said assistant judges.

1. By the act of March 3d, 1863, the Circuit Court of the District of Columbia was abolished, and a Supreme Court for the District established; and it was provided by section 3 of that act, that the justices of the said Supreme Court should severally possess the powers and exercise the jurisdiction now possessed and exercised by the judges of the

Circuit Court. Under this act, appeals are now taken to the justices of the said Supreme Court.

2. As to appeals, who may make, and when, see notes to sections 7 and 8 of the act of 1836.

3. As to the power of the judges on appeal, and the effect of their action, see section 11 of the act of 1839, and the notes thereto.

SECTION 2. *And be it further enacted*, That in case appeal shall be made to the said chief judge, or to either of the said assistant judges, the Commissioner of Patents shall pay to such chief judge or assistant judge the sum of twenty-five dollars, required to be paid by the appellant into the Patent Office by the eleventh section of said act, on said appeal.

SECTION 3. [Repealing act of 1839, § 13.] *And be it further enacted*, That section thirteen of the aforesaid act, approved March the third, eighteen hundred and thirty-nine, is hereby repealed.

Approved August 30th, 1852.

ACT OF 1852, CHAPTER 108.

10 STATUTES AT LARGE, 95, 96.

[*This Act still in Force.*]

Extracts from the act entitled "An Act making appropriations for the civil and diplomatic expenses of the Government," &c.

For compensation of the librarian of the Patent Office, twelve hundred dollars, to be paid out of the Patent Fund. (*a*)

For books for the library of the Patent Office, to be paid out of the Patent Fund, one thousand five hundred dollars.

For fitting up the library of the Patent Office, to be paid out of the Patent Fund, two thousand dollars.

For additional compensation to the disbursing clerk and draughtsman in the Patent Office, the sum of three hundred dollars each, to be paid out of the Patent Office Fund; and that hereafter the disbursing clerk shall be required to give bond, with approved security in the sum of five thousand dollars, conditioned for the faithful discharge of the duties of his office.

For the compensation of two additional permanent clerks in the Patent Office, to be appointed by the Commissioner of Patents, at a salary of fourteen hundred dollars each, the sum of twenty-eight hundred dollars, to be paid out of the Patent Office Fund.

Approved August 31st, 1852.

(*a*) The salary of the librarian is now fixed at one thousand eight hundred dollars. Act of 1861, § 4.

ACT OF 1853, CHAPTER 97.

10 STATUTES AT LARGE, 209, 210, 211.

[*This Act still in Force.*]

Extracts from "An Act making appropriations for the civil and diplomatic expenses of the Government," &c.

SECTION 1. For the purchase of books for the library of the Patent Office, to be paid out of the Patent fund, one thousand five hundred dollars.

SECTION 3. *And be it further enacted*, That from and after the thirtieth of June, eighteen hundred and fifty-three, the clerks in the Departments of the Treasury,

War, Navy, the Interior, and the Post Office, shall be arranged into four classes, of which class number one shall receive an annual salary of nine hundred dollars each, class number two an annual salary of one thousand two hundred dollars each, class number three an annual salary of one thousand five hundred dollars each, and class number four an annual salary of one thousand eight hundred dollars each.

This section also provides for eight clerks of the second class, twelve (including six assistant examiners) of the third class, and one of the fourth class; and also provides for an increase of the salary of the chief clerk to two thousand dollars.

Approved March 3d, 1853.

1. The Commissioner of Patents is now authorized to appoint examiners, not to exceed four in each class. Act of 1861, § 7.

2. As to the pay of examiners, see also act of 1860, section 5, and act of 1861, section 7.

3. The salary of the chief clerk is now fixed at two thousand five hundred dollars. Act of 1861, § 4.

ACT OF 1855, CHAPTER 175.

10 STATUTES AT LARGE, 670, 674.

[*This Act still in Force.*]

Extracts from "An Act making appropriations for the civil and diplomatic expenses of the Government," &c.

SECTION 10. *And be it further enacted*, That there shall be appointed and paid in the manner now provided by law, four principal examiners and four assistant examiners of patents, in addition to the examining force now authorized by law, to be so employed in the Patent

Office; and should the necessities of the public service, in the estimation of the Commissioner of Patents, require any additional examining force to that herein provided, previous to the next session of Congress, there may also be appointed and paid in the manner now provided by law, in addition to the foregoing, not exceeding two principal and two assistant examiners, who shall not so continue to be employed subsequent to the expiration of said next session of Congress, without further provision of law.

The Commissioner of Patents is now authorized to appoint examiners, not to exceed four in each class. Act of 1861, § 7.

SECTION 25. *And be it further enacted*, That the first assistant examiners in the Patent Office shall be rated as of the fourth class of clerks, and the second assistant examiners, machinist, and librarian as of the third class.

Approved March 3d, 1855.

ACT OF 1856, CHAPTER 129

11 STATUTES AT LARGE, 91.

[*This Act still in Force.*]

Extracts from the "Act making appropriations for certain civil expenses of the Government," &c.

SECTION 9. *And be it further enacted*, That there shall be appointed and paid, in the manner now provided by law, two principal examiners and two assistant examiners, in addition to the examining force now authorized by law to be so employed in the Patent Office.

For provision authorizing the appointment of examiners by the Commissioner of Patents, see act of 1861, section 7.

SECTION 10. [Obsolete—only temporary.] *And be it further enacted*, That the Commissioner of Patents is hereby authorized to pay those employed in the United States Patent Office from April first, eighteen hundred and fifty-four, until April first, eighteen hundred and fifty-five, as examiners and assistant examiners of patents, at the rates fixed by law for these respective grades: *Provided*, That the same be paid out of the Patent Office fund, and that the compensation thus paid shall not exceed that received by those duly enrolled as examiners and assistant examiners of patents for the same period.

Approved August 18th, 1856.

ACT OF 1859, CHAPTER 80.

11 STATUTES AT LARGE, 422.

[*This Act still in Force.*]

Extract from "An Act making appropriations for the legislative, executive, and judicial expenses of the Government," &c.

SECTION 4. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, directed to cause the annual report of the Commissioner of Patents on mechanics hereafter to be made to the Senate and House of Representatives to be prepared and submitted in such manner as that the plates and drawings necessary to illustrate each subject shall be inserted so as to comprise the entire report in one volume not to exceed eight hundred pages.

Approved March 3d, 1859.

ACT OF 1860, CHAP. 211, § 5. OBSOLETE.

ACT OF 1860, CHAPTER 211.

12 STATUTES AT LARGE, 110.

[*Obsolete: Temporary Enactment.*]

Extract from "An Act making appropriations for sundry civil expenses of the Government," &c.

SECTION 5. *And be it further enacted*, That the Commissioner of Patents is hereby authorized to pay those employed in the Patent Office from April first, eighteen hundred and fifty-five, until April first, eighteen hundred and sixty, as examiners and assistant examiners of patents, at the rates fixed by law for these respective grades: *Provided*, that the same be paid out of the Patent Office fund, and that the compensation thus paid shall not exceed that received by those duly enrolled as examiners and assistant examiners of patents for the same period.

Approved June 25th, 1860.

ACT OF 1861, CHAPTER 37.

12 STATUTES AT LARGE, 130.

[*This Act still in Force.*]

An Act to extend the right of appeal from the decisions of Circuit Courts to the Supreme Court of the United States.

SECTION 1. [Enlarging act of 1836, § 17.] *Be it enacted by the Senate and House of Representatives of the United*

States of America in Congress assembled, That from all judgments and decrees of any Circuit Court rendered in any action, suit, controversy, or case, at law or in equity, arising under any law of the United States granting or confirming to authors the exclusive right to their respective writings, or to inventors the exclusive right to their inventions or discoveries, a writ of error or appeal, as the case may require, shall lie, at the instance of either party, to the Supreme Court of the United States, in the same manner, and under the same circumstances as is now provided by law in other judgments and decrees of such Circuit Courts, without regard to the sum or value in controversy in the action.

Approved February 18th, 1861.

The provision as to writs of error or appeals from judgments and decrees rendered in actions arising under the patent laws, previous to the passage of this act, is contained in the act of 1836, section 17.

ACT OF 1861, CHAPTER 88.

12 STATUTES AT LARGE, 246.

[*This Act still in Force.*]

An Act in addition to "An act to promote the progress of the useful arts."

SECTION 1. [Enlarging act of 1839, § 12.] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commissioner of Patents may establish rules for taking affidavits and depositions required in cases pending in the Patent Office (*a*), and such affidavits and depositions may be taken before any justice of the peace, or

other officer authorized by law to take depositions to be used in the courts of the United States, or in the State courts of any State where such officer shall reside; and in any contested case (*b*) pending in the Patent Office it shall be lawful for the clerk of any court of the United States for any District or Territory, and he is hereby required, upon the application of any party to such contested case, or the agent or attorney of such party, to issue subpœnas for any witnesses residing or being within the said district or territory, commanding such witnesses to appear and testify before any justice of the peace, or other officer as aforesaid, residing within the said district or territory, at any time and place in the subpœna to be stated; and if any witness, after being duly served with such subpœna, shall refuse or neglect to appear, or, after appearing, shall refuse to testify (not being privileged from giving testimony), such refusal or neglect being proved to the satisfaction of any judge of the court whose clerk shall have issued such subpœna, said judge may thereupon proceed to enforce obedience to the process, or to punish the disobedience in like manner as any court of the United States may do in case of disobedience to process of *subpœna ad testificandum* issued by such court; and witnesses in such cases shall be allowed the same compensation as is allowed to witnesses attending the courts of the United States (*c*): *Provided*, That no witness shall be required to attend at any place more than forty miles from the place where the subpœna shall be served upon him to give a deposition under this law: *Provided, also*, That no witness shall be deemed guilty of contempt for refusing to disclose any secret invention made or owned by him: *And provided, further*, That

no witness shall be deemed guilty of contempt for disobeying any subpœna directed to him by virtue of this act, unless his fees for going to, returning from, and one day's attendance at the place of examination, shall be paid or tendered to him at the time of the service of the subpœna.

(*a*) By the act of 1839, section 12, the Commissioner was empowered to make regulations as to taking evidence in contested cases. This act extends to all cases pending in the Patent Office.

(*b*) Whether, under this act, the power to compel the attendance of witnesses is not confined to "contested cases"—as cases of interference —*query*.

(*c*) Witnesses are allowed one dollar and fifty cents per day, and five cents per mile travelling from their places of residence to the place of trial or hearing, and five cents per mile for returning. Act of 1853, cnap. 167, § 3.

SECTION 2. *And be it further enacted*, That for the purposes of securing greater uniformity of action in the grant and refusal of letters patent, there shall be appointed by the President, by and with the advice and consent of the Senate, three examiners-in-chief, at an annual salary of three thousand dollars each, to be composed of persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the applicant for that purpose being filed, to revise and determine upon the validity of decisions made by examiners when adverse to the grant of letters patent; and also to revise and determine in like manner upon the validity of the decisions of examiners in interference cases, and when required by the Commissioner in applications for the extension of patents, and to perform such other duties as may be assigned to them by the Commissioner; that from their decisions appeals may be taken to the Commissioner of Patents in person, upon payment of the fee hereinafter prescribed; that the said examiners-in-chief shall be governed in their

action by the rules to be prescribed by the Commissioner of Patents. (*a*)

SECTION 3. *And be it further enacted*, That no appeal shall be allowed to the examiners-in-chief from the decisions of the primary examiners, except in interference cases, until after the application shall have been twice rejected (*a*); and the second examination of the application by the primary examiner shall not be had until the applicant, in view of the references given on the first rejection, shall have renewed the oath of invention (*b*), as provided for in the seventh section of the act entitled "An act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," approved July fourth, eighteen hundred and thirty-six.

NOTES TO §§ 2 AND 3.

(*a*) 1. Previous to this act, all judicial acts done in the Patent Office by the primary examiners or the board of appeals were, in intendment of law, the judicial acts of the Commissioner, and had no legal validity until sanctioned by him. They were the organs of the Commissioner to *inquire* and *enlighten* his judgment, and till the Commissioner gave validity to their judicial acts, by his *fiat*, they had no legal evidence as judgment. *Snowden* v. *Pierce*, MS. (App. Cas.)—DUNLOP, J.; D. C., 1861.

2. Under the act of 1861, the primary examiners and examiners-in-chief are recognized as *judicial officers*, acting independently of the Commissioner, who can *only control them*, when their judgment in due course comes before the Commissioner, on appeal. *Ibid.*

3. Their acts are not the acts of the Commissioner, but their own acts. They are no longer *mere* organs of the Commissioner, but independent officers. He can only reach and overrule them, when their judgments come regularly before him, *on appeal*. *Ibid.*

4. The Commissioner can give no judgment till the appeal reaches him, and this cannot be done till the judgment of the primary examiners has been submitted to the examiners-in-chief. *Ibid.*

(*b*) The renewal oath dispensed with in all cases by act of 1863, § 1.

SECTION 4. *And be it further enacted*, That the salary of the Commissioner of Patents, from and after the passage of this act, shall be four thousand five hundred dol-

lars per annum, and the salary of the chief clerk of the Patent Office shall be two thousand five hundred dollars, and the salary of the librarian of the Patent Office shall be eighteen hundred dollars.

Previous to this act, the salary of the Commissioner had been three thousand dollars per annum (act of 1836, section 1); that of the chief clerk, seventeen hundred dollars per annum (act of 1836, section 2); and the compensation of the librarian, one thousand five hundred dollars per annum (act of 1853; act of 1855, section 25).

SECTION 5. *And be it further enacted*, That the Commissioner of Patents is authorized to restore to the respective applicants, or when not removed by them, to otherwise dispose of such of the models belonging to rejected applications as he shall not think necessary to be preserved. The same authority is also given in relation to all models accompanying applications for designs. He is further authorized to dispense in future with models of designs when the design can be sufficiently represented by a drawing.

SECTION 6. [Repealing act of 1837, § 10.] *And be it further enacted*, That the tenth section of the act approved the third of March, eighteen hundred and thirty-seven, authorizing the appointment of agents for the transportation of models and specimens to the Patent Office, is hereby repealed.

SECTION 7. *And be it further enacted*, That the Commissioner is further authorized, from time to time, to appoint, in the manner already provided for by law, such an additional number of principal examiners, first assistant examiners, and second assistant examiners as may be required to transact the current business of the office with dispatch, provided the whole number of additional examiners shall not exceed four of each class, and that

the total annual expenses of the Patent Office shall not exceed the annual receipts.

SECTION 8. *And be it further enacted*, That the Commissioner may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed at the cost of the parties filing such papers; and for gross misconduct he may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons of the Commissioner for such refusal shall be duly recorded, and be subject to the approval of the President of the United States.

SECTION 9. [Amending act of 1836, §§ 7, 12; and repealing in part § 13 of same act.] *And be it further enacted*, That no money paid as a fee on any application for a patent after the passage of this act shall be withdrawn or refunded (*a*), nor shall the fee paid on filing a caveat be considered as part of the sum required to be paid on filing a subsequent application for a patent for the same invention. (*b*) That the three months' notice given to any caveator, in pursuance of the requirements of the twelfth section of the act of July fourth, eighteen hundred and thirty-six, shall be computed from the day on which such notice is deposited in the post office at Washington, with the regular time for the transmission to the same added thereto, which time shall be indorsed on the notice; and that so much of the thirteenth section of the act of Congress, approved July fourth, eighteen hundred and thirty-six, as authorizes the annexing to letters patent of the description and specification of additional improvements is hereby repealed, and in all cases where additional improvements would now be admissible, independent patents must be applied for.

IN FORCE. ACT OF 1861, CHAP. 88, § 10.

(*a*) The right of withdrawal was given to American applicants by the act of 1836, section 7; and was extended to foreigners by the act of 1837, section 12.

(*b*) The right of having a caveat fee applied as part of the sum to be paid upon a subsequent application, was given by the act of 1836, section 12.

SECTION 10. *And be it further enacted*, That all laws now in force fixing the rates of the Patent Office fees to be paid, and discriminating between the inhabitants of the United States and those of other countries, which shall not discriminate against the inhabitants of the United States, are hereby repealed, and in their stead the following rates are established:

On filing each caveat, ten dollars.

On filing each original application for a patent, except for a design, fifteen dollars.

On issuing each original patent, twenty dollars.

On every appeal from the examiner-in-chief to the Commissioner, twenty dollars.

On every application for the reissue of a patent, thirty dollars.

On every application for the extension of a patent, fifty dollars; and fifty dollars in addition, on the granting of every extension.

On filing each disclaimer, ten dollars.

For certified copies of patents and other papers, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, and other papers of three hundred words or under, one dollar.

For recording every assignment, and other papers, over three hundred and under one thousand words, two dollars.

For recording every assignment or other writing, if over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making the same.

SECTION 11. [Superseding act of 1842, § 3.] *And be it further enacted*, That any citizen or citizens, or alien or aliens, having resided one year in the United States, and taken the oath of his or their intention to become a citizen or citizens, who, by his, her, or their own industry, genius, efforts, and expense, may have invented or produced any new and original design, or a manufacture, whether of metal or other material or materials, and original design for a bust, statue or bas-relief, or composition in alto or basso relievo, or any new and original impression or ornament, or to be placed on any article of manufacture, the same being formed in marble or other material, or any new and useful pattern or print, or picture, to be either worked into or worked on, or printed, or painted, or cast, or otherwise fixed on any article of manufacture, or any new and original shape or configuration of any article of manufacture, not known or used by others before his, her, or their invention or production thereof, and prior to the time of his, her, or their application for a patent therefor, and who shall desire to obtain an exclusive property or right therein to make, use, and sell, and vend the same, or copies of the same, to others, by them to be made, used, and sold, may make application, in writing, to the Commissioner of Patents, expressing such desire; and the Commissioner, on due proceedings had, may grant a patent therefor, as in the case now of application for a patent, for the term of three and one-half years, or for the term of seven years, or for the term of fourteen years, as the said applicant may elect in his application: *Provided*, That the fee to be paid in such

application shall be for the term of three years and six months, ten dollars, for seven years, fifteen dollars, and for fourteen years, thirty dollars: *And, provided*, That the patentees of designs under this act shall be entitled to the extension of their respective patents for the term of seven years, from the day on which said patent shall expire, upon the same terms and restrictions as are now provided for the extension of letters patent.

1. This act does not require *utility* in order to secure the benefits of its provisions. *Wooster* v. *Crane*, MS.—BENEDICT, J.; N. Y., 1866.

2. But it does require that the shape produced shall be the result of industry, effort, genius, and expense. *Ibid.*

3. *Semble*, That the shape or configuration sought to be secured should be new and original, as applied to articles of manufacture. *Ibid.*

4. W. obtained a patent for "the design and configuration of a reel" for containing ruffles, &c., and which consisted of two parallel disks of pasteboard, cut in the form of a rhombus, with the corners rounded, and connected by four wood cross pieces, on which the ruffles were wound. *Held*, the shape being a well-known mathematical figure, and a common one in many articles of manufacture, that its application to a reel could not be said to be the result of industry, genius, efforts, and expense. *Ibid.*

5. Under the present practice of the Patent Office, names, titles, bill-heads, and other matters intended for use as circulars or trade-marks, if printed in the ordinary movable type, are not held to be patentable as designs.

6. But when any such matter is the special work of an artist for a specified purpose, as when engraved, it may be patented as a design. Hence, when a patent is desired for a design to be used as a trade-mark, it is recommended that it should be engraved.

SECTION 12. [Amending act of 1836, § 18.] *And be it further enacted*, That all applications for patents shall be completed and prepared for examination within two years after the filing of the petition, and in default thereof, they shall be regarded as abandoned by the parties thereto; unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable;

and all applications now pending shall be treated as if filed after the passage of this act, and all applications for the extension of patents, shall be filed at least ninety days before the expiration thereof; and notice of the day set for the hearing of the case shall be published, as now required by law, for at least sixty days.

The previous provisions as to the extension of patents are contained in section 18 of the act of 1836, and section 1 of the act of 1848, amending the former act of 1836.

SECTION 13. [Repealing act of 1842, § 6.] *And be it further enacted*, That in all cases where an article is made or vended by any person under the protection of letters patent, it shall be the duty of such person to give sufficient notice to the public that said article is so patented, either by fixing thereon the word patented, together with the day and year the patent was granted; or when, from the character of the article patented, that may be impracticable, by enveloping one or more of the said articles, and affixing a label to the package or otherwise attaching thereto a label on which the notice, with the date, is printed; on failure of which, in any suit for the infringement of letters patent by the party failing so to mark the article the right to which is infringed upon, no damage shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued after such notice to make or vend the article patented. And the sixth section of the act entitled "An act in addition to an act to promote the progress of the useful arts," and so forth, approved the twenty-ninth day of August, eighteen hundred and forty-two, be, and the same is hereby, repealed.

The act of 1842 imposed a penalty of one hundred dollars on each

article vended or offered for sale, not having the date of the patent stamped or marked upon it; but the neglect to do so did not affect the right of the patentee in any action of infringement brought by him under his patent.

SECTION 14. [Obsolete: Repealed by act of 1862.] *And be it further enacted*, That the Commissioner of Patents be, and he is hereby, authorized to print, or in his discretion to cause to be printed, ten copies of the description and claims of all patents which may hereafter be granted, and ten copies of the drawings of the same, when drawings shall accompany the patents: *Provided*, The costs of printing the text of said descriptions and claims shall not exceed, exclusive of stationery, the sum of two cents per hundred words for each of said copies, and the cost of the drawing shall not exceed fifty cents per copy; one copy of the above number shall be printed on parchment to be affixed to the letters patent; the work shall be under the direction, and subject to the approval, of the Commissioner of Patents, and the expense of the said copies shall be paid for out of the Patent fund.

SECTION 15. *And be it further enacted*, That printed copies of the letters patent of the United States, with the seal of the Patent Office affixed thereto and certified and signed by the Commissioner of Patents, shall be legal evidence of the contents of said letters patent in all cases.

SECTION 16. [Modifying act of 1836, § 5; Superseding act of 1836, § 18]. *And be it further enacted*, That all patents hereafter granted shall remain in force for the term of seventeen years from the date of issue; and all extension of such patents is hereby prohibited.

SECTION 17. *And be it further enacted*, That all acts and parts of acts heretofore passed, which are inconsistent with the provisions of this act, be, and the same are hereby, repealed.

Approved March 2d, 1861.

ACT OF 1862, CHAPTER 182.

12 STATUTES AT LARGE, 583.

[*This Act still in Force.*]

An Act making supplemental appropriations for sundry civil expenses.

[Repealing act of 1861, § 14.] For the fund of the Patent Office, fifty thousand eight hundred and fifty-five dollars and forty-nine cents, to supply a deficiency existing under the act of March second, eighteen hundred and sixty-one, entitled "An act in addition to an act to promote the progress of the useful arts:" *Provided*, That the fourteenth section of said act be, and the same is hereby, repealed.

Approved July 16th, 1862.

ACT OF 1863, CHAPTER 102.

12 STATUTES AT LARGE, 796.

[*This Act still in Force.*]

An Act to amend an act entitled "An act to promote the progress of the useful arts."

SECTION 1. [Repealing act of 1836, § 7, in part.] *Be it enacted by the Senate and House of Representatives of*

the United States of America in Congress assembled, That so much of section seven of the act entitled "An act to promote the progress of the useful arts," approved July fourth, eighteen hundred and thirty-six, as requires a renewal of the oath, be, and the same is hereby, repealed.

SECTION 2. *And be it further enacted,* That, whereas the falling off of the revenue of the Patent Office required a reduction of the compensation of the examiners and clerks, or other employees in the office, after the thirty-first day of August, eighteen hundred and sixty-one, that the Commissioner of Patents be, and he is hereby, authorized, whenever the revenue of the office will justify him in so doing, to pay them such sums, in addition to what they shall already have received, as will make their compensation the same as it was at that time.

SECTION 3. [Extended by acts of 1864 and 1865.] *And be it further enacted,* That every patent shall be dated as of a day not later than six months after the time at which it was passed and allowed, and notice thereof sent to the applicant or his agent. And if the final fee for such patent be not paid within the said six months, the patent shall be withheld, and the invention therein described shall become public property as against the applicant therefor: *Provided,* That in all cases where patents have been allowed previous to the passage of this act, the said six months shall be reckoned from the date of such passage.

Approved March 3d, 1863.

ACT OF 1864, CHAPTER 159.

13 STATUTES AT LARGE, 194.

[*This Act still in Force.*]

An Act amendatory of "An act to amend an act entitled an act to promote the progress of the useful arts," approved March third, eighteen hundred and sixty-three.

[Enlarging act of 1863, § 3.] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any person having an interest in an invention, whether as the inventor or assignee, for which a patent was ordered to issue upon the payment of the final fee. as provided in section three of an act approved March third, eighteen hundred and sixty-three, but who has failed to make payment of the final fee, as provided by said act, shall have the right to make the payment of such fee, and receive the patent withheld on account of the non-payment of said fee, provided such payment be made within six months from the date of the passage of this act: *Provided,* That nothing herein shall be so construed as to hold responsible in damages any persons who have manufactured or used any article or thing for which a patent as aforesaid was ordered to be issued.

Approved June 25th, 1864.

ACT OF 1865, CHAPTER 112.

13 STATUTES AT LARGE, 533.

[*This Act still in Force.*]

An Act amendatory of "An act to amend an act entitled an act to promote the progress of the useful arts," approved March third, eighteen hundred and sixty-three.

[Enlarging act of 1863, § 3.] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any person having an interest in an invention, whether as inventor or assignee, for which a patent was ordered to issue upon the payment of the final fee, as provided in section three of an act approved March third, eighteen hundred and sixty-three, but who has failed to make payment of the final fee, as provided in said act, shall have the right to make an application for a patent for his invention, the same as in the case of an original application, provided such application be made within two years after the date of the allowance of the original application: *Provided*, That nothing herein shall be so construed as to hold responsible in damages any persons who have manufactured or used any article or thing for which a patent aforesaid was ordered to issue. This act shall apply to all cases now in the Patent Office, and also to such as shall hereafter be filed. And all acts or parts of acts inconsistent with this act are hereby repealed.

Approved March 3d, 1865.

ACT OF 1866, CHAPTER 126.

14 STATUTES AT LARGE, 66.

[*Obsolete: Temporary Enactment.*]

An Act to authorize the Commissioner of Patents to pay those employed as examiners and assistant examiners the salary fixed by law for the duties performed by them.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That the Commissioner of Patents is hereby authorized to pay those employed in the patent office from April first, eighteen hundred and sixty-one, until the first day of August, eighteen hundred and sixty-five, as examiners and assistant examiners of patents, at the rates fixed by law for these respective grades; *Provided*, that the same be paid out of the patent office fund, and that the compensation thus paid shall not exceed that received by those duly enrolled as examiners and assistant examiners of patents for the same period.**

Approved, June 18, 1866.

ACT OF 1866, CHAPTER 143.

14 STATUTES AT LARGE, 76.

[*This Act still in Force.*]

An Act in amendment of an act to promote the progress of the useful arts, and the acts in amendment of and in addition thereto.

[Qualifying Act of 1861, § 2.] ***Be it enacted by the Senate and House of Representatives of the United States***

of America in Congress assembled, That upon appealing for the first time from the decision of the primary examiner to the examiners-in-chief in the patent office, the appellant shall pay a fee of ten dollars into the patent office, to the credit of the patent fund; and no appeal from the primary examiner to the examiners-in-chief shall hereafter be allowed until the appellant shall pay said fee.

Approved, June 27, 1866.

ACT OF 1867, CHAPTER 17.

15 STATUTES AT LARGE, 10.

[*This Act still in Force.*]

An Act to increase the force in the Patent Office.

[Re-enactment of act of 1861, § 7.] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commissioner of Patents is authorized from time to time to appoint, in the manner already provided for by law, such an additional number of principal examiners, first assistant examiners, and second assistant examiners, as may be required to transact the current business of the office with despatch: *Provided*, That the whole number of such additional examiners shall not exceed four of each class, and that the total annual expense of the Patent Office shall not exceed its annual receipts.

Approved March 29th, 1867.

ACT OF 1868, CHAPTER 177.

15 STATUTES AT LARGE, 119.

[*This Act partly in Force and partly Temporary.*]

Extract from "An Act making appropriations for sundry civil expenses of the Government," &c.

SECTION 7. *And be it further enacted*, That the Commissioner of Patents be authorized to rent, under the direction of the committees on patents of the Senate and of the House of Representatives, such rooms as may be necessary for the speedy and convenient transaction of the business of the office: *Provided*, That all the moneys standing to the credit of the "Patent Fund," or in the hands of the Commissioner of Patents, and all moneys hereafter received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the treasury as received, without any deduction whatever; and the sum of two hundred and fifty thousand dollars is hereby appropriated for salaries, and miscellaneous and contingent expenses of the Patent Office, and for withdrawals, and for *monies* [moneys] paid by mistake, to be disbursed under the direction of the Secretary of the Interior. And it shall be the duty of the Commissioner of Patents to communicate to Congress at the commencement of every December session, a full and detailed account of moneys received for duties on patents, and for copies of records and drawings, and all other moneys received by virtue of said office; and of all moneys expended by him under and by virtue of this provision for said contingent and miscellaneous expenses, and for salaries, and the

names of the persons to whom such salaries are paid, and the amount thereof paid to each.

Approved July 20th, 1868.

ACT OF 1868, CHAPTER 227.

15 STATUTES AT LARGE, 168.

[*This Act still in Force.*]

Extract from "*An Act to authorize the temporary supplying of vacancies in the executive departments.*"

And provided also, That in case of the death, resignation, absence, or sickness of the Commissioner of Patents, the duties of said commissioner, until a successor be appointed, or such absence or sickness shall cease, shall devolve upon the examiner-in-chief in said office oldest in length of commission.

Approved July 23d, 1868.

ACT OF 1868, RESOLUTION No. 77.

15 STATUTES AT LARGE, 262.

[*This Resolution still in Force.*]

Joint Resolution relative to printing specifications of patents.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That no bills be paid by the treasury for printing specifications of patents above the contract price, except that seventy cents may be added to each thousand words for the additional cost of composition occasioned by change made in printing by order of the Commissioner of Patents.

Approved July 27th, 1868.

ACT OF 1869, CHAPTER 23.

15 STATUTES AT LARGE, 269.

[*Temporary Act.*]

An Act making appropriations for the payment of salaries and contingent expenses of the Patent Office, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be appropriated, out of any money in the treasury not otherwise appropriated, the sum of fifty-four thousand seven hundred and sixty-six dollars, for the payment of the salaries of the officers and employees of the Patent Office, and for the ordinary contingent expenses of said office, for the months of January and February, eighteen hundred and sixty-nine.

Approved February 9th, 1869.

ACT OF 1869, CHAPTER 121.

15 STATUTES AT LARGE, 293.

[*This Act in Force in part, and partly Temporary.*]

Extract from "An Act making appropriations for the legislative, executive, and judicial expenses of the Government," &c.

United States Patent Office.—For compensation of the Commissioner of the Patent Office, four thousand five hundred dollars; for chief clerk, two thousand five hundred dollars; one superintendent of drawing for the annual report, two thousand five hundred dollars; for three examiners-in-chief, at three thousand dollars each, nine

thousand dollars; twenty principal examiners, at two thousand five hundred dollars each, fifty thousand dollars; twenty first assistant examiners, at eighteen hundred dollars each, thirty-six thousand dollars; twenty second assistant examiners, at sixteen hundred dollars each, thirty-two thousand dollars; one librarian, one thousand eight hundred dollars; one machinist, one thousand six hundred dollars; one messenger, one thousand dollars; making, in all, the sum of one hundred and forty thousand nine hundred dollars.

For compensation of six clerks of class three, nine thousand six hundred dollars.

For thirty-five clerks of class two, forty-four thousand eight hundred dollars.

For forty clerks of class one, forty-eight thousand dollars.

For six permanent clerks, at one thousand dollars each, six thousand dollars.

For thirteen copyists of drawings, at one thousand dollars each, thirteen thousand dollars.

For fifty-three female copyists, at seven hundred dollars each, thirty-seven thousand one hundred dollars.

For nine permanent clerks, at nine hundred dollars each, eight thousand one hundred dollars.

For two skilled laborers, at twelve hundred dollars each, two thousand four hundred dollars.

For two skilled laborers, at one thousand dollars each, two thousand dollars.

For seven skilled laborers at nine hundred dollars each, six thousand three hundred dollars.

For thirty laborers, at six hundred dollars each, eighteen thousand dollars.

For two laborers, at five hundred and seventy-six dollars each, one thousand one hundred and fifty-two *hundred* dollars.

For one watchman, nine hundred dollars.

For five watchmen, at seven hundred and twenty dollars, three thousand six hundred dollars.

For seven laborers, at six hundred dollars each, four thousand two hundred dollars.

For contingent expenses of the Patent Office, viz.: For illustrations of annual report, stationery for use of office, printing patents, furniture for rooms, repairs, advertising, books for library, international exchanges, plumbing, gas-fitting, and other contingencies, one hundred and twenty thousand dollars; and no further or greater sum shall be paid, or contracted to be paid, for said contingent expenses; and it shall be the duty of the Commissioner of Patents to make a full and detailed report, to each December session of Congress, of the manner in which said contingent expenses have been disbursed: *Provided*, That with the exception of the Commissioner of Patents and the examiners-in-chief, all the officers, clerks, and employees of the Patent Office shall be subject to the appointing and removing power of the Secretary of the Interior, in like manner and to the same extent as the clerks of the Pension Office are so subject under existing laws; and the disbursements of the Patent Office shall be made by the disbursing clerk of the Department of the Interior.

Approved, March 3d, 1869.

ACT OF 1869, CHAPTER 15.

16 STATUTES AT LARGE, 11.

[*Temporary Act.*]

Extract from "An Act making appropriations to supply deficiencies in the appropriations for the service of Government," &c.

For compensation of two additional examiners in the Patent Office, at two thousand five hundred each, five thousand dollars.

For twenty-one clerks, class two, in the Patent Office, at fourteen hundred dollars each, twenty-nine thousand four hundred dollars.

For fourteen clerks, class one, in the Patent Office, at twelve hundred dollars each, sixteen thousand eight hundred dollars.

FORMS

UNDER THE PATENT LAWS.

---

1. CAVEAT.
2. APPLICATION FOR PATENT, BY INVENTOR.
3. APPLICATION FOR PATENT, BY EXECUTOR OR ADMINISTRATOR.
4. APPLICATION FOR PATENT FOR A DESIGN.
5. APPLICATION FOR REISSUE, BY PATENTEE.
6. APPLICATION FOR REISSUE, BY ASSIGNEE OR EXECUTOR.
7. APPLICATION FOR EXTENSION, BY PATENTEE.
8. DISCLAIMER.
9. APPEAL TO EXAMINERS IN CHIEF.
10. APPEAL TO COMMISSIONER OF PATENTS.
11. APPEAL TO JUSTICES SUPREME COURT DISTRICT COLUMBIA.
12. DEPOSITIONS.
13. ASSIGNMENT OF INVENTION BEFORE PATENT: PATENT TO ISSUE TO ASSIGNEE.
14. ASSIGNMENT OF INVENTION BEFORE PATENT: PATENT TO ISSUE TO INVENTOR AND ANOTHER.
15. ASSIGNMENT OF ENTIRE OR PARTIAL INTEREST IN A PATENT.
16. ASSIGNMENT OF UNDIVIDED INTEREST IN PATENT.
17. EXCLUSIVE LICENSE TO MAKE AND USE AN INVENTION.
18. LICENSE TO USE AN INVENTION ON PAYMENT OF ROYALTY.

---

1. CAVEAT.

Petition.

TO THE COMMISSIONER OF PATENTS:

The petition of John Fitch, of Philadelphia, in the county of Philadelphia and State of Pennsylvania,

RESPECTFULLY REPRESENTS:

That he has invented a new and improved mode of preventing steam boilers from bursting, and that he is now engaged in making experiments for the purpose of perfecting the same, pre-

CAVEAT.

paratory to his applying for letters patent therefor. He therefore prays that the subjoined description of his invention may be filed as a caveat in the confidential archives of the Patent Office, agreeably to the provisions of the act of Congress in that case made and provided; he having paid ten dollars into the treasury of the United States, and otherwise complied with the requirements of the said act.

JOHN FITCH.

PHILADELPHIA, March 1, 1856.

Description of Invention.

TO ALL WHOM IT MAY CONCERN:

Be it known that I, John Fitch, of Philadelphia, in the county of Philadelphia, and State of Pennsylvania, have invented a new and improved mode of preventing steam boilers from bursting, and that the following is a general description thereof.

My invention consists in making in the upper part of a steam boiler an aperture similar to that made for the safety-valve; and in filling or closing such aperture with a plug or disk of some alloy, which will fuse at any given degree of heat, and permit the steam to escape, should the safety-valve fail to perform its functions.

The steam boiler is constructed in any of the known forms, and may have applied to it gauge-cocks, a safety-valve, and other usual appendages. To obviate any danger that may arise from the adhesion of the safety-valve or from any other cause, I make in the top of the boiler an opening similar to that made for the safety-valve, and I fill such opening with a plug or disk of fusible alloy, secured in any sufficient manner. Such fusible plug may be made so as to melt at a given temperature, which will be that to which it is desired to limit the pressure of the steam.

When the temperature of the steam in the boiler rises to such limit, the alloy will melt and allow the steam to escape, thus preventing all danger of explosion.

JOHN FITCH.

Witnesses—
ROBERT FULTON,
OLIVER EVANS.

The description in a caveat need not be as particular as is requisite in a specification; but should be sufficiently precise to enable the Patent Office to judge as to any probable interference when a subsequent application is filed.

APPLICATION FOR PATENT, BY INVENTOR.

Oath.

CITY AND COUNTY OF PHILADELPHIA, } ss.
STATE OF PENNSYLVANIA, }

On this first day of March, 1856, before me, the subscriber, a justice of the peace, personally appeared the within-named John Fitch, and made solemn oath [or affirmation] that he verily believes himself to be the original and first inventor of the mode herein described for preventing steam boilers from bursting, and that he does not know or believe the same was ever before known or used; and that he is a citizen of the United States [or in the case of an alien, and that he is a native of (naming the country), that he has resided in the United States for the year last past, and has made oath of his intention to become a citizen thereof].

BENJAMIN FRANKLIN,
Justice of the Peace.

5 CENT INT. REV. STAMP.

---

2. APPLICATION FOR PATENT, BY INVENTOR.

Petition.

TO THE COMMISSIONER OF PATENTS:

The petition of John Fitch, of Philadelphia, in the county of Philadelphia and State of Pennsylvania,

RESPECTFULLY REPRESENTS:

That your petitioner has invented a new and improved mode of preventing steam boilers from bursting, which he verily believes has not been known or used prior to the invention thereof by your petitioner. He therefore prays that letters patent of the United States may be granted to him therefor, vesting in him and his legal representatives the exclusive right to the same, upon the terms and conditions expressed in the act of Congress in that case made and provided; he having paid fifteen dollars into the treasury, and complied with the other provisions of the said act.

JOHN FITCH.

PHILADELPHIA, January 1, 1857.

APPLICATION FOR PATENT, BY INVENTOR.

Specification.

TO ALL WHOM IT MAY CONCERN:

Be it known that I, John Fitch, of Philadelphia, in the county of Philadelphia, in the State of Pennsylvania, have invented a new and improved mode of preventing steam boilers from bursting [or, a new and useful machine for (stating the use and title of the machine); or, a new and useful improvement on a, or on the, machine, &c.]; and I do hereby declare that the following is a full and exact description thereof, reference being had to the accompanying drawings, and to the letters of reference marked thereon, making a part of this specification.

The nature of my invention consists in providing the upper part of a steam boiler with an aperture in addition to that for the safety-valve; which aperture is to be closed by a plug or disk of alloy, which will fuse at any given degree of heat, and permit the steam to escape, should the safety-valve fail to perform its functions.

To enable others skilled in the art to make and use my invention, I will proceed to describe its construction and operation. I construct my steam boiler in any of the known forms, and apply thereto gauge-cocks, a safety-valve, and the other appendages of such boilers; but in order to obviate the danger arising from the adhesion of the safety-valve, and from other causes, I make a second opening in the top of the boiler, similar to that made for the safety-valve, as shown at A, in the accompanying drawing; and in this opening I insert a plug or disk of fusible alloy, securing it in its place by a metal ring and screws, or otherwise. This fusible metal I, in general, compose of a mixture of lead, tin, and bismuth, in such proportions as will insure its melting at a given temperature, which must be that to which it is intended to limit the steam; and will, of course, vary with the pressure the boiler is intended to sustain.

I surround the opening containing the fusible alloy by a tube B, intended to conduct off any steam which may be discharged therefrom. When the temperature of the steam in such a boiler rises to its assigned limit, the fusible alloy will melt, and allow the steam to escape freely, thereby securing it from all danger of explosion.

What I claim as my invention, and desire to secure by letters patent, is the application to steam-boilers of a fusible alloy which will melt at a given temperature, and allow the steam to escape, as herein described, using for that purpose the aforesaid

APPLICATION FOR PATENT, BY INVENTOR.

metallic compound, or any other substantially the same, and which will produce the intended effect.

JOHN FITCH.

Witnesses—
ROBERT FULTON,
OLIVER EVANS.

Oath.

CITY AND COUNTY OF PHILADELPHIA,
STATE OF PENNSYLVANIA, } ss.

On this first day of January, 1857, before me, the subscriber, a justice of the peace, personally appeared the within-named John Fitch, and made solemn oath [or affirmation] that he verily believes himself to be the original and first inventor of the mode herein described for preventing steam boilers from bursting, and that he does not know or believe the same was ever before known or used; and that he is a citizen of the United States [or citizen or subject of other country, as the case may be].

BENJAMIN FRANKLIN,
Justice of the Peace.

5 CENT INT. REV. STAMP.

If the application is made through a solicitor or other person, there will be required a Power of Attorney, which may be as follows

Power of Attorney.

KNOW ALL MEN BY THESE PRESENTS, That I, John Fitch, hereby constitute and appoint Robert Morris, of the city of Philadelphia, or his accredited agent, my Attorney, to prosecute, before the Patent Office of the United States, the accompanying application; to alter or modify the Specification and Claim therein as may be necessary, and as he may deem expedient; to receive any Letters Patent which may be granted therefor; and to do all things proper and necessary in the premises, with full power of substitution and revocation.

Witness my hand, this first day of January, A. D. 1857

50 CENT INT. REV. STAMP.

JOHN FITCH.

APPLICATION FOR PATENT, BY EXECUTOR OR ADMINISTRATOR.

3. APPLICATION FOR PATENT, BY EXECUTOR OR ADMINISTRATOR OF INVENTOR.

Petition.

TO THE COMMISSIONER OF PATENTS:

The petition of Robert Morris, of Philadelphia, in the county of Philadelphia, and State of Pennsylvania, executor of John Fitch, of the same place,

RESPECTFULLY REPRESENTS:

That, as your petitioner is informed and believes, John Fitch, late of said city, was, during his lifetime, the first and original inventor of a new and improved mode of preventing steam boilers from bursting, which your petitioner believes had not been known or used prior to the invention thereof by said John Fitch.

That said John Fitch died, at the said city of Philadelphia, on or about the first day of January, 1857, and that your petitioner, upon due and proper proceedings being had, and having complied with all the requirements of the law in such cases made and provided, was appointed executor [or administrator of the goods and effects] of him, said Fitch.

Your petitioner therefore prays that letters patent of the United States may be granted to him therefor, vesting in him, in trust for the heirs at law [or devisees] of said Fitch, the exclusive right to the said invention, upon the terms and condition expressed in the act of Congress in that case made and provided; he having paid fifteen dollars into the treasury, and complied with the other provisions of the said act.

ROBERT MORRIS,
Executor of John Fitch.

PHILADELPHIA, July 1, 1857.

pecification.

TO ALL WHOM IT MAY CONCERN:

Be it known that John Fitch, of Philadelphia, in the county of Philadelphia, and State of Pennsylvania, invented a new and improved mode of preventing steam boilers from bursting, and that the following is a full and exact description thereof, refer-

APPLICATION FOR PATENT FOR A DESIGN.

ence being had to the accompanying drawings and to the letters of reference marked thereon, making a part of this specification.

The nature of the said invention, &c. [The specification will be the same as before, except that it will be in the third person.]

ROBERT MORRIS,
Executor of John Fitch.

Witnesses—
ROBERT FULTON,
OLIVER EVANS.

Oath.

CITY AND COUNTY OF PHILADELPHIA, } ss.
STATE OF PENNSYLVANIA, }

On this first day of July, 1857, before me, the subscriber, a justice of the peace, personally appeared the within-named Robert Morris, and made solemn oath [or affirmation] that he is the executor [or administrator] of John Fitch, deceased, late of said city and State, that he verily believes the said John Fitch was the original and first inventor of the mode herein described for preventing steam boilers from bursting; and that he does not know or believe the same was ever known or used before the invention thereof by said John Fitch; and that the said John Fitch was, and the said Robert Morris is, a citizen of the United States.

BENJAMIN FRANKLIN,
Justice of the Peace.

5 CENT INT. REV. STAMP.

---

4. APPLICATION FOR PATENT FOR A DESIGN.

Petition.

TO THE COMMISSIONER OF PATENTS:

The petition of Benjamin West, of the city and county of Philadelphia and State of Pennsylvania,

RESPECTFULLY REPRESENTS:

That your petitioner has invented or produced a new and original design or pattern for carpets [or design for a trademark], which he verily believes has not been known prior to

APPLICATION FOR PATENT FOR A DESIGN.

the production thereof by your petitioner. He therefore prays that letters patent of the United States may be granted to him therefor, for the term of three and a half [or seven, or fourteen] years, vesting in him and his legal representatives the exclusive right to the same, upon the terms and conditions expressed in the act of Congress in that case made and provided, he having paid ten [or fifteen, or thirty] dollars into the treasury and complied with the other provisions of the said act.

BENJAMIN WEST.

PHILADELPHIA, January 1, 1866.

Specification.

TO ALL WHOM IT MAY CONCERN:

Be it known that I, Benjamin West, of the city of Philadelphia, in the county of Philadelphia and State of Pennsylvania, have originated and designed a new pattern for carpets or other fabrics [or design for a trade-mark], of which the following is a full, clear, and exact description, reference being had to the accompanying specimens or drawings, making part of this specification.

[Here follows a description of the design, with reference to the specimen or drawing, the specification to conclude as follows:]

Claim.

What I claim as my invention and desire to secure by letters patent, is the design or pattern for carpets or other fabrics [or design for a trade-mark] herein set forth.

BENJAMIN WEST.

Witnesses—
NOAH WEBSTER,
NATHANIEL BOWDITCH.

Oath.

CITY AND COUNTY OF PHILADELPHIA, } ss.
STATE OF PENNSYLVANIA, }

On this first day of January, 1866, before the subscriber, a justice of the peace, personally appeared the within-named Benjamin West, and made solemn oath [or affirmation, as the case may be] that he verily believes himself to be the original and first inven-

APPLICATION FOR REISSUE, BY ORIGINAL PATENTEE.

tor, or producer, of the design or pattern for carpets [or design for a trade-mark] herein described, and that he does not know or believe that the same was ever before known or used, and that he is a citizen of the United States.

BENJAMIN FRANKLIN,
Justice of the Peace.

5 CENT INT. REV. STAMP.

---

5. APPLICATION FOR REISSUE, BY THE ORIGINAL PATENTEE.

Petition.

TO THE COMMISSIONER OF PATENTS:

The petition of Samuel Morey, of Philadelphia, in the county of Philadelphia and State of Pennsylvania,

RESPECTFULLY REPRESENTS:

That he did obtain letters patent of the United States for an improvement in the boilers of steam-engines, which letters patent are dated on the first day of March, 1850; that he now believes that the same are inoperative and invalid by reason of a defective specification, which defect has arisen from inadvertence and mistake. He therefore prays that he may be allowed to surrender the same, and requests that new letters patent may issue to him, for the same invention, for the residue of the period for which the original patent was granted, under the amended specification herewith presented, he having paid thirty dollars into the treasury of the United States, agreeably to the requirements of the act of Congress in that case made and provided.

SAMUEL MOREY.

PHILADELPHIA, January 1, 1860.

Specification.

TO ALL WHOM IT MAY CONCERN:

Be it known that I, Samuel Morey, of Philadelphia, in the county of Philadelphia, in the State of Pennsylvania, have invented a new and useful improvement in the boilers of steam-

APPLICATION FOR REISSUE, BY ASSIGNEE OR EXECUTOR.

engines; and I do hereby declare that the following is a full and exact description thereof, reference being had to the accompanying drawings, and to the letters of reference marked thereon.

[The specification will conform substantially to that in the original application, with such changes in the description and claims thereof as shall embrace what is sought to be covered by the reissue.]

[But as a reissued patent must be for the "same invention for which the original patent was granted" (act 1836, § 13), care should be taken not to make any such alterations or changes as will expand the invention beyond that originally described or represented, as such enlargement of the invention will vitiate the patent, even if granted.]

Oath.

CITY AND COUNTY OF PHILADELPHIA, } ss.
STATE OF PENNSYLVANIA, }

On this first day of January, 1860, before the subscriber, a justice of the peace, personally appeared the above-named Samuel Morey, and made solemn oath [or affirmation] that he verily believes that, by reason of an insufficient or defective specification, his aforesaid patent is not fully valid and available to him; and that the said error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, to the best of his knowledge or belief.

JAMES DALLAS,
Justice of the Peace.

5 CENT INT. REV. STAMP.

6. APPLICATION FOR REISSUE BY THE ASSIGNEE, OR EXECUTOR, OF THE ORIGINAL PATENTEE.

Petition.

TO THE COMMISSIONER OF PATENTS:

The petition of James C. Fisher, of Philadelphia, in the county of Philadelphia and State of Pennsylvania,

APPLICATION FOR REISSUE, BY ASSIGNEE OR EXECUTOR.

RESPECTFULLY REPRESENTS:

That Samuel Morey, of said city, did obtain letters patent of the United States for an improvement in the boilers of steam-engines, which letters patent are dated on the first day of March, 1850; that your petitioner, by an assignment duly made and executed, bearing date the first day of January, 1855 [or by mesne assignments duly made and executed], and recorded in the Patent Office of the United States, has become the owner and holder of said letters patent [or that the said Samuel Morey departed this life on the tenth day of May, 1858, and that your petitioner has been duly appointed his executor]; and your petitioner now believes that the said letters patent are inoperative and invalid, by reason of a defective specification, which defect has arisen from inadvertence and mistake. He therefore prays that he may be allowed to surrender the same, and requests that new letters patent may issue to him, for the same invention, for the residue of the period for which the original patent was granted, under the amended specification herewith presented, he having paid thirty dollars into the Treasury of the United States, agreeably to the requirements of the act of Congress in that case made and provided.

JAMES C. FISHER.

PHILADELPHIA, January 1, 1860.

Specification.

TO ALL WHOM IT MAY CONCERN:

Be it known that Samuel Morey, of Philadelphia, State of Pennsylvania, invented a new and useful improvement in steam boilers, and that the following is a full and exact description thereof, reference being had to the accompanying drawings and to the letters of reference marked thereon, and making a part of this specification.

[The rest of the specification will be as in No. 5, except that it will be expressed in the third person.]

Oath.

CITY AND COUNTY OF PHILADELPHIA, } *ss.*
STATE OF PENNSYLVANIA, }

On this first day of January, 1860, before the subscriber, a justice of the peace, personally appeared the above-named

APPLICATION FOR EXTENSION, BY PATENTEE.

James C. Fisher, and made solemn oath [or affirmation] that he verily believes that, by reason of an insufficient or defective specification, the aforesaid patent is not fully valid and available to him; and that the said error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, to the best of his knowledge or belief.

BENJAMIN FRANKLIN,
Justice of the Peace.

5 CENT. INT. REV. STAMP.

7. Application for extension, by Patentee.

Petition.

To the Commissioner of Patents:

The Petition of Sebastian Cabot, of Cabotsville, in the county of Hampden and State of Massachusetts,

Respectfully represents:

That your petitioner, on the tenth day of April, 1849, duly obtained letters patent of the United States, for improvements in machines for manufacturing weavers' heddles; that said letters patent were issued in the name of your petitioner [and were duly reissued to him on the first day of August, 1860, if such was the fact]: that your petitioner verily believes himself to be the original and first inventor of said improvement; that he has made diligent exertions to put said invention into general use, and to realize compensation from the public therefor, but that, without neglect or fault on his part, he has failed to obtain from the use and sale of said invention a reasonable remuneration for the time, ingenuity, and expense bestowed upon the same, and the introduction thereof into use.

Your petitioner therefore prays, that the said letters patent may be duly extended, according to law.

SEBASTIAN CABOT.

Cabotsville, January 1, 1863.

APPLICATION FOR EXTENSION, BY PATENTEE.

Statement.

In the matter of the application of Sebastian Cabot, for the extension of letters patent of the United States granted to him on the 10th day of April, 1849, for improvements in machines for manufacturing wire heddles. } Before the Commissioner of Patents.

Statement and Account, prepared and submitted under the provisions of § 18, *of the act of* 1836.

The Statement of Sebastian Cabot, of Cabotsville, county of Hampden and State of Massachusetts, the above-named applicant, respectfully shows:

[Such statement should set forth clearly and intelligibly the facts and circumstances connected with the original invention, and its development; the time and money spent in perfecting the same; the efforts that have been made to effect its introduction into use; and such facts as go to show or prove the ascertained value of the invention; and all receipts derived from and expenditures paid out in connection with such invention, which receipts and expenditures should be sufficiently in detail to exhibit a true and faithful account of loss and profit, in any manner accruing from and by reason of the invention.

Such statement should also be accompanied by an account, showing in debit and credit the expenditures and receipts connected with the invention, and set out in the statement.]

SEBASTIAN CABOT.

CABOTSVILLE, January 1, 1863.

Oath.

STATE OF MASSACHUSETTS, } ss.
COUNTY OF HAMPDEN. }

On this first day of January, 1863, before me, the subscriber, a justice of the peace, personally appeared the above-named Sebastian Cabot, and made solemn oath [or affirmation] that he verily believes that the foregoing statement and account, signed by him, is a true and correct account of the receipts and expenditures derived from and paid out in connection with his be-

DISCLAIMER.

fore-mentioned invention and letters patent, and of the ascertained value of such invention, and that he has, without neglect or fault on his part, failed to obtain from the use and sale of his said invention a reasonable remuneration for the time, ingenuity, and expense bestowed upon the same, and its introduction into use.

JAMES NEWBOLD,
Justice of the Peace.

5 CENT INT. REV. STAMP.

An application for an extension, made by an executor or administrator of the patentee, will be substantially like the above, except that changes will be made in the petition and oath similar to such as are set forth and contained in Form 3.

8. DISCLAIMER.

TO THE COMMISSIONER OF PATENTS:

The petition of Sebastian Cabot, of Cabotsville, in the county of Hampden and State of Massachusetts,

RESPECTFULLY REPRESENTS:

That letters patent of the United States, bearing date the first day of March, 1850, were granted to your petitioner for certain improvements in the steam-engine [or, "that he has, by assignment, duly recorded in the Patent Office, become the owner of a right for the several States of Massachusetts, Connecticut, and Rhode Island, to certain improvements in the steam-engine, for which letters patent of the United States were granted to John Doe, of Boston, in the State of Massachusetts, dated on the first day of March, 1850"]; that he has reason to believe that, through inadvertence and mistake, the claim made in the specification of said letters patent is too broad, including that of which your petitioner [or the said patentee] was not the first inventor. Your petitioner, therefore, hereby enters his disclaimer to that part of the claim in the aforenamed specification which is in the following words, to wit: "I also claim the particular manner in which the piston of the above-described engine is constructed so as to insure the close fitting of the packing

thereof to the cylinder, as set forth;" which disclaimer is to operate to the extent of the interest in said letters patent vested in your petitioner, who has paid ten dollars into the Treasury of the United States, agreeably to the requirements of the act of Congress in that case made and provided.

CABOTSVILLE, January 1, 1860. SEBASTIAN CABOT.

Witnesses—
JOHN DOE,
RICHARD ROE.

---

9. APPEAL TO EXAMINERS IN CHIEF.

TO THE COMMISSIONER OF PATENTS:

SIR: In conformity with section third of the act of Congress dated 2d March, 1861, I hereby make application for an appeal from the decision of the principal examiner in the matter of my application for a patent for an improvement in the manner of tripping the valves of steam-engines, rejected a second time on tenth day of December, 1863, and request that the same may be heard by the examiners in chief, the fee on appeal required in such cases having been paid.

Dated, January 1, 1864. Respectfully,
JOHN ERRICSON.

---

10. APPEAL TO THE COMMISSIONER OF PATENTS.

TO THE COMMISSIONER OF PATENTS:

SIR: In conformity with section second of the act of Congress dated 2d March, 1861, I hereby make application for an appeal, in the matter of my application for a patent for an improvement in the manner of tripping the valves of steam-engines, from the decision of the examiners in chief, made therein, on the third day of February, 1864, and request that the same may be heard by you, in person, the fee required by said act having been duly paid by your petitioner.

Dated, March 1, 1864. JOHN ERRICSON.

APPEAL TO JUSTICES SUPREME COURT, DISTRICT OF COLUMBIA.

11. Appeals to the Justices of the Supreme Court of the District of Columbia.

1. *In case of refusal of Patent.*

To the Hon. Judges of the Supreme Court of the District of Columbia:

The petition of Charles Marshall, of New York, in the county of New York and State of New York, respectfully showeth, that he has heretofore invented a new and useful improvement in machines for crushing ore, and has applied to the Patent Office of the United States for a patent for the same, and has complied with the requirements of the several acts of Congress, and with the rules of the Patent Office prescribed in such cases; that his said application has been rejected by the Commissioner of Patents; that he has filed in said office his prayer for an appeal from said decision, and notice thereof to said Commissioner, and his reasons of appeal, and paid into the same the sum of twenty-five dollars upon said appeal; all which will appear from the certificate of said Commissioner of Patents hereto annexed.

And the said Charles Marshall prays that his said appeal may be heard and determined by your Honors, at such time as may be appointed for that purpose; and that the Commissioner of Patents may be duly notified of the same, and directed in what manner to give notice thereof to the parties interested.

Patent Office, Washington, D. C.,
January 10th, 1866.

I hereby certify that the above-named Charles Marshall has complied with the requisites of the law necessary to perfect his aforesaid appeal.

T. C. THEAKER,
Commissioner of Patents.

To the Hon. T. C. Theaker, Commissioner of Patents:

Charles Marshall, of New York, in the county of New York and State of New York, prays that an appeal may be allowed him from the decision of your Department, rejecting his application for a patent for improvements in machines for crushing ore, and of this you are respectfully requested to take notice.

APPEAL TO JUSTICES SUPREME COURT, DISTRICT OF COLUMBIA.

And the said Charles Marshall assigns the following reasons for appealing from the said decision of the Commissioner of Patents, viz.:

2. *In case of rejection on Interference.*

TO THE HON. JUDGES OF THE SUPREME COURT OF THE DISTRICT OF COLUMBIA:

The petition of Charles Marshall, of New York, in the county of New York and State of New York, respectfully showeth, that he has heretofore invented a new and useful machine for desulphurizing ores, and has applied to the Patent Office of the United States for a patent for the same, and has complied with the requirements of the several acts of Congress, and with the rules of the Patent Office prescribed in such cases; that afterwards it was declared by the Commissioner of Patents that your petitioner's claims interfered with those of James King, of Ausburn, in the county of Monroe and State of New York, an applicant for a patent for a similar invention, and the question of priority of invention was determined by him in favor of the said James King; that your petitioner has filed in said office his prayer for an appeal from said decision, and notice thereof to said Commissioner, and his reasons of appeal, and paid into the same the sum of twenty-five dollars upon said appeal; all which will appear from the certificate of said Commissioner of Patents hereto annexed.

And the said Charles Marshall prays that his said appeal may be heard and determined by your Honors, at such time as may be appointed for that purpose; and that the Commissioner of Patents may be duly notified of the same, and directed in what manner to give notice thereof to the parties interested.

CHARLES MARSHALL.

NEW YORK, Feb. 1, 1866.

PATENT OFFICE, WASHINGTON, D. C.,
February 4th, 1866.

I hereby certify that the above-named Charles Marshall has complied with the requisites of the law necessary to perfect his aforesaid appeal.

T. C. THEAKER,
Commissioner of Patents.

DEPOSITIONS.

To THE HON. T. C. TIMEAKER, Commissioner of Patents:

Charles Marshall, of New York, in the county of New York and State of New York, prays that an appeal may be allowed him from the decision of your Department upon the interference declared between the said Charles Marshall and James King, and determining the question of priority in favor of the said James King, and of this you are respectfully requested to take notice.

And the said Charles Marshall assigns the following reasons for appealing from the said decision of the Commissioner of Patents, viz.:

---

12. DEPOSITIONS.

1. *Notice of taking.*

In the matter of the Interference between the application of E. F. for a Patent for Improvement in Skirts, and the application of I. K. for a Patent for the same invention.	Before the Commissioner of Patents.

SIR: Please take notice that an examination of witnesses in the above matter, on the part of the said E. F., will be had in the city of New York, at the office of R. S. Stillwell, Nos. 41 and 43 Chambers Street, in said city, before R. S. Stilwell, United States Commissioner, or some person authorized to take depositions, and that said examination will commence on the first day of January, 1866, at ten o'clock in the forenoon, and that the same will be adjourned from time to time, if necessary, until the witnesses produced shall be examined.

You can attend, and cross-examine the witnesses produced, if you desire. Yours, &c.,

Dated, NEW YORK, Dec. 24, 1866. RUFUS CHOATE,
Counsel for E. F.

To CHARLES SULLIVAN, Esq.,
Counsel for I. K., 25 Wall Street, New York.

Such notice is required only in interference and other contested cases. It must be served a reasonable time before the time of taking the deposition, by delivering a copy to the adverse party; or, if he cannot be found, such service may be made upon his agent or attorney, or by leaving a copy at his usual place of residence, with some member of his family arrived at years of discretion.

DEPOSITIONS.

2. *Deposition, form of.*

In the matter of the Interference between the application of E. F. for a patent for Improvement in Skirts, and the application of I. K. for a patent for the same invention.	Before the Commissioner of Patents.

Depositions of witnesses, produced, sworn, and examined in the above matter, on the part of E. F., before me, R. S. Stilwell, United States Commissioner, at my office, Nos. 41 and 43 Chambers Street, in the city of New York, on the first day of January, 1866, pursuant to the foregoing notice hereto annexed, marked Exhibit A.

Present: RUFUS CHOATE, Esq., Counsel for E. F., and CHARLES SULLIVAN, Esq., Counsel for I. K.

A. B., a witness produced on the part of said E. F., being duly sworn, doth depose and say, in answer to interrogatories propounded to him by Rufus Choate, counsel for E. F., as follows:

1. *Interrogatory.* What is your name, age, residence, and occupation?

1. *Answer.* My name is A. B.; my age is 45; I am a carpenter, and reside in Boston, Massachusetts.

And in answer to cross-interrogatories proposed to him by George Sullivan, counsel for I. K., as follows, viz.:

1. *Cross-Interrogatory, &c.*

(Signed) A. B.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } *ss.*

At the said city and county, on the 1st day of January, A. D. 1866, before me personally appeared the above-named A. B., and made oath that the foregoing deposition, by him subscribed, contains the whole truth, and nothing but the truth.

The said deposition is taken at the request of E. F., to be used upon the hearing of an interference between the claims of

the said E. F. and those of I. K., before the Commissioner of Patents of the United States, at his office, on the first Monday of February next. The said I. K. was duly notified, as appears by the original notice hereto annexed, and attended by George Sullivan, his counsel.

Certified by me,

5 CENT INT. REV. STAMP.

R. S. STILWELL,
U. S. Commissioner.

Certificate on the envelope containing the depositions.

I hereby certify that the depositions of A. B., C. D., &c., relating to the matter of interference between E. F. and G. H., were taken, sealed up, and addressed to the Commissioner of Patents by me.

R. S. STILWELL,
U. S. Commissioner.

13. Assignment of invention before Patent: Patent to issue to assignee.

Whereas I, Jethro Wood, of Scipio, in the county of Cayuga and State of New York, have invented certain new and useful improvements in Ploughs, for which I am about to make application for letters patent of the United States; and whereas David Peacock, of Burlington, New Jersey, has agreed to purchase from me all the right, title, and interest which I have, or may have, in and to the said invention in consequence of the grant of letters patent therefor, and has paid to me, the said Wood, the sum of five thousand dollars, the receipt of which is hereby acknowledged: Now this indenture witnesseth, that for and in consideration of the said sum to me paid, I have assigned and transferred, and do hereby assign and transfer, to the said David Peacock, the full and exclusive right to all the improvements made by me, as fully set forth and described in the specification which I have prepared and executed preparatory to the obtaining of letters patent therefor. And I do hereby authorize and request the Commissioner of Patents to issue the said letters patent to the said David Peacock, as the assignee of my whole

ASSIGNMENT BEFORE PATENT, TO INVENTOR AND ANOTHER.

right and title thereto, for the sole use and behoof of the said David Peacock and his legal representatives.

In testimony whereof, I have hereunto set my hand and affixed my seal this 16th day of February, 1856.

Sealed and delivered in the presence of
GEORGE CLYMER,
DAVID RITTENHOUSE.

JETHRO WOOD. [SEAL.]

STATE OF NEW YORK, COUNTY OF CAYUGA. } ss.

On this 16th day of February, 1856, before me, a justice of the peace, within and for said county, personally appeared Jethro Wood, to me known to be the individual described in, and who executed, the foregoing assignment, and acknowledged that he executed the same for the uses and purposes therein mentioned.

A. B.,
Justice of the Peace.

5 CENT INT. REV. STAMP.

An acknowledgment is not required by the statute, but it is most advisable to have it made.

---

14. ASSIGNMENT OF INVENTION BEFORE PATENT: PATENT TO ISSUE TO INVENTOR AND ANOTHER.

Whereas I, Jethro Wood, of Scipio, in the county of Cayuga and State of New York, have invented certain new and useful improvements in Ploughs, for which I am about to make application for letters patent of the United States; and whereas David Peacock, of Burlington, New Jersey, is desirous of obtaining an interest in the said invention, and in any letters patent that may be obtained therefor, and has paid to me, the said Wood, the sum of five thousand dollars, the receipt of which is hereby acknowledged: Now this indenture witnesseth, that, for and in consideration of the said sum to me paid, I have assigned and transferred, and do hereby assign and transfer to the said David Peacock and to myself, the full and exclusive right to all the improvements made by me, as fully set forth and described

ASSIGNMENT OF ENTIRE OR PARTIAL INTEREST IN A PATENT.

in the specification which I have prepared and executed preparatory to the obtaining of letters patent therefor. And I do hereby authorize and request the Commissioner of Patents to issue the said letters patent to the said David Peacock and to myself, as the assignees of my whole right and title thereto, for the sole use and behoof of the said David Peacock and myself, and our legal representatives.

In testimony whereof, I have hereunto set my hand and affixed my seal, this 16th day of February, 1856.

Sealed and delivered in presence of
GEORGE CLYMER,
DAVID RITTENHOUSE.

JETHRO WOOD. [SEAL.]

5 CENT INT. REV. STAMP.

Acknowledgment, as in No. 13.

---

15. ASSIGNMENT OF THE ENTIRE OR OF A PARTIAL INTEREST IN A PATENT.

Whereas I, Jethro Wood, of Scipio, in the county of Cayuga and State of New York, did obtain letters patent of the United States for certain improvements in Ploughs, which letters patent bear date the 1st day of March, 1855; and whereas David Peacock, of Burlington, New Jersey, is desirous of acquiring an interest therein: Now this indenture witnesseth, that for and in consideration of the sum of two thousand dollars, to me in hand paid, the receipt of which is hereby acknowledged [or to be paid according to th terms of a certain agreement, of even date herewith, made by and between said Peacock and myself], I have assigned, sold, and set over, and do hereby assign, sell, and set over, unto the said David Peacock, all the right, title, and interest which I have in the said invention, as secured to me by said letters patent, for, to, and in the entire territory of the United States [or in the several States of New York, New Jersey, and Pennsylvania, and in no other place or places]; the same to be held and enjoyed by the said David Peacock, for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which said letters patent are granted [if it is intended to assign for any extended term, then add—and for the term of any extension thereof], as

fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

In testimony whereof, I hereunto set my hand and affix my seal, this 16th day of February, 1856.

Sealed and delivered in the presence of
JACOB PERKINS,
BENJAMIN FRANKLIN.

JETHRO WOOD. [SEAL.]

5 CENT INT. REV. STAMP.

Acknowledgment, as in No. 13.

---

16. ASSIGNMENT OF AN UNDIVIDED INTEREST IN A PATENT.

Whereas I, Jethro Wood, of Scipio, in the county of Cayuga and State of New York, did obtain letters patent of the United States for certain improvements in Ploughs, which letters patent bear date the 1st day of March, 1855; and whereas David Peacock, of Burlington, New Jersey, is desirous of acquiring an interest therein: Now this indenture witnesseth, that for and in consideration of the sum of two thousand dollars, to me in hand paid, the receipt of which is hereby acknowledged, I have assigned, sold, and set over, and do hereby assign, sell, and set over, unto the said David Peacock, the full and equal undivided one-half part of all the right, title, and interest which I have in the said invention, as secured to me by said letters patent, for, to, and in the entire territory of the United States [or within the several States of New York, New Jersey, and Pennsylvania, but in no other places], the same to be held and enjoyed by the said David Peacock, for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which said letters patent are granted [if it is intended to assign for any extended term, then add—and for the term of any extension thereof—] as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

It is hereby covenanted and agreed, by and between the parties hereto, that neither of said parties, their executors, administrators, or assigns, will sell or dispose of their interest in said patent, or grant licenses under the same to make and use, or

sell said invention, without the written consent of the other party first had and obtained.

It is further covenanted and agreed, by and between the parties hereto, and for themselves, their heirs, executors, administrators, and assigns, that in case they, or either of them, shall manufacture and sell ploughs under said letters patent, and containing the invention therein described, that the party so making and selling such ploughs shall and will pay to the other party hereto, or his representatives, as royalty or patent fee, the sum of one dollar on each and every plough so made and sold by him, which payment shall be made on the first day of January in each and every year; and that correct books of account of all ploughs so made shall be kept, which shall be open to the inspection of the other party or his representatives, at all reasonable times.

In testimony whereof, the said parties have hereunto set their hands and affixed their seals, this 16th day of February, 1856.

JETHRO WOOD. [SEAL.]
DAVID PEACOCK. [SEAL.]

Sealed and delivered in the presence of
JACOB PERKINS,
BENJAMIN FRANKLIN.

5 CENT INT. REV. STAMP.

Acknowledgment, as in No. 13.

17. EXCLUSIVE LICENSE TO MAKE, USE, AND SELL AN INVENTION.

Whereas letters patent of the United States, bearing date the 1st day of January, 1850, were granted to Jethro Wood, of Scipio, in the county of Cayuga and State of New York, for certain improvements in Ploughs, as by reference to said letters patent will more fully appear;

And whereas, John Brown, of Boston, State of Massachusetts, is desirous of obtaining the right to make, use, and sell the said invention within and for the States of Massachusetts, Connecticut, and Rhode Island, and has agreed to pay therefor the sum of three thousand dollars:

Now this indenture witnesseth, that the said Jethro Wood, for and in consideration of the sum of one thousand dollars in hand paid by the said John Brown, and of the two promissory

EXCLUSIVE LICENSE TO MAKE, USE, AND SELL AN INVENTION.

notes of the said John Brown, each being for the sum of one thousand dollars, and bearing even date with these presents, and payable in one and two years from the date thereof, with interest, the receipt of which money and notes is hereby acknowledged, hath given and granted, and by these presents does give and grant unto the said John Brown, his executors, administrators, and assigns, during the residue of the unexpired term of said letters patent, full and free liberty, license, power, and authority to make, use, and sell, or vend to others to be sold, either wholesale or retail, within and for the several States of Massachusetts, Connecticut, and Rhode Island, the said invention, or ploughs employing and using the invention described and set forth in said letters patent, and to receive to his and their own use any and all profits and advantages which shall or can be made by the making, use, and selling of said invention within said territory, and that without any let, suit, trouble, or hinderance of him, said Jethro Wood, his executors, or administrators, or any other person or persons claiming to hold and use said invention, from, by, or under him or them, by virtue of said letters patent, or otherwise.

Provided, however, that if at any time the said party of the second part or his representatives shall make default in the payment of the said promissory notes or either of them, it shall and may be lawful for the said party of the first part, or his representatives, to revoke and annul this license, upon giving written notice to such effect to said party of the second part, or his representatives, and which notice may be served by leaving the same at the ordinary place of business of said party of the second part, or his representatives, and if such note shall not be paid within ten days after such notice, then this license shall be and become null and void, and all rights and privileges under the same shall cease and determine; and thereupon it shall and may be lawful for any court of equity, having jurisdiction, to perpetually enjoin and restrain the said party of the second part, and his representatives, and all persons claiming under them, from making, using, or selling said invention or any part thereof.

The said party of the first part, for himself, his executors, administrators, and assigns, hereby covenants and agrees with the said party of the second part, that he or they will not license and empower any person or persons whatever to make, use, or sell the said invention within the territory before named, during the existence of this license; but nothing herein contained shall be construed to hinder or prevent the said party of the first part, or his representatives, from constructing or licensing the

construction of the said invention to be made and used elsewhere than in the territory aforesaid.

Should it be decided, before the said notes or either of them shall become due as aforesaid, by any court having jurisdiction to pass upon the validity of letters patent, that the said letters patent so granted to said Jethro Wood, are invalid and null and void, the said party of the second part shall be thereby released and discharged of and from the payment of such of the said promissory notes as then remain unpaid; and if either of said notes shall then be paid, said party of the first part covenants with said party of the second part to repay the one-half of whatever sums shall have been so paid: *Provided, however*, that if such adjudication, as to the validity of such letters patent, shall not have been made by the court of last resort, and the said Wood or his representatives shall determine to carry such decision to such court of last resort, that then the payment of any note so remaining unpaid shall be suspended until the determination of such court of last resort as to the validity of such patent, and such note shall be payable or otherwise, according as said letters patent shall be finally held to be valid, or null and void.

It is further agreed between the parties hereto, that in case any person or persons shall infringe the said letters patent within the said territory, the said John Brown, his executors, administrators, and assigns, may and shall have the right, for his and their benefit, in the name of the said Jethro Wood, his executors, administrators, and assigns, to commence, sue, and prosecute all such suits and actions, as shall be deemed expedient, against any person or persons who shall be guilty of any such infringement; and for this purpose the said Jethro Wood constitutes the said John Brown, his executors, administrators, and assigns, the lawful attorney or attorneys irrevocable of him, the said Jethro Wood, at the costs and to the use of the said John Brown, his executors, administrators, and assigns, to commence and prosecute, in the name of the said Jethro Wood, all such suits and actions aforesaid.

In witness whereof, the parties to these presents have hereunto set their hands and seals the day and year first above written.

JETHRO WOOD. [SEAL.]
JOHN BROWN. [SEAL.]

Sealed and delivered in presence of }

Acknowledgment, as in No. 13.

5 CENT INT. REV. STAMP.

18. License to use an invention on payment of royalty.

Whereas certain letters patent of the United States, bearing date the 10th day of May, 1860, were issued to Rufus Dutton, of the city and State of New York, for improvements in Harvesting Machines, which said letters patent were afterwards surrendered, and new and reissued letters patent, for the same invention, issued to said Rufus Dutton, on the 1st day of June, 1863, as by reference to said letters patent will more fully appear;

And whereas, Robert Brown, of Providence, Rhode Island, is desirous of obtaining a license to use the improvements so patented to said Dutton in and upon mowing and reaping machines, to be manufactured and sold by him, said Brown:

Now this indenture witnesseth, that the said Rufus Dutton, for and in consideration of one dollar, to him in hand paid by said Robert Brown, and of the covenants hereinafter contained, and to be kept and performed by said Brown, has given and granted, and by these presents does give and grant, unto the said Robert Brown, his executors, administrators, and assigns, the liberty, license, power, and authority to make, use, and sell, within and for the State of Rhode Island, for and during the unexpired term of said patent, the said improvements so patented under and by said letters patent, upon the terms and conditions herein contained, and upon the payment of the sums of money as herein provided, and not otherwise.

1st. The said Robert Brown, for himself, his executors, administrators, and assigns, covenants and agrees to pay to said Rufus Dutton, his executors, administrators, and assigns, as patent fee or royalty, the following sums of money upon all mowing and reaping machines manufactured and sold by him, containing and using said improvements, or either of them, or any substantial part thereof, as follows, that is to say: upon each and every one-horse machine, the sum of five dollars; upon each and every two-horse machine, six dollars; and upon each mowing and reaping machine combined, the sum of seven dollars and fifty cents.

2d. The said Robert Brown, for himself, his executors, administrators, and assigns, also covenants and agrees to keep full and correct books of account of any and all mowing and reaping machines, and of the several kinds or sizes, which he or they may manufacture, containing or using the said invention, which said books of account shall be open, at all reasonable

LICENSE TO USE AN INVENTION ON PAYMENT OF ROYALTY.

times, to the inspection of said Rufus Dutton and his representatives, or his or their attorney, and on the first day of September of each and every year to make a true return, under oath, of all such machines manufactured and sold by him or them during the past year, and also remaining unsold; and within thirty days thereafter to pay to said Rufus Dutton, or his representatives, upon all such machines so manufactured and sold, the patent rent or royalty, as hereinbefore provided, and agreeable to the returns herein required.

3d. The said Robert Brown further covenants and agrees, for himself, his executors, administrators, and assigns, to mark or paint on each and every machine made and sold by them under this license, using or employing said invention or any part thereof, the words and figures, "Patented, May 10, 1860; June 1, 1863."

4th. The said Rufus Dutton, for himself, his executors, administrators, and assigns, covenants and agrees, that he or they will not grant licenses to any other parties, to make and sell machines using or employing said invention, for a less patent rent or royalty than above specified, without making corresponding reductions to the said party of the second part.

5th. Upon the failure of said party of the second part, his executors, administrators, or assigns, at any time to faithfully carry out and perform any or either of the said herein contained conditions and provisions, the said Rufus Dutton, his executors, administrators, or assigns, may revoke and annul this license, first giving said Robert Brown thirty days' notice thereof, in which case this license, and all rights and privileges hereunder, shall forever cease and determine.

In witness whereof, the said Rufus Dutton has hereunto set his hand and seal, this tenth day of May, A. D. 1866.

Sealed and delivered in presence of } RUFUS DUTTON. [L. S.]

I, the said Robert Brown above named, hereby accept the above license, and bind myself, my executors, administrators, and assigns, to observe faithfully all and each of the obligations, conditions, and covenants therein contained.

In witness whereof, I have hereunto set my hand and seal, this tenth day of May, A. D. 1866.

Sealed and delivered in presence of } ROBERT BROWN. [L. S.]

Acknowledgment, as in No. 13.

5 CENT INT. REV. STAMP.

INDEX

TO

STATUTES PASSED SINCE 1865.

A.

APPEAL— PAGE

fee on appeal to examiners-in-chief..... 212

APPLICATION FOR PATENT—

when may be renewed, if final fee not paid..... 210
effect of non-payment of fee, as to damages..... 210

APPROPRIATIONS—

for payment Commissioner of Patents..... 214*a*
for payment chief clerk..... 214*a*
for payment clerks, class three..... 214*b*
for payment clerks, class two.....214*b*, 214*d*
for payment clerks, class one.....214*b*, 214*d*
for payment clerks, permanent..... 214*b*
for payment contingent expenses..... 214*c*
for payment copyists..... 214*b*
for payment copyists, female..... 214*b*
for payment examiners-in-chief..... 214*a*
for payment examiners, principal.....214*b*, 214*d*
for payment examiners, first assistant..... 214*b*
for payment examiners, second assistant..... 214*b*
for payment laborers.....214*b*, 214*c*
for payment librarian..... 214*b*
for payment machinist..... 214*b*
for payment messengers..... 214*b*
for payment superintendent of drawing..... 214*a*
for payment watchmen..... 214*c*

C.

COMMISSIONER OF PATENTS— PAGE
may appoint additional examiners..... 212
power to rent rooms..... 213
to make yearly report of moneys received and expended 213, 214c
in case of death, resignation, absence, or sickness, who to act..... 214
not removable by Secretary of Interior..... 214c

D.

DAMAGES—
effect on, by non-payment of final patent fee and renewal of application..... 210

E.

EXAMINERS-IN-CHIEF—
not removable by Secretary of Interior..... 214c
when may act as Commissioner..... 214

EXAMINERS—
appointed and removed by Secretary of Interior..... 214c

F.

FEES—
on appeal to examiners-in-chief..... 212
effect of non-payment of final patent fee..... 210

O.

OFFICERS IN PATENT OFFICE—
by whom appointed and removed..... 214c

P.

PATENT FUND—
moneys to credit of, to be paid into Treasury..... 213
to be disbursed under direction of Secretary of Interior.... 214c

PRINTING SPECIFICATIONS—
rate to be paid for..... 214

S.

SECRETARY OF INTERIOR—
patent fund to be disbursed under direction of..... 214c
to appoint and remove clerks, &c. in Patent Office, except Commissioner and examiners-in-chief..... 214c

SPECIFICATIONS—
rate to be paid for printing of..... 214

INDEX

TO

PATENT LAWS

References thus (*) are to sections; otherwise, to notes.

A.

ACTIONS RESPECTING PATENTS—	PAGE	REF.
U. S. Circuit Courts have original cognizance of....	147	*17
jurisdiction of such courts exclusive as to	147	1
may be brought at law or in equity.....	148	4
subject matter of, governs jurisdiction	148	6
citizenship of parties does not.....	148	5
amount in controversy does not...	148	5
general issue pleadable in	139	*15
special matter given in evidence with.....	139	*15
special pleas allowed in place of notice.....	141	2
both notice and special pleas not permissible.....	141	3
for infringement of patent	137	*14
assignees of exclusive right only can bring	138–9	c 1–5
assignee of a part interest cannot maintain	139	6
cannot be brought by a licensee in his own name...	139	7
damages recoverable in such actions.....	137	*14
when maintainable, when patent too broad	164	*9
common-law rule as to, modified	165	a 1
right to in such case lost by not filing disclaimer ...	165	*9
for making articles as patented, when no patent....	183	*5
of debt proper in such case	184	b 2
for neglect to stamp articles "patented".....	185	*6
to recover penalties, when to be brought	184	c

INDEX TO LAWS PRIOR TO ACT OF 1836.

ACTIONS RESPECTING PATENTS—		
on the case, for infringement.....	82	*4
on the case, for infringement.....	89	*5
on the case, for infringement.....	100	*3
jurisdiction in equity conferred.....	101	
Circuit Courts U. S. to have original cognizance....	101	

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
ACTIONS RESPECTING PATENTS—continued.		
costs in, when in discretion of court	140	*15
costs in, when not recoverable	165	*9
ADDITIONAL IMPROVEMENTS—		
patent for, may be annexed to original patent	134	*13
to have same effect as if embraced in such original patent	134	*13
fee, in granting	134	*13
original claim subject to re-examination, on application for	163	*8
new patent may be taken for, if preferred	137	*d* 1
patents of additions no longer allowed	201	*9
ADMINISTRATORS, see EXECUTORS.		
AFFIRMATION, see OATH.		
AGENTS, PATENT—		
Commissioner may refuse to recognize	201	*8
reasons therefor to be recorded and approved	201	*8
AGENTS TO TRANSMIT MODELS—		
Commissioner may appoint not over twenty	167	*10
authority to appoint revoked	200	*6
ALIENS—		
may receive patent same as citizens	114	*6
fees payable by, on application	128	*9
residents for one year may secure caveat	131	*12
must put his invention on sale within 18 months	140	*15
need not endeavor to force a sale	142	*h* 3
American assignees of, not subject to such condition	143	*h* 2
entitled to return fee on withdrawal	163	*12
residents for one year may patent design	182	*3
residents for one year may patent design	203	*11
pay same fee as citizens, when	202	*10
ANTEDATING OF PATENTS—		
allowed, not to exceed six months	126	*8
APPEALS IN ACTIONS RESPECTING PATENTS—		
to Sup. Court from Circuit Court	147	*17
as from other judgments and decrees	147	*17
in other cases deemed reasonable	147	*17
such cases must relate to construction of patent laws	148	*b* 1

INDEX TO LAWS PRIOR TO ACT OF 1836.

ACTIONS RESPECTING PATENTS—		
citizenship of parties immaterial	102	2
assignee of part of a patent cannot maintain	90	*c* 1
such assignee may join with patentee	90	*c* 2
when Circuit Courts may declare patent void	92	*e* 2
when Circuit Courts have exclusive jurisdiction	92	*e* 3

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
APPEALS IN ACTIONS RESPECTING PATENTS—continued.		
such appeal takes up the whole case	148	*b* 2
from all judgments, without regard to sum or value in controversy	196	
APPEALS IN CASES OF APPLICATIONS FOR PATENTS—		
from Examiners to Examiners-in-Chief	198	*2
not allowed until after second rejection	199	*3
from Examiners to Commissioner not permissible	199	3, 4
from Examiners-in-Chief to Commissioner	198	*2
in cases of rejection of application	121	*7
in cases of interference	125	*8
from Commissioner to Board of Examiners	121	*7
Board of Examiners abolished	179	*12
from Commissioner to Chief Justice Cir. Ct., Dist. Col.	176	*11
from Commissioner to Ass't Justice Cir. Ct., Dist. Col.	190	*2
from Commissioner to Justices Sup. Court, Dist. Col.	125	2
may be taken, when no opposing party	125	3
may be taken by either interferant	127	7–9
in case of granting as well as refusing a patent	127	7
no limitation as to time of	125	5
to be now made within the time fixed	176	*11
if not so made, right of, lost	177	*b* 2, 4
time for, may be enlarged	177	*b* 3
reasons of appeal to be filed	176	*11
filing such reasons constitutes the appeal	177	*b* 1
such reasons not to be vague	177	*c* 1
reasons must be sufficient for refusal of patent	178	2
reasons must be clearly expressed	178	4
appeals determined on evidence before Commissioner	176	*11
appeals determined on evidence before Commissioner	178	*d* 1–3
when further proof may be taken	178	*d* 4
Commissioner to produce original papers and evidence	176	*11
powers of judges in, to be strictly construed	178	*c* 2
judges to be confined to points in reasons of appeal.	178	*c* 3
decision of judges to govern Commissioner	177	*11
but only as to what involved in reasons of appeal	179	*g* 1, 2
Commiss'r or Examin'rs may be examined on appeal	177	*11
examination of, to what extent	179	*f* 1

INDEX TO LAWS PRIOR TO ACT OF 1836.

ACTIONS RESPECTING PATENTS—		
general issue and notice in	83	*6
general issue and notice in	90	*6
objects of notice of special matter	91	12
what defences, not enumerated, allowed	92	*d* 1, 2
Patent, *prima facie* evidence in	83	*6

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
APPEALS IN CASES OF APPLICATIONS FOR PATENTS—		
are not counsel for Patent Office, or parties	179	*f* 3
fees on appeal from Examiners-in-Chief to Commis'r	202	*10
fees on appeal from Commissioner to Justices Sup. Ct.	176	*11
APPLICATIONS FOR PATENTS—		
may be made by citizens or aliens	114	*6
description of invention, how to be set forth in	114	*6
description in, adapted to ordinary comprehension	117	*h* 1, 2
description must be of record	117	*h* 3
object of description	117	*h* 4
drawings and model to be furnished with	115	*6
verification of, what required in	115	*6
two distinct inventions cannot be included in	117	*g*
but different modes of applying invention may be included	118	*i* 1
on filing of, examination to be made	120	*7
when patent to issue	120	*7
if defective, applicant to have notice	120	*7
applicant may amend or withdraw	120	*7
if rejected, applicant may appeal	121	*7
interfering, appeal may be taken	125	*8
interfering, remedy by bill in equity	145	*16
when, may be placed in secret archives	126	*8
for patents for designs, who may make	182	*3
for patents for designs, who may make	203	*11
to be completed within two years	204	*12
when to be regarded as abandoned	204	*12
ART—		
patent may be granted for	114	*6
does not mean art in abstract	115	1
means a useful art or manufacture	115	1
can be protected only in mode described	115	1
word "art" not used in English patent laws	116	2
ASSIGNEE OF INVENTION OR PATENT—		
patent may issue to	160	*6
may surrender and reissue patent	134	*13
when must join with patentee in surrender	136	*b* 3
benefit of renewal, when extends to	150	*18

INDEX TO LAWS PRIOR TO ACT OF 1836.

ACTIONS RESPECTING PATENTS—		
to set aside patent falsely obtained	82	*5
to set aside patent falsely obtained	94	*10
in what cases may be brought	94	1
objects of such actions	94	2
damages recoverable in, for infringements	81	*4

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
ASSIGNEE OF INVENTION OR PATENT—continued.		
extent of such benefit of renewal	151–2	*f* 1–6
may maintain action for infringement	137	*14
but must be assignee of an exclusive right	138–9	*c* 1–5
when cannot maintain such action	139	*c* 6, 7
when may have action, if patent too broad	164	*9
to put date of patent on articles sold	184	*6
when not compelled so to do	185	2
effect of failure to so mark articles	205	*13
ASSIGNMENT OF PATENT—		
to be in writing	129	*11
kinds of	130	1
may be made before or after issue	130	4
may cover future improvements	130	5
may include a renewal	130	6
one tenant in common may make	130	7
of expired patent void	130	8
to be recorded in Patent Office, and when	130	*11
when subsequent recording sufficient	131	1
of lost patents, when to be recorded anew	154	*1
fees for recording	202	*10

B.

BOARD OF EXAMINERS—		
creation of, and who to compose	121	*7
duties of, in case of appeal to	121	*7
repeal of act creating	179	*12
Chief-Justice Cir. Ct., Dist. Col., substituted in place of	176	*11

C.

CAVEAT—		
who may file	131	*12
what to set forth	131	*12
what need not show	132	*b* 3
to be preserved in secrecy	131	*12
rights secured by	132	*12

INDEX TO LAWS PRIOR TO ACT OF 1836.

ACTIONS RESPECTING PATENTS—		
damages recoverable in, for infringements	89	*5
damages recoverable in, for infringements	99	*3
ALIENS—		
resident for two years may receive patent	98	*1
right to patent extended to all resident aliens	105	

REFFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
CAVEAT—continued.		
may be renewed from year to year	132	*a* 2
is for the benefit of the inventor	132	*b* 1
notice to Commissioner as to what	132	*b* 2
power of Commissioner as to	133	4
neglect of Commissioner to give notice as to effect of	133	8
purposes effected by	133	5
how far evidence of invention	133	6
not evidence that invention is not perfected	133	7
when caveator may be required to complete invention	132	*12
time of completion, how computed	201	*9
fee on, originally	131	*12
fee on, considered a part of patent fee	131	*12
fee on, no longer part of patent fee	201	*9
fee on, reduced	202	*10
CHIEF CLERK OF PATENT OFFICE—		
how appointed, and duties of	109	*2
Acting Commissioner in absence of Commissioner	109	1
certificate of, as Acting Commissioner, valid	110	3
prohibited from acquiring interest in patents	109	*2
to take oath, and give bonds	110	*3
salary of, originally	109	*2
salary of, as increased	200	*4
CHIEF-JUSTICE CIRCUIT COURT, DISTRICT COLUMBIA—		
when appeals may be made to	176	*11
compensation of, on appeals, per year	180	*13
compensation of, on appeals, in each case	190	*2
Justices Sup. Ct., Dist. Col, substituted in place of	125	2
CLAIM OF SPECIFICATION—		
what to specify and point out	115	*6
conclusive as to rights of patentee	118	*j* 1
most material part of specification	118	*j* 2
embraces equivalents, though not named	118	*j* 3
too broad, patentee may disclaim	161	*7
too broad, when patent will be held good	164	*9
CLERKS IN PATENT OFFICE—		
how appointed	109	*2

INDEX TO LAWS PRIOR TO ACT OF 1836.

ALIENS—		
must introduce patent within one year, not intermit its use for six months, and become a citizen	105	
APPEALS TO SUPREME COURT—		
from judgments of Circuit Court	101	
APPLICATIONS FOR PATENTS—		
may be made by any persons who are inventors	79	*1

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

CLERKS IN PATENT OFFICE—continued.	PAGE	REF.
required to take oath	110	*3
prohibited from acquiring interest in patents	109	*2
disbursing clerk to give bonds	191	
temporary and other, appointment of	168	*11
temporary and other, appointment of	170	*2
temporary and other, appointment of	187	*3
temporary and other, appointment of	192	
COMMISSIONER OF PATENTS—		
how appointed	106	*1
general duties of	106	*1
prohibited from acquiring interest in patents	109	*2
to take oath, and give bonds	110	*3
to cause seal of Patent Office to be made	110	*4
to furnish copies of records, when applied to	111	*b* 1
to furnish copies to all asking for same	111	*b* 2
to countersign letters patent	112	*5
to make annual report	169	*14
to prepare lists of patents	171	*3
may frank papers connected with his office	107	*1
may frank Patent Office reports	187	*4
power of, to restore or dispose of models	200	*5
power of, to appoint examiners	200	*7
may cause letters patent to be printed	206	*14
power as to, taken away	207	
may direct papers illegibly written to be printed	201	*8
when, may refuse to recognize patent agents	201	*8
may make rules as to evidence in contested cases	179	*12
may make rules as to evidence in all cases	196	*1
cannot make new rules of evidence or law	180	2
is himself bound by such rules	180	2
duties of, on filing of caveat	132	*12
what acts can perform on it	133	4
neglect to give notice on, effect of	133	10
duties of, on applications for patent for inventions	120	*7
duties of, on applications for patent for designs	203	*11
bound to issue patent, when	120	*7

INDEX TO LAWS PRIOR TO ACT OF 1836.

APPLICATIONS FOR PATENTS—		
confined to citizens of United States	84	*1
right to make extended to aliens	97	*1
privileges as to, further extended to aliens	105	*1
what to set forth	87	*1
to be verified	87	*1
to be accompanied by drawings and model	87–8	*1

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
COMMISSIONER OF PATENTS—continued.		
when patent issued, power ceases	124	*d* 2
power remains, until patent issued	124	*d* 3
duties of, in cases of interference, on applications	125	*3
duties of, in cases of interference, on caveat	133	*12
may allow a second interference	126	4
duties of, as to surrenders and reissues	133	*13
must act, has no discretion	135	6
may allow reissues in several parts	158	*5
duties of, as to extensions	149	*18
length of notice required in such cases	186	*1
duties of, on withdrawals, to refund part fee	120	*7
duties of, extended to applications by foreigners	168	*12
duties of, as to patents issued prior to Dec. 16, 1836	154–5	*1, 2
COMPOSITION OF MATTER—		
patent may be granted for	114	*6
specimens of ingredients on application for	115	*6
every ingredient need not be new	116	*c* 1
combination only required to be new	116	*c* 1
difference between it and process	116	*c* 2
CONGRESS, POWER OVER PATENTS—		
can grant privileges only to inventors	9	1
cannot grant privileges to introducers	9	1
ascertains and defines property in inventions	10	5
does not regulate its use	10	5
such use regulated by the States	10	5
laws of, superior to those of the States	10	3, 6
may determine when and for how long patent may issue	10	12
no restriction to its power	11	12
may modify at pleasure laws as to patents	11	13
may pass retrospective laws as to	11	14, 15
may reserve rights and privileges to assignees	11	16
may confer further term, and even after expiration of first	11	17
may grant a second extension	12	22
fraud in acts of, not presumed	11	18

INDEX TO LAWS PRIOR TO ACT OF 1836.

ARBITRATORS, IN CASES OF INTERFERENCE—		
how and by whom appointed	93	*9
award of, to be final	93	*9
refusal to submit to, effect of	93	
ASSIGNEE OF INVENTION OR PATENT—		
stands in place of original inventor	89	*4
may maintain action for infringement	81	*1

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
CONGRESS, POWER OVER PATENTS—continued.		
may renew a patent, or decline so to do	11	21
may grant rights, by general or special laws	12	24
private acts are considered part of the general ones.	12	25
both to be construed together	12	26
COPIES OF PAPERS—		
any one may have	111	*4
Commissioner required to give	111	*b* 1, 2
certified, evidence when originals would be	111	*4
originals cannot be required	111	*a* 1
copies must be received when offered	111	*a* 2
prima facie evidence of correctness of originals	111	*a* 3, 4
defective, how corrected	111	*a* 5
cannot be taken by third persons	111	*c*
of restored patents, when evidence	155	*2, 3
of printed patents, when evidence	206	*15
fees on obtaining	202	*10
COURTS, JURISDICTION IN PATENT CASES—Supreme Court—		
appeals and writ of error to, as in other cases	147	*17
and in other cases deemed reasonable	147	*17
what are reasonable cases	148	*b* 1
whole case goes up in such cases	148	*b* 2
from all judgments, without regard to sum or value in controversy	196	
COURTS, JURISDICTION IN PATENT CASES—Circuit Courts—		
have original cognizance of actions as to patents	147	*17
exclusive as well as original cognizance	147	*a* 1
as well in equity as at law	147	*17
actions may be brought in equity or at law	148	4
jurisdiction of, depends only on subject-matter	148	5
may issue injunctions	147	*17
equity jurisdiction same as in England	147	2
jurisdiction irrespective of right to injunction	148	3
does not extend to bill for specific performance	148	6
nor to enforce covenants of license	148	7
parties to, need not live in district	148	8
defendant must be served in district	148	9

INDEX TO LAWS PRIOR TO ACT OF 1836.

ASSIGNEE OF INVENTION OR PATENT—		
may maintain action for infringement	89	*5
of part of patent, cannot bring action	90	*c* 1
in such case must join with patentee	90	*c* 2
PIES OF PAPERS—		
who may have	81	*3

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
COURTS, JURISDICTION IN PATENT CASES—Circuit Courts—		
when may declare patents void	145	*16
extended in such cases	175	*10
jurisdiction exclusive in such case	147	4
assignee may maintain such action	146	3
power to order patent to issue	146	*16
when may treble damages	137	*14
such power discretionary	138	2, 7
may treble damages, though costs not recoverable	138	8
D.		
DAMAGES IN ACTIONS FOR INFRINGEMENT—		
jury to find actual damages	137	*14
actual, these fixed by verdict	138	3
not to be exemplary or punitory	138	4
only compensatory	138	5
cannot include counsel fees	138	6
court may treble the damages	137	*14
discretionary whether so to do	138	2, 7
may be increased, though costs not recoverable	138	8
object of increasing	138	9
DEFENCES, see GENERAL ISSUE.		
DESIGNS, PATENT FOR—		
citizens and aliens may take	182	*3
citizens and aliens may take	203	*11
term of, originally, seven years	182	*3
fee of, originally, fifteen dollars	182	*3
term of, 3½, or 7, or 14 years	203	*11
term may be extended seven years	203	*11
fees, on issue of	204	*11
utility of, not necessary for a patent	204	1
must be result of industry, genius, &c.	204	2
titles, trademarks, &c., when patentable as	204	5, 6
DIGEST OF PATENTS—		
Commissioner authorized to publish	171	*3

INDEX TO LAWS PRIOR TO ACT OF 1836.

COPIES OF PAPERS—		
copy specification, how far evidence	81	*2
copy specification, how far evidence	88	*3
copies not allowed to every one	96	2
fees on obtaining	95	*10
COURTS, JURISDICTION OF—Supreme Court—		
appeals and writs of error to	101	
lie as from other judgments	101	

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
DISCLAIMER OF PATENT—		
who may make	161	*7
to state the interest of disclaimant	161	*7
to be in writing, and witnessed, and recorded	161	*7
to be considered as a part of patent	161	*7
how far affects pending actions	161	*7
if not filed before action, costs not recoverable	165	*9
effect of unreasonable delay in filing	165	*9
when necessary, on application for reissue	163	*8
law as to, penal and not remedial	161	1
when patentee must disclaim	162	2
what may be disclaimed	162	3
when should set forth what is claimed	162	4
interest of disclaimant, statement of	162	*b* 1
when does not operate in favor of assignees	162	*c* 1
when does not affect prior grantee	162	*c* 2
when may be received in evidence	163	5
disclaimed part may be covered by reissue	163	6
should be filed before suit	163	*d* 2
effect of not so filing	163	*d* 2, 3
when applies to suits pending	163	*d* 1
when applies to suits brought after	163	*d* 1
fees on filing	202	*10
DRAUGHTSMAN OF PATENT OFFICE—		
how appointed, and salary of	109	*2
additional compensation for	191	
DRAWINGS OF INVENTION—		
to accompany applications	115	*6
to be witnessed by two witnesses	115	*6
size of	119	6
may be resorted to, to aid description	118	*k* 1
references on, when not necessary	118	*k* 2, 3
may be signed by inventor, or his attorney	118	*k* 4
duplicate required	160	6
photographs, when permitted, in place of	119	7

INDEX TO LAWS PRIOR TO ACT OF 1836.

COURTS, JURISDICTION OF—Circuit Courts—		
in actions on the case for infringement	81	*4
in actions on the case for infringement	89	*5
have original cognizance of actions as to patents	101	
jurisdiction of all cases in equity and at law	101	
jurisdiction of, not exclusive	102	3
jurisdiction not enlarged as to subject-matter	102	2
COURTS, JURISDICTION OF—District Courts—		
power to repeal letters patent	82	*3

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

E.

	PAGE	REF.
EVIDENCE IN CASES BEFORE THE PATENT OFFICE—		
Commissioner, may make rules as to, in contested cases	179	*12
power to make rules extended to all cases	196	*1
new rules of, cannot be made	180	1
such rules bind Commissioner	180	2
revocation of, affects only subsequent proceedings	180	3
such cases must be just and reasonable	180	4
before whom may be taken	196	1
witnesses may be compelled to give	197	*1
how far witnesses privileged from giving	197	*1
fees to be paid to witnesses	198	*1
how far copies of papers are	111	*4
how such defective copies corrected	111	a 5
printed copies of patents, when evidence	206	*15
EXAMINERS IN PATENT OFFICE—		
board of, to determine appeals, created	121	*7
duties of, transferred to Chief-Justice Cir. Ct., D. C.	176	*11
duties of, may be performed by Assistant Justices	190	*2
now exercised by Justices of Supreme Ct., D. C	177	a 2
in chief, appointment of	198	*2
to revise decisions of primary examiners	198	*2
governed by rules of Commissioner.	198	*2
appeals from, to Commissioner	198	*2
appeals to, from primary, when	199	*3
are judicial and independent officers	199	2
Commissioner can overrule their acts only on appeal.	199	3
salary of	198	*2
principal, appointment of, one	109	*2
principal, appointment of, two	185	*1
principal, appointment of, two	189	*2
principal, appointment of, four	192	*10
principal, appointment of, two	193	*9
Commissioner may appoint	200	*7
are judicial and independent officers	199	2
Commissioner can control acts of, only on appeal	199	3
rated as fourth-class clerks	193	*25

INDEX TO LAWS PRIOR TO ACT OF 1836.

COURTS, JURISDICTION OF—District Courts—		
power to repeal letters patent	94	*10
extent of jurisdiction in such cases	94	1
objects of such proceedings	94	2
restoration of suspended suits in	96–7	

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
EXAMINERS IN PATENT OFFICE—continued.		
salary of	109	*2
salary of	191	*3
assistants, appointment of, two	170	*1
assistants, appointment of, two	185	*1
assistants, appointment of, two	188	*2
assistants, appointment of, six	191	*3
assistants, appointment of, four	192	*10
assistants, appointment of, two	193	*9
Commissioner may appoint	200	*7
rated as third-class clerks	193	*25
salary of	170	*1
salary of	191	*3
power of, as to interference	198	*2
power of, in extensions	198	*2
EXTENSION OF PATENTS—		
patentee may apply for	149	*18
patentee same as inventor	150	*a* 1
administrator may apply for	150	*a* 2
and though patentee had no interest in existing patent	151	3
application to be made to Commissioner	149	*18
Board appointed to determine as to	149	*18
Commissioner substituted for Board	185	*1
decision of Commissioner conclusive	151	*c* 3
notice of time and place of hearing to be published	149	*18
applications for, to be filed ninety days before expiration	205	*12
sixty days' notice of hearing to be given	186	*1
notice to be published	205	*12
object of notice of application	151	*c* 1
application to be referred to examiner	186	*1
report of examiner may be reviewed by examiner in chief	198	*2
on what principles granted or refused	186	*1
effect of extended patent	150	*18
extended patent gives same rights as original	151	*e* 4
original patent becomes one for twenty-one years	151	*e* 5
not to be extended over seven years	186	*1
of patents issued since March 2, 1861, prohibited	206	*16

INDEX TO LAWS PRIOR TO ACT OF 1836.

DAMAGES IN ACTIONS FOR INFRINGEMENT—		
such as jury may assess, and forfeiture of thing made	81	*4
equal to three times amount of license price	89	*5
equal to three times actual damage sustained	99	*3

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
EXTENSION OF PATENTS—continued.		
except as to patents for designs	204	*11
not granted after expiration of patent	150	*18
benefit of in favor of assignees	150	*18
how far inures to assignees	151–2	*f* 1–6
applies to past as well as future patents	151	*e* 1
but one extension provided for	151	*e* 2
may be again extended by Congress	151	*e* 6, 7
fee on application for	202	*10
fee on granting of	202	*10

F.

FEES—		
on filing caveat	131	*12
to be considered part of patent fee	131	*12
no longer to be part of such fee	201	*9
fee reduced	202	*10
on application for patent	128	*9
on filing original application	202	*10
on issuing original patent	202	*10
on application for improvements	134	*13
applications for improvements abolished	201	*9
on application for reissue	134	*13
fee in such case increased	202	*10
on application for extension	149	*18
fee increased in such case	202	*10
on granting extension	202	*10
on application for patent for designs	182	*3
fees in such cases modified	203	*11
on filing disclaimer	161	*7
on filing disclaimer	202	*10
on appeals to Commissioner	202	*10
on appeals to Justices Supreme Court	122	*7
for recording assignments	130	*11
increased in such cases	187	*2
re-enactment of provision as to	202	*10
for copies of papers and drawings	111	*4
re-enactment of provision as to	202	*10
to what persons may be paid	128	*a*

INDEX TO LAWS PRIOR TO ACT OF 1836.

EXTENSION OF PATENTS—		
by application to Congress	102	*2
requisites of application	103	*2
previous extension only by private acts	103	2

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
FEES—continued.		
paid by mistake, may be refunded	181	*1
of witnesses on examination	198	*1
FOREIGN PATENTS—		
not to be obtained over six months prior to home patent	126	*8
such issue of no longer affects home patent, provided invention not put in public use in U. S.	171	*6
home patent to run from date of foreign	171	*6
in what cases this proviso applies	172	3, 4
date of home patent may be altered to correspond	172	1
misdating home patent not fatal	172	*a* 2, 6
FRANKING PRIVILEGE OF COMMISSIONER—		
may frank letters, &c., connected with his office	107	*1
may frank Patent Office reports	187	*4

G.

GENERAL ISSUE—		
defendant may plead, with notice special matter	139	*15
is enlargement of mode of defence	140	*a* 1
but defendant may plead specially	141	*a* 1, 2
notice and special pleas not both permissible	141	*a* 3
order of court not necessary to file notice	141	*b* 1
defective notice may be corrected	141	*b* 2
covers depositions taken before notice filed	141	*b* 3
notice special matter not proper in equity suits	141	*b* 5
object of notice	143–4	*c* 1, 2
how particular notice must be	144	3–6
what defences may be set up by notice	139	*15

I.

INFRINGEMENT OF PATENT, see ACTIONS and DAMAGES.		
INTERFERING APPLICATIONS—		
parties to, entitled to notice	125	*8
Commissioner to decide upon	125	*8
must be as to patentable matters	126	1
implies substantial identity	126	2

INDEX TO LAWS PRIOR TO ACT OF 1830.

FEES—		
on obtaining letters patent	83	*7
on deposit of petition	95	*11
for copies of specification and model	81	*3
for copies of papers and drawings.	95	*11

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
INTERFERING APPLICATIONS—continued.		
may exist between application and reissue	126	3
second may be declared between same parties	126	4
second only a rehearing of first	127	5
appeal in cases of	125	*8
remedy as to, by bill in equity	145	*16
assignee may file such bill	146	*c* 3
when caveator entitled to notice of	132	*12
INTRODUCER OF INVENTION—		
not protected by acts of Congress	9	1
the several States may grant privileges to	9	2
INVENTION, WHEN PATENTABLE—		
must be new and useful	114	*6
not known or used by others than inventor	114	*6
not in use or on sale with inventor's consent	114	*6
not known so as to be accessible to the public	117	*e* 3
use for two years before application permitted	172	*7
such use extends patent two years	173	2
object and effect of such provision	173	3–8

L.

LIBRARIAN OF PATENT OFFICE—		
appropriation to pay	190	
rated as a clerk of the third class	193	*25
salary of, established	199	*4
LIBRARY OF PATENT OFFICE—		
establishment of, and appropriation for	152	*19
appropriation for	190–1	

M.

MACHINE, PATENT FOR—		
principle and modes of application of to be stated	115	*6
includes all mechanical devices or combinations	116	*b* 1, 5
one patent may include all modes contemplated	118	*i* 1
inventor must describe the different modes	118	*i* 2

INDEX TO LAWS PRIOR TO ACT OF 1836.

GENERAL ISSUE—		
pleadable, with notice of special matter	83	*6
pleadable, with notice of special matter	90	*6
object of such provision	91	*a* 2
such notice for security of plaintiff	91	*a* 3

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
MACHINE, PATENT FOR—continued.		
abstract effect or function of, not patentable	116	*b* 2
is the result of invention	116	*b* 5
"improved machine" and "improvement on machine" equivalent	116	*d* 1
MACHINIST IN PATENT OFFICE—		
appointment of, and salary	109	*2
rated as a third-class clerk	193	*25
MANUFACTURE, ARTICLE OF—		
patent may be granted for	114	*6
MESSENGER IN PATENT OFFICE—		
appointment of, and salary	109	*2
MODELS OF INVENTIONS—		
required on applications	115	*6
to be classified and arranged	153	*20
lost or destroyed, duplicates to be procured	157	*4
when may be restored by Commissioner	200	*5
are part of the letters patent	119	*l* 1
how made, and size of	119	*l* 2
may be dispensed with, in case of design	200	*5
MONEY PAID BY MISTAKE—		
fees so paid to Patent Office may be refunded	181	*1

N.

NOTICE OF EXISTING PATENT—		
patentees and assignees to give	205	*13
effect of not doing so	205	*13

NOTICES OF INTERFERENCES, see INTERFERING APPLICATIONS.
NOTICES OF SPECIAL MATTER, see GENERAL ISSUE.

O.

OATH IN PATENT PROCEEDINGS—		
required on applications for patents	115	*6
not essential to validity of patent	119	*m* 1

INDEX TO LAWS PRIOR TO ACT OF 1836.

INTERFERING APPLICATIONS—		
submission of, to arbitrators	93	*9
refusal to submit, effect of	93	*b*
INVENTION, PATENTABLE—		
must be useful, not before known or used	79	*1
must be useful, not known or used before application	84	*1
not known or used by public	85	3

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
OATH IN PATENT PROCEEDINGS—continued.		
extends to whole of specification	119	m 2
"declaration" cannot be substituted for	119	m 3
affirmation may be substituted for	168	*13
before whom may be taken	115	*6
before whom taken, out of United States	183	*4
renewal oath, enactment as to	121	*7
renewal oath, no longer required	208	*1
Commissioner, and other officers to take	110	*3

P.

PATENT OFFICE—		
establishment of	106	*1
attached to Department of State	106	*1
attached to Department of Interior	188	*2
officers in, to have no interest in patents	109	*2
officers in, to take oath	110	*3
seal of to be provided	110	*4
PATENTS FOR INVENTIONS, REQUISITES OF, &C.—		
applications for, see APPLICATIONS.		
to be issued in the name of United States	112	*5
no warrantee in respect to	113	7
does not bind Government more than others	113	7
validity of, may be contested by Government	113	7
issue subjects to all legal objections	113	8
what to contain	112	*5
embraces specification, model, and drawings	113	9
when new ones may issue	156	*3
to be signed by Secretary of State	112	*5
now signed by Secretary of Interior	183	*2
countersigned by Commissioner of Patents	112	*5
recorded in Patent Office	112	*5
when may be recorded anew	154	*1
issue to the applicant or applicants	112	*5
may issue to assignees of inventor	159	*6
cannot issue to assignee and inventor together	160	2

INDEX TO LAWS PRIOR TO ACT OF 1836.

MACHINES, PATENTS FOR—		
principles of, to be set forth in specification	87	*3
several modes of application of stated	87	*3
MODELS OF INVENTIONS—		
required on applications	80	*2
required on applications	88	*3

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
PATENTS FOR INVENTIONS, REQUISITES OF, &c.—continued.		
must issue to assignees of whole interest	160	2
cannot issue to assignee of part interest	160	3
assignee becomes, in law, party applicant	160	4
may issue to legal representatives of inventor	129	*10
need not issue to them "in trust"	129	2
what granted by	112	*5
grant of, protects thing patented	113	1
does not cover products of patented machine	113	2
no right to at common law	113	3
right to, is the creature of the statute	113	3
use of, regulated by laws of different States	113	4–6
use of, regulated by laws of different States	10	5–11
is *prima facie* evidence of facts stated in it	113	10
term of, originally fourteen years	112	*5
extended to seventeen years	206	*16
may be issued for a less term	112	2, 3
patents of addition, provided for	134	*13
patents of addition, no longer granted	201	*9
when invalid, and for what reasons	139	*15
when courts may declare void, in whole or in part	145	*16
when valid, though claiming too much	164	*9
assignable, in whole or in part	129	*11
for designs, when issued, and term of	182	*3
for designs, term of varied	203	*11
Commissioner may cause to be printed	206	*14
printing of, no longer allowed	207	
reissue of, see REISSUE.		
extension of, see EXTENSION.		
classified list of, to be published	171	*3
annual list of	169	*14
fee on obtaining, see FEES.		
PATENTED ARTICLES—		
to be marked with date of patent	184	*6
to be marked "patented," and with date of patent	205	*13
when such mark may be on package	205	*13
penalty for neglecting so to do	205	*13

INDEX TO LAWS PRIOR TO ACT OF 1836.

OATH OF INVENTION—		
required on application for patent	87	*3
PATENTS FOR INVENTIONS—		
to be tested by President United States	79, 84	*1
to be certified by Attorney-General	80, 85	*1
to be recorded in office of Secretary of State	80, 85	*1

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
PENALTIES RESPECTING PATENTS—		
for marking articles patented when not so	183	*5
incurred, as to all articles marked with guilty intent.	184	*a*
penalty is just one hundred dollars	184	*b* 1
may be recovered in action of debt	184	*b* 2
to be sued for within five years	184	*c*
for neglecting to stamp date of patent on articles sold	184	*6
PRINTING SPECIFICATIONS, DRAWINGS, &C.—		
Commissioner may direct to be printed	206	*14
cost of, limited	206	*14
expense of, paid out of patent fund	206	*14
printed copies to be evidence	206	*15
authority to print revoked	207	
papers illegibly written may be printed	201	*8
cost of, to be paid by parties filing	201	*8
PROCESS—		
not *eo nomine* subject of patent	116	3
included under term "useful art"	116	3
is the result of discovery	116	*b* 3
there may be invention in, irrespective of machinery	116	*b* 4

R.

REISSUE OF PATENT—		
when may be had, and for what errors	133	*13
who may apply for	134	*13
who may apply for	136	1, 2
reissued patent must be for same invention	134	*13
several reissues may be had on same patent	158	*5
original claim subject to revision and restriction	163	*8
reissued patent to have same effect as if originally filed	134	*13
reissued patent relates back to original	136	*c* 1
is a continuation of the original	136	*c* 2
cannot affect previous grantees	136	*c* 4
there may be more than one reissue	135	3
only remedy to correct mistakes in patent	135	4
condition on which allowed	135	5

INDEX TO LAWS PRIOR TO ACT OF 1836.

PATENTS FOR INVENTIONS—		
term of fourteen years	79, 85	*1
may issue to representatives of inventor	99	*2
surreptitiously obtained, how repealed	82	*5
surreptitiously obtained, how repealed	93	*10
object of such proceeding	93	2

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF
REISSUE OF PATENT—continued.		
duty of Commissioner to grant	135	6, 7
may be had on patent extended by Congress	135	8
cannot embrace a different subject-matter	135	9
when assignee and patentee should join as to	136	*b* 3
licensee cannot have	136	*b* 4
as to what conclusive	137	5
fees on applications for	134	*13
fees on applications for, increased	158	*5
fees on applications for, confirmed	202	*10
REPORT OF PATENT OFFICE—		
annual report to be made	169	*14
mechanical report, drawings of, to be in one volume	194	*4
may be sent by Commissioner free of postage	187	*4

S.

SEAL OF PATENT OFFICE—		
Commissioner to provide	110	*4
all patents to be issued under	112	*5
copies of records, &c., verified by, to be evidence	110	*4
printed patents made evidence by	206	*15
SPECIFICATIONS OF PATENTS—		
what to set forth	114	*6
to be accompanied by drawings and specimens	114	*6
description in such that ordinary mechanics can understand it	117	*h* 1, 2
no description except of record	117	*h* 3
need not describe operation of known machinery	118	5
objects of description	117	*h* 4
illegible, may be printed at applicant's expense	201	*8
SPECIMENS OF INGREDIENTS—		
when required, on application	115	*6
STATES, POWERS OF AS TO PATENTS—		
may grant privileges to introducer of invention	9	2
may extend term of patent in their jurisdiction	10	3
may grant patent in their jurisdiction	10	4
may regulate the use of patents	10	5–10

INDEX TO LAWS PRIOR TO ACT OF 1836.

REISSUE OF PATENT—		
when allowed, and who may apply for	103	*3
SEAL OF UNITED STATES—		
to be affixed to letters patent	80	*1
to be affixed to letters patent	85	*1

REFERENCES THUS (*) ARE TO SECTIONS; OTHERWISE, TO NOTES.

	PAGE	REF.
STATES, POWERS OF AS TO PATENTS—continued.		
when may restrain use of patents	10	7
may tax patent property	10	8
action of, must be in harmony with power of Congress	10	3
action of, inoperative, if conflicts with power of Congress	10	6

W.

WITHDRAWAL OF PATENT FEE—		
when allowed, and in what proportion	120	*7
right of, extended to foreigners	168	*12
right of, prohibited as to applications subsequent to March 2, 1861	201	*9
WITNESSES IN MATTERS BEFORE PATENT OFFICE—		
may be compelled to testify	197	*1
penalty for refusing	197	*1
not required to attend more than forty miles from where served	197	*1
not compelled to disclose any invention made or owned by him	197	*1
entitled to fees for attendance	197	*1
WRIT OF ERROR IN PATENT ACTIONS—		
lies as from judgments in other cases	147	*17
lies in all cases, without regard to sum or value in controversy	196	

INDEX TO LAWS PRIOR TO ACT OF 1836.

SPECIFICATION OF PATENT—		
what is set forth	80	*2
what is set forth	87	*3
STATES—		
patents granted by, surrendor of	92	*7
WRIT OF ERROR IN PATENT CASES—		
when will lie	101	

PATENT LAWS,

TRADE-MARK AND COPYRIGHT LAWS.

AN ACT

TO REVISE, CONSOLIDATE, AND AMEND THE STATUTES RELATING TO PATENTS AND COPYRIGHTS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be attached to the Department of the Interior the office, heretofore established, known as the Patent Office, wherein all records, books, models, drawings, specifications, and other papers and things pertaining to patents shall be safely kept and preserved.

SEC. 2. *And be it further enacted*, That the officers and employees of said office shall continue to be one Commissioner of Patents, one Assistant Commissioner, and three examiners-in-chief, to be appointed by the President, by and with the advice and consent of the Senate; one chief clerk, one examiner in charge of interferences, twenty-two principal examiners, twenty-two first assistant examiners, twenty-two second assistant examiners, one librarian, one machinist, five clerks of class four, six clerks of class three, fifty clerks of class two, forty-five clerks of class one, and one messenger and purchasing clerk, all of whom shall be appointed by the Secretary of the Interior, upon nomination of the Commissioner of Patents.

SEC. 3. *And be it further enacted*, That the Secretary of the Interior may also appoint, upon like nomination, such additional clerks of classes two and one, and of lower grades, copyists of drawings, female copyists, skilled laborers, laborers, and watchmen, as may be from time to time appropriated for by Congress.

SEC. 4. *And be it further enacted*, That the annual salaries of the officers and employees of the Patent Office shall be as follows:

Of the Commissioner of Patents, four thousand five hundred dollars.

Of the Assistant Commissioner, three thousand dollars.

Of the examiners-in-chief, three thousand dollars each.

Of the chief clerk, two thousand five hundred dollars.

Of the examiner in charge of interferences, two thousand five hundred dollars.

Of the principal examiners, two thousand five hundred dollars each.

Of the first assistant examiners, one thousand eight hundred dollars each.

Of the second assistant examiners, one thousand six hundred dollars each.

Of the librarian, one thousand eight hundred dollars.

Of the machinist, one thousand six hundred dollars.

Of the clerks of class four, one thousand eight hundred dollars each.

Of the clerks of class three, one thousand six hundred dollars each.

Of the clerks of class two, one thousand four hundred dollars each.

Of the clerks of class one, one thousand two hundred dollars each.

Of the messenger and purchasing clerk, one thousand dollars.

Of laborers and watchmen, seven hundred and twenty dollars each.

Of the additional clerks, copyists of drawings, female copyists, and skilled laborers, such rates as may be fixed by the acts making appropriations for them.

SEC. 5. *And be it further enacted*, That all officers and employees of the Patent Office shall, before entering upon their duties, make oath or affirmation truly and faithfully to execute the trusts committed to them.

SEC. 6. *And be it further enacted*, That the Commissioner and chief clerk, before entering upon their duties, shall severally give bond, with sureties, to the Treasurer of the United States, the former in the sum of ten thousand dollars, and the latter in the sum of five thousand dollars, conditioned for the faithful discharge

of their duties, and that they will render to the proper officers of the treasury a true account of all money received by virtue of their office.

SEC. 7. *And be it further enacted*, That it shall be the duty of the Commissioner, under the direction of the Secretary of the Interior, to superintend or perform all the duties respecting the granting and issuing of patents which herein are, or may hereafter be, by law directed to be done; and he shall have charge of all books, records, papers, models, machines, and other things belonging to said office.

SEC. 8. *And be it further enacted*, That the Commissioner may send and receive by mail, free of postage, letters, printed matter, and packages relating to the business of his office, including Patent Office reports.

SEC. 9. *And be it further enacted*, That the Commissioner shall lay before Congress, in the month of January, annually, a report, giving a detailed statement of all moneys received for patents, for copies of records or drawings, or from any other source whatever; a detailed statement of all expenditures for contingent and miscellaneous expenses; a list of all patents which were granted during the preceding year, designating under proper heads the subjects of such patents; an alphabetical list of the patentees, with their places of residence; a list of all patents which have been extended during the year; and such other information of the condition of the Patent Office as may be useful to Congress or the public.

SEC. 10. *And be it further enacted*, That the examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and determine upon the validity of the adverse decisions of examiners upon applications for patents, and for reissues of patents, and in interference cases; and when required by the Commissioner, they shall hear and report upon claims for extensions, and perform such other like duties as he may assign them.

SEC. 11. *And be it further enacted*, That in case of the death, resignation, absence, or sickness of the Commissioner, his duties shall devolve upon the Assistant Commissioner until a successor shall be appointed, or such absence or sickness shall cease.

SEC. 12. *And be it further enacted*, That the Commissioner shall cause a seal to be provided for said office, with such device as the President may approve, with which all records or papers issued from said office, to be used in evidence, shall be authenticated.

SEC. 13. *And be it further enacted*, That the Commissioner shall cause to be classified and arranged in suitable cases, in the rooms and galleries provided for that purpose, the models, specimens of composition, fabrics, manufactures, works of art, and designs, which have been or shall be deposited in said office; and said rooms and galleries shall be kept open during suitable hours for public inspection.

SEC. 14. *And be it further enacted*, That the Commissioner may restore to the respective applicants such of the models belonging to rejected applications as he shall not think necessary to be preserved, or he may sell or otherwise dispose of them after the application has been finally rejected for one year, paying the proceeds into the treasury, as other patent moneys are directed to be paid.

SEC. 15. *And be it further enacted*, That there shall be purchased, for the use of said office, a library of such scientific works and periodicals, both foreign and American, as may aid the officers in the discharge of their duties, not exceeding the amount annually appropriated by Congress for that purpose.

SEC. 16. *And be it further enacted*, That all officers and employees of the Patent Office shall be incapable, during the period for which they shall hold their appointments, to acquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by said office.

SEC. 17. *And be it further enacted*, That for gross misconduct the Commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded and be subject to the approval of the Secretary of the Interior.

SEC. 18. *And be it further enacted*, That the Commissioner may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed at the cost of the party filing them.

SEC. 19. *And be it further enacted*, That the Commissioner, subject to the approval of the Secretary of the Interior, may from time to time establish rules and regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.

SEC. 20. *And be it further enacted*, That the Commissioner may print or cause to be printed copies of the specifications of all letters patent and of the drawings of the same, and copies of the claims of current issues, and copies of such laws, decisions, rules, regulations, and circulars as may be necessary for the information of the public.

SEC. 21. *And be it further enacted*, That all patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Secretary of the Interior and countersigned by the Commissioner, and they shall be recorded, together with the specification, in said office, in books to be kept for that purpose.

SEC. 22. *And be it further enacted*, That every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the said invention or discovery throughout the United States and the Territories thereof, referring to the specification for the particulars thereof; and a copy of said specifications and of the drawings shall be annexed to the patent, and be a part thereof.

SEC. 23. *And be it further enacted*, That every patent shall date as of a day not later than six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant, or his agent; and if the final fee shall not be paid within that period, the patent shall be withheld.

SEC. 24. *And be it further enacted*, That any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented, or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application, unless the same is proved to have been abandoned,

may, upon payment of the duty required by law, and other due proceedings had, obtain a patent therefor.

SEC. 25. *And be it further enacted*, That no person shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid, by reason of its having been first patented or caused to be patented in a foreign country; provided the same shall not have been introduced into public use in the United States for more than two years prior to the application, and that the patent shall expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest term; but in no case shall it be in force more than seventeen years.

SEC. 26. *And be it further enacted*, That before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the Commissioner, and shall file in the Patent Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle so as to distinguish it from other inventions; and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery; and said specification and claim shall be signed by the inventor and attested by two witnesses.

SEC. 27. *And be it further enacted*, That when the nature of the case admits of drawings, the applicant shall furnish one copy signed by the inventor or his attorney in fact, and attested by two witnesses, which shall be filed in the Patent Office; and a copy of said drawings, to be furnished by the Patent Office, shall be attached to the patent as part of the specification.

SEC. 28. *And be it further enacted*, That when the invention or discovery is of a composition of matter, the applicant, if required by the Commissioner, shall furnish specimens of ingredients and of the composition sufficient in quantity for the purpose of experiment.

SEC. 29. *And be it further enacted*, That in all cases which admit of representation by model, the applicant, if required by the Commissioner, shall furnish one of convenient size to exhibit advantageously the several parts of his invention or discovery.

SEC. 30. *And be it further enacted*, That the applicant shall make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. And said oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the government of the United States, or before any notary public of the foreign country in which the applicant may be.

SEC. 31. *And be it further enacted*, That on the filing of any such application and the payment of the duty required by law, the Commissioner shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the Commissioner shall issue a patent therefor.

SEC. 32 *And be it further enacted*, That all applications for patents shall be completed and prepared for examination within two years after the filing of the petition, and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

SEC. 33. *And be it further enacted*, That patents may be granted and issued or reissued to the assignee of the inventor or discoverer, the assignment thereof being first entered of record in the Patent Office; but in such case the application for the patent shall be made and the specification sworn to by the inventor or discoverer; and, also, if he be living, in case of an application for reissue.

SEC. 34. *And be it further enacted*, That when any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall have left a will, disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when the application shall be made by such legal representatives, the oath or affirmation required to be made shall be so varied in form that it can be made by them.

SEC. 35. *And be it further enacted*, That any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but who has failed to make payment thereof within six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application: *Provided*, That the second application be made within two years after the allowance of the original application. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent, as aforesaid, was ordered to issue, prior to the issue thereof: *And provided further*, That when an application for a patent has been rejected or withdrawn, prior to the passage of this act, the applicant shall have six months from the date of such passa to renew his application, or to file a new one; and if he omit to do either, his application shall be held to have been abandoned. Upon the hearing of such renewed applications abandonment shall be considered as a question of fact.

SEC. 36. *And be it further enacted*, That every patent, or any interest therein, shall be assignable in law, by an instrument in writing; and the patentee, or his assigns or legal representatives, may, in like manner, grant and convey an exclusive right under his patent to the whole or any specified part of the United States; and said assignment, grant, or conveyance shall be void as against

any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof.

SEC. 37. *And be it further enacted*, That every person who may have purchased of the inventor, or with his knowledge and consent may have constructed, any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, or sold or used one so constructed, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor.

SEC. 38. *And be it further enacted*, That it shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented, either by fixing thereon the word "patented," together with the day and year the patent was granted; or when, from the character of the article, this cannot be done, by fixing to it or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damages shall be recovered by the plaintiff except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make, use, or vend the article so patented.

SEC. 39. *And be it further enacted*, That if any person shall, in any manner, mark upon anything made, used, or sold by him, for which he has not obtained a patent, the name, or any imitation of the name, of any person who has obtained a patent therefor, without the consent of such patentee, or his assigns or legal representatives; or shall in any manner mark upon or affix to any such patented article the word "patent" or "patentee," or the words "letters patent," or any word of like import, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee, or his assigns or legal representatives; or shall in any manner mark upon or affix to any unpatented article the word "patent," or any word importing that the same is patented, for the purpose of deceiving the public, he shall be liable for every such offense to a penalty of not

less than one hundred dollars, with costs; one moiety of said penalty to the person who shall sue for the same, and the other to the use of the United States, to be recovered by suit in any district court of the United States within whose jurisdiction such offense may have been committed.

SEC. 40. *And be it further enacted*, That any citizen of the United States who shall have made any new invention or discovery, and shall desire further time to mature the same, may, on payment of the duty required by law, file in the Patent Office a caveat setting forth the design thereof, and of its distinguishing characteristics, and praying protection of his right until he shall have matured his invention; and such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof; and if application shall be made within the year by any other person for a patent with which such caveat would in any manner interfere, the Commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confidential archives of the office, and give notice thereof, by mail, to the person filing the caveat, who, if he would avail himself of his caveat, shall file his description, specifications, drawings, and model within three months from the time of placing said notice in the post-office in Washington, with the usual time required for transmitting it to the caveator added thereto, which time shall be indorsed on the notice. And an alien shall have the privilege herein granted, if he shall have resided in the United States one year next preceding the filing of his caveat, and made oath of his intention to become a citizen.

SEC. 41. *And be it further enacted*, That whenever, on examination, any claim for a patent is rejected for any reason whatever, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant shall persist in his claim for a patent, with or without altering his specifications, the Commissioner shall order a re-examination of the case.

SEC. 42. *And be it further enacted*, That whenever an appli-

cation is made for a patent which, in the opinion of the Co[illegible]-sioner, would interfere with any pending application, or with a[illegible] unexpired patent, he shall give notice thereof to the applicants or applicant and patentee, as the case may be, and shall direct the primary examiner to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who shall be adjudged the prior inventor, unless the adverse party shall appeal from the decision of the primary examiner, or of the board of examiners-in-chief, as the case may be, within such time, not less than twenty days, as the Commissioner shall prescribe.

SEC. 43. *And be it further enacted*, That the Commissioner may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

SEC. 44. *And be it further enacted*, That the Clerk of any court of the United States for any district or territory wherein testimony is to be taken for use in any contested case pending in the Patent Office, shall, upon the application of any party thereto, or his agent or attorney, issue subpœna for any witness residing or being within said district or territory, commanding him to appear and testify before any officer in said district or territory authorized to take depositions and affidavits, at any time and place in the subpœna stated; and if any witness, after being duly served with such subpœna, shall neglect or refuse to appear, or, after appearing, shall refuse to testify, the judge of the court whose clerk issued the subpœna may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience as in other like cases.

SEC. 45. *And be it further enacted*, That every witness duly subpœnaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States, but no witness shall be required to attend at any place more than forty miles from the place where the subpœna is served upon him, nor be deemed guilty of contempt for disobeying such subpœna, unless his fees and traveling expenses in going to, returning from,

and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpœna; nor for refusing to disclose any secret invention or discovery made or owned by himself.

SEC. 46. *And be it further enacted*, That every applicant for a patent or the reissue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in charge of interference, in such case to the board of examiners-in-chief, having once paid the fee for such appeal provided by law.

SEC. 47. *And be it further enacted*, That if such party is dissatisfied with the decision of the examiners-in-chief, he may, on payment of the duty required by law, appeal to the Commissioner in person.

SEC. 48. *And be it further enacted*, That if such party, except a party to an interference, is dissatisfied with the decision of the Commissioner, he may appeal to the supreme court of the District of Columbia sitting in banc.

SEC. 49. *And be it further enacted*, That when an appeal is taken to the supreme court of the District of Columbia, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing.

SEC. 50. *And be it further enacted*, That it shall be the duty of said court, on petition, to hear and determine such appeal, and to revise the decision appealed from in a summary way, on the evidence produced before the Commissioner, at such early and convenient time as the court may appoint, notifying the Commissioner of the time and place of hearing; and the revision shall be confined to the points set forth in the reasons of appeal. And after hearing the case, the court shall return to the Commissioner a certificate of its proceedings and decision, which shall be entered of record in the Patent Office, and govern the further proceedings in the case. But no opinion or decision of the court in any such case shall preclude any person interested from the right to contest the validity of such patent in any court wherein the same may be called in question.

SEC. 51. *And be it further enacted*, That on receiving notice of the time and place of hearing such appeal, the Commissioner shall notify all parties who appear to be interested therein, in such manner as the court may prescribe. The party appealing shall lay before the court certified copies of all the original papers and evidence in the case, and the Commissioner shall furnish it with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal. And at the request of any party interested, or of the court, the Commissioner and the examiners may be examined under oath, in explanation of the principles of the machine or other thing for which a patent is demanded.

SEC. 52. *And be it further enacted*, That whenever a patent on application is refused, for any reason whatever, either by the Commissioner or by the supreme court of the District of Columbia upon appeal from the Commissioner, the applicant may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue such patent, on the applicant filing in the Patent Office a copy of the adjudication, and otherwise complying with the requisitions of law. And in all cases where there is no opposing party a copy of the bill shall be served on the Commissioner, and all the expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favor or not.

SEC. 53. *And be it further enacted*, That whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected specifications, to be issued to the patentee, or, in the case of his death or assignment of the whole or

any undivided part of the original patent, to his executors, administrators, or assigns for the unexpired part of the term of the original patent, the surrender of which shall take effect upon the issue of the amended patent; and the Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued letters patent. And the specification and claim in every such case shall be subject to revision and restriction in the same manner as original applications are. And the patent so reissued, together with the corrected specification, shall have the effect and operation in law, on the trial of all actions for causes thereafter arising, as though the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended, except each by the other; but when there is neither model or drawing, amendments may be made upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

SEC. 54. *And be it further enacted*, That whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the duty required by law, make disclaimer of such parts of the thing patented as he shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent; said disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office, and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the

time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

SEC. 55. *And be it further enacted*, That all actions, suits, controversies, and cases arising under the patent laws of the United States shall be originally cognizable, as well in equity as at law, by the circuit courts of the United States, or any district court having the powers and jurisdiction of a circuit court, or by the supreme court of the District of Columbia, or of any Territory; and the court shall have power, upon bill in equity filed by any party aggrieved, to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for an infringement, the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the *claimant* [complainant] has sustained thereby, and the court shall assess the same or cause the same to be assessed under its direction, and the court shall have the same powers to increase the same in its discretion that are given by said act to increase the damages found by verdicts in actions upon the case; but all actions shall be brought during the term for which the letters patent shall be granted or extended, or within six years after the expiration thereof.

SEC. 56. *And be it further enacted*, That a writ of error or appeal to the supreme court of the United States shall lie from all judgments and decrees of any circuit court, or of any district court exercising the jurisdiction of a circuit court, or of the supreme court of the District of Columbia or of any Terirtory, in any action, suit, controversy, or case, at law or in equity, touching patent rights, in the same manner and under the same circumstances as in other judgments and decrees of such circuit courts, without regard to the sum or value in controversy.

SEC. 57. *And be it further enacted*, That written or printed copies of any records, books, papers, or drawings belonging to the Patent Office, and of letters patent under the signature of the Commissioner or Acting Commissioner, with the seal of office affixed, shall be competent evidence in all cases wherein the originals could be evidence, and any person making applications there-

for, and paying the fee required by law, shall have certified copies thereof. And copies of the specifications and drawings of foreign letters patent, certified in like manner, shall be prima facie evidence of the fact of the granting of such foreign letters patent, and of the date and contents thereof.

SEC. 58. *And be it further enacted*, That whenever there shall be interfering patents, any person interested in any one of such interfering patents, or in the working of the invention claimed under either of such patents, may have relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent; and the court having cognizance thereof, as hereinbefore provided, on notice to adverse parties, and other due proceedings had according to the course of equity, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the rights of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

SEC. 59. *And be it further enacted*, That damages for the infringement of any patent may be recovered by action on the case in any circuit court in the United States, or district court exercising the jurisdiction of a circuit court, or in the supreme court of the district of Columbia, or of any Territory, in the name of the party interested, either as patentee, assignee, or grantee. And whenever in any such action a verdict shall be rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

SEC. 60. *And be it further enacted*, That whenever, through inadvertence, accident, or mistake, and without any willful default or intent to defraud or mislead the public, a patentee shall have (in his specification) claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer as aforesaid, every such patentee, his executors, ad-

ministrators, and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was bona fide his own, provided it shall be a material and substantial part of the thing patented, and be definitely distinguishable from the parts so claimed, without right as aforesaid, notwithstanding the specifications may embrace more than that of which the patentee was the original or first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff, no costs shall be recovered unless the proper disclaimer has been entered at the Patent Office before the commencement of the suit; nor shall he be entitled to the benefits of this section if he shall have unreasonably neglected or delayed to enter said disclaimer.

SEC. 61. *And be it further enacted*, That in any action for infringement the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney, thirty days before, may prove on trial any one or more of the following special matters:

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

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same; or,

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

Fourth. That he was not the original and first inventor or discover of any material and substantial part of the thing patented; or,

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

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names

of patentees and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented or to have had the prior knowledge of the thing patented, and where and by whom it had been used; and if any one or more of the special matters alleged shall be found for the defendant, judgment shall be rendered for him with costs. And the like defenses may be pleaded in any suit in equity for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect.

SEC. 62. *And be it further enacted*, That whenever it shall appear that the patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented, or described in a printed publication.

SEC. 63. *And be it further enacted*, That where the patentee of any invention or discovery, the patent for which was granted prior to the second day of March, eighteen hundred and sixty-one, shall desire an extension of his patent beyond the original term of its limitation, he shall make application therefor, in writing, to the Commissioner, setting forth the reasons why such extension should be granted; and he shall also furnish a written statement, under oath, of the ascertained value of the invention or discovery, and of his receipts and expenditures on account thereof, sufficiently in detail to exhibit a true and faithful account of the loss and profit in any manner accruing to him by reason of said invention or discovery. And said application shall be filed not more than six months nor less than ninety days before the expiration of the original term of the patent, and no extension shall be granted after the expiration of said original term.

SEC. 64. *And be it further enacted*, That upon the receipt of such application, and the payment of the duty required by law, the Commissioner shall cause to be published in one newspaper in the city of Washington, and in such other papers published in the section of the country most interested adversely to the extension of the patent as he may deem proper, for at least sixty days prior to

the day set for hearing the case, a notice of such application, and of the time and place when and where the same will be considered, that any person may appear and show cause why the extension should not be granted.

SEC. 65. *And be it further enacted*, That on the publication of such notice, the Commissioner shall refer the case to the principal examiner having charge of the class of inventions to which it belongs, who shall make to said Commissioner a full report of the case, and particularly whether the invention or discovery was new and patentable when the original patent was granted.

SEC. 66. *And be it further enacted*, That the Commissioner shall, at the time and place designated in the published notice, hear and decide upon the evidence produced, both for and against the extension; and if it shall appear to his satisfaction that the patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention or discovery a reasonable remuneration for the time, ingenuity, and expense bestowed upon it, and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be extended, the said Commissioner shall make a certificate thereon, renewing and extending the said patent for the term of seven years from the expiration of the first term, which certificate shall be recorded in the Patent Office, and thereupon the said patent shall have the same effect in law as though it had been originally granted for twenty-one years.

SEC. 67. *And be it further enacted*, That the benefit of the extension of a patent shall extend to the assignees and grantees of the right to use the thing patented to the extent of their interest therein.

SEC. 68. *And be it further enacted*, That the following shall be the rates for patent fees:

On filing each original application for a patent, fifteen dollars.

On issuing each original patent, twenty dollars.

On filing each caveat, ten dollars.

On every application for the reissue of a patent, thirty dollars.

On filing each disclaimer, ten dollars.

On every application for the extension of a patent, fifty dollars.

On the granting of every extension of a patent, fifty dollars.

On an appeal for the first time from the primary examiners to the examiners-in-chief, ten dollars.

On every appeal from the examiners-in-chief to the Commissioner, twenty dollars.

For certified copies of patents and other papers, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making them.

SEC. 69. *And be it further enacted*, That patent fees may be paid to the Commissioner, or to the Treasurer or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor. And all money received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the treasury as received, without any deduction whatever; and all disbursements for said office shall be made by the disbursing clerk of the Interior Department.

SEC. 70. *And be it further enacted*, That the Treasurer of the United States is authorized to pay back any sum or sums of money to any person who shall have paid the same into the treasury, or to any receiver or depositary, to the credit of the Treasurer, as for fees accruing at the Patent Office through mistake, certificate thereof being made to said Treasurer by the Commissioner of Patents.

DESIGNS.

SEC. 71. *And be it further enacted*, That any person who, by his own industry, genius, efforts, and expense, has invented or produced any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief, any new and original design for the printing of woolen, silk, cotton, or other fabrics; any new and original impression, ornament, pattern, print, or picture, to be printed, painted, cast, or otherwise placed on or worked into any

article of manufacture; or any new, useful, and original shape or configuration of any article of manufacture, the same not having been known or used by others before his invention or production thereof, or patented or described in any printed publication, may, upon payment of the duty required by law, and other due proceedings had, the same as in cases of inventions or discoveries, obtain a patent therefor.

SEC. 72. *And be it further enacted*, That the Commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

SEC. 73. *And be it further enacted*, That patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

SEC. 74. *And be it further enacted*, That patentees of designs issued prior to March two, eighteen hundred and sixty-one, shall be entitled to extension of their respective patents for the term of seven years, in the same manner and under the same restrictions as are provided for the extension of patents for inventions or discoveries, issued prior to the second day of March, eighteen hundred and sixty-one.

SEC. 75. *And be it further enacted*, That the following shall be the rates of fees in design cases:

For three years and six months, ten dollars.

For seven years, fifteen dollars.

For fourteen years, thirty dollars.

For all other cases in which fees are required, the same rates as in cases of inventions or discoveries.

SEC. 76. *And be it further enacted*, That all the regulations and provisions which apply to the obtaining or protecting of patents for inventions or discoveries, not inconsistent with the provisions of this act, shall apply to patents for designs.

TRADE-MARKS.

SEC. 77. *And be it further enacted*, That any person or firm domiciled in the United States, and any corporation created by the authority of the United States, or of any State or Territory thereof, and any person, firm, or corporation resident of or located

in any foreign country which by treaty or convention affords similar privileges to citizens of the United States, and who are entitled to the exclusive use of any lawful trade-mark, or who intend to adopt and use any trade-mark for exclusive use within the United States, may obtain protection for such lawful trade-mark by complying with the following requirements, to wit:

1st. By causing to be recorded in the Patent Office the names of the parties and their residences and places of business, who desire the protection of the trade-mark.

2d. The class of merchandise, and the particular description of goods comprised in such class, by which the trade-mark has been or is intended to be appropriated.

3d. A description of the trade-mark itself, with fac-similes thereof, and the mode in which it has been or is intended to be applied and used.

4th. The length of time, if any, during which the trade-mark has been used.

5th. The payment of a fee of twenty-five dollars, in the same manner and for the same purpose as the fee required for patents.

6th. The compliance with such regulations as may be prescribed by the Commissioner of Patents.

7th. The filing of a declaration, under the oath of the person, or of some member of the firm or officer of the corporation, to the effect that the party claiming protection for the trade-mark has a right to the use of the same, and that no other person, firm, or corporation has the right to such use, either in the identical form or having such near resemblance thereto as might be calculated to deceive, and that the description and fac-similes presented for record are true copies of the trade-mark sought to be protected.

SEC. 78. *And be it further enacted*, That such trade-mark shall remain in force for thirty years from the date of such registration, except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country and in which it receives protection under the laws of any foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the same time that it becomes of no effect elsewhere, and during the period that it remains in

force it shall entitle the person, firm, or corporation registering the same to the exclusive use thereof so far as regards the description of goods to which it is appropriated in the statement filed under oath as aforesaid, and no other person shall lawfully use the same trade-mark, or substantially the same, or so nearly resembling it as to be calculated to deceive, upon substantially the same description of goods: *Provided*, That six months prior to the expiration of said term of thirty years, application may be made for a renewal of such registration, under regulations to be prescribed by the Commissioner of Patents, and the fee for such renewal shall be the same as for the original registration; certificate of such renewal shall be issued in the same manner as for the original registration, and such trade-mark shall remain in force for a further term of thirty years: *And provided further*, That nothing in this section shall be construed by any court as abridging or in any manner affecting unfavorably the claim of any person, firm, corporation, or company to any trade-mark after the expiration of the term for which such trade-mark was registered.

SEC. 79. *And be it further enacted*, That any person or corporation who shall reproduce, counterfeit, copy, or imitate any such recorded trade-mark, and affix the same to goods of substantially the same descriptive properties and qualities as those referred to in the registration, shall be liable to an action in the case for damages for such wrongful use of said trade-mark, at the suit of the owner thereof, in any court of competent jurisdiction in the United States, and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of his trade-mark and to recover compensation therefor in any court having jurisdiction over the person guilty of such wrongful use. The Commissioner of Patents shall not receive and record any proposed trade-mark which is not and cannot become a lawful trade-mark, or which is merely the name of a person, firm, or corporation only, unaccompanied by a mark sufficient to distinguish it from the same name when used by other persons, or which is identical with a trade-mark appropriate to the same class of merchandise and belonging to a different owner, and already registered or received for registration, or which so nearly resembles such last-mentioned trade-mark as to be likely to deceive the public: *Pro-*

vided, That this section shall not prevent the registry of any lawful trade-mark rightfully used at the time of the passage of this act.

SEC. 80. *And be it further enacted*, That the time of the receipt of any trade-mark at the Patent Office for registration shall be noted and recorded, and copies of the trade-mark and of the date of the receipt thereof, and of the statement filed therewith, under the seal of the Patent Office, certified by the Commissioner, shall be evidence in any suit in which such trade-mark shall be brought in controversy.

SEC. 81. *And be it further enacted*, That the Commissioner of Patents is authorized to make rules, regulations, and prescribe forms for the transfer of the right to the use of such trade-marks, conforming as nearly as practicable to the requirements of law respecting the transfer and transmission of copyrights.

SEC. 82. *And be it further enacted*, That any person who shall procure the *the* registry of any trade-mark, or of himself as the owner thereof, or an entry respecting a trade-mark in the Patent Office under this act, by making any false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay damages in consequence of any such registry or entry to the person injured thereby, to be recovered in an action on the case before any court of competent jurisdiction within the United States.

SEC. 83. *And be it further enacted*, That nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or in equity, which any party aggrieved by any wrongful use of any trade-mark might have had if this act had not been passed.

SEC. 84. *And be it further enacted*, That no action shall be maintained under the provisions of this act by any person claiming the exclusive right to any trade-mark which is used or claimed in any unlawful business, or upon any article which is injurious in itself, or upon any trade-mark which has been fraudulently obtained, or which has been formed and used with the design of deceiving the public in the purchase or use of any article of merchandise.

SEC. 85. *And be it further enacted*, That all records and other things relating to copyrights, and required by law to be preserved, shall be under the control of the Librarian of Congress, and kept and preserved in the Library of Congress; and the Librarian of Congress shall have the immediate care and supervision thereof, and, under the supervision of the Joint Committee of Congress on the Library, shall perform all acts and duties required by law touching copyrights. The Librarian shall cause a seal to be provided for said office, with such device as the Joint Committee on the Library may approve, with which all records or papers issued from said office, and to be used in evidence, shall be authenticated. He shall also give an additional bond, with sureties, to the Treasurer of the United States, in the sum of five thousand dollars, with the condition that he will render to the proper officers of the treasury a true account of all moneys received by virtue of his office. He shall also make an annual report to Congress of the number and description of copyright publications for which entries have been made during the year. And the Librarian of Congress shall receive a yearly compensation of four thousand dollars, to commence when this act shall take effect.

SEC. 86. *And be it further enacted*, That any citizen of the United States, or resident therein, who shall be the author, inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph, or negative thereof, or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts, and his executors, administrators, or assigns, shall, upon complying with the provisions of this act, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others; and authors may reserve the right to dramatize or to translate their own works.

SEC. 87. *And be it further enacted*, That copyrights shall be granted for the term of twenty-eight years from the time of recording the title thereof, in the manner hereinafter directed.

SEC. 88. *And be it further enacted*, That the author, inventor, or designer, if he be still living and a citizen of the United States or resident therein, or his widow or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first term. And such person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers, printed in the United States, for the space of four weeks.

SEC. 89. *And be it further enacted*, That copyrights shall be assignable in law, by any instrument of writing, and such assignment shall be recorded in the office of the Librarian of Congress within sixty days after its execution, in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice.

SEC. 90. *And be it further enacted*, That no person shall be entitled to a copyright unless he shall, before publication, deposit in the mail a printed copy of the title of the book or other article, or a description of the painting, drawing, chromo, statue, statuary, or model or design for a work of the fine arts, for which he desires a copyright, addressed to the Librarian of Congress, and, within ten days from the publication thereof, deposit in the mail two copies of such copyright book or other article, or in case of a painting, drawing, statue, statuary, model or design for a work of the fine arts, a photograph of the same, to be addressed to said Librarian of Congress, as hereinafter to be provided.

SEC. 91. *And be it further enacted*, That the Librarian of Congress shall record the name of such copyright book or other article forthwith in a book to be kept for that purpose, in the words following: "Library of Congress to wit: Be it remembered, that on the ——— day of ———, anno Domini ———, A. B., of ———, hath deposited in this office the title of a book (map, chart, or otherwise, as the case may be, or description of the article), the title or description of which is in the following words, to wit: (here insert the title or description) the right whereof he claims as author, originator (or proprietor, as the case may be), in

conformity with the laws of the United States respecting copyrights. C. D., Librarian of Congress." And he shall give a copy of the title or description, under the seal of the Librarian of Congress, to said proprietor, whenever he shall require it.

SEC. 92. *And be it further enacted*, That for recording the title or description of any copyright book or other article, the Librarian of Congress shall receive, from the person claiming the same, fifty cents; and for every copy under seal actually given to such person or his assigns, fifty cents; and for recording any instrument of writing for the assignment of a copyright, fifteen cents for every one hundred words; and for every copy thereof, ten cents for every one hundred words, which moneys, so received, shall be paid into the treasury of the United States.

SEC. 93. *And be it further enacted*, That the proprietor of every copyright book or other article shall mail to the Librarian of Congress at Washington, within ten days after its publication, two complete printed copies thereof, of the best edition issued, or description or photograph of such article as hereinbefore required, and a copy of every subsequent edition wherein any substantial changes shall be made.

SEC. 94. *And be it further enacted*, That in default of such deposit in the post-office, said proprietor shall be liable to a penalty of twenty-five dollars, to be collected by the Librarian of Congress, in the name of the United States, in an action of debt, in any district court of the United States within the jurisdiction of which the delinquent may reside or be found.

SEC. 95. *And be it further enacted*, That any such copyright book or other article may be sent to the Librarian of Congress by mail, free of postage, provided the words "Copyright matter" are plainly written or printed on the outside of the package containing the same.

SEC. 96. *And be it further enacted*, That the postmaster to whom such copyright book, title, or other article is delivered shall, if requested, give a receipt therefor; and when so delivered he shall mail it to its destination, without cost to the proprietor.

SEC. 97. *And be it further enacted*, That no person shall maintain an action for the infringement of his copyright unless he shall give notice thereof, by inserting in the several copies of every edi-

tion published, on the title page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some portion of the face or front thereof, or on the face of the substance on which the same shall be mounted, the following words, viz.: "Entered according to act of Congress, in the year ——, by A. B., in the office of the Librarian of Congress, at Washington."

SEC. 98. *And be it further enacted*, That if any person shall insert or impress such notice, or words of the same purport, in or upon any book, map, chart, musical composition, print, cut, engraving, or photograph, or other articles herein named, for which he has not obtained a copyright, every person so offending shall forfeit and pay one hundred dollars; one moiety thereof to the person who shall sue for the same, and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

SEC. 99. *And be it further enacted*, That if any person, after the recording of the title of any book as herein provided, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, or import, or, knowing the same to be so printed, published, or imported, shall sell or expose to sale any copy of such book, such offender shall forfeit every copy thereof to said proprietor, and shall also forfeit and pay such damages as may be recovered in a civil action by such proprietor in any court of competent jurisdiction.

SEC. 100. *And be it further enacted*, That if any person, after the recording of the title of any map, chart, musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design intended to be perfected and executed as a work of the fine arts, as herein provided, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, or import, either in whole or in part, or by varying the main design with intent to evade the law, or, knowing

the same to be so printed, published, or imported, shall sell or expose to sale any copy of such map or other article, as aforesaid, he shall forfeit to the said proprietor all the plates on which the same shall be copied, and every sheet thereof, either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported or exposed for sale; and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or which have by him been sold or exposed for sale; one moiety thereof to the proprietor and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

SEC. 101. *And be it further enacted*, That any person publicly performing or representing any dramatic composition for which a copyright has been obtained, without the consent of the proprietor thereof, or his heirs or assigns, shall be liable for damages therefor, to be recovered by action in any court of competent jurisdiction; said damages in all cases to be assessed at such sum, not less than one hundred dollars for the first, and fifty dollars for every subsequent performance, as to the court shall appear to be just.

SEC. 102. *And be it further enacted*, That any person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained (if such author or proprietor be a citizen of the United States, or resident therein), shall be liable to said author or proprietor for all damages occasioned by such injury, to be recovered by action on the case in any court of competent jurisdiction.

SEC. 103. *And be it further enacted*, That nothing herein contained shall be construed to prohibit the printing, publishing, importation, or sale of any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, written, composed, or made by any person not a citizen of the United States nor resident therein.

SEC. 104. *And be it further enacted*, That no action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

SEC. 105. *And be it further enacted*, That in all actions arising

under the laws respecting copyrights the defendant may plead the general issue, and give the special matter in evidence.

SEC. 106. *And be it further enacted*, That all actions, suits, controversies, and cases arising under the copyright laws of the United States shall be originally cognizable, as well in equity as at law, whether civil or penal in their nature, by the circuit courts of the United States, or any district court having the jurisdiction of a circuit court, or in the supreme court of the District of Columbia, or any Territory. And the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by said laws, according to the course and principles of courts of equity, on such terms as the court may deem reasonable.

SEC. 107. *And be it further enacted*, That a writ of error or appeal to the supreme court of the United States shall lie from all judgments and decrees of any court, in any action, suit, controversy, or case touching copyrights in the same manner and under the same circumstances as in other judgments and decrees of such courts, without regard to the sum or value in controversy.

SEC. 108. *And be it further enacted*, That in all recoveries under the copyright laws, either for damages, forfeitures, or penalties, full costs shall be allowed thereon.

SEC. 109. *And be it further enacted*, That all books, maps, charts, and other publications of every nature whatever, heretofore deposited in the Department of the Interior, according to the laws regulating copyrights, together with all the records of said department, and all records concerning the same which were removed by the Department of the Interior from the Department of State, shall be removed to and be under the control of the Librarian of Congress, who is hereby charged with all the duties pertaining to copyrights required by law.

SEC. 110. *And be it further enacted*, That the clerk of each of the district courts of the United States shall transmit forthwith to the Librarian of Congress all books, maps, prints, photograp[h]s, music, and other publications of every nature whatever, deposited in the said clerk's office, and not heretofore sent to the Department of the Interior, at Washington, together with all records of

copyright in his possession, including the titles so recorded, and the dates of record: *Provided*, That where there are duplicate copies of legal, scientific, or mechanical works, one copy of each may be deposited in the library of the Patent Office, for which a receipt shall be given by the Commissioner of Patents to the Librarian of Congress.

REPEALING CLAUSE AND SCHEDULE.

SEC. 111. *And be it further enacted*, That the acts and parts of acts set forth in the schedule of acts cited, hereto annexed, are hereby repealed, without reviving any acts or parts of acts repealed by any of said acts, or by any clause or provisions therein: *Provided, however*, That the repeal hereby enacted shall not affect, impair, or take away any right existing under any of said laws; but all actions and causes of action, both in law and in equity, which have arisen under any of said laws, may be commenced and prosecuted, and if already commenced may be prosecuted to final judgment and execution, in the same manner as though this act had not been passed, excepting that the remedial provisions of this act shall be applicable to all suits and proceedings hereafter commenced: *And provided also*, That all applications for patents pending at the time of the passage of this act, in cases where the duty has been paid, shall be proceeded with and acted on in the same manner as though filed after the passage thereof: *And provided further*, That all offenses which are defined and punishable under any of said acts, and all penalties and forfeitures created thereby, and incurred before this act takes effect, may be prosecuted, sued for, and recovered, and such offenses punished according to the provisions of said acts, which are continued in force for such purpose.

Schedule of statutes cited and repealed, as printed in the Statutes at Large, including such portions only of the appropriation bills referred to as are applicable to the Patent Office.

PATENTS.

Act of July 4, 1836, chapter 357, volume 5, page 117.
March 3, 1837, chapter 45, volume 5, page 191.
March 3, 1839, chapter 88, volume 5, page 353.
August 29, 1842, chapter 263, volume 5, page 548.
August 6, 1846, chapter 90, volume 9, page 59.
May 27, 1848, chapter 47, volume 9, page 231.
March 3, 1849, chapter 108, volume 9, page 395.
March 3, 1851, chapter 32, volume 9, page 617.
August 30, 1852, chapter 107, volume 10, page 75.
August 31, 1852, chapter 108, volume 10, page 76.
March 3, 1853, chapter 97, volume 10, page 209.
April 22, 1854, chapter 52, volume 10, page 276.
March 3, 1855, chapter 175, volume 10, page 643.
August 18, 1856, chapter 129, volume 11, page 81.
March 3, 1859, chapter 80, volume 11, page 410.
February 18, 1861, chapter 37, volume 12, page 130.
March 2, 1861, chapter 88, volume 12, page 246.
March 3, 1863, chapter 102, volume 12, page 796.
June 25, 1864, chapter 159, volume 13, page 194.
March 3, 1865, chapter 112, volume 13, page 533.
June 27, 1866, chapter 143, volume 14, page 76.
March 29, 1867, chapter 17, volume 15, page 10.
July 20, 1868, chapter 177, volume 15, page 119.
July 23, 1868, chapter 227, volume 15, page 168.
March 3, 1869, chapter 121, volume 15, page 293.

COPYRIGHTS.

Act of February 15, 1819, chapter 19, volume 3, page 481.
February 3, 1831, chapter 16, volume 4, page 436.
June 30, 1834, chapter 157, volume 4, page 728.
August 18, 1856, chapter 169, volume 11, page 138.
February 5, 1859, chapter 22, volume 11, page 380.
February 18, 1861, chapter 37, volume 12, page 130.
March 3, 1865, chapter 126, volume 13, page 540.
February 18, 1867, chapter 43, volume 14, page 395.

Approved, July 8, 1870.

INDEX.

	Section.
Abandonment, by incomplete application, for two years	32
Additional clerks, &c	3
Application, how made	26–30
in case of forfeited patents	35
rejected or withdrawn	35
to be completed in two years	32
made by inventor in case of assignment	33
by executor or administrator	34
Appeal to board of examiners-in-chief	46
to commissioner	47
to supreme court of District of Columbia	48
mode of proceeding	49,50,51
to supreme court of United States	56
Assignees, patents or reissues to	33
Assignments	36
must be recorded within three months	36
Assistant Commissioner how appointed	2
salary	4
to act in absence of Commissioner	11
Bill in equity	52
Bond, Commissioner and chief clerk	6
Caveat, who may file	40
certified copies of records to be evidence	57
Circuit courts to take cognizance of cases under patent laws	55
Clerks	2, 4
Copyists	4
Commissioner, how appointed	2
salary	4
duties	7
to give bond	6
franking privilege	8
report to Congress	9
to make rules and regulations	19
to establish rules for taking testimony	43
appeal to	47
to make rules, &c., regulating transfer of trade-marks	81
Copyright	85–110
Librarian of Congress to have charge of	85
who may obtain, and for what	86
duration	87

	Section.
Copyright—continued.	
extension	88
assignment	89
requisites for obtaining	90
two copies to be sent to Librarian of Congress	90, 98
form of record and certificate	91
fees for recording, &c	92
copies of new editions to be sent	93
penalty for failure to deposit	94
copyright matter free of postage	95
postmaster to give receipt	96
form to be entered in or on copyright book, &c	97
penalty for wrongly announcing that copyright has been obtained	98
remedy for infringement	99
penalty for substantial infringement of maps, designs, &c.	100
performance of dramatic compositions	101
publishing manuscript without consent	102
not applicable to foreigners or non-residents	103
no action maintained unless within two years	104
plea	105
circuit courts to take cognizance	106
appeal to supreme court	107
costs in suits	108
transfer to Librarian of Congress	109
clerks to send matter now in hand to Librarian of Congress	110
repealing clause	111
Designs	71–76
when models may be dispensed with	72
duration	73
extension	74
fees	75
Disbursements made by disbursing clerk of Interior Department	69
Disclaimer	54
to be made before suit	60
Drawings in applications	27
Examination	31
Examiner in charge of interferences	2
salary	4
duty	42
Examiners, principal	2
salary	4
first assistant	2, 4
second assistant	2, 4
Examiners-in-chief, how appointed	2
salary	4
duties	10
appeal to	46
Extension	63, 67

	Section.
Fees	68
how paid	69
Final fee—if not paid within six months, patent withheld	23
Foreign patent—effect on application in the United States	25
to give date to American patent	25
Franking privilege	7
Infringement	55
damages for	59
plea and special matters to be proved	61
Injunction	55
Interferences	42
Interfering applications	42
Patents	58
Laborers and watchmen	4
Librarian	2, 4
Library	15
Machinist	2, 4
Messenger and purchasing clerk	2, 4
Models to be arranged and open to inspection	13
in applications	29
of rejected applications may be disposed of	14
of designs	72
Money received paid into treasury	69
to be paid back	70
Oath by administrator or executor applying	34
of applicant, before whom to be taken	30
of office	5
Officers' and employees' oath	5
not to acquire interest in patents	16
Papers filed, when they may be printed	18
Patent Office	1
officers	2
agents not recognized for misconduct	17
Patents, date of	23
for what granted	24
withheld if final fee is not paid within six months	23
what must contain	22
how to be signed and recorded	21
foreign	25
forfeited application for renewal of	35
"Patented" to be marked on articles	38
erroneously marked	39
Plea and special matters to be proved in suit for infringement	61
Printing specifications, claims, decisions, &c	20
of illegible papers	18
Re-examination of a rejected case	41
Reissue	53
Rejected and withdrawn applications, renewal of	35
Repealing clause	111
Report to Congress	9

	Section.
Rules and regulations	10
for taking testimony, Commissioner to establish	43
Salaries	4
Seal	12
Specimens in applications	28
Subpœna issued by clerks of United States courts	44
Supreme court of District of Columbia, appeal to and mode of proceeding	48–51
Supreme court of United States, writ of error or appeal to	56
Trade-marks	77–84
who may obtain protection for, and how	77
duration, extent of protection and extension	78
remedy for infringement	79
not a name alone	79
what may be refused	79
certified copy of mark and record to be evidence	80
Commissioner to make rules, and regulate transfer	81
fraud in procuring registry	82
act not to affect existing remedy	83
no action to be maintained for fraudulent or improper	84
Use in a foreign country if not patented or published	62
of patentable article before patent	37
Witnesses in cases pending in Patent Office	45