

of

**PATENT LAWS**  
**AND**  
**PRACTICE OF OBTAINING**  
**LETTERS PATENT**  
**FOR INVENTIONS**  
**IN**  
**THE UNITED STATES AND FOREIGN COUNTRIES;**  
**INCLUDING**  
**COPY-RIGHT AND TRADE-MARK LAWS.**

**BY CHARLES SIDNEY WHITMAN,**  
**OF THE BAR OF THE SUPREME COURT OF THE UNITED STATES.**

**SECOND EDITION--REVISED AND ENLARGED.**

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"The end of our foundation is the enlarging of the human empire to the effecting  
of all things possible."—LORD BACON: *New Atlantis*.

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WASHINGTON:  
W. H. & O. H. MORRISON.  
1875.

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## PREFACE.

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The compiler of the following pages lays no claim to the authorship of an original work upon the law of patents. Entertaining the opinion that the speculations even of the most learned are of but little importance to those who are seeking to know simply what the law is, and actuated by a desire to render the work strictly authoritative and practical, he has adopted, almost exclusively, the conclusions of those whose opinions have been dignified with the mantle of official authority.

The work is the result of an endeavor to compile from various sources, some of which are not easily accessible, reliable and practical information, which the author has found to be indispensable in the course of his own professional practice, and which he believes will be useful to others.

Although intended to convey practical information to inventors, patentees, manufacturers, and others who have occasion to inform themselves particularly concerning patent matters, it is believed that the work will be found useful to members of the legal profession generally, since it sets forth the state of the law resulting from decisions more recent than those of any other work published up to the present time, and contains the exact text of the late act of Congress, by which the entire legislation in respect to patents and copy-

right was repealed, and a more complete and carefully-drawn law substituted.

In the preparation of Part II the author has freely availed himself of the publications of the British Patent Office and the standard European authorities. In preparing those portions of the work which relate to the practice of obtaining patents in the United States, he has been greatly indebted to the labors of the late able Commissioner of Patents, Mr. S. S. FISHER, many of whose decisions he has given *in extenso*. The author is also under obligations to other officers of the Patent Office, as well as to members of the bench and bar of the District of Columbia, for valuable assistance and timely counsel, which he desires most sincerely to acknowledge.

CHARLES S. WHITMAN.

529 SEVENTH STREET,

WASHINGTON, D. C., *January 4, 1871.*

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## PREFACE TO THE SECOND EDITION.

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The first edition of this work was published in 1871. Since that time a new law has been passed in Canada, under the provisions of which non-residents and foreigners may secure patents. This law, together with the latest edition of the regulations of the Canada Patent Office, will be found in the Appendix.

WASHINGTON, D. C., *March 1, 1875.*

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**PART I.**

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**PATENT, COPY-RIGHT, AND TRADE-MARK LAWS**

**OF**

**THE UNITED STATES,**

**AS**

**REVISED, CONSOLIDATED, AND AMENDED BY THE ACT  
APPROVED JULY 8, 1870.**

# PATENT, COPYRIGHT, AND TRADE-MARK LAWS

OF

## THE UNITED STATES.

### THE PATENT OFFICE.

#### I. Of Organization, Duties, and General Provisions.

Sec.

1. Patent Office established.
2. Officers and employees.
3. Additional employees.
4. Salaries.
5. Oath of Office.
6. Official bonds.
7. Duties of Commissioner.
8. Franking privilege.
9. Annual report.
10. Duties of examiners-in-chief.
11. Acting Commissioner.

Sec.

12. Seal of office.
13. Display of models.
14. Restoring models.
15. Library.
16. Employees not to acquire interest in patents.
17. Refusal to recognize agent.
18. Printing papers.
19. Power of the Commissioner to make rules.
20. Printing patents, drawings, &c.

1. 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.

2. The officers and employees of said office shall continue to be one Commissioner of Patents, one Assistant Commissioner, and

3 Mar., 1837, ch. 45, § 11, v. 5, p. 194.  
 3 Mar., 1839, ch. 88, § 1, v. 5, p. 253.  
 27 May, 1848, ch. 47, § 1, 3, v. 9, pp. 231, 232.  
 3 Mar., 1851, ch. 32, § 2, v. 9, p. 617.  
 31 Aug., 1852, ch. 108, § 1, v. 10, p. 96.  
 3 Mar., 1853, ch. 97, § 1, 3, v. 10, pp. 209, 211.  
 3 Mar., 1855, ch. 175, § 10, v. 10, p. 670.  
 18 Aug., 1856, ch. 129, § 9, v. 11, p. 91.  
 2 Mar., 1861, ch. 88, § 2, 7, v. 12, pp. 246, 247.  
 29 Mar., 1867, ch. 17, § 1, v. 15, p. 10.  
 3 Mar., 1869, ch. 121, § 1, v. 15, p. 293.

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.

**Additional employees.**

3 Mar., 1869, ch. 121, § 1, v. 15, p. 293.

3. 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.

**Salaries.**

27 May, 1848, ch. 47, § 1, v. 9, p. 231.

31 Aug., 1852, ch. 108, § 1, v. 10, p. 95.

3 Mar., 1853, ch. 97, § 1, 3, v. 10, pp. 209, 211.

22 Apr., 1854, ch. 52, § 1, 2, v. 10, p. 276.

3 Mar., 1855, ch. 175, § 10, 25, v. 10, pp. 670, 674.

2 Mar., 1861, ch. 88, § 4, v. 12, p. 247.

3 Mar., 1869, ch. 121, § 1, v. 15, pp. 287, 293.

4. 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 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.

5. 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.

Oath of office.

4 July, 1836, ch. 357, § 3, v. 5, p. 118

Official bonds.

4 July, 1836, ch.  
357, § 2, v. 5, p. 118.  
31 Aug., 1852, ch.  
108, § 1, v. 10, p. 95.

6. 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.

Duties of Commissioner.

4 July, 1836, ch.  
357, § 1, v. 5, p. 117.  
3 Mar., 1849, ch.  
108, § 2, v. 9, p. 395.

1 Wood. & Min.,  
254.  
2 Blatchf., 35.

7. 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.

Franking privilege.

4 July, 1836, ch.  
357, § 1, v. 5, p. 117.  
27 May, 1848,  
ch. 47, § 4, v. 9, p.  
232.

Annual Report.

3 Mar., 1837, ch.  
45, § 14, v. 5, p. 195.  
3 Mar., 1859, ch.  
80, § 4, v. 11, p. 422.  
20 July, 1868, ch.  
177, § 7, v. 15, p.  
119.

8. 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.

9. 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, designa-



ting 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.

10. 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.

Duties of examiners-in-chief.

2 Mar., 1861, ch. 88, § 2, v. 12, p. 210.

11. 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.

Acting Commissioner.

23 July, 1868, ch. 227, § 3, v. 16, p. 168.

12 July, 1870, 1 Wood. & Min., 254.  
17 How., 41.

12. 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.

Seal of office.

4 July, 1836, ch. 357, § 4, v. 5, p. 118.

4 McLean, 371.  
2 Blatchf., 12.  
14 How., 583.

13. The Commissioner shall cause to be

Display of models.

1\*

4 July, 1836, ch. 357, § 20, v. 5, p. 125.

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.

Restoring models.

2 Mar., 1861, ch. 88, § 5, v. 12, p. 247.

14. 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.

Library.

4 July, 1836, ch. 357, § 19, v. 5, p. 125.

15. 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.

Employees not to acquire interest in patents.

4 July, 1836, ch. 357, § 2, v. 5, p. 118.

16. 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.

Refusal to recognize agent.

17. For gross misconduct the Commis-

sioner 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.

2 Mar., 1861, ch. 88, § 8, v. 12, p. 247.  
14 How., 575.

18. 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.

Printing papers.  
2 Mar., 1861, ch. 88, § 8, v. 12, p. 247.

19. 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.

Power of Commissioner to make rules.  
6 Pet., 218.

20. 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.

Printing patents, drawings, &c.  
2 Mar., 1861, ch. 88, § 14, v. 12, p. 249.

## II. Of Patents.

SEC.

- 21. Issuing, signing, and recording patents.
- 22. Contents and grant of patents.
- 23. Date of patents.
- 24. What may be patented.
- 25. Foreign inventions may be patented.
- 26. Description and specification.

SEC.

- 27. Drawings.
- 28. Specimen of ingredients.
- 29. Model.
- 30. Oath of applicant; before whom taken.
- 31. Examination of application.
- 32. Time to complete and prosecute applications.

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| <p><b>Sec.</b></p> <p>33. Patents may issue to assignees.</p> <p>34. Patents may issue to legal representatives.</p> <p>35. Renewed application in lapsed, withdrawn, and rejected cases.</p> <p>36. Assignments, grants, and conveyances.</p> <p>37. Right of purchasers before patent.</p> <p>38. Patented articles to be marked.</p> <p>39. False marking.</p> <p>40. Caveats.</p> <p>41. References upon rejection.</p> <p>42. Interferences.</p> <p>43. Affidavits and depositions.</p> <p>44. Duty of clerk of court.</p> <p>45. Fees and rights of witnesses.</p> <p>46. Appeal to examiners-in-chief.</p> <p>47. Appeal to Commissioner.</p> <p>48. Appeal to Supreme Court of District of Columbia.</p> <p>49. When to court, duty of appellant.</p> <p>50. Duty of court.</p> <p>51. Duty of appellant and Commissioner.</p> <p>52. Bill in equity.</p> <p>53. Reissues.</p> | <p><b>Sec.</b></p> <p>54. Disclaimers.</p> <p>55. Actions; where cognizable.</p> <p>56. Appeal to Supreme Court of United States.</p> <p>57. Copies of records and foreign patents.</p> <p>58. Proceedings in equity in interfering patents.</p> <p>59. Damages for infringement.</p> <p>60. Actions for infringement prior to disclaimer.</p> <p>61. Notice of special matter.</p> <p>62. Prior knowledge or use in foreign country.</p> <p>63. Extension of patent; duty of applicant.</p> <p>64. Notice of application to be published.</p> <p>65. Case to be referred to examiner.</p> <p>66. Hearing of case; granting of extension.</p> <p>67. Extension; how far for the benefit of assignees.</p> <p>68. Patent fees.</p> <p>69. Patent fees; to whom paid; who to disburse money.</p> <p>70. Money paid by mistake.</p> |
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Issuing, signing,  
and recording  
patents.

4 July, 1836, ch.  
357, § 5, v. 5, p. 118.  
3 Mar., 1849, ch.  
108, § 2, v. 9, p. 395.

21. 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.

22. 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.

2 Blatchf., 9. 4 How., 711. 6 How., 478.

23. 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.

24. 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

Contents and grant of patents.

4 July, 1836, ch. 357, § 5, v. 5, pp. 118, 119.  
8 Mar., 1837, ch. 45, § 6, v. 5, p. 193.  
2 Mar., 1861, ch. 88, § 16, v. 12, p. 249.

Baldwin, 322.  
4 Ohio, 310.  
7 Pet., 319.  
15 Wend., 395.  
2 MoLean, 178.  
3 MoLean, 297.  
2 Blatchf., 23.  
2 Wash., 120.  
Pet., C. C., 341.  
1 Paine, 450.  
Bald., 314.  
2 Story, 614, 621.

Date of patents.

4 July, 1836, ch. 357, § 8, v. 5, pp. 120, 121.  
3 Mar., 1863, ch. 102, § 3, v. 12, p. 796.

What may be patented.

4 July, 1836, ch. 357, § 6, 7, v. 5, pp. 119, 120.  
3 Mar., 1839, ch. 88, § 7, v. 5, p. 354.  
29 Aug., 1842, ch. 263, § 3, v. 5, pp. 543, 544.  
2 Mar., 1861, ch. 88, § 11, v. 12, p. 248.

Pet., C. C., 341, 400.  
4 Wash., 12.  
1 How., 208.  
15 How., 267.  
10 How., 496.  
1 Gall., 480.  
3 Wheat., 516.  
2 Story, 411.

11 How., 235.  
14 How., 175.  
2 Wall., jr., 360.  
3 Sum., 518.

other due proceedings had, obtain a patent therefor.

Brightly 99. 4 McLean, 180, 461. 4 Wash., 52. 1 Blatchf., 248, 483, 494. 1 Wash., 171. 3 Wash., 198. 1 Gall., 439, 479. 2 Gall., 63.

Foreign inventions may be patented.

4 July, 1836, ch. 357, § 8, v. 5, pp. 120, 121.

3 Mar., 1839, ch. 88, § 6, v. 5, p. 354.

5 McLean, 78, 80.

15 How., 112.

25. 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.

Description and specification.

4 July, 1836, ch. 357, § 6, v. 5, p. 119.

3 Wash., 198.

Pet., C. C., 401.

1 Mass., 187, 476.

2 Mass., 118.

4 Wash., 14, 73.

1 Paine, 207, 450.

7 Wheat., 434.

1 Story, 285, 292.

3 McLean, 260, 441, 444, 447.

2 Blatchf., 9.

3 Wood. & Min., 30, 56.

5 McLean, 55.

11 How., 606.

15 How., 119, 267.

5 How., 5.

2 Wall., jr., 363.

2 Brock., 309.

Bald., 314.

24 How., 168.

2 Story, 440.

22 How., 139.

1 Blatchf., 378.

1 Curt., 263.

26. 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.

27. 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.

Drawings.  
 4 July, 1836, ch. 357, § 6, v. 5, p. 119.  
 3 Mar., 1837, ch. 45, § 6, v. 5, p. 103.  
 4 Mass., 9.  
 3 McLean, 261.  
 3 Story, 133.

28. 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.

Specimen of ingredients.  
 4 July, 1836, ch. 357, § 6, v. 5, p. 119.

29. 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.

Model.  
 4 July, 1836, ch. 357, § 6, v. 5, p. 119.  
 6 How., 485.  
 Bald., 314.  
 20 How., 109.

30. 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 be-

Oath of applicant; before whom taken.  
 4 July, 1836, ch. 357, § 6, v. 5, p. 119.  
 3 Mar., 1837, ch. 45, § 18, v. 5, p. 194.  
 29 Aug., 1842, ch. 263, § 4, v. 5, p. 544.  
 1 Gall., 433.  
 6 How., 482.  
 1 Met., 191.  
 3 Fish., 536.

fore 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.

**Examination of application.**

4 July, 1836, ch. 357, § 7, v. 5, pp. 119, 120.

2 Pet., 18.  
2 Blatchf., 34.  
1 Wall, jr., 349.  
1 Blatchf. 509.

31. 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.

**Time to complete and prosecute applications.**

2 Mar., 1861, ch. 88, § 12, v. 12, pp. 248, 249.

32. 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.

**Patents may issue to assignees**

33. 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.

3 Mar., 1837, ch. 45, § 6, v. 5, p. 193.

1 Blatchf., 509.  
6 Cra., 327.  
1 Gall., 430.  
3 Fish., 243.

34. 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.

Patents may issue to legal representatives.

4 July, 1836, ch. 357, § 10, v. 5, p. 121.

2 Fish., 499.

35. 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

Renewed application in lapsed, withdrawn, and rejected cases.

25 June, 1864, ch. 159, § 1, v. 13, p. 104.

3 Mar., 1865, ch. 112, § 1, v. 13, p. 533.

1 Wall., 317.  
2 Fish., 1.  
3 Fish., 87.  
3 Fish., 131.

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 passage 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.

Assignm'ts, grants,  
and conveyances.

4 July, 1836, ch.  
357, § 11, v. 6, p.  
121.

3 McLean, 428.  
2 Blatchf., 50,  
148.

5 McLean, 132.  
10 How., 494.  
14 How., 549.  
18 How., 294.

4 Mass., 15.  
2 Story, 542, 615.  
3 Story, 131.

4 How., 711.  
15 Barb., S. C.,  
315.

19 How., 221.  
17 How., 451.  
1 Fish., 327.

36. 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.

37. 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.

Right of purchasers before patent.

3 Mar., 1839, ch. 88, § 7, v. 5, p. 354.

2 Blatchf., 254.  
1 How., 208.  
4 How., 403.  
2 Curt., 555.  
3 Story, 406.  
1 Wood. & Min. 301.  
21 How., 330.  
1 Blatchf., 250.

38. 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.

Patented articles to be marked.

2 Mar., 1861, ch. 88, § 13, v. 12, p. 249.  
3 Fish., 249, 374.

39. 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

False marking.

29 Aug., 1842, ch. 263, § 5, v. 5, p. 514.

2 Curt., 506.

1 Fish., 647.  
3 Fish., 72.

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.

Caveats.

4 July, 1836, ch. 357, §§ 8, 12, v. 5, pp. 120, 121.  
2 Mar., 1861, ch. 88, § 9, v. 12, p. 247.

6 McLean, 304.  
18 How., Pr., 9.  
1 Fish., 479.

40. 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, specification, 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.

41. 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;

References upon  
rejection.

4 July, 1836, ch.  
357, § 7, v. 5, pp.  
119, 120.

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.

Interferences.

4 July, 1836, ch. 357, § 8, v. 5, pp. 120, 121.

42. Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct the primary examiner to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who 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.

Affidavits and depositions.

3 Mar., 1839, ch. 88, § 12, v. 5, p. 355.

2 Mar., 1861, ch. 88, § 1, v. 12, p. 246.

43. 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.

Duty of clerk of court.

2 Mar., 1861, ch. 88, § 1, v. 12, p. 246.

44. The clerk of any court of the United States, for any district or Territory wherein testimony is to be taken for use in any con-

tested case pending in the Patent Office, shall, upon the application of any party thereto, or his agent or attorney, issue subpoena 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 subpoena stated; and if any witness, after being duly served with such subpoena, shall neglect or refuse to appear, or, after appearing, shall refuse to testify, the judge of the court whose clerk issued the subpoena may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience as in other like cases.

45. Every witness duly subpoenaed 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 subpoena is served upon him, nor be deemed guilty of contempt for disobeying such subpoena, 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 subpoena, nor for refusing to disclose any secret invention or discovery made or owned by himself.

Fees and rights of witnesses.

2 Mar., 1861, ch. 88, § 1, v. 12, p. 246.

Appeal to examiners-in-chief.

2 Mar., 1861, ch. 88, § 2, v. 12, p. 249.

3 Mar., 1837, ch. 45, § 8, v. 5, p. 193.  
27 June, 1866, ch. 143, § 1, v. 14, pp. 76, 77.

Appeal to Commissioner.

2 Mar., 1861, ch. 88, § 2, v. 12, p. 249.

Appeal to supreme court of District of Columbia.

3 Mar., 1839, ch. 88, §§ 10, 11, v. 5, pp. 354, 355.

30 Aug., 1852, ch. 107, § 1, v. 10, p. 75.

When to court; duty of appellant.

3 Mar., 1839, ch. 88, § 11, v. 5, pp. 354, 355.

Duty of court.

4 July, 1836, ch. 357, § 12, v. 5, p. 121.

3 Mar., 1839, ch. 88, § 11, v. 5, pp. 354, 355.

30 Aug., 1852, ch. 107, §§ 1, 2, v. 10, p. 75.

46. Every applicant for a patent or the re-issue 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.

47. 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.

48. 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.

49. 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.

50. 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.

51. 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.

52. 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

Duty of appellant  
and Commissioner.

3 Mar., 1839, ch.  
88, § 11, v. 5, pp.  
354, 355.

Bill in equity.

3 Mar., 1839, ch.  
88, § 10.

2 Fish., 83.

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 expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favor or not.

Reissues.

4 July, 1836, ch. 357, § 13, v. 5, p. 122.

3 Mar., 1837, ch. 45, § 8, v. 5, p. 193.

6 Pet., 242.

7 Pet., 314.

14 Pet., 462.

2 Story, 439.

3 Story, 744, 753.

1 Sumn., 488.

4 How., 402, 688.

15 How., 112, 220.

17 How., 83.

3 Wood. & Min., 126.

1 Wood. & Min., 262, 302.

1 Blatchf., 169.

2 Wood. & Min., 138.

2 Wall., jr., 102.

2 McLean, 37, 176.

5 McLean, 166.

53. 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 nor drawing, amendments may be made upon proof satisfactory to the Commissioner that such new matter or amendment was part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

11 Cush., 571.  
 1 Fish., 133.  
 2 Fish., 543.  
 2 Fish., 499.  
 3 Fish., 294.  
 3 Fish., 343.  
 8 Wall., 445.  
 9 Wall., —.

54. Whenever, through inadvertence, acci-

Disclaimers.

3 Mar., 1837, ch.  
45, § 7, 9, v. 6, pp.  
193, 194.

Bald., 313.  
1 Story, 294, 600.  
3 McLean, 349,  
44.

5 McLean, 56.  
5 Denio, 318.  
2 Whar. Dig.,  
413.

1 Blatchf., 245,  
450, 461.

3 Blatchf., 199.  
2 Blatchf., 198.  
14 How., 221.  
15 How., 121.  
19 How., 106.  
20 How., 387.  
3 Fish., 197.  
3 Fish., 400.

dent, 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.

Actions where  
cognizable.

4 July, 1836, ch.  
357, § 17, v. 5, p. 124.

1 Blatchf., 630.  
6 Crauch, 327.  
1 Gall., 430.  
4 Mass., 15.  
4 Wash., 584.  
2 Paine, 246.

55. 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 this 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.

1 Wood. & Min.,  
37.  
1 Blatchf., 480,  
630.  
3 Com., 14.  
14 How., 519.  
40 Maine, 434.  
20 How., 56, 215.  
7 John., 144.  
8 Page, 131.  
16 Conn., 414.  
3 Fish., 110.

56. 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 Territory, in any action, suit, controversy, or case, at law or in equity, touch-

Appeal to the Supreme Court of United States.

4 July, 1836, ch. 357, § 17, v. 5, p. 124.  
18 Feb., 1861, ch. 37, § 1, v. 12, p. 130.

1 Blatchf., 514.  
6 How., 477.  
7 How., 657.  
10 How., 101, 346.  
15 How., 465, 557.  
16 How., 103.  
20 How., 56, 204.

14 How., 220. ing 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.

Copies of records and foreign patents.

4 July, 1836, ch. 357, § 4, v. 5, p. 118.  
2 Mar., 1861, ch. 88, § 15, v. 12, p. 249.  
23 July, 1868, ch. 227, § 3, v. 15, p. 168.

3 McLean, 431.  
2 Blatchf., 12.  
4 McLean, 371.  
1 Wood. & Min., 260.  
14 How., 583.  
9 Wend., 44.

57. 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 application therefor, 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.

Proceedings in equity in interfering patents.

4 July, 1836, ch. 357, § 16, v. 5, pp. 123, 124.

3 Fish., 489.  
3 Fish., 522.

58. 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.

59. Damages for the infringement of any patent may be recovered by action on the case in any circuit court of 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.

Damages for infringement.

4 July, 1836, ch. 357, § 14, v. 5, p. 123.

1 Story, 341.

3 Story, 136, 410.

2 Wood. & Min.,

147.

1 Blatchf., 245,

406.

2 Blatchf., 39,

201, 494.

15 How., 559.

16 How., 489.

23 How., 488.

1 Fish., 380.

2 Fish., 37.

2 Fish., 62.

2 Fish., 154.

2 Fish., 207.

2 Fish., 588.

3 Fish., 116.

60. 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

Actions for infringement prior to disclaimer.

3 Mar., 1837, ch. 45, § 9, v. 5, p. 194.

5 McLean, 56,

84.

3 McLean, 449.

2 Story, 621.

1 Story, 294, 600.

1 Blatchf., 245.  
 2 Blatchf., 198.  
 15 How., 122.  
 19 How., 106.  
 20 How., 387.  
 5 Denio, 318.  
 3 Fish., 197.  
 3 Fish., 400.

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, administrators, and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity for the infringement of any part thereof which was *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.

Notice of special matter.

4 July, 1836, ch. 357, § 15, v. 5, p. 123.

3 Mar., 1839, ch. 88, § 7, v. 5, p. 354.

Pet. C. C., 348.  
 7 Wheat., 469.  
 4 McLean, 179, 371, 525.

3 Wheat., 503.  
 4 Wash., 74, 705.  
 14 Pet., 459.  
 1 Wall., jr., 195.  
 1 Blatchf., 376.  
 14 How., 222.

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

First. That for the purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was



made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

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

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

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

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

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names of patentees and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented or to have had the prior knowledge of the thing patented and where and by whom it had been used; and if any one or more of the special matters alleged shall be found for the defendant, judgment shall be rendered for him with costs. And the like defenses

15 How., 110, 141.  
23 How., 7.  
24 How., 168.  
1 Blatchf., 597.  
5 McLean, 61.  
17 How., 84.  
2 Story, 441.  
1 Fish., 465.  
1 Fish., 615.  
2 Fish., 52.  
3 Fish., 464.

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.

Prior knowledge  
or use in for-  
eign country.

4 July, 1836, ch.  
357, § 15, v. 5, p.  
123.

5 McLean, 61.  
6 McLean, 313.  
1 Fish., 516.  
1 Fish., 586.

62. 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.

Extension of pat-  
ent. Duty of  
applicant.

4 July, 1836, ch.  
357, § 18, v. 5, p.  
124.

2 Mar., 1861, ch.  
88, §§ 12, 16, v. 12,  
pp. 248, 249.

63. 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.

64. 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.

Notice of application to be published.

4 July, 1836, ch. 357, § 18, v. 5, p. 124.

2 Mar., 1861, ch. 88, § 12, v. 12, p. 248.

65. 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.

Case to be referred to examiner.

27 May, 1848, ch. 47, § 1, v. 9, p. 231

66. 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

Hearing of case, granting extension.

4 July, 1836, ch. 357, § 18, v. 5, p. 124.

27 May, 1848, ch. 47, § 1, v. 9, p. 231.

2 Fish., 499.  
3 Fish., 536.  
9 Wall, —.

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.

Extension, how far for the benefit of assignees.

4 July, 1836, ch. 357, § 18, v. 5, p. 125.

4 How., 682.  
4 McLean, 355.

Patent fees.

2 Mar., 1861, ch. 88, § 10, v. 12, p. 248.

27 June, 1866, ch. 143, § 1, v. 14, p. 76.

67. 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.

3 Fish., 9. 3 Fish., 410.

68. 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.

69. 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;

Patent fees, to whom paid; who to disburse money.

6 Aug., 1846, ch. 90, § 15, v. 9, p. 62.

20 July, 1868, ch. 177, § 7, v. 15, p. 119.

3 Mar., 1869, ch. 121, § 1, v. 15, p. 293.

and all disbursements for said office shall be made by the disbursing clerk of the Interior Department.

Money paid by  
mistake.

29 Aug., 1842, ch.  
263, § 1, v. 5, p. 543.

70. 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.

### III. Of Design Patents.

SEC.

- 71. Designs may be patented.
- 72. Models of designs.
- 73. Term of design patents.
- 74. Extension of design patents.

SEC.

- 75. Fees for design patents.
- 76. Other provisions to apply to design patents.

Designs may be  
patented.

29 Aug., 1842, ch.  
263, § 3, v. 5, pp.  
543, 544.

2 Mar., 1861, ch.  
88, § 11, v. 12, p. 248.

4 McLean, 180.  
1 Blatchf., 248.  
2 Fish., 583.

71. 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.

72. The Commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

Models of designs.  
2 Mar., 1861, ch. 88, § 5, v. 12, p. 247.

73. 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.

Term of design patents.  
2 Mar., 1861, ch. 88, § 11, v. 12, p. 248.

74. 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.

Extension of design patents.  
2 Mar., 1861, ch. 88, § 11, v. 12, p. 248.

75. The following shall be the rates of fees in design cases:

Fees for design patents.

For three years and six months, ten dollars.

2 Mar., 1861, ch. 88, §§ 10, 11, v. 12, p. 248.

For seven years, fifteen dollars.

For fourteen years, thirty dollars.

For all other cases in which fees are re-

quired, the same rates as in cases of inventions or discoveries.

Other provisions  
to apply to de-  
sign patents.

29 Aug., 1842, ch.  
263, § 3, v. 5, p. 543.

76. That all the regulations and provisions which apply to the obtaining or protection of patents for inventions or discoveries, not inconsistent with the provisions of this act, shall apply to patents for designs.

#### IV. Of Trade-Marks.

SEC.

77. Who entitled to trade-marks, and requirements concerning the same.

78. Term for which trade-marks shall remain in force.

79. Remedy for wrongful use of trade-marks.

80. Proof of registration.

SEC.

81. Rules for transfer of trade-marks.

82. Penalty for fraudulent registration.

83. Common law remedies preserved.

84. No action to be sustained on fraudulent or deceptive trade-marks.

Who entitled to  
trade-marks,  
and require-  
ments concern-  
ing the same.

77. 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 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:



First. By causing to be recorded in the Patent Office the names of the parties and their residences and place of business who desire the protection of the trade-mark.

Second. 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.

Third. 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.

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

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

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

Seventh. 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.

Term for which  
trade-marks  
shall remain in  
force.

78. 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.

79. 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 on 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

Remedy for  
wrongful use of  
trade-marks.

or received for registration, or which so nearly resembles such last-mentioned trade-mark as to be likely to deceive the public: *Provided*, That this section shall not prevent the registry of any lawful trade-mark rightfully used at the time of the passage of this act.

Proof of registration.

80. 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.

Rules for transfer of trade-marks.

81. 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.

Penalty for fraudulent registration.

82. 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 in-

jured thereby, to be recovered in an action on the case before any court of competent jurisdiction within the United States.

83. 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. Common law remedies preserved.

84. 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. No action to be sustained on fraudulent or deceptive trade-marks.

### V. Of Copyrights.

SEC.	SEC.
85. Librarian of Congress to have charge of copyrights.	94. Penalty for not delivering.
86. What may be copyrighted.	95. May be sent to Library by mail free.
87. Term of copyright.	96. Duty of postmaster in regard to.
88. Extension of copyright.	97. Notice of copyright.
89. Assignment of copyrights to be recorded.	98. Penalty for false notice.
90. Recording copyright; duty of applicant.	99. Infringement of copyright book.
91. Recording copyright; duty of Librarian.	100. Infringement of copyright map, &c.
92. Fees.	101. Infringement of copyright dramatic composition.
93. Library of Congress to have copyright articles.	102. Infringement of manuscripts.
	103. Foreign works may be printed or imported.

<p>SEC. 104. Limitation of time of action. 105. Pleading. 106. Actions cognizable by circuit court.</p>	}	<p>SEC. 107. Appeals to Supreme Court U. S. 108. Full cost to be allowed. 109. Transfer of books, &amp;c., to Library of Congress.</p>
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Librarian of Congress to have charge of copyrights.

5 Feb., 1859, ch. 22, § 8, v. 11, pp. 380, 381.

Shall have seal.

Give bond.

And make annual report.

85. 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 compensa-

tion of four thousand dollars, to commence when this act shall take effect.

86. 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.

What may be copyrighted.

3 Feb., 1831, ch. 16, § 1, v. 4, p. 436.  
18 Aug., 1856, ch. 169, § 1, v. 11, pp. 138, 139.  
3 Mar., 1865, ch. 126, § 1, v. 13, p. 540.

8 Pet., 662.  
14 How., 530.  
Hopk. Ch., 351.  
1 Blatchf., 625.  
1 Story, 17.  
3 Story, 778.  
4 McLean, 316, 517.  
6 McLean, 37.  
2 Wood. & Min., 46.  
2 Blatchf., 46, 170, 366.  
2 Paine, 383.

87. Copyrights shall be granted for the term of twenty-eight years from the time of recording the title thereof, in the manner hereinafter directed.

Term of Copyright.

3 Feb., 1831, ch. 16, § 1, v. 4, p. 436.

88. 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

Extension of copyright.

3 Feb., 1831, ch. 16, §§ 2, 3, v. 4, pp. 436, 437.

2 Wood. & Min., 42.  
8 Pet., 663.

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.

Assignment of copyrights to be recorded.

30 June, 1834, ch. 167, § 1, v. 4, p. 728.

8 Wend., 565.  
2 Wood. & Min., 42, 510.

5 McLean, 41.  
8 Pet., 661.  
18 How., 171.

89. 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.

Recording copyright; duty of applicant.

3 Feb., 1831, ch. 16, § 4, v. 4, p. 437.

2 Blatchf., 83.  
1 Blatchf., 620.  
5 McLean, 332.

90. 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 ad-



dressed to said Librarian of Congress, as hereinafter to be provided.

91. 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.

92. 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

Recording copy-  
right; duty of  
Librarian.

3 Feb., 1831, ch.  
10, § 4, v. 4, p. 437.

Fees.

3 Feb., 1831, ch.  
10, § 4, v. 4, p. 437.

30 June, 1834,  
ch. 157, § 2, v. 4, p.  
728.

26 Feb., 1853, ch.  
80, § 1, v. 10, p. 163.

hundred words, which moneys, so received, shall be paid into the Treasury of the United States.

Library of Congress to have copyright articles.

3 Mar., 1865, ch. 126, §§ 2, 4, v. 13, pp. 540, 541.

18 Feb., 1867, ch. 43, § 1, v. 14, p. 395.

93. 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.

Penalty for not delivering.

18 Feb., 1867, ch. 43, § 1, v. 14, p. 395.

94. 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.

May be sent to Library by mail free.

18 Feb., 1867, ch. 43, § 2, v. 14, p. 395.

95. 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.

Duty of postmaster in regard to.

18 Feb., 1867, ch. 43, § 2, v. 14, p. 395.

96. 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.

Notice of copyright.

97. 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 edition 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."

3 Feb., 1831, ch.  
16, § 5, v. 4, p. 437.  
1 Blatchf., 620.

98. 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.

Penalty for false  
notice.  
3 Feb., 1831, ch.  
16, § 11, v. 4, p. 448.  
1 Blatchf., 154.

99. 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,

Infringement of  
copyright book.  
3 Feb., 1831, ch.  
16, § 6, v. 4, pp. 437,  
438.  
1 Story, 19.

2 Story, 116.  
 2 Blatchf., 47,  
 85.  
 4 McLean, 315.  
 4 Wash., 490.  
 7 How., 811.

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.

Infringement of  
 copyright map,  
 &c.

3 Feb., 1831, ch.  
 16, § 7, v. 4, p. 438.

1 Story, 18.  
 2 Story, 115.  
 2 Blatchf., 47.  
 3 Story, 787.  
 2 Wood. & Min.,  
 512.  
 4 McLean, 301,  
 309.

100. 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.

101. 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.

Infringement of  
copyright dra-  
matic composi-  
tion.

18 Aug., 1856,  
ch. 169, § 1, v. 11,  
pp. 138, 139.

102. 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.

Infringement of  
manuscripts.

3 Feb., 1831, ch.  
16, § 9, v. 4, p. 438.  
5 McLean, 41,  
332.  
22 How., Pr., 207.  
8 Pet., 657.  
4 McLean, 301.

103. Nothing herein contained shall be Foreign works

may be printed or imported. 3 Feb., 1831, ch. 16, § 8, v. 14, p. 438. 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.

Limitation of time of action. 3 Feb., 1831, ch. 16, § 13, v. 4, p. 439. 104. 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.

Pleading. 3 Feb., 1831, ch. 16, § 10, v. 4, p. 438. 105. In all actions arising under the laws respecting copyrights the defendant may plead the general issue, and give the special matter in evidence.

Actions cognizable by circuit court. 15 Feb., 1819, ch. 19, § 1, v. 3, p. 481. 5 McLean, 38, 336. 2 Wood. & Min., 27. 4 McLean, 401. 17 How., 455. 4 Duer, 382. 106. 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.

Appeals to Supreme Court, United States. 107. A writ of error or appeal to the Supreme Court of the United States shall lie

from all judgments and decrees of any court, <sup>18 Feb., 1861,</sup> in any action, suit, controversy, or case touch- <sup>ch. 37, §1, v. 12, p. 130.</sup> ing 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.

108. In all recoveries under the copyright <sup>Full cost to be allowed.</sup> laws, either for damages, forfeitures, or penalties, full costs shall be allowed thereon. <sup>3 Feb., 1831, ch. 16, § 12, v. 4, pp. 438, 439.</sup>

109. All books, maps, charts, and other <sup>Transfer of books, &c., to Library of Congress.</sup> 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.

110. 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.

## VI. Repealing Clause and Schedule.

### 111. Repeal and its effect.

Repeal and  
effect.

its

111. 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.

Act of March 3, 1837, chapter 45, volume 5, page 191.

Act of March 3, 1839, chapter 88, volume 5, page 353.

Act of August 29, 1842, chapter 263, volume 5, page 543.

Act of August 6, 1846, chapter 90, volume 9, page 59.

Act of May 27, 1848, chapter 47, volume 9, page 231.

Act of March 3, 1849, chapter 108, volume 9, page 395.

Act of March 3, 1851, chapter 32, volume 9, page 617.

Act of August 30, 1852, chapter 107, volume 10, page 75.

Act of August 31, 1852, chapter 108, volume 10, page 76.

Act of March 3, 1853, chapter 97, volume 10, page 209.

Act of April 22, 1854, chapter 52, volume 10, page 276.

Act of March 3, 1855, chapter 175, volume 10, page 643.

Act of August 18, 1856, chapter 129, volume 11, page 81.

Act of March 3, 1859, chapter 80, volume 11, page 410.

Act of February 18, 1861, chapter 37, volume 12, page 130.

Act of March 2, 1861, chapter 88, volume 12, page 246.

Act of March 3, 1863, chapter 102, volume 12, page 796.

Act of June 25, 1864, chapter 159, volume 13, page 194.

Act of March 3, 1865, chapter 112, volume 13, page 533.

Act of June 27, 1866, chapter 143, volume 14, page 76.

Act of March 29, 1867, chapter 17, volume 15, page 10.

Act of July 20, 1868, chapter 177, volume 15, page 119.

Act of July 23, 1868, chapter 227, volume 15, page 168.

Act of March 3, 1869, chapter 121, volume 15, page 293.

## COPYRIGHTS.

Act of February 15, 1819, chapter 19, volume 3, page 481.

Act of February 3, 1831, chapter 16, volume 4, page 436.

Act of June 30, 1834, chapter 157, volume 4, page 728.

Act of August 18, 1856, chapter 169, volume 11, page 138.

Act of February 5, 1859, chapter 22, volume 11, page 380.

Act of February 18, 1861, chapter 37, volume 12, page 130.

Act of March 3, 1865, chapter 126, volume 13, page 540.

Act of February 18, 1867, chapter 43, volume 14, page 395.

Approved July 8, 1870.

**PART II.**



**SYNOPSIS**

OF THE

**LAWS AND PRACTICE OF LETTERS PATENT**

FOR INVENTION

**IN THE PRINCIPAL FOREIGN STATES.**

# SYNOPSIS OF THE LAWS OF LETTERS PATENT

FOR INVENTION

IN THE PRINCIPAL FOREIGN STATES.

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## I. The Argentine Republic.

SEC.

1. Law and date.
2. Kinds of patents.
3. Previous examination.
4. Duration.
5. Government fees.
6. Documents required.

SEC.

7. Working.
8. Assignment.
9. Specifications, &c., inspection and publication of.
10. Infringements.
11. Other legal provisions.

1. **LAW AND DATE.**—28th September, 1864. Promulgated 11th October, 1864. (See *Commissioners of Patents' Journal*, [*vide infra*, § 71,] Nos. 1393, 1394, and 1453, An., 1867.)

2. **KINDS OF PATENTS.**—Patents of inventions granted to inventors or their assignees. Reissue of foreign patents. Certificates of addition or improvement. Provisional patents.

3. **PREVIOUS EXAMINATION.**—By the sub-commissioners. The following are not patentable: Pharmaceutical compositions; financial schemes; discoveries or inventions known or published abroad, or in the Republic; theoretical schemes: and inventions contrary to morals and to law.

4. **DURATION.**—Patents of inventions, five, ten, or fifteen years. Reissues of foreign patents limited to ten

years, and never to exceed the term of the original foreign patent. Provisional patents one year, and renewable each subsequent year.

5. GOVERNMENT FEES.—According to article 26 of the patent regulations, a stamp duty of twenty-five pesos (dollars) for the letters patent, and by yearly installments; eight pesos for patents of five years; ten pesos for patents of ten years; and for patents of fifteen years eleven pesos during the first five years, and twelve pesos during the remaining ten years. According to article 6 of the patent law, eighty pesos fuertes for a patent of five years; two hundred pesos for a patent of ten years; and three hundred and fifty pesos for a patent of fifteen years, one half to be paid at the time of application, and the other half by successive yearly installments. Patentees to accept and sign bills in common with another person (to be approved of by the commissioner) as collateral security for the payment of the annual installments. Certificates of addition subject to the same formalities as patents, original patentees paying only one fourth of the patent fees, but others than the patentee one half. Provisional patents fifty pesos, to be deducted in case letters patent or certificates of addition for said invention are taken out subsequently.

6. DOCUMENTS REQUIRED.—A petition to the Commissioner of Patents, (twenty-five pesos stamp duty,) a description, (in the Spanish language,) with proper drawings on a metrical scale, patterns, (models or chemical samples,) all in duplicate, and a list of the objects presented. A deposit of one half of the Government fees, one half only of which is returned in case of refusal; and when, in the latter case, an appeal is made to the Minister of

the Interior, (within ten days,) and the refusal is upheld by him, the whole deposit becomes forfeited.

7. **WORKING.**—Within two years, and not to be interrupted for the same period, except by showing good cause for delay.

8. **ASSIGNMENT.**—By notarial act of registration at the Patent Office. Payment of the entire fees required.

9. **SPECIFICATIONS, ETC., INSPECTION AND PUBLICATION OF.**—Open to public inspection at the Patent Office, (except provisional patents.) Published yearly. Copies obtained by paying the stamp duty on paper.

10. **INFRINGEMENTS.**—Punishable by a fine of from fifty to five hundred pesos, or by imprisonment of from one to six months, and the forfeiture of the counterfeit articles, besides damages. Participators subject to the same penalty. In case of a second offense within five years, said penalty to be doubled. All fines to be divided between the treasury and the informers.

11. **OTHER LEGAL PROVISIONS.**—Patent actions to be instituted by the interested parties before the sectional tribunals. Decisions summary. Longest term granted for showing cause, (in exceptional cases,) six months. Within ten days of the expiration of the term allowed, judge to deliver judgment and to award costs. Appeals to the superior court (for final decision) to be entered within three days.

## II. Austria.

SEC.	SEC.
12. Law, date, and where recorded.	16. Government fees.
13. Kinds of patents.	17. Documents required, and where to be left.
14. Previous examination.	18. Working and prolongation.
15. Duration.	

SEC.	SEC.
19. Assignments.	22. List of patents delivered.
20. Other legal provisions.	23. Specifications published.
21. Specifications, inspection, copies.	24. Proceedings to obtain a patent.

12. LAW, DATE, AND WHERE RECORDED.—Imperial decree of 15th August, 1852. (See *Commissioners of Patents' Journal*, [*vide infra*, § 71,] No. 291, An., 1856.)

13. KINDS OF PATENTS.—Exclusive privileges for new discoveries, inventions, or improvements granted to natives or foreigners residing or represented in Austria.

14. PREVIOUS EXAMINATION.—None as to novelty or utility. No guaranty by the Government. No patents are granted for preparations of food, beverages, and medicines, or for such inventions as cannot be worked for reasons of public health, morals, or safety, or as being contrary to the general interest of the State.

15. DURATION.—Fifteen years at most from the date of the exclusive privilege. Imported inventions for the unexpired term of the foreign patent. The latter grants are made to the foreign patentee only, or his proxy, provided the invention has not yet been worked in the empire.

16. GOVERNMENT FEES.—Twenty florins for each of the first five years; thirty florins sixth year; thirty-five florins seventh year; forty florins eighth year; forty-five florins ninth year; fifty florins tenth year; sixty florins eleventh year; seventy florins twelfth year; eighty florins thirteenth year; ninety florins fourteenth year; one hundred florins fifteenth year—equals seven hundred florins for fifteen years, or one hundred florins for the first five years, two hundred florins for the following five years, and four hundred florins for the last five years.



(Ten florins equal one pound.) The fees paid for patents, which subsequently have been annulled on public grounds, are to be repaid in proportion to the unexpired term.

17. DOCUMENTS REQUIRED, AND WHERE TO BE LEFT.—A petition of the inventor or his proxy; power of attorney, (in the latter case;) the Government fees or receipt for the same; a specification, sealed, and in German, or the language of the respective State of the empire; drawings, models, or patterns; statement whether the invention is to be kept secret or not, and, if the former, for how long. In the case of importations, the original letters patent or an authenticated copy of the same. Deposited at the offices of the governors of provinces or of the authorities of districts. Specifications may be amended.

18. WORKING AND PROLONGATION.—To be worked within one year, and not to be interrupted for two years. The longest term extended by special grant of the Emperor.

19. ASSIGNMENTS.—Registered at the Ministry of Commerce and Trades, and published in the *Vienna Gazette*, monthly.

20. OTHER LEGAL PROVISIONS.—The following cases are to be considered as infringements: 1. Imitating the object of a patent; 2. Importing counterfeit articles; 3. Selling such counterfeit articles. Infringements of patents with specifications kept secret not punishable in the first instance. Fines, which are to be paid into the poor-box, from fifty shillings to one hundred pounds. Imprisonment at the rate of one day for ten shillings.

21. SPECIFICATIONS, INSPECTION, AND COPIES OF.—In the

record office of patents, at the Ministry of Commerce and Trades, Vienna. Copies to be had of specifications which are not to be kept secret or which belong to an extinct patent.

22. LIST OF PATENTS DELIVERED.—Monthly and annual synoptical tables of privileges granted, prolonged, assigned, and become void. (*Vienna Gazette*, monthly, and *Commissioners of Patents' Journal*, [*vide infra*, § 71.] )

23. SPECIFICATIONS PUBLISHED.—In various technical periodicals and official publications kept at the Public Free Library of the Patent Office.

24. PROCEEDINGS TO OBTAIN A PATENT.—Petitions for patent may be addressed by the applicant or his agent to the governors of provinces or to the different authorities of districts. They must contain the Christian and surname, profession, and residence of the applicant; and, if not resident in the empire, the name, profession, and residence of a proxy domiciled there. If the process is intended to be worked by a firm bearing a different name, that name must also be stated. The comprehensive title of the invention must be given, and the number of years for which the patent is demanded, which must not exceed fifteen, except by special grant of the Emperor. Foreign patents are limited in duration to that of the original. Applicant must also state whether he desires that the invention shall be kept secret or not. The tax may be paid to a public treasurer, and his receipt must be given in with the application. If made by an agent, a power of attorney must be put in; and if there be a foreign patent, the original or an authenticated copy must be produced. The description of the invention must be under a sealed cover, indorsed with

the title of the invention, and the address of applicant or his agent.

Specifications must be written in German or in the language of the province where the application is made, and must contain such a clear, unambiguous, and complete detail of the invention as to enable any competent man to manufacture the article.

Should the authority to whom an application is made think the invention unfit to be patented, he is to inform the petitioner thereof, requiring him to withdraw it, and give a receipt for the sealed specification. An appeal is allowed to the Minister of Commerce and Trades. A defective specification may be amended.

No examination of the novelty or merit of the invention is made, the patent being delivered at the mere risk and expense of the applicant.

The privilege of a patent extends to the whole of the Austrian dominions; that is to say, to Austria proper, Bohemia, Austrian Italy, the Polish provinces, Istria, Salzburg, Styria, Silicia, Moravia, and the Tyrol.

#### *Form of Petition for a Patent.*

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

I [or we, as the case may be, Christian and surname, profession, and domicile] beg to state that                    have made a new discovery, [invention, improvement,] consisting essentially in [insert the comprehensive title.]

The complete specification, drawn up according to the provisions of section twelve of the patent law of                    is subjoined in the appendix.

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

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

*[Address and date.]*

*[Signature.]*

Where not the money, but the receipt of a public pay office is tendered with the application for patent, such receipt must contain the name of petitioner, the title of the invention, the number of years for which the tax has been paid, and the amount in words at length. Any deficiency or defect in this document must be remedied before the petition can be received.

The tax being paid, and the petition being found worded and directed according to prescription, the parties being present, an official memorandum is to be inscribed on the cover of the sealed specification, stating the day and hour when the petition was delivered and the amount of tax paid, and the applicant or his agent

must also sign it. Of this formality an official certificate is to be delivered to the applicant.

These formalities being fulfilled, the petition is to be forwarded within three days to the governor of the respective province, unless the delivery took place in the chief town of the province, whence, if found correct, all the documents are to be forwarded to the Minister of Commerce and Trades, with a report from the governors.

The petition having been found correct, or its defects having been corrected, and the article having been deemed patentable, letters patent are then issued, the minister having the power to impose on the working of the patent such conditions or restrictions as may be considered necessary.

### III. The Grand Duchy of Baden, and Petty States of Germany.

25. No special patent legislation.

25. NO SPECIAL PATENT LEGISLATION:—The Minister of the Interior, however, grants privileges for inventions, after an examination as to novelty and utility by competent commissioners. The Government fees amount to 40 or 50 florins, (12 fls. = £1.) The term for which patents are granted is five and ten years. (Annual lists of patents published in the *Commissioners of Patents' Journal*, *vide infra*, § 71.)

In the following States there is no special legislation, but the respective Governments grant privileges to inventors for the exclusive use or working of their inventions:

Anhalt-Dessau.	Mecklenburg-Schwerin.
Anhalt-Bernberg.	Mecklenburg-Strelitz.
Anhalt-Cothen.	Nassau.
Brunswick.	Oldenburgh.
Bremen.	Reuss-Schleitz.
Frankfort.	Reuss-Ebersdorf.
Hamburgh.	Reuss-Greiz.
Hesse-Cassel.	Sachsen-Altenburg.
Hesse-Darmstadt.	Sachsen-Coburg-Gotha.
Hesse-Homburg.	Sachsen-Meinengen.
Hohenzollen-Sigmarigen.	Sachsen-Weimar-Eisenach.
Lippe-Detmold.	Schwarzburg-Rudolstadt.
Lippe-Schaumburg.	Schwarzburg-Sonderhausen.
Lubeck.	Waldeck.

#### IV. Bavaria.

SEC.	SEC.
26. Law, date, and where recorded.	33. Working and extension.
27. Kinds of patents.	34. Assignments.
28. Previous examination.	35. Other legal provisions.
29. Duration.	36. Specifications, inspection and copies of.
30. Annulment.	37. List of patents delivered.
31. Government fees.	38. Specifications published.
32. Documents required and where to be left.	39. Proceedings to obtain a patent.

26. LAW, DATE, AND WHERE RECORDED.—Royal ordinance of 11th September, 1825, and organic law for the regulation of trades, dated 17th December, 1853. (See *Commissioners of Patents' Journal*, [*vide infra*, § 71,] No. 262, An., 1856.)

27. KINDS OF PATENTS.—Patents for inventions, improvements, and importations granted to natives and

foreigners residing or represented in Bavaria. No guaranty as to novelty.

28. PREVIOUS EXAMINATION.—By the Minister of Commerce and Public Works, as to novelty, utility, and for sanitary reasons.

29. DURATION.—From one to fifteen years. Imported inventions according to duration of original patent.

30. ANNULMENT.—In case of the invention not being new, or the description thereof having been published in German or foreign works.

31. GOVERNMENT FEES.—Two guineas for one year; £2 10s. for two years; £3 7s. for three years; four guineas for four years; £5 for five years; £6 for six years; £7 10s. for seven years; £9 for eight years; £10 17s. for nine years; £12 10s. for ten years; £14 12s. for eleven years; £16 14s. for twelve years; £18 for thirteen years; £21 for fourteen years; £23 for fifteen years; besides a stamp duty of five shillings.

32. DOCUMENTS REQUIRED AND WHERE TO BE LEFT.—A petition of the inventor or his proxy, (with power of attorney,) addressed to the Minister of Commerce and Public Works; the fees and stamp duty; a description, with drawings, models, or patterns. In cases of importation, the original patent, (or a legalized copy thereof.)

33. WORKING AND EXTENSION.—Original terms extended to fifteen years at most. Patents for less than six years to be worked within the first half of the period allowed; patents for six years and more, within three years; patents of importation, within one year. Working not to be interrupted for two years.

34. ASSIGNMENTS.—To be recorded at the Ministry of Commerce and Public Works within three months.

35. OTHER LEGAL PROVISIONS.—Infringement punishable by a fine of from £8 to £41, (half to the poor-box.) Counterfeits confiscated. Injuries done unknowingly and in good faith punishable by the interdiction only of the illegal undertaking.

36. SPECIFICATIONS, INSPECTION AND COPIES OF.—Specifications of patents that have become extinct, or such as are not to be kept secret, may be inspected at the above ministry.

37. LIST OF PATENTS DELIVERED.—In the official gazette, in a register at the above ministry, and in every chief provincial town; in the *Commissioners of Patents' Journal*.

38. SPECIFICATIONS PUBLISHED.—At the expiration of the patent, if deemed interesting, (mostly in the *Bayrische Kunst und Gewerbeblatt*.) May be consulted at the Public Free Library of the Patent Office.

39. PROCEEDINGS TO OBTAIN A PATENT.—The petition for a patent must be addressed to the Minister of Commerce and Public Works; it must contain the Christian and surname of the applicant, his calling and place of abode, and, if a foreigner, those of his agent in Bavaria, the general but characteristic designation, of the invention, and must state the number of years for which the patent is demanded. The petition must be accompanied by a detailed, complete, and true description, in German, or accompanied by a German translation, of the invention, with drawings, models, &c., when necessary. The specification may be open or under cover, at the option of the petitioner. The documents must be indorsed with the exact day and hour of the deposit, and a certificate to the same effect must be given to the peti-



tioner. The application must always be accompanied with the amount of the tax and stamp duty of three florins. Where the specification is found defective, it will be returned for correction.

### V. Belgium.

SEC.	SEC.
40. Law, date, and where recorded.	50. Specifications published.
41. Kinds of patents.	51. Originals of specifications.
42. Previous examination.	52. Legal proceedings.
43. Duration.	53. Causes of nullity.
44. Government fees.	54. Proceedings to obtain a patent.
45. Documents required, &c.	55. Declaration.
46. Working and extension.	56. Form of a patent.
47. Assignments.	57. Form of transfer of patent.
48. Specifications, copies of.	58. Form of certificate of reception of a patent by transfer.
49. List of patents delivered.	

40. LAW, DATE, AND WHERE RECORDED.—Royal decrees of 24th May, 1854, and 27th March, 1857. (See *Commissioners of Patents' Journal*, [*vide infra*, § 71,] Nos. 292 and 348.)

41. KINDS OF PATENTS.—Patents of invention, importation, and improvement granted to natives or foreigners residing or represented in Belgium.

42. PREVIOUS EXAMINATION.—None.

43. DURATION.—Twenty years at most from the date of the deposit. Foreign inventions according to the longest term granted abroad.

44. GOVERNMENT FEES.—Ten francs the first year, twenty francs the second year, and so on till the twentieth year, when the fees are two hundred francs, (one franc, equal ten pence.) Original patentees exempt from fees for patents of improvement. Patentees having

forfeited their rights by not making the annual payment in due time may recover them within six months following the expiration of their patent, by paying a penalty of ten francs, (eight shillings.)

45. DOCUMENTS REQUIRED, AND WHERE TO BE LEFT.—A petition of the inventor, or his proxy, on stamped paper, to the Minister of the Interior; a specification, (two copies,) in French, Flemish, or German, (foreign specifications, however, only in French;) drawings (two copies) on a metrical scale, models or patterns; an acknowledgment of the receipt of ten francs paid to the *receveur-général*; a memorandum of the various documents. Deposited at the registrar's office of the respective provincial governments, or at the office of the commissary of a district, or at the Ministry of the Interior at Brussels.

46. WORKING AND EXTENSION.—The working of the invention must take place within one year from its having been worked abroad, and not be interrupted, without good reason, for one year. Prolongations granted for one year, by applying two months previously. Patents of improvement, taken out by others than by the patentee of the original invention, cannot be worked together with the original invention without the consent of the original inventor, and *vice versa*.

47. ASSIGNMENTS.—By notarial act, registered at the Ministry of the Interior on payment of ten francs, and published quarterly in the official publication of specifications, together with the list of patents annulled or expired.

48. SPECIFICATIONS, INSPECTION AND COPIES OF.—Inspection free at the Ministry of the Interior three months

after the delivery of the patent. Copies on payment of costs.

49. LIST OF PATENTS DELIVERED.—Published every fortnight in the *Moniteur Belge* and in the *Commissioners of Patents' Journal*. Lists of patents that have become void published quarterly in the *Moniteur Belge*.

50. SPECIFICATIONS PUBLISHED.—Three months after the grant of the patent in full, or in the form of extracts. At all events, patentees may have their specifications published in full, at their own expense, by giving previous notice thereof to the administration one month at least before the expiration of said term. Said publications are kept at the library of the United States Patent Office.

51. ORIGINALS OF SPECIFICATIONS, (MODELS.)—Deposited at the expiration of the patent in the Museum of Industry, Brussels.

52. JURISDICTION AND LEGAL PROCEEDINGS.—The Tribunal de 1<sup>o</sup> Instance. Legal proceedings to be ruled by article 587 of the Code Civil.

53. CAUSES OF NULLITY.—Want of novelty; non-payment of the annual fees; fraudulent or defective description; previous publication, except official foreign publications of inventions patented abroad, and for which patents of importation are sought in Belgium.

54. PROCEEDINGS TO OBTAIN A PATENT.—The applicant for a patent, or his agent, must make application to one of the provincial governments of the kingdom, or at the office of one of the district commissioners, if situated at a distance from the chief town of the province. To this application must be added in a sealed envelope—

1. A specification of the objects invented.

2. The drawings, patterns, or specimens necessary to understand the specification.

3. A duplicate, certified as being in conformity with the specification and drawings.

4. A list of the objects deposited.

All these documents must be signed by the applicant or his agents.

A receipt, showing that the first year's fee of ten francs has been paid, must be deposited with the above.

The application must be on stamped paper, and contain the Christian and surname of the inventor, his profession, and his address, real or elected, in the kingdom, and it must express the object of the invention distinctly and concisely. It must be confined to one principal invention, with its details and applications. If a patent of importation, it must state the duration of the original patent and the country where granted. An agent must produce a power to act. (The decree says this must be in due legal form, but the practice is not to require that the power be legalized by notaries, magistrates, or consuls.)

The specifications must be in French, Flemish, or German, and, if not in French, with a French translation. When the inventor is not resident in Belgium, the specification should be without interlineation or erasure, and any words interlined or erased should be counted, certified, and the pages and references indicated. The specification must be clear and distinct, and conclude with a summary of the matter of which it consists.

The drawings should be in ink, to a metrical scale, properly indicating the invention in plan, sections, and elevations, and the parts which contain the invention patented should be of a different color to the rest.

A statement must be drawn up and signed by the applicant and the registrar of the provincial government, or by the commissioner of the district, containing the day and hour of the deposit and the title of the invention, the inventor's Christian and surname, calling, and address, or those of his agent. If a patent of importation, that fact must be mentioned, with the date and duration of the patent in the country where it originated, and the name of the patentee. This document must also contain an acknowledgment of the payment of the first annual fee, and be attached to the packet containing the specification and drawings. A copy gratis will be given to the applicant.

The offices for registration of patents are open daily from 10 a. m. to 2 p. m.

A register of all documents secured at the offices will be open to public inspection at the office of the Minister of the Interior.

In case of omissions or irregularity of form, rectifications may be made, and a note of such alterations mentioned in the register.

A certificate of the Minister of the Interior will be given to the applicant without delay, stating that the prescribed formalities have been complied with. This certificate will constitute his patent right. The first copy will be given gratis, but all others must be paid for.

#### 55. DECLARATION.

PROVINCE OF

This day, [*day of the month*, 18 ] at o'clock, Mr. has deposited in our hands the present package, sealed with his seal, which he has informed us contains all the descriptive documents of [*title of patent*], for which he solicits a patent of invention [or importation] for five, ten, or fifteen years, as is indicated in the petition annexed. Mr.

has declared to us that he is the inventor [or importer of the said object.]

Done at the secretarial of the provincial government the day of

**56. FORM OF A PATENT OF INVENTION, IMPORTATION, OR IMPROVEMENT.—**

We, Leopold, King of the Belgians, to all present and to come, greeting: Seeing the demand of Mr. , domiciled , tending to obtain, according to the law of 25th January, 1817, a patent of for years, for [*the title*], of which he declares himself to be the inventor, [or importer,] as appears by the procès-verbal made on the deposit of the documents at the secretarial of the province of , the

Seeing the drawings and descriptions, as follows:

We have decreed and decree:

A patent of years is granted to Mr. for the above described.

This patent guaranties the following rights to its possessor:

1. To make and sell exclusively in the whole kingdom, during the whole term of the patent, the patented objects, or to cause them to be made or sold by others whom he may authorize.

2. To pursue in the courts of law those who in any way infringe on the exclusive rights which have been accorded him, and to proceed against them at law for the purpose of obtaining confiscation for his profit of the objects made according to his pattern model, but not yet sold, and of the amount for which any such objects may have been sold, as likewise to institute actions for damages and interest, if there be any. The Government guaranties in nowise the novelty or the merits of the invention, and it may declare the present patent null, and publish the invention for one of the causes named in article 8 of the law of 25th January, 1817.

The objects patented shall be made in the country, and the patentee or his assigns shall (at the expiration of the delay fixed by letter C of article 8 of the law, and earlier if the patent so stipulates) be required to produce to the Minister of Interior, at any time he may require it, a sufficient proof of the patented object having been put into activity in an established and regular way, so that it may be considered as being usefully in activity in the country.

The Government reserves to itself the faculty of quashing the patent and giving the object to the public if these obligations be not strictly complied with.

Given

the

**57. FORM OF ACT OF TRANSFER OF PATENT.—**

This day, \_\_\_\_\_, 184\_\_\_\_, Mr. \_\_\_\_\_ presented himself at our secretarial of the provincial government, to require a procès-verbal to be made up of the transfer which he has made to Mr. \_\_\_\_\_ by notarial act, of the whole or part of the patent which was granted to him the \_\_\_\_\_ for \_\_\_\_\_, which procès-verbal the parties interested have signed with us, after having paid the dues indicated in the arrangement for the delivery of the patent.

Done at the secretarial of the province of \_\_\_\_\_ the \_\_\_\_\_.

**58. FORM OF CERTIFICATE OF RECEPTION OF A PATENT BY TRANSFER.—**

This day, \_\_\_\_\_, 184\_\_\_\_, Mr. \_\_\_\_\_ presented himself at our secretarial, to obtain a procès-verbal of the acquisition which he has made, as proved by act of the notary by right of succession, of the whole or part of a patent of invention which we delivered the \_\_\_\_\_, for \_\_\_\_\_ to Mr. \_\_\_\_\_, deceased.

Which procès-verbal the interested party has signed with us, after having paid the dues indicated in the tariff of the arrangement for the delivery of patents.

Done at the secretarial of the province of \_\_\_\_\_, the \_\_\_\_\_.

Enacted by his Majesty the 26th March, 1817.

*The Secretary of the Department of Instruction  
of the Arts and Sciences.*

**VI. Great Britain and Ireland.**

SEC.

- 59. Law, date, and where recorded.
- 60. Kinds of patents.
- 61. Previous examination.
- 62. Duration.
- 63. Stamp duties to be paid.
- 64. Documents required at the Patent Office.
- 65. Assignments and licenses.
- 66. List of patents at different stages.
- 67. Specifications, disclaimers, alter-

SEC.

- ations, provisional specifications, assignments, licenses.
- 68. Specifications, disclaimers, alterations, and indexes.
- 69. Originals of specifications, etc.
- 70. Free Public Library of the Commissioners of Patents.
- 71. Commissioners of Patents' Journal.
- 72. Infringements.
- 73. Other legal provisions.

59. LAW, DATE, AND WHERE RECORDED.—Acts 15 and 16 Vict., cap. 83; 16 Vict., cap. 5; 16 and 17 Vict., cap. 115. In operation since 1st October, 1852. (Patent Law Amendment, Patent Office 25 Southampton Buildings, Chancery Lane.)

60. KINDS OF PATENTS.—Letters patent, disclaimers, and memoranda of alteration issued to British subjects and aliens residing or represented in the United Kingdom. Provisional protection during six months. Valid for the whole of the United Kingdom, the Channel Islands, and the Isle of Man. Medicines vended under a Government stamp as “patent medicines” have never been the subject of letters patent.

61. PREVIOUS EXAMINATION.—None as to novelty or utility.

62. DURATION.—Patents are issued for fourteen years, subject to prolongation by Privy Council. Patents expire at the end of the third or seventh year, if the requisite payments in stamp duties are not made. Letters patent are dated from the day of application, and when antedated are to be of the same validity as if sealed on the day of the date. Letters patent for patented foreign inventions according to the term of foreign patent.

63. STAMP DUTIES TO BE PAID.—On petition, £5; on certificate of record on notice to proceed, £5; on warrant for letters patent, £5; on the sealing of letters patent, £5; on specification, £5; on the letters patent before the expiration of the third year, £50; on the letters patent before the expiration of the seventh year, £100: *i. e.*, £175 for a patent of fourteen years; on certificate of record on notice of objections, £2; for every search and inspection, 1s.; for entry of assignment or license, 5s.;



on certificate of assignment or license, 5s.; on application for disclaimer, £5; on caveat against disclaimer, £2; on office copies of documents, for every seventy-two words, 2d. The payments for the above stamp duties are made at Somerset House, (Inland Revenue Department,) and the certificates for such payments are delivered at the Patent Office, (gratis.) *Fees to be paid to the law officers and to their clerks:* By the person opposing a grant of letters patent, £3 10s.; by the petitioner on the hearing of the case of opposition, £3 10s.; by the petitioner for the hearing previous to the first allowing a disclaimer or memorandum of alteration in letters patent and specification, £3 5s.; by the person opposing the allowance of such disclaimer, £3 5s.; by the petitioner for the first allowing a disclaimer or memorandum of alteration in letters patent and specification, £3 15s. 6d.

64. DOCUMENTS REQUIRED AT THE PATENT OFFICE.—A petition to the Queen by the inventor or his agent; a declaration of the inventor or his agent, made before a master in chancery, or justice of the peace, or a British consul abroad; a provisional or complete specification, (two copies of the latter, one on parchment,) together with the necessary drawings, (two copies on parchment,) one inch to a foot recommended; an abridgement (two copies) of provisional specification, or of complete specification, when filed with the petition and declaration; notice to proceed, eight weeks clear before the expiration of six months; warrant and great seal, twelve clear days before the expiration of six months, (upon special circumstances the Lord Chancellor may allow a further extension of time;) notice of opposition to be given within twenty-one days after the date of notice to pro-

ceed in the gazette, or, in case of opposition to great seal, twelve days before the expiration of provisional protection. (N. B.—Application by letter cannot be entertained.) For the Great Seal Patent Office, the initials are W. C., the district being western central. In the direction of a letter, these initials should be legibly written in a separate line, and should in all cases end the address, thus:

THE COMMISSIONERS OF PATENTS,  
*Great Seal Patent Office,*  
*25 Southampton Buildings,*  
*London,*  
 W. C.

65. ASSIGNMENTS AND LICENSES.—Recorded in the Register of Proprietors at the Patent Office. Entries may be expunged.

66. LIST OF PATENTS AT THEIR DIFFERENT STAGES.—Published in the London Gazette and in the Commissioners of Patents' Journal, within five days of the application and notice to proceed and within a fortnight of the sealing of the Patent; also, List of Patents on which the stamp duty of £50 and £100 has been paid, &c. (Compare *Commissioners of Patents' Journal*, [vide infra, § 71.] )

67. SPECIFICATIONS, DISCLAIMERS, MEMORANDA OF ALTERATIONS, PROVISIONAL SPECIFICATION, ASSIGNMENTS, AND LICENSES.—Open to the inspection of the public at the Patent Office, London; at the Enrollment Office of the Court of Chancery, in Dublin; and at the office of the Directory of Chancery in Scotland. (N. B. Not within the term of provisional protection.)

68. SPECIFICATIONS, DISCLAIMERS, MEMORANDA OF ALTERATIONS, AND INDEXES.—Published by the Commission-

ers of Patents, and sold at cost price, at the Patent Office, within a month of the issue of the letters patent. All old specifications have been published likewise, and are sold at cost price. In course of publication and partly published, (thirty-six classes,) Abridgments (in classes and chronologically arranged) of all Specifications of Patented Inventions, from the earliest enrolled to those published under the act of 1852.

69. ORIGINALS OF SPECIFICATION, ETC., (MODELS.)—Kept at the Patent Office. Models are not required, but when presented or lent, they are deposited in the Museum of the Commissioners of Patents, South Kensington, which is open daily to the public free of charge.

70. FREE PUBLIC LIBRARY OF THE COMMISSIONERS OF PATENTS.—The Reading-Room in the office of the Commissioners of Patents is open daily from 10 till 4 o'clock. In addition to the printed specifications, indexes, and other publications of the Commissioners of Patents, the Library includes the official publications of foreign patents and a collection of the leading British and foreign scientific journals and text-books, in the various departments of science and art, (about sixty thousand volumes.) The Commissioners of Patents' publications may be consulted at the public libraries of the chief continental States, the British Colonies, and America.

71. COMMISSIONERS OF PATENTS' JOURNAL.—Published on Tuesdays and Fridays: price, 2d; by post, 3d. Contents: 1. Applications for letters patent; 2. Grants of provisional protection for six months; 3. Inventions protected for six months by the deposit of a complete specification; 4. Notices to proceed; 5. Patents sealed; 6. Patents extended; 7. Patents canceled; 8. Patents on

which the third year's stamp duty has been paid; 9. Patents which have become void by non-payment of the stamp duty of £50 before the expiration of the third year; 10. Patents on which the seventh year's stamp duty has been paid; 11. Patents which have become void by non-payment of the stamp duty of £100 before the expiration of the seventh year; 12. Colonial patents and patent law; 13. Foreign patents and patent law; 14. Weekly price lists of printed specification, &c.; 15. Official advertisements and notices of interest to patentees and inventors generally.

The patent laws of the colonies of Great Britain and of foreign States are published in full in about eighty numbers of the *Commissioners of Patents' Journal*, the official organ of the British Patent Office, which should be found, as well as all other publications of the British Commissioners, in the Patent Office, Washington; Peabody Institute, Baltimore; Franklin Institute and Philadelphia Library, Philadelphia; Astor Library, New York; Free Library, Boston; Young Men's Association Library, Chicago; Wisconsin Historical Society, Madison; and Cornell University, Ithaca, New York, to which institutions they have been presented by the British Government.

The following is a list of the foreign States the laws of which have been published in the *Commissioners of Patents' Journal*:

Argentine Republic, Nos. 1393, 1394, 1453.	Bavaria, 262.
Austria, 291.	Belgium, 292, 348.
Baden and petty States of Germany, 325.	British Guiana, 798.
	Canada, 279, 625, 856, 1106, 1188, 1629.

- Cape of Good Hope, 727.  
 Ceylon, 648.  
 Cuba, 498.  
 Dutch West Indies, 322.  
 France, 228, 229, 947, 948,  
 949, 1386.  
 Germany, 435.  
 Greece, 325.  
 Hanover, 321.  
 India, 240, 348, 552, 578.  
 Italy, 1061, 1064, 1656.  
 Jamaica, 660.  
 Lucca, 321.  
 Mauritius, 1282.  
 Mexico, 496.  
 Netherlands, 289, 1643.  
 Newfoundland, 858.  
 New South Wales, 386.  
 New Zealand, 861, 1639.  
 Norway, 665.  
 Parma, Piacenza, and Gu-  
 astalla, 321.  
 Poland, 335.  
 Portugal, 325, 1026.  
 Prussia, 313, 329.  
 Queensland, 859.  
 Roman States, 319.  
 Russia, 334, 508.  
 Sardinia, 233, 235, 636,  
 637, 639, 640.  
 Saxony, 236.  
 Sicilies, (the Two,) 316.  
 South Austria, 1442.  
 Spain, 323.  
 Sweden, 327, 354.  
 Tasmania, 860.  
 Trinidad, 883, 1698.  
 Victoria, 186, 359, 1622.  
 Wurtemberg, 314, 995.

72. INFRINGEMENTS.—In actions for infringement of letters patent particulars are to be delivered, and no evidence allowed not mentioned therein. Courts of common law may grant injunction in case of infringement. Particulars to be regarded in taxation of costs.

73. OTHER LEGAL PROVISIONS.—Letters patent granted to the first inventor not to be invalidated by protection obtained in fraud of the first inventor. Specification and objections to be referred to law officer. Power of law officer to order by or to whom costs shall be paid. Nothing to affect the prerogative of the Crown in granting or withholding grant of letters patent. Nothing to

give effect to any letters patent granted in any colony. Letters patent may be granted to personal representatives of the applicant during the term of protection, or within three months after applicant's decease. If letters patent be destroyed or lost other letters patent may be issued. Letters patent not to prevent the use of inventions in foreign ships resorting to British ports, except ships of foreign States in whose ports British ships are prevented from using foreign inventions. Certified copies of specifications, &c., as printed by Queen's printers, to be evidence. Copies or extracts of letters patent, &c., certified and sealed, filed at Commissioners' office, to be received in evidence. Power for more than twelve persons to have a legal interest in letters patent. Falsification or forgery of entries a misdemeanor.

## VII. Analysis of the British Patent Laws.

SEC.	SEC.
74. Acts of Parliament; rules.	87. Provisional protections.
75. Commissioners.	88. Complete specifications.
76. Seal.	89. Fraud.
77. Petition and declarations.	90. Complete specification advertised.
78. Only one invention to be included in a patent.	91. Complete specification stamp £5.
79. Copy of specification with application.	92. Notice to proceed.
80. Petitions, &c., to be left at office; size.	93. Notice to proceed advertised.
81. Size of drawings.	94. Opposition.
82. Applications referred.	95. Applications for or against sealing.
83. Law officer may amend title.	96. Notice to proceed fee £3.
84. Applicant may not amend provisional specification.	97. Objections to be referred.
85. Nature of invention.	98. Law officer to decree cost.
86. Fee on leaving petition.	99. Warrant for sealing patent.
	100. Complete specification filed.

Sec.	Sec.
101. Patent fee £5; stamp £5.	116. Period of notice.
102. Future payments.	117. Public inspection of documents.
103. Issue of letters patent.	118. Documents to be printed.
104. Issued three months from war- rant.	119. Documents evidence in courts.
105. Accidental delay.	120. Chronological register; copy of license may be had and is evidence.
106. Case of death.	121. Number of persons interested.
107. If lost, new patent may issue.	122. Falsification of register.
108. Date of letters patent.	123. Entries in register expunged.
109. Patents for foreign inventions.	124. Disclaimers.
110. Foreign ships.	125. Confirmation of prolongation.
111. Copy of drawings.	126. Infringement.
112. Size of specifications.	127. Judge's order.
113. Size of drawings and scale.	128. Taxing costs.
114. Extra copy of specification.	129. Schedules of fees and stamps
115. Documents to be legibly signed.	

74. ACTS OF PARLIAMENT; RULES.—The following is an analysis of the patent law amendment act, 1852, (15 and 16 Vict., ch. 83,) with which are embodied the rules which have been made from time to time by the Lord Chancellor and the Commissioners, also such parts of the 5 and 6 William IV., ch. 83, and 7 and 8 Vict., ch. 89, and 12 and 13 Vict., ch. 109, as are retained as forming part of the present law by the act of 1852, and the act of the 16 and 17 Vict., ch. 115, to amend the act of 1852:

75. COMMISSIONERS.—

The Lord Chancellor.

The Master of the Rolls.

The Attorney General and Solicitor General for England.

The Lord Advocate and Solicitor General for Scotland.

The Attorney General and Solicitor General for Ireland.

The Crown has power to appoint other persons as Commissioners.

The powers of the act may be exercised by any three

Commissioners, the Lord Chancellor or Master of the Rolls being one. (§ 1.)

76. SEAL.—They are authorized to have a seal made for sealing patents, and to vary such seal from time to time. (§ 2.) They may make rules (not inconsistent with this act) for conducting the business of the office, and for the purpose of the act may provide officers and employ clerks. (§§ 3, 4, 5.)

77. PETITION AND DECLARATIONS.—The petition for the grant of letters patent and the declarations required to accompany such petition shall be left at the office of the Commissioners, and also a statement in writing, called the provisional specification, signed by or on behalf of the applicant, and describing the notion of his invention. The day of the delivery of these documents at the office is to be indorsed upon them, and a certificate to that effect given to the depositor. (§ 6.)

78. ONLY ONE INVENTION TO BE INCLUDED IN A PATENT. Every application for letters patent, and every title of invention and provisional specification, must be limited to one invention only, and no provisional protection will be allowed or warrant granted where the title or the provisional specification embraces more than one invention. (3d Set of Rules, December 12, 1853.) The title of the invention must point out distinctly and specifically the nature and object of the invention. (*Ib.*) The expression "invention" shall mean any manner of new manufacture in the meaning of the act 21 James I., ch. 3. (§§ 6, 7.)

79. COPY OF SPECIFICATION, &c., TO ACCOMPANY APPLICATION.—A true copy, under the hand of the patentee, or applicant, or his agent, of every specification and com-



plete specification, with the drawings accompanying the same, if any, shall be left at the office on filing such specification or complete specification. (16 and 17 Vict., ch. 115.)

80. PETITIONS, &c., TO BE LEFT AT OFFICE; SIZE.—All petitions for letters patent, and all declarations and provisional specifications, are to be left at the office. They are to be written on sheets of paper twelve inches in length and eight and a half inches in breadth, leaving a margin of one and a half inch on each side of each page. (1st Set of Rules, October 1, 1852.)

81. SIZE OF DRAWINGS.—Drawings to accompany provisional specifications to be on sheets of paper, parchment, or cloth, twelve inches long, eight and a half inches broad, or twelve inches broad and seventeen inches long, leaving a margin of one inch on every side of each sheet. (1st Set of Rules, October 1, 1853.)

82. APPLICATIONS REFERRED TO A LAW OFFICER, WHOSE CERTIFICATE FOR FILING GIVES PROVISIONAL PROTECTION FOR SIX MONTHS.—The application for letters patent shall be referred by the Commissioners to one of the law officers, (who are the attorneys and solicitors general for England and Ireland, and lord advocate and solicitor general for Scotland.) (§ 55.) The law officer may call to his aid a scientific or other person and fix his remuneration, which is to be paid by the applicant. If satisfied with the provisional specification, the law officer shall give a certificate to that effect, to be filed at the Patent Office, and thereupon the invention may be used and published during a term of six months, the protection thus afforded being termed provisional protection.

83. LAW OFFICER MAY AMEND TITLE.—The law officer

has the power to cause the title of the invention to be amended, if too large or insufficient. (§§ 7, 8.)

84. **APPLICANT MAY NOT AMEND PROVISIONAL SPECIFICATION.**—No amendment or alteration at the instance of the applicant will be allowed in a provisional specification after the same has been recorded, except for the correction of clerical errors or of omissions made *per in curiam*.

85. **PROVISIONAL SPECIFICATION MUST STATE DISTINCTLY NATURE OF INVENTION.**—The provisional specification must state distinctly and intelligibly the whole nature of the invention, so that the law officer may be apprized of the improvement and of the means by which it is to be carried into effect. (2d Set of Rules, October 15, 1852.)

86. **FEE ON LEAVING PETITION £5.**—The fee to be paid on leaving petition for grant of letters patent is £5. (Schedule of Act.)

87. **PROVISIONAL PROTECTIONS TO BE ADVERTISED IN GAZETTE.**—Provisional protections are to be advertised in the *London Gazette*, with the name and address of the petitioner, the title of his invention, and the date of the application. (1st Set of Rules, Oct. 1, 1852.)

88. **COMPLETE SPECIFICATION MAY BE AT ONCE DEPOSITED.**—The applicant may, instead of the provisional specification, deposit with the petition and declaration an instrument, under his hand and seal, called a complete specification, particularly describing the nature of his invention, the same to be mentioned in such declaration, and the day of delivery of these documents at the office shall be registered there and indorsed on the petition, declaration, and specification, and a certificate thereof

shall be given to the applicant or his agent. This proceeding shall afford protection to the applicant in the use of his patent for six months. (§ 9.)

89. PREVIOUS PATENTS NOT INVALIDATED BY SUBSEQUENT PROTECTION OBTAINED BY FRAUD.—Letters patent granted to the first inventor shall not be invalidated by reason of provisional or other protection obtained in fraud by any other person. (§ 10.)

90. COMPLETE SPECIFICATION TO BE ADVERTISED IN GAZETTE.—Every invention protected by the deposit of a complete specification shall be forthwith advertised in the *London Gazette*, the advertisement setting forth the name and address of the petitioner, the title of the invention, the date of the application, and that a complete specification has been deposited. (1st Set of Rules, Oct. 1, 1852.)

91. COMPLETE SPECIFICATION STAMP £5.—The stamp duty on a complete specification is £5. (Schedule of Act.)

92. AFTER PROTECTION OBTAINED APPLICANT MAY GIVE NOTICE TO PROCEED; HOW APPLICATION MAY BE OPPOSED. The applicant, after obtaining a provisional protection or depositing a complete specification, may give notice to the Commissioners of his intention to proceed with his application for letters patent, which notice the Commissioners shall advertise. Any person having an interest in opposing the grant of such letters patent may do so in writing, at such time and place, and according to such regulations, as the Commissioners may appoint.

93. NOTICE TO PROCEED TO BE ADVERTISED IN GAZETTE.—When, after provisional protection or the deposit of a complete specification, the petitioner shall give no-

tice in writing, at the office, of his intention to proceed with his application for letters patent, the same is to be forthwith advertised in the *London Gazette*, with the name and address of the petitioner, and the title of his invention.

94. OPPOSITION MUST BE IN WRITING WITHIN TWENTY-ONE DAYS.—Any person may, within twenty-one days thereafter, leave particulars in writing, at the office, of objections to the application.

95. APPLICATIONS FOR OR AGAINST SEALING TO BE BY NOTICE IN WRITING LEFT AT OFFICE.—Every application to the Lord Chancellor against or in relation to the sealing of letters patent shall be by notice, and such notice shall be left at the Commissioners' office, and shall contain particulars in writing of the objections to the sealing of such letters patent. (Chancellor's Order, Oct. 15, 1852.)

96. NOTICE TO PROCEED FEE £5.—The fee on giving notice to proceed is £5. (Schedule of Act.)

97. OBJECTIONS TO BE REFERRED TO LAW OFFICER.—The time for making objection having expired, the provisional or complete specification, with the particulars of the objections; (if any,) shall be referred to the law officer to whom the original application had been referred.

98. LAW OFFICER TO DECREE COST AND BY WHOM PAID. The law officer, in case of objection, is to order the costs incurred thereby to be paid by such person as he shall fix, and has power to enforce payment. (§§ 13, 14.)

99. LAW OFFICER MAY THEN ISSUE WARRANT FOR SEALING PATENT.—After such hearing, the law officer may issue a warrant, sealed with the Commissioners' seal, for sealing the letters patent, setting forth their

tenor and effect, and directing the insertion of such restrictions and conditions as he may deem proper pursuant to the act. (§ 15.)

100. PROVISION INSERTED THAT COMPLETE SPECIFICATION SHALL BE FILED WITHIN SIX MONTHS.—A provision is to be inserted in all letters patent, in respect whereof a provisional and not a complete specification shall be left on the application for the same, requiring the specification to be filed within six months from the date of application. (2d Set of Rules, Oct. 15, 1852.)

101. PATENT FEE £5, AND STAMP £5.—The fee for the law officer's warrant is £5, and the stamp on letters patent is also £5. (Schedule of Act.)

102. LETTERS PATENT VOID IF BEFORE EXPIRY OF THREE YEARS £50 BE NOT PAID, AND IF BEFORE EXPIRY OF SEVEN YEARS £100 BE NOT PAID.—Letters patent thus granted shall be subject to the condition of becoming void, unless before the expiration of three years a further fee of £40 and a stamp duty of £10 (in all £50) be paid, and unless before the expiration of seven years a further fee of £80 and stamp duty of £20 (in all £100) be paid. Memoranda of such payments shall be indorsed on the warrant for the letters patent, and a certificate of the same given, and also indorsed on the letters patent.

103. ISSUE OF LETTERS PATENT, THEIR EXTENT AND LIMIT.—The Commissioners, when required by the applicant, shall then cause letters patent to be prepared according to the warrant, which shall be sealed with the great seal of the United Kingdom. Such letters patent shall extend to the whole of England, Scotland, and Ireland, to the Channel Islands, and to the Isle of Man. Should the warrant so direct, the letters patent may also

apply to any colonies or plantations abroad which may be specified. But they will have no authority in any colonies where the law in force in such colonies would render them invalid. A transcript of the letters patent is to be transmitted to the director of chancery in Scotland, which transcript is to be received in evidence in all Scottish courts of law. (§ 18.)

**104. MUST BE ISSUED WITHIN THREE MONTHS FROM WARRANT, AND DURING PROVISIONAL PROTECTION, UNLESS DELAYED BY CAVEAT.**—Patents cannot be issued unless applied for within three months from the date of the warrant, and during the six months of provisional protection or complete specification, unless delayed by a caveat, or application to the Lord Chancellor against sealing the letters patent. In such case they may be sealed at such time as the Lord Chancellor may direct. (See Instruction 41, §§ 19, 20.)

**105. BUT LORD CHANCELLOR MAY ALLOW MONTH'S LIMIT IF DELAY BE PURELY ACCIDENTAL.**—But by the sixth clause of the act of the 16 and 17 Vict., ch. 115, the Lord Chancellor may seal letters patent after the expiration of provisional protection, provided the delay in such sealing has arisen from accident, and not from the neglect or willful default of the applicant, the sealing to be dated as of any day before the expiring of provisional protection, and in like manner he may extend the time for filing the specification; such extension, however, is not to exceed one month.

**106. IN CASE OF DEATH PATENT GRANTED TO REPRESENTATIVES WITHIN THREE MONTHS.**—In case of the death of the applicant during the period of protection, letters patent may be granted to the personal representatives

during such period, or within three months of the death of the applicant. (§ 21.)

107. **IF LOST, NEW PATENT MAY ISSUE ACCORDING TO COMMISSIONERS' REGULATIONS.**—In case letters patent be lost or destroyed, others of like effect may be issued, subject to such regulations as the Commissioners may make. (§ 22.)

108. **DATE OF LETTERS PATENT.**—Letters patent are to be dated as of the day of the application for the same, and if bearing date prior to the day of actual sealing, are to be equally valid. (§§ 23, 24.)

109. **PATENTS FOR FOREIGN INVENTIONS EXPIRE WITH ORIGINAL FOREIGN PATENT.**—Patents for foreign inventions, previously patented abroad, shall only continue in force in the United Kingdom as long as they shall be valid in the foreign country where the patent is already obtained, and where more than one patent is taken out abroad, the termination of the British patent shall take place when the first of such foreign patents shall expire. (§ 25.)

110. **PATENTS NOT TO PREVENT FOREIGN SHIPS USING THE INVENTION.**—Letters patent granted under this act shall not prevent the use of the invention thereby secured on board of foreign ships resorting to British ports, except when the government to which such ships belong shall forbid the use by British ships of foreign patented inventions. (§ 26.)

111. **SPECIFICATIONS TO BE FILED WITH COPY OF DRAWINGS.**—Specifications are to be filed at the office with an extra copy of any drawings. (§§ 27, 28.) But by the 16 and 17 Vict., ch. 115, a true copy of every specification and complete specification, with the drawings

accompanying them, are to be left at the office on filing such specification or complete specification.

**112. SIZE OF SPECIFICATIONS.**—All specifications, in pursuance of the conditions of letters patent, and all complete specifications accompanying petitions for the grant of letters patent, shall be respectively written bookwise upon a sheet or sheets of parchment, each of the size of twenty-one and a half inches long by fourteen and three-quarter inches broad. The same may be written on both sides of the sheet, but a margin must be left of one and a half inch on every side of each sheet.

**113. SIZE OF DRAWINGS AND SCALE.**—The drawings accompanying such specifications shall be on a sheet or sheets of parchment, each twenty-one and a half inches long by fourteen and three-quarter inches broad, or twenty-one inches broad by twenty-nine and a half inches long, with a margin of one and a half inch on every side of each sheet.

[It is recommended to applicants and patentees to make their elevation drawings according to the scale of one inch to a foot. Lord Chancellor's order, October 1, 1852.]

**114. EXTRA COPY OF SPECIFICATION TO BE LEFT WITH ORIGINAL; SIZE, &c.**—An extra copy of the provisional specification or complete specification is to be left at the office with the original. It is to be written on sheets of brief or foolscap paper, briefwise, and on one side only. The extra copy of drawings must be according to the directions given above. (See Instruction 36.) (3d Set of Rules, Dec. 12, 1853.)

**115. DOCUMENTS TO BE LEGIBLY SIGNED.**—All specifica-



tions, copies of specifications, provisional specifications, petitions, notices, and other documents left at the office of the Commissioners, and the signatures of petitioners or agents, must be written in a large and legible hand. (*Ib.*)

116. NOTICE TO PROCEED MUST BE GIVEN EIGHT WEEKS, AND APPLICATION FOR WARRANT TWELVE CLEAR DAYS BEFORE END OF PROVISIONAL PROTECTION.—The notice of the applicant to proceed for letters patent must be left at the office eight weeks at least before the expiration of the provisional protection, and the application for the warrant of the law officer and for the letters patent must be made at the office twelve clear days at least before the expiration of the provisional protection. But the Lord Chancellor reserves to himself the power to grant a further extension of time under the special circumstances provided for by the 6th § of the 16 and 17 Vict., ch. 115. (See Instruction 29, *ib.*)

117. PROVISIONAL SPECIFICATIONS, AFTER SIX MONTHS, AND ALL OTHER DOCUMENTS OPEN FOR PUBLIC INSPECTION. True copies of provisional specifications, after the expiration of six months, and of all other specifications, disclaimers, and memoranda of alterations, are to be open to public inspection at the offices in London, Edinburgh, and Dublin.

118. DOCUMENTS TO BE PRINTED AND SOLD AND INDEXES OPEN FOR PUBLIC INSPECTION.—Specifications, disclaimers, and memoranda of alterations are to be printed and sold at such prices as the Commissioners shall direct. [This price is fixed by the Commissioners' rules at two-pence for every ninety words.] Indexes of all patents and documents relating thereto are also to be prepared,

and to be open for public inspection and for sale, and printed copies of patents and other documents are to be received as evidence in courts of law. (§§ 30, 32, 33.)

119. PRINTED OR MANUSCRIPT COPIES, &C., WITH COMMISSIONERS' SEAL, AND DOCUMENTS RECORDED AND FILED, EVIDENCE IN COURTS OF LAW.—But by the 4th § of the 16 and 17 Vict., ch. 115, it is declared that printed or manuscript copies, or extracts certified and sealed with the seal of the Commissioners, specifications, disclaimers, and all other documents recorded and filed at the office, are to be received as evidence in all the courts of the United Kingdom, and other places to which the patent shall extend, without the production of the originals.

120. CHRONOLOGICAL REGISTER OF DOCUMENTS TO BE KEPT, INCLUDING LICENSES; COPY OF LICENSE MAY BE HAD, SUCH COPY TO BE EVIDENCE.—A chronological register of patents and other documents shall be kept and be open to public inspection, and also a register of proprietors, to include the assignment of any patent or share thereof, any license under letters patent, with the district to which such license relates, and any other matter affecting the proprietorship of letters patent; and a copy of such entry, properly certified, shall be given to any applicant on payment of a fee, the copy to be evidence. Until such entry shall have been made, the grantee of the patent is to be considered the sole proprietor. Copies of the registers are to be kept at Edinburgh and Dublin. (§§ 34, 35.)

121. ANY NUMBER OF PERSONS MAY BE INTERESTED IN A PATENT.—A larger number than twelve may have a legal interest in a patent. (§ 36.)

122. FALSIFICATION OF REGISTER A MISDEMEANOR.—

Falsification of the register of proprietors is a misdemeanor. (§ 37.)

123. ENTRIES IN REGISTER MAY BE EXPUNGED BY JUDGE'S ORDER.—Entries in the registry of proprietors may be expunged by application to Master of the Rolls, or any common law court. The costs of such application to be paid as the judge shall decree. (§ 38.)

124. DISCLAIMERS.—The provisions of the 5 and 6 Wm. IV, ch. 83, and 7 and 8 Vict., ch. 69, relating to disclaimers and memoranda of alterations in letters patent and specifications, to apply to this act, except as hereafter provided. By the common law, letters patent became wholly void for any partial defect; for instance, the want of novelty in a very small part. The act of 5 and 6 Wm. IV, ch. 83, allows a patentee to put in a disclaimer of any part of either the title or specification, stating the reason for such disclaimer, or enter a memorandum of alteration; but any other person may enter a caveat against such disclaimer or memorandum of alteration, the caveat giving the objector a right to be heard in opposition to the disclaimer or alteration. In case of no opposition, or of the disallowance of any caveat, the disclaimer or memorandum of alteration may be filed and enrolled, and be deemed part of the letters patent and specification. (§ 39.) But the disclaimer or alteration is not to affect any action pending at the time, and the law officer to whom the case shall be referred may require the party applying to advertise such disclaimer or alteration. (*Ib.*) The 7 and 8 Vict. allows a patentee the same faculty of disclaimer or alteration in concert with any party to whom he may have wholly or in part transferred a property in his patent. (*Ib.*)

125. CONFIRMATION AND PROLONGATION OF A PATENT. The provisions of the 5 and 6 Wm. IV, ch. 83, and the 2 and 3 Vict., ch. 67, and the 7 and 8 Vict., ch. 69, as to confirmation and prolongation of patents, are to apply to patents under this act. The new letters patent are to be available only for such places as the original patent extended to, and are to bear date on the day after the expiration of the term of the original letters patent. (§ 40.) The fourth section of the act of William enacts, that any patentee may advertise three times in the *London Gazette*, and in three London papers, and three times in some country paper, of or near the town where he may reside or carry on his manufacture, (or in some paper published in the county where he carries on his manufacture or lives, in case there should be no paper in the town,) his intention to petition the Privy Council for a prolongation of his patent, and that any other person may enter a caveat at the council's office. Thereupon the case may be heard before the judicial committee of the Privy Council, and should the report of the committee be in favor of the patentee, the patent may be prolonged for seven years. The second section of the 2 and 3 Vict., ch. 67, allows a patentee to obtain an extension of his patent, though the application for such extension may not have been prosecuted with effect before the expiration thereof. But the petition must be presented six calendar months at least before the expiration of the original patent. The second section of the 7 and 8 Vict., ch. 69, extends the term for which a patent may be prolonged to fourteen years.

126. INFRINGEMENT.—In actions for infringement of patents the plaintiff is to deliver with his declaration the

particulars of the breaches complained of, and the defendant shall also deliver with his pleas particulars of any objection on which he means to rely, and at the trial no evidence shall be allowed not contained in such particulars. Similar particulars are obligatory on any prosecutor seeking to repeal the patent. The prosecutor must also particularize the place or places where, and the manner in which, the invention is alleged to have been used prior to the date of the letters patent. But the judge may allow the plaintiff, defendant, or prosecutor to amend his particulars. The defendant, in any suit for repealing his patent, has a right to begin and give evidence of his case, and be entitled to reply. (§ 41.)

127. JUDGE'S ORDER IN CASE OF INFRINGEMENT.—The judge of any court where an action may be brought for infringement of patent to make order for injunction, inspection, or account, and give such directions respecting the action, &c., as the court or judge may see fit. (§ 42.)

128. TAXING COSTS IN CASE OF INFRINGEMENT.—In taxing costs in actions for infringement regard is to be had to the particulars delivered in such actions, and costs are only to be allowed on such particulars as the judge may certify to. Other enactments are also made respecting taxed costs. (§ 43.)

129. SCHEDULES OF FEES AND STAMP DUTIES.—Fees and stamp duties are to be paid according to schedule annexed to the act. The stamp duties are to be under the management of the Commissioners of Inland Revenue, and the fees to be paid into the Exchequer, and form part of the consolidated fund. (§§ 44, 45, 46.)

## SCHEDULE TO WHICH THE ACT REFERS, CONSOLIDATED.

	£	s.	d.
On leaving the petition for grant of letters patent.....	5	0	0
On notice of intention to proceed with the application.....	5	0	0
On warrant of law officer for letters patent.....	5	0	0
On sealing of letters patent.....	5	0	0
On filing specifications.....	5	0	0
At or before expiration of the third year.....	50	0	0
At or before expiration of the seventh year.....	100	0	0
On leaving notice of objections.....	2	0	0
Every search and inspection.....	0	1	0
Entry of assignment or license.....	0	5	9
Certificate of assignment or license.....	0	0	5
Filing application for disclaimer.....	5	0	0
Caveat against disclaimer.....	2	0	0

The fees to be paid to the law officers and to their clerks shall be—

By a person opposing a grant of letters patent:

	£	s.	d.
To the law officer.....	2	12	6
To his clerk.....	0	12	6
To his clerk for summons.....	0	5	0
	<hr/>		
	£3	10	0
	<hr/>		

By the petitioner on the hearing of the case of opposition:

	£	s.	d.
To the law officer.....	2	12	6
To his clerk.....	0	12	6
To his clerk for summons.....	0	5	0
	<hr/>		
	£3	10	0
	<hr/>		

By the petitioner for the hearing, previous to the fiat of the law officer allowing a disclaimer or memorandum of alteration in letters patent or specification:

	£	s.	d.
To the law officer.....	2	12	6
To his clerk .....	0	12	6
	<hr/>		
	£3	5	0
	<hr/> <hr/>		

By the person opposing the allowance of such disclaimer or memorandum of alteration on the hearing of the case of opposition.

	£	s.	d.
To the law officer.....	2	12	6
To his clerk .....	0	12	6
	<hr/>		
	£3	5	0
	<hr/> <hr/>		

By the petitioner for the fiat of the law officer allowing a disclaimer or memorandum of alteration, or letters patent and specification.

	£	s.	d.
To the law officer.....	3	3	0
To his clerk.....	0	12	6
	<hr/>		
	£3	15	6
	<hr/> <hr/>		

NOTE.—The following is an abstract of the comparative cost of patents in the principal foreign States in British currency:

- France, £4 per annum for fourteen years.
- Great Britain, (provisional protection,) £5.  
Sealed, £25.  
At the end of three years, £50 additional.  
At end of seven years, £100 additional.
- Belgium, 8s. first year, and increasing progressively for twenty years up to £8 for last year.
- Austria, £10 for first five years.  
£20 for second five years.  
£40 for third five years.

Italy, 8s. 4d. per year, paid at once.

£1 12s. per annum first three years.

£2 12s. per annum second three years.

£3 12s. per annum third three years.

£4 12s. per annum fourth three years.

£5 12s. per annum fifth three years.

Saxony, £4 10s. for first five years.

£8 for second five years.

Sweden, fees not fixed, and expenses of advertising.

Victoria, (Australia,) £7 4s. 6d. for first three years.

Prussia, £20 and upwards from six months to fifteen years.

Bavaria, £2 for first year, increasing by degrees annually to £23 for fifteen years.

Netherlands, £12 10s. for five years.

From £25 to £33 for ten years.

From £50 to £62 for fifteen years.

Russia, £14 10s. for three years.

£24 10s. for five years.

£72 10s. for ten years.

### VIII. Forms and Proceedings to obtain a Patent.

SEC.

130. Form of petition.

131. How to be written, and stamp.

132. Declaration to accompany petition.

133. Petition and declaration, accompanied by specification.

134. Reference indorsed on petition.

135. Form provisional specification.

SEC.

136. Form of complete specification.

137. Reference to law officer.

138. Notice to proceed to be made two months before end of provisional term.

139. Form of warrant.

140. Form of letters patent.

141. The specification.

#### 130. FORM OF PETITION FOR LETTERS PATENT.—

No. —.

*To the Queen's Most Excellent Majesty*

The humble petition of \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, showeth—

That your petitioner is in possession of an invention for [here insert the



*title of the invention,]* which invention he believes will be of great public utility; that he is the first and true inventor thereof, [*if the invention be a communication from abroad, here insert the words, "within the realm,"*] and that the same is not in use [*if from abroad, insert the word "therein"*] by any other person or persons, to the best of his knowledge and belief. Your petitioner therefore humbly prays that your Majesty will be pleased to grant unto him, his executors, administrators, and assigns, your royal letters patent, for the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, for the term of fourteen years, pursuant to the statutes in that case made and provided.

And your petitioner will ever pray.

**131. HOW TO BE WRITTEN, AND STAMP.**—This petition must be written distinctly, or printed, on a £5 stamp, specially provided for the purpose by the Stamp Office, and care must be taken to conform exactly to the instructions given in the act, respecting the dimensions, payments, and other details.

**132. DECLARATION TO ACCOMPANY PETITION.**—

No. —.

I, \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, do solemnly and sincerely declare, that I am in possession of an invention for, &c., [*the title as in the petition,*] which invention I believe will be of great public utility; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons, to the best of my knowledge and belief, [*where a complete specification is to be filed with the petition and declaration, insert these words, "and that the instrument in writing under my hand and seal, hereunto annexed, particularly describes and ascertains the nature of said invention, and the manner in which the same is performed;"*] and I make this declaration conscientiously, believing the same to be true; and by virtue of the provisions of an act made and passed in the session of Parliament, held in the fifth and sixth years of the reign of his late Majesty King William the Fourth, intituled "An act to repeal an act of the present session of Parliament, intituled 'An act for the more effectual abolition of oaths and affirmations taken and made in various departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits,' and to make other provisions for the abolition of unnecessary oaths."

A. B.

Declared at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_, before  
me, \_\_\_\_\_,

*A Commissioner to Administer Oaths in Chancery,  
or Justice of the Peace.*

**133. PETITION AND DECLARATION MUST BE ACCOMPANIED BY SPECIFICATION.**—The petition and declaration must be accompanied by either a provisional specification or a complete specification, at the option of the inventor. A provisional specification need only give the general principle of the invention, but it must be stated with sufficient distinctness to enable the law officer to whom it is referred to judge of the nature of the improvements discovered, and of the manner in which they are to be carried into effect. The inventor will then have an interval of six months for maturing his invention, and may introduce into his complete specification any improvements or development not inconsistent with the title, or with the principle enounced in the provisional specification.

**134. REFERENCE TO BE INDORSED ON THE PETITION.**—The following is to be indorsed on the petition:

“Her Majesty is pleased to refer this petition to [*name of law officer,*] to consider what may be properly done therein.”

**135. FORM OF PROVISIONAL SPECIFICATION.**—

No.—

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_

*[To be signed by applicant or his agent.]*

[It will be for the inventor to judge whether it will be most to his interest to content himself with a provisional specification or proceed at once to a complete specification; by following the former course he will have abundant leisure to perfect his discovery; by adopting the latter he will be able the sooner to bring it into commercial

operation, a point worthy of consideration, since the six months of provisional protection form part of the term for which the patent is granted.]

### 136. FORM OF COMPLETE SPECIFICATION.—

*To all to whom these presents shall come:*

I, \_\_\_\_\_, of \_\_\_\_\_, send greeting:

Whereas I am in possession of an invention for (*here insert title*), and have petitioned Her Majesty to grant unto me, my executors, administrators, and assigns, her royal letters patent for the same, and have made solemn declaration that I really believe myself to be the first and true inventor thereof: Now, know ye that I, the said \_\_\_\_\_, do hereby declare that the following complete specification, under my hand and seal, fully describes the nature of my said invention and the manner in which the same is to be performed (that is to say): [*Here insert description.*]

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_.

[*To be signed by applicant or his agent.*]

[The drawing up of the complete specification is an operation which requires the utmost care, skill, and attention on the part of the person undertaking so delicate a duty, for the validity of the patent will depend on this document being clear, explicit, and circumstantial. Few inventors will venture to assume a task which is calculated to try the capacity and experience of the most able professional man. "In the specification the invention must be accurately ascertained and particularly described; it must be set forth in the most minute detail. The disclosure of the secret is considered as the price which the patentee pays for this limited monopoly, and therefore it ought to be full and correct, (for the benefits thus secured to him are great and certain,) in order that the subject of his patent may, at its expiration, be well known, and that the public may reap from it the same advantages as have accrued to him." (Godson on Patents, ch. iv.)

In the case of mechanical inventions drawings are almost always necessary, but they are merely intended to illustrate the description, so as to make it more clearly understood; but the law requires that the specification itself should be so explicit, that any one acquainted with the subject should be able to carry out the invention without any other aid. Want of sufficient exactness in this respect would therefore be a ground for invalidating a patent.]

137. REFERENCE TO LAW OFFICER, (EITHER ATTORNEY OR SOLICITOR GENERAL FOR ENGLAND.)—Having complied with the requirements of the act in all these respects, the application is then referred to one of the law officers, (practically either the Attorney or Solicitor General for England,) and, if he is satisfied with the accuracy and propriety of the description, he grants a certificate of protection for six months, which is generally published in the *London Gazette* on the Friday after.

138. NOTICE TO PROCEED TO BE ON £5 STAMP, AND MADE TWO MONTHS BEFORE END OF PROVISIONAL PROTECTION.—The next step is the notice to proceed, which must be on a £5 stamp, and be deposited at the office at least two months before the expiration of the six months' protection. This is usually published in the ensuing Tuesday's *Gazette*, accompanied by a notice, "that all parties having an interest in opposing such application are at liberty to leave particulars in writing of their objections to such application at the office of the Commissioners within twenty-one days after the date of the *Gazette* in which the notice is issued." Should no opposition appear within this period, application may be made for the

warrant for letters patent. This must be done at least twelve days before the protection expires. The warrant will be issued in due course.

### 139. FORM OF WARRANT.—

In humble obedience to Her Majesty's command, referring to me the petition of \_\_\_\_\_, of \_\_\_\_\_, to consider what may be properly done therein, I do hereby certify as follows: That the said petition sets forth that the petitioner [*here follow the allegations of the petition*], and the petitioner prays [*prayer of the petitioner*]:

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

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

That it appears that the said application was duly advertised.

Upon consideration of all the matters aforesaid, and as it is entirely at the hazard of the said petitioner whether the said invention is new or will have the desired success, and as it may be reasonable for Her Majesty to encourage all arts and inventions which may be for the public good, I am of opinion that Her Majesty may grant her royal letters patent unto the petitioner, his executors, administrators, and assigns, for his said invention, within the United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, [*colonies to be mentioned, if any,*] for the term of fourteen years, according to the statute in that case made and provided, if Her Majesty shall be graciously pleased so to do, to the tenor and effect following: [*See next form.*]

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

### 140. FORM OF LETTERS PATENT.—

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith:

*To all to whom these presents shall come, greeting:*

Whereas \_\_\_\_\_ hath by his petition humbly represented unto us that he is in possession of an invention for \_\_\_\_\_, which the petitioner conceives will be of great public utility; that he is the true and first inventor thereof; and that the same is not in use by any other person or

persons, to the best of his knowledge and belief. The petitioner therefore most humbly prayed that we would be graciously pleased to grant unto him, his executors, administrators, and assigns, our royal letters patent for the sole use, benefit, and advantage of his said invention, within our United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, [*colonies to be mentioned, if any,*] for the term of fourteen years, pursuant to the statutes in that case made and provided:

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

And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioner's request: Know ye, therefore, that we, of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said \_\_\_\_\_, his executors, administrators, and assigns, our especial license, full power, sole privilege and authority, that he, the said \_\_\_\_\_, his executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as he, the said \_\_\_\_\_, his executors, administrators, or assigns, shall at any time agree with, and no others, from time to time, and at all times hereafter during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within our United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, in such manner as to him, the said \_\_\_\_\_, his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet; and that he, the said \_\_\_\_\_, his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention, for and during the term of years herein mentioned; to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages, hereinbefore granted or mentioned to be granted, unto the said \_\_\_\_\_, his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years from the \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_, next and immediately ensuing, according to the statute in such case made and provided; and to the end that he, the said \_\_\_\_\_, his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention, according to our gracious inten-

tion hereinbefore declared, we do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within our United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, [*colonies to be mentioned, if any*] that neither they nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said \_\_\_\_\_ as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make, nor cause to be made, any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisers thereof, without the consent, license, or agreement of the said \_\_\_\_\_, his executors, administrators, or assigns, in writing, under his or their hands and seals, first had and obtained in that behalf, upon such pains and penalties as can and may be justly inflicted on such offenders for their contempt of this our royal command, and further to be answerable to the said \_\_\_\_\_, his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned.

And, moreover, we do by these presents, for us, our heirs and successors, will and command all and singular the justices of the peace, mayors, sheriffs, bailiffs, constables, headboroughs, and all other officers and ministers whatsoever, of us, our heirs and successors, for the time being, that they or any of them do not, nor shall at any time during the said term hereby granted, in anywise molest, trouble, or hinder the said \_\_\_\_\_, his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention or anything relating thereto: Provided always, and these our letters patent are and shall be upon this condition, that if, at any time during the said term hereby granted, it shall be made to appear to us, our heirs or successors, or any six or more of our or their Privy Council, that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said \_\_\_\_\_ is not the true and first inventor thereof within this realm as aforesaid, these our letters patent shall forthwith cease, determine, and be utterly void, to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided also that these our letters patent, or anything herein contained, shall not extend or be construed to extend to

give privilege unto the said \_\_\_\_\_; his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use, exercise, and benefit thereof: It being our will and pleasure that the said \_\_\_\_\_, his executors, administrators, or assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions, by them invented and found out, according to the true intent and meaning of the same respective letters patent and of these presents: Provided likewise, nevertheless, and these our letters patent are upon this express condition, [that if the said \_\_\_\_\_ shall not particularly describe and ascertain the nature of his said invention, and in what manner the same is to be performed, by an instrument in writing under his hand and seal, and cause the same to be filed in \_\_\_\_\_ within calendar months next and immediately after the date of these our letters patent;] [and also if the said instrument in writing, filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed;] and also if the said \_\_\_\_\_, his executors, administrators, or assigns, shall not pay or cause to be paid at the office of our Commissioners of Patents for inventions, that is to say, the sum of £50 stamp duty before the expiration of three years from the date hereof, and also £100 stamp duty before the expiration of seven years from the date of these our letters patent, and produce these our letters patent stamped with a proper stamp to these amounts respectively, pursuant to the provisions of the act of the sixteenth year of our reign, chapter 5; and also if the said \_\_\_\_\_, his executors, administrators, or assigns, shall not supply, or cause to be supplied, for our service all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms, as shall be settled for that purpose by the said officers or commissioners requiring the same, that then, and in any of the said cases, these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted; and, lastly, we do by



these presents, for us, our heirs and successors, grant unto the said , his executors, administrators, and assigns, that these our letters patent, on the filing thereof, shall be in all and by all things, good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said , his executors, administrators, and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors, in our United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, [*colonies to be mentioned, if any,*] and amongst all and every the subjects of us, our heirs and successors, whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducting and belonging. In witness whereof we have caused these our letters to be made patent, this        day of        , A. D.        , and to be sealed and bear date as of the said        day of        , A. D.        , in the        year of our reign.

141. THE SPECIFICATION.—Should the applicant have preferred in the first instance to file a provisional specification, his next step will be the complete specification.

*To all to whom these presents shall come:*

I,        , of        , send greeting:

Whereas Her most Excellent Majesty Queen Victoria, by her royal letters patent, bearing date the        day of        , A. D.        , in the        year of her reign, did for herself, her heirs and successors, give and grant unto me, the said        , her special license, that I, the said        , my executors, administrators, and assigns, or such others as I, the said        , my executors, administrators, and assigns, should at any time agree with, and no others, from time to time, and at all times thereafter during the term therein expressed, should, and lawfully might, make, use, exercise, and vend, within the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, [*the colonies to be mentioned if, any,*] an invention for [*insert title as in letters patent*], upon the condition (amongst others) that I, the said        , by an instrument in writing under my hand and seal, should particularly describe and ascertain the nature of the said invention, and in what manner the same was to be performed, and cause the same to be filed in

within                      calendar months next and immediately after the date of the said royal letters patent: Now, know ye that I, the said                      , do hereby declare the nature of my said invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement, that is to say: [*Describe the invention.*]

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

[*Signed by the applicant.*]

This will complete all the proceedings necessary for obtaining a patent in cases where no opposition is made.

Patentees are reminded that unless before the expiration of the third year a further sum of £50, and before the expiration of the seventh year a further sum of £100, be paid at the Patent Office, the letters patent will become void.

### IX. Patent Laws of the Dominion of Canada.

SEC.

142. Patent Office constituted.

143. Seal.

144. Rules and regulations.

SEC.

145. Deputy Commissioner.

146. Report.

[NOTE.—The new patent law of the Dominion came in force on the 1st of July, 1869, and abrogated the local provincial laws which previously to that time had been in force in the different provinces. Patents granted under those late laws will, however, still continue in force in the provinces for which they were granted for the unexpired periods they have to run. It will also be seen that, under certain conditions, those local patents may be extended over the entire Dominion.

During the passage of the patent bill through Parlia-

ment strong efforts were made to obtain a more liberal law than the one we now publish—a law which would assimilate with those of other civilized countries, in not demanding residence as a necessary preliminary to the application for a patent, and also in extending the right of a patent to all inventors, irrespective of nationality.\*]

142. PATENT OFFICE CONSTITUTED.—There shall be attached to the Department of Agriculture, as a branch thereof, an office to be named the Patent Office; and the Minister of Agriculture for the time being shall be the Commissioner of Patents of invention; and it shall be the duty of the said Commissioner to receive all applications, fees, papers, documents, and models for patents, and to perform such acts and things respecting the granting and issuing of patents for new and useful inventions, discoveries, and improvements as are herein provided for; and he shall have the charge and custody of the books, records, papers, models, machines, and other things belonging to the said office. (§ 1.)

143. SEAL.—The Commissioner shall cause a seal to be made for the purposes of this act, and may cause to be sealed therewith letters patent and other instruments and copies proceeding from the Patent Office; and all courts, judges, and other persons whomsoever

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\* Since the publication of the first edition of this work, a law has been passed by the Parliament of Canada, under the provisions of which citizens of the United States and other countries may obtain patents. This law, together with the latest edition of the rules of the Canada Patent Office, for which I am indebted to the courtesy of the Canadian Minister of Agriculture, will be found in the Appendix.

shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the great seal are received in evidence, and shall also take notice of and receive in evidence, without further proof and without production of the originals, all copies or extracts certified under the seal of the said office to be copies of or extracts from documents deposited in such office. (§ 2.)

144. RULES AND REGULATIONS.—The Commissioner may from time to time, subject to the approval of the Governor in council, make such rules and regulations, and prescribe such forms, as may appear to him necessary and expedient for the purposes of this act, and notice thereof shall be given in the *Canada Gazette*; and all documents executed after the same and accepted by the Commissioner shall be held valid so far as relating to proceedings in the Patent Office. (§ 3.)

145. DEPUTY COMMISSIONER.—The Deputy of the Minister of Agriculture shall be the Deputy Commissioner of Patents of Invention; and the Governor may from time to time appoint such clerks and officers under him as may be necessary for the purpose of this act, and such clerks and officers shall hold office during pleasure. (§ 4.)

146. REPORT.—The Commissioner shall cause a report to be prepared annually and laid before Parliament of the proceedings under this act, and shall from time to time, and at least once in a year, publish in the *Canada Gazette* a list of patents granted, and may, with the approval of the Governor in council, cause such specifications and drawings as may be deemed of interest, or essential parts thereof, to be printed from time to time for distribution or sale. (§ 5.)

## X. Who may Obtain Patents.

SEC.	SEC.
147. Who may obtain a patent.	150. A resident may obtain, but not vend a patent.
148. An original inventor, having foreign patent, must apply within six months.	151. Joint applications to be made by joint inventors, and patents issue accordingly.
149. Right of assignment.	

147. WHO MAY OBTAIN A PATENT.—Any person having been a resident of Canada for at least one year next before his application, and having invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement on any art, machine, manufacture, or composition of matter, not known or used by others before his invention or discovery thereof, or not being at the time of his application for a patent in public use or on sale in any of the provinces of the Dominion, with the consent or allowance of the inventor or discoverer thereof, may, on a petition to that effect presented to the Commissioner and on compliance with the other requirements of this act, obtain a patent, granting to such person an exclusive property therein; and the said patent shall be under the seal of the Patent Office and the signature of the Commissioner, or the signature of another member of the Privy Council, and shall be good and valid to the grantee, his heirs, assigns, or other legal representatives, for the period mentioned in such patent; but no patent shall issue for an invention or discovery having an illicit object in view, nor for any mere scientific principle or abstract theorem. (§ 6.)

148. **AN ORIGINAL INVENTOR, HAVING FOREIGN PATENT, MUST APPLY WITHIN SIX MONTHS.**—An original and true inventor or discoverer shall not be deprived of the right to a patent for his invention or discovery by reason of his having, previously to his application, taken out a patent therefor in any other country, at any time within six months next preceding the filing of his specification and drawing, as required by this act. (§ 7.)

149. **RIGHT OF ASSIGNMENT.**—The patent may be granted to any person to whom the inventor or discoverer entitled under the sixth section to obtain a patent has assigned or bequeathed the right of obtaining the same and the exclusive property in the invention or discovery in Canada, or, in default of such assignment or bequest, to the executor or administrator of the deceased inventor or discoverer, or other legal representative. (§ 8.)

150. **A RESIDENT MAY OBTAIN, BUT NOT VEND A PATENT.** Any person, having been a resident of Canada for at least one year next before his application, and who has invented or discovered any improvement on any patented invention or discovery, may obtain a patent for such improvement, but shall not thereby obtain the right of vending or using the original invention or discovery, nor shall the patent for the original invention or discovery confer the right of vending or using the patented improvement. (§ 9.)

151. **JOINT APPLICATIONS TO BE MADE BY JOINT INVENTORS AND PATENTS ISSUE ACCORDINGLY.**—In cases of joint applications, the patent shall be granted in the names of all the applicants; and in such cases any assignment from one of the said applicants or patentees to the other

shall be registered in the manner of other assignments.  
(§ 10.)

### XI. Conditions and Formalities.

SEC.	SEC.
152. Oath or affirmation as to invention must be made by applicants.	155. Drawings to be furnished in duplicate, with references.
153. Applicants to elect a domicile in Canada.	156. Working model of invention, or samples of ingredients, if a discovery, required.
154. Nature of petition and specifications.	

**152. OATH OR AFFIRMATION AS TO INVENTION MUST BE MADE BY APPLICANTS.**—Every applicant for a patent, before he can obtain the same, shall make oath, or, when entitled by law to make an affirmation instead of an oath, shall make an affirmation, that he verily believes that he is, or that the person whose assignee or representative he is, is or was the true inventor or discoverer of the invention or discovery for which the patent is solicited, and that he, or the person whose assignee or representative he is, was a resident of Canada for one year next before the application, or, in case of death of the inventor or discoverer, for one year next before such death. Such oath or affirmation may be made before any justice of the peace in Canada; but if the applicant is not at the time in Canada, the oath or affirmation may be made before any minister plenipotentiary, *chargé d'affaires*, consul or consular agent, holding commission under the Government of the United Kingdom, or any judge of the country in which the applicant happens at the time to be. (§ 11.)

**153. APPLICANT TO ELECT A DOMICIL IN CANADA.**—The

petitioner for a patent shall, for all the purposes of this act, elect his domicile at some known and specified place in Canada, and mention the same in his petition for a patent, and he shall in the same petition state the place or places in Canada at which he, or, if his application be as assignee or representative, the person whose assignee or representative he is, was resident during the year of residence required by this act, and the period of residence at each such place. (§ 12.)

154. NATURE OF PETITION AND SPECIFICATIONS.—The applicant shall in his petition for a patent insert the title or name of his invention or discovery, its object, and a short description of the same, and shall distinctly allege all the facts which are necessary under this act to entitle him to a patent therefor, and shall, with the petition, send in a written specification, in duplicate, of his invention or discovery, describing the same in such full, clear, and exact terms as to distinguish it from all contrivances or processes for similar purposes. (§ 13.)

155. DRAWINGS TO BE FURNISHED IN DUPLICATE, WITH REFERENCES.—The specification shall correctly and fully describe the mode or modes of operating contemplated by the applicant, and shall state clearly and distinctly the contrivances and things which he claims as new, and for the use of which he claims an exclusive property and privilege; it shall bear the name of the place where it is made, the date, and be signed by the applicant and two witnesses. In the case of a machine, the specification shall fully explain the principle and the several modes in which it is intended to apply and work out the same; in the case of a machine, or in any other case where the invention or discovery admits of illustration by means



of drawings, the applicant shall also with his application send in drawings in duplicate, showing clearly all parts of the invention or discovery, and each drawing shall bear the name of the inventor or discoverer, and shall have written references corresponding with the specification, and a certificate of the applicant that it is the drawing referred to in the specification; but the Commissioner may require any greater number of drawings than those above mentioned, or dispense with any of them, as he may see fit; one duplicate of the specification and of the drawings, if any drawings, shall be annexed to the patent of which it forms an essential part, and the other duplicate shall remain deposited in the Patent Office. (§ 14.)

156. WORKING MODEL OF INVENTION, OR SAMPLES OF INGREDIENTS, IF A DISCOVERY, REQUIRED.—The applicant shall also deliver to the Commissioner, unless specially dispensed from so doing for some good reason, a neat working model of his invention or discovery, on a convenient scale, exhibiting its several parts in due proportion, whenever the invention or discovery admits of such model; and shall deliver to the Commissioner specimens of the ingredients and of the composition of matter sufficient in quantity for the purpose of experiment, whenever the invention is a composition of matter, provided such ingredients and composition are not of an explosive character or otherwise dangerous, in which case they are to be furnished only when specially required by the Commissioner, and then with such precautions as shall be prescribed in the said requisition. (§ 15.)

## XII. Contents, Duration, Surrender, Reissue of Patents, and Disclaimers.

SEC.	SEC.
157. Contents of the patent and powers granted thereby.	tified by minister of justice before delivery.
158. Duration of patent.	160. New patent in case of error.
159. Patent to be examined and cer-	161. Patentee may make disclaimer.

**157. CONTENTS OF THE PATENT AND POWERS GRANTED THEREBY.**—Every patent granted under this act shall recite briefly the substance of the petition on which it is granted, and shall contain the title or name of the invention or discovery and a short description of the same, referring for a fuller detail to the specification, and shall grant to the patentee, his assigns and legal representatives, or in trust, as the case may be, for the period therein mentioned from the granting of the same, the exclusive right, privilege, and liberty of making, constructing, and using, and vending to others to be used, the said invention or discovery, and shall contain a condition that it is nevertheless subject to adjudication before any court of competent jurisdiction. (§ 16.)

**158. DURATION OF PATENT.**—Patents of invention or discovery issued by the Patent Office shall be valid for a period of five years; but at or before the expiration of the said five years the holder thereof may obtain an extension of the patent for another period of five years, and after those second five years may again obtain further extension for another period of five years; and the instrument delivered by the Patent Office for such extension of time shall be in the form which may be from time to time adopted, and shall be made in duplicate,

one duplicate to remain of record and be duly registered, and the other to be attached, with reference, to the patent, under the seal of the Patent Office and signature of the Commissioner, or any other privy councillor in case of absence of the Commissioner. (§ 17.)

159. PATENT TO BE EXAMINED AND CERTIFIED BY MINISTER OF JUSTICE BEFORE DELIVERY.—Every such patent, and every instrument for granting a further extension of any patent, shall, before it is signed by the Commissioner or any other member of the privy council, and before the seal hereinbefore mentioned is affixed to it, be examined by the Minister of Justice, who, if he finds it conformable to law, shall certify accordingly, and such patent or instrument may then be signed and the seal affixed thereto, and, being duly registered, shall avail to the grantee thereof and be delivered to him. (§ 18.)

160. IN CASE OF ERROR THE COMMISSIONER MAY CAUSE NEW PATENT TO BE ISSUED.—Whenever any patent shall be deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee claiming more than he had a right to claim as new, but at the same time it appears that the error arose from inadvertence, accident, or mistake, without any fraudulent or deceptive intention, the Commissioner may, upon the surrender of such patent and the payment of the further fee hereinafter provided, cause a new patent, in accordance with an amended description and specification to be made by such patentee, to be issued to him for the same invention or discovery, for any part or the whole of the then unexpired residue of the five years period for which the original patent was or might have been, as hereinbefore directed, granted. In case of the

death of the original patentee, or of his having assigned the patent, a like right shall vest in his assignee or legal representative: The new patent and the amended description and specification shall have the same effect in law, on the trial of any action thereafter commenced for any cause subsequently accruing, as if the same had been originally filed in such corrected form before the issue of the original patent. (§ 19.)

161. PATENTEE MAY MAKE DISCLAIMER.—Similarly, whenever, by any mistake, accident, or inadvertence, and without any willful intent to defraud or mislead the public, a patentee has made his specification too broad, claiming more than that of which he or the party through whom he claims was the first inventor or discoverer, or has in the specification claimed that he or the party through whom he claims was the first inventor or discoverer of any material or substantial part of the invention or discovery patented, of which he was not the first inventor or discoverer, and had no legal right thereto, the patentee may, on payment of the fee hereinafter provided, make disclaimer of such parts as he shall not claim to hold by virtue of the patent or the assignment thereof; such disclaimer shall be in writing and in duplicate, and attested in the manner hereinbefore prescribed for a patent, one copy to be filed and recorded in the office of the Commissioner, the other copy to be attached to the patent and made a part thereof by reference, and such disclaimer shall thereafter be taken and considered as part of the original specification. Such disclaimer shall not affect any action pending at the time of its being made, except in so far as may relate to the question of unreasonable neglect or delay in mak-

ing it. In case of the death of the original patentee, or of his having assigned the patent, a like right shall vest in his assigns or legal representatives respectively, any of whom may make disclaimer. The patent shall thereafter be deemed good and valid for so much of the invention or discovery as is truly the disclaimant's own and not disclaimed, provided it be a material and substantial part of the invention or discovery, and definitely distinguished from other parts claimed without right; and the disclaimant shall be entitled to maintain a suit for such part accordingly. (§ 20.)

### XIII. Assignment and Infringement of Patents.

<p>Sec. 162. Government of Canada may use any patented invention by making reasonable compensation.</p> <p>163. Patents to be assignable.</p>	<p>SEC. 164. Penalty for infringement.</p> <p>165. Prosecution for infringement.</p> <p>166. Court may discriminate in certain cases.</p> <p>167. Defense in such cases.</p>
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**162. GOVERNMENT OF CANADA MAY USE ANY PATENTED INVENTION BY MAKING REASONABLE COMPENSATION.**—The Government of Canada may always use any patented invention or discovery, paying to the patentee such sum as the Commissioner may report to be a reasonable compensation for the use thereof. (§ 21.)

**163. PATENTS TO BE ASSIGNABLE.**—Every patent for an invention or discovery, whensoever issued, shall be assignable in law, either as to the whole interest or as to any part thereof, by any instrument in writing; but such assignment, and also every grant and conveyance of any exclusive right to make and use, and to grant to others

the right to make and use, the invention or discovery patented, within and throughout the Dominion of Canada, or within and throughout any one or more of the Provinces of Ontario, Quebec, Nova Scotia, or New Brunswick, or any part of any of such Provinces or of the Dominion, shall be registered in the office of the Commissioner; and every assignment affecting a patent for invention or discovery shall be deemed null and void against any subsequent assignee, unless such instrument is registered, as hereinbefore prescribed, before the registering of the instrument under which such subsequent assignee may claim. (§ 22.)

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

165. PROSECUTION FOR INFRINGEMENT.—An action for the infringement of a patent may be brought before any court of record having jurisdiction to the amount of damages asked for, and having its sittings within the Province in which the infringement is said to have taken place, and being at the same time, of the courts of such jurisdiction within such Province, the one of which the place of holding is nearest to the place of residence or of business of the defendant, and such court shall decide

the case and determine as to costs. In any action for the infringement of a patent, the court, if sitting, or any judge thereof in chambers if the court be not sitting, may, on the application of the plaintiff or defendant respectively, make such order for an injunction restraining the opposite party from further use, manufacture, or sale of the subject matter of the patent, and for his punishment in the event of disobedience to such order, or for inspection or account, and respecting the same and the proceedings in the action, as the court or judge may see fit; but from such order an appeal shall lie under the same circumstances and to the same court as from other judgments or orders of the court in which the order was made. (§ 24.)

166. COURT MAY DISCRIMINATE IN CERTAIN CASES.—Whenever the plaintiff fails to sustain his action, because his specification and claim embrace more than that of which he was the first inventor or discoverer, and it appears that the defendant used or infringed any part of the invention or discovery justly and truly specified and claimed as new, the court may discriminate, and the judgment may be rendered accordingly. (§ 25.)

167. DEFENSE IN SUCH CASES.—The defendant in any such action may specially plead as matter of defense any fact or default which by this act or by law would render the patent void; and the court shall take cognizance of that special pleading and of the facts connected therewith, and shall decide the case accordingly. (§ 26.)

**XIV. Nullity, Impeachment, and Voidance of Patents.**

SEC.	SEC.
168. Patents to be void in certain cases, or only valid for part.	170. Proceedings for impeachment of patent.
169. Patents to be conditioned on manufacture in Canada within three years; importing the article patented.	171. Certificate of judgment voiding patent to be entered.
	172. Judgment to be subject to appeal.

**168. PATENT TO BE VOID IN CERTAIN CASES, OR ONLY VALID FOR PART.**—A patent shall be void if any material allegation in the petition or declaration of the applicant be untrue, or if the specification and drawings contain more or less than is necessary for obtaining the end for which they purport to be made, such omission or addition being willfully made for the purpose of misleading; but if it shall appear to the court that such omission or addition is simply an involuntary error, and it is proved that the patentee is entitled to the remainder of his patent *pro tanto*, the court shall render a judgment in accordance with the facts, and determine as to costs, and the patent shall be held valid for such part of the invention described, and two office copies of such judgment shall be furnished to the Patent Office by the patentee, one to be registered and to remain of record in the office, and the other to be attached to the patent and made a part of it by a reference. (§ 27.)

**169. PATENTS TO BE CONDITIONED ON MANUFACTURE IN CANADA WITHIN THREE YEARS; IMPORTING THE ARTICLE PATENTED.**—Every patent granted under this act shall be subject, and expressed to be subject, to the condition that such patent, and all the rights and privileges thereby



granted, shall cease and determine and the patent shall be null and void at the end of three years from the date thereof, unless the patentee shall, within that period, have commenced, and shall after such commencement carry on in Canada, the construction or manufacture of the invention or discovery patented, in such manner that any person desiring to use it may obtain it, or cause it to be made for him, at a reasonable price, at some manufactory or establishment for making or constructing it in Canada, and that such patent shall be void if, after the expiration of eighteen months from the granting thereof, the patentee or his assignee or assignees, for the whole or a part of his interest in the patent, imports or causes to be imported into Canada the invention or discovery for which the patent is granted. (§ 28.)

170. PROCEEDINGS FOR IMPEACHMENT OF PATENT.—Any person desiring to impeach any patent issued under this act may obtain a sealed and certified copy of the patent, and of the petition, declaration, drawings, and specification thereunto relating; and may have the same filed in the office of the prothonotary or clerk of the superior court for the Province of Quebec, or of the court of queen's bench or common pleas for the Province of Ontario, or of the supreme court in the Province of Nova Scotia, or of the court of queen's bench in the Province of New Brunswick, according to the domicil elected by the patentee as aforesaid, which courts shall adjudicate on the matter and decide as to costs. The patent and documents aforesaid shall then be held as of record in such court, so that a writ of *scire facias* under the seal of the court, grounded upon such record, may issue for the repeal of the patent for legal cause as aforesaid, if upon

proceedings had upon the writ in accordance with the meaning of this act the patent be adjudged to be void. (§ 29.)

171. **CERTIFICATE OF JUDGMENT VOIDING PATENT TO BE ENTERED.**—A certificate of the judgment voiding any patent shall, at the request of any person or party filing it to be of record in the Patent Office, be entered on the margin of the enrollment of the patent in the office of the Commissioner, and the patent shall thereupon be, and be held to have been, void and of no effect, unless and until the judgment be reversed on appeal, as hereinafter provided. (§ 30.)

172. **JUDGMENT TO BE SUBJECT TO APPEAL.**—The judgment declaring any patent void shall be subject to appeal to any court of appeal having appellate jurisdiction in other cases over the court by which the same was rendered. (§ 31.)

### XV. Patents Issued under Former Laws.

SEC.  
173. Existing provincial patents to remain in force.

SEC.  
174. Handing over records of patent offices to Commissioner.

173. **EXISTING PROVINCIAL PATENTS TO REMAIN IN FORCE.**—All patents issued under any act of the legislature of the late Province of Canada, or of Nova Scotia, or of New Brunswick, and all patents issued for the Provinces of Ontario and Quebec, under the act of the late Province of Canada, to the date of the coming into operation of the present act, shall remain in force for the same term and for the same extent of territory as if the act under which they were issued had not been re-

pealed, but subject to the provisions of this act in so far as applicable to them.

2. And it shall be lawful for the Commissioner, upon the application of the patentee named in any such patent, being the inventor or discoverer of the subject-matter of the patent and a British subject, or a resident in any Province of Canada for upwards of a year, if the subject-matter of the patent had not been known or used, nor with the consent of the patentee on sale in any of the other Provinces of the Dominion, to issue, on payment of the proper fees in that behalf, a patent under this act, extending such provincial patent over the whole of the Dominion, subject to the provisions of the seventeenth section; but no patent so issued shall extend beyond the remainder of the term mentioned in the provincial patent. (§ 32.)

174. HANDING OVER OF RECORDS OF PROVINCIAL PATENT OFFICE TO THE COMMISSIONER.—All the records of the Patent Offices of the late Province of Canada, and of the Provinces of Ontario and Quebec, of Nova Scotia and New Brunswick, shall be handed over by the officers in charge of them to the Commissioner of Patents of invention or discovery, to form part of the records of the Patent Office for the purposes of this act. (§ 33.)

#### XVI. Tariff of Fees.

Sec.	Sec.
175-178. With reference to fees, how and to whom to be paid.	179. The Commissioner to have the power of returning one half of the Government fee.

175. FEES HOW AND TO WHOM TO BE PAID.—The following fees shall be payable to the Commissioner before

an application for any of the purposes hereinafter mentioned shall be entertained, that is to say:

On petition for a patent for five years-----	\$20 00
On petition for extension from five to ten years-	20 00
On petition for extension from ten to fifteen years -----	20 00
On lodging a caveat-----	5 00
On asking to register a judgment <i>pro tanto</i> -----	4 00
On asking to register an assignment-----	2 00
On asking to attack a disclaimer to a patent----	4 00
On asking for a copy of patent with specification-	4 00
On petition to reissue a patent after surrender and on petition to extend a former patent to the Dominion the fee shall be at the rate of--	4 00
for every unexpired year of duration of such patent.	

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

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

(§ 34.)

176. FEES, &c.—For every copy of drawings the party applying shall pay such sum as the Commissioner considers a fair remuneration for time and labor expended thereon by an officer of the department or person employed to perform such service. (§ 35.)

177. FEES, &c.—The said fees shall be in full of all services performed under this act in any such case by the Commissioner or any person employed in the Patent Office. (§ 36.)

178. FEES, &c.—All fees received under this act shall be paid over to the Receiver General, and form part of the consolidated revenue fund of Canada, except such sums as may be paid for copies of drawings when made by persons not receiving salaries in the Patent Office. (§ 37.)

179. COMMISSIONER HAS POWER TO RETURN ONE HALF OF GOVERNMENT FEE.—No fee shall be made the subject of exemption in favor of any person; and no fee, once paid, shall be returned to the person who paid it, except:

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

2. When the petition for a patent is withdrawn.

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

And in the case of withdrawal, a fresh application shall be necessary to revive the claim, as if no proceeding had taken place in the matter. (§ 38.)

## XVII. Miscellaneous Provisions.

SEC.	SEC.
180. Applicant may file a caveat.	189. Patent not to affect previous purchaser of invention.
181. Causes why Commissioner may refuse to grant a patent.	190. Patented articles to be stamped with date of patent.
182. Commissioner to notify applicant of rejection.	191. Punishment of parties who stamp an article as patented when such is not the case.
183. Appeal to Governor in Council.	192. Punishment of offenders for making false entry or copy.
184. Interfering applications.	193. All acts inconsistent with present act repealed.
185. Documents in Patent Office to be open to inspection of the public, except caveats.	194. Title of act: The Patent Act of 1869.
186. Clerical errors.	195. Act to commence and take effect July 1, 1869.
187. Lost or destroyed patent may be replaced.	
188. Use of patented inventions allowed in foreign ships.	

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

181. **CAUSES WHY COMMISSIONER MAY REFUSE TO GRANT A PATENT.**—The Commissioner may object to grant a patent in the following cases:

1. When he is of opinion that the alleged invention or discovery is not patentable in law;

2. When it appears that the invention or discovery is already in the possession of the public with the consent or allowance of the inventor;

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

4. When it appears that the invention or discovery has already been patented, except, however, when the case is one within the seventh section of this act, or one in which the Commissioner has doubts as to whether the patentee or the applicant is the first inventor or discoverer. (§ 40.)

182. COMMISSIONER TO NOTIFY APPLICANT OF REJECTION.—Whenever the Commissioner objects to grant a patent, as aforesaid, he shall notify the applicant to that effect, and shall state the ground or reason therefor with sufficient detail to enable the applicant to answer, if he can, the objection of the Commissioner. (§ 41.)

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

184. INTERFERING APPLICATIONS.—In cases of interfering applications for a patent the same shall be submitted to the arbitration of three skilled persons, one of whom shall be chosen by each of the applicants, and the third person shall be chosen by the Commissioner, or by his deputy, or the person appointed to perform the duty

of that office; and the decision or award of such arbitrators, or any two of them, delivered to the Commissioner in writing, and subscribed by them, or any two of them, shall be final as far as respects the granting of the patent.

2. If either of the applicants refuses or fails to choose an arbitrator, when required so to do by the Commissioner, the patent shall issue to the opposite party; and when there are more than two interfering applicants, and the parties applying do not all unite in appointing three arbitrators, the Commissioner or his deputy, or person appointed to perform the duty of that office, may appoint the three arbitrators for the purposes aforesaid. (§ 43.)

185. DOCUMENTS IN PATENT OFFICE TO BE OPEN TO INSPECTION OF THE PUBLIC, EXCEPT CAVEATS.—All specifications, drawings, models, disclaimers, judgments, and other papers, except caveats, shall be open to the inspection of the public at the Patent Office, under such regulations as may be adopted in that behalf. (§ 44.)

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

187. LOST OR DESTROYED PATENT MAY BE REPLACED.—In case any letters patent shall be destroyed or lost, others of the like tenor, date, and effect may be issued in lieu thereof, on the party paying the fees hereinbefore prescribed for office copies of documents. (§ 46.)

188. USE OF PATENTED INVENTIONS ALLOWED IN FOREIGN SHIPS.—No letters patent shall extend to prevent the use of any invention or discovery in any foreign ship



or vessel, where such invention or discovery is not so used for the manufacture of any goods to be vended within or exported from Canada. (§ 47.)

189. PATENT NOT TO AFFECT PREVIOUS PURCHASER OF INVENTION.—Every person who, before the issuing of a patent, has purchased, constructed, or acquired any invention or discovery, for which a patent has been obtained under this act, shall have the right of using and vending to others the specific art, machine, manufacture, or composition of matter patented, so purchased, constructed, or acquired before the issue of the patent therefor, without being liable to the patentee or his representatives for so doing; but the patent shall not be held invalid as regards other persons by reason of such purchase, construction, or acquisition, or use of the invention or discovery by the person first aforesaid, or by those to whom he may have sold the same, unless the same was purchased, constructed, or acquired, or used for a longer period than one year before the application for a patent therefor. (§ 48.)

190. PATENTED ARTICLES TO BE STAMPED WITH DATE OF PATENT.—Every patentee under this act shall stamp or engrave on each patented article sold, or offered for sale, by him, the year of the date of the patent applying to such article, thus: "Patented 1869," or as the case may be; and any such patentee selling or offering for sale any such patented article not so marked, shall be liable to the punishment of a fine not to exceed \$100, and in default of the payment of such fine to imprisonment not to exceed two months. (§ 49.)

191. PUNISHMENT OF PARTIES WHO STAMP AN ARTICLE AS PATENTED WHEN SUCH IS NOT THE CASE.—Whosoever

writes, paints, prints, molds, casts, carves, engraves, stamps, or otherwise marks upon anything made or sold by him, and for the sole making or selling of which he is not the patentee, the name, or any imitation of the name, of any patentee for the sole making or selling of such thing, without the consent of such patentee, or without the consent of the patentee writes, paints, prints, molds, casts, carves, engraves, stamps, or otherwise marks upon anything not purchased from the patentee, the words "patent," "letters patent," "Queen's patent," "patented," or any word or words of like import, with the intent of counterfeiting or imitating the stamp, mark, or device of the patentee, or of deceiving the public and inducing them to believe that the thing in question was made or sold by or with the consent of the patentee, shall be deemed to have committed a misdemeanor, and shall, on conviction, be punished therefor by fine or by imprisonment, or both, in the discretion of the court before which the conviction shall be had; but the fine shall not exceed \$200, nor shall the imprisonment exceed three months. (§ 50.)

192. PUNISHMENT OF OFFENDERS FOR MAKING FALSE ENTRY OR COPY.—Any person willfully making or causing to be made any false entry in any register or book, or any false or altered copy of any document relating to the purposes of this act, or who shall produce or tender any such false or altered document, knowing the same to be such, shall be guilty of a misdemeanor, and shall be punished by fine and imprisonment accordingly. (§ 51.)

193. ALL ACTS INCONSISTENT WITH PRESENT ACT REPEALED.—Chapter thirty-four of the Consolidated Statutes of the late Province of Canada, respecting patents

for inventions, chapter one hundred and seventeen of the Revised Statutes of Nova Scotia, (third series,) chapter one hundred and eighteen of the Revised Statutes of New Brunswick, and any act amending any of the said chapters or any other act, are hereby repealed, in so far as they or any of them may be inconsistent with this act, or make any provision in any matter provided for by this act, except only as respects all rights acquired and penalties or liabilities incurred under the said laws, or any of them, before the coming into force of this act. (§ 52.)

194. TITLE OF ACT: THE PATENT ACT OF 1869.—When citing this act it shall be sufficient to call it “The Patent Act of 1869.” (§ 53.)

195. ACT TO COMMENCE AND TAKE EFFECT JULY 1, 1869.—This act shall commence and take effect on the first day of July, 1869. (§ 54.)

### XVIII. Rules, Regulations, and Forms of the Canadian Patent Office.

Sec.	Sec.
196. Date of approval.	208. Extension.
197. Personal appearance.	209. Form of patent.
198. Applicant responsible.	210. Model.
199. Correspondence.	211. Fees.
200. Clerical requirements.	212. Time for perfecting application.
201. Address.	213. Separate inventions cannot be claimed in one application.
202. Forms.	214. Protest.
203. Petition.	215. Cases of doubt.
204. Joint application.	216. Caveat.
205. Oath.	217. Intricate cases.
206. Specification.	218. General remarks.
207. Drawings.	

196. DATE OF APPROVAL.—The following rules were

approved by the Governor in Council on the 2d of July, 1869, under the patent act of 1869.

197. **PERSONAL APPEARANCE.**—There is no necessity for any personal appearance at the Patent Office, unless specially called for by order of the Commissioner or the Deputy Commissioner, every transaction being carried on by writing. (Rules of 2d July, 1869.)

198. **APPLICANT RESPONSIBLE.**—In every case the applicant or depositor of any paper is responsible for the merits of his allegations, and of the validity of the instruments furnished by him or his agent. (*Ib.*)

199. **CORRESPONDENCE.**—The correspondence is carried on with the applicant, or with the agent who has remitted or transmitted the papers to the office, but with one person only. (*Ib.*)

200. **CLERICAL REQUIREMENTS.**—All papers to be clearly and neatly written on foolscap paper, and every word of them is to be distinctly legible, in order that no difficulty should be met with in taking cognizance of and in registering and copying them. (*Ib.*)

201. **ADDRESS.**—All communications are to be addressed in the following words: "To the Commissioner of Patents, Ottawa." (*Ib.*)

202. **FORMS.**—As regards proceedings not specially provided for in the following forms, any form being conformable to the letter and spirit of the laws will be accepted, and if not so conformable will be returned for correction. (*Ib.*)

203. **PETITION.**—The petition asking for the granting of a patent of invention shall be made after the following form: (*Ib.*)

*To the Commissioner of Patents,*

*Ottawa:*

The petition of [*Christian name or names in full of inventor, inventors, assignee, or other legal representative of inventor*], of the [*city, town, or other locality, as the case may be*], in the Province of [*as the case may be*], [*trade or profession*], sheweth: That your petitioner has been a resident of Canada for at least one year next before the present application [*mention to be made of place, and changes of residence*]; that he hath discovered [*or "invented," as the case may be*] a certain new and useful [*art, "machine," "manufacture," or "composition of matter," as the case may be, or certain new and useful "improvements"*], on a certain [*art, "machine," "manufacture," or "composition of matter," as the case may be*], now in ordinary use for [*stating the use or object of the art, &c., as the case may be*], to be called or known as [*"name of invention or improvement"*], and that such his discovery [*or "invention," as the case may be*], was and is not known or used by others before his discovery [*or "invention," as the case may be*] thereof, and was and is not, at the time of this application, in public use or for sale with his consent or allowance as such inventor [*or discoverer, as the case may be*]; and that the oath or affirmation, drawings, descriptions, and specifications thereof, in duplicate, are transmitted herewith, pursuant to the statute in such case made and provided; the said invention being [*insert here a very short description of the invention and of its object*].

Your petitioner, being desirous of obtaining an exclusive property in the said invention or discovery [*as the case may be*], therefore prays that a patent may be granted to your petitioner therefor for the term allowed by law; and, for the purposes of the patent act of 1869, your petitioner elects his domicile in the [*city, town, or locality, as the case may be*], in the county of [*name of county*], in the Province of [*name of Province*].

[*Signature of inventor.*]

[*Place and date.*]

204. JOINT APPLICATION.—In case of joint applications, in cases of applications from assignees, heirs, or other legal representatives, the petition should, otherwise being made after the above given form, be altered, according to the circumstances of the case, to meet the requirements of the statute, particularly of §§ 8, 10, 11, 12. (*Vide supra pp. 116, 117, 118.*)

205. OATH.—The oath to be subscribed by an appli-

cant for a patent of invention shall be made after the following form : (*Ib.*)

Canada, Province of ,  
county of .  
I, , of , in the county of , in the Province of , make oath and solemnly swear, that I verily believe that I am the inventor [*or discoverer*] of the invention which I call [*name of the invention*], and for which I solicit a patent by my petition to the Commissioner of Patents, dated the [*insert date of petition*], and I further make oath that I have been a resident of Canada for one year next before my application. [Signature of deponent.]

Sworn and signed before me }  
this [*day of month and year*], }  
at [*name of place*]. }  
[Signature of J. P.],  
Justice of the Peace.

The same general form is to be adopted, with such alterations as may be necessitated by circumstances, where the application is made abroad, or by joint inventors, by assignees, heirs, or other legal representatives, in conformity with the patent act, § 11. (*Ib.*)

206. SPECIFICATION.—The specification accompanying a petition for a patent of inventions shall be made in duplicate, and after the following form : (*Ib.*)

To all whom it may concern :

Be it known that I, [*name of inventor or discoverer, as the case may be,*] of [*place of residence and trade or profession; if more than one inventor, add his or their names, place of residence, and trade or profession, and word the specification throughout according to circumstances*], have invented a new and useful [*art, "machine," &c., same as in petition*], and I do hereby declare that the following is a full, clear, and exact description of the construction and operation of the same. [*Reference being had to the annexed drawings, where the nature of the case admits of drawings; describe the several drawings, and refer to the parts by letters. Here describe the principle, and the several modes in which the applicant contemplates the application of that principle or character, by which the invention or discovery may be dis-*

tenor and effect, and directing the insertion of such restrictions and conditions as he may deem proper pursuant to the act. (§ 15.)

100. PROVISION INSERTED THAT COMPLETE SPECIFICATION SHALL BE FILED WITHIN SIX MONTHS.—A provision is to be inserted in all letters patent, in respect whereof a provisional and not a complete specification shall be left on the application for the same, requiring the specification to be filed within six months from the date of application. (2d Set of Rules, Oct. 15, 1852.)

101. PATENT FEE £5, AND STAMP £5.—The fee for the law officer's warrant is £5, and the stamp on letters patent is also £5. (Schedule of Act.)

102. LETTERS PATENT VOID IF BEFORE EXPIRY OF THREE YEARS £50 BE NOT PAID, AND IF BEFORE EXPIRY OF SEVEN YEARS £100 BE NOT PAID.—Letters patent thus granted shall be subject to the condition of becoming void, unless before the expiration of three years a further fee of £40 and a stamp duty of £10 (in all £50) be paid, and unless before the expiration of seven years a further fee of £80 and stamp duty of £20 (in all £100) be paid. Memoranda of such payments shall be indorsed on the warrant for the letters patent, and a certificate of the same given, and also indorsed on the letters patent.

103. ISSUE OF LETTERS PATENT, THEIR EXTENT AND LIMIT.—The Commissioners, when required by the applicant, shall then cause letters patent to be prepared according to the warrant, which shall be sealed with the great seal of the United Kingdom. Such letters patent shall extend to the whole of England, Scotland, and Ireland, to the Channel Islands, and to the Isle of Man. Should the warrant so direct, the letters patent may also

apply to any colonies or plantations abroad which may be specified. But they will have no authority in any colonies where the law in force in such colonies would render them invalid. A transcript of the letters patent is to be transmitted to the director of chancery in Scotland, which transcript is to be received in evidence in all Scottish courts of law. (§ 18.)

**104. MUST BE ISSUED WITHIN THREE MONTHS FROM WARRANT, AND DURING PROVISIONAL PROTECTION, UNLESS DELAYED BY CAVEAT.**—Patents cannot be issued unless applied for within three months from the date of the warrant, and during the six months of provisional protection or complete specification, unless delayed by a caveat, or application to the Lord Chancellor against sealing the letters patent. In such case they may be sealed at such time as the Lord Chancellor may direct. (See Instruction 41, §§ 19, 20.)

**105. BUT LORD CHANCELLOR MAY ALLOW MONTH'S LIMIT IF DELAY BE PURELY ACCIDENTAL.**—But by the sixth clause of the act of the 16 and 17 Vict., ch. 115, the Lord Chancellor may seal letters patent after the expiration of provisional protection, provided the delay in such sealing has arisen from accident, and not from the neglect or willful default of the applicant, the sealing to be dated as of any day before the expiring of provisional protection, and in like manner he may extend the time for filing the specification; such extension, however, is not to exceed one month.

**106. IN CASE OF DEATH PATENT GRANTED TO REPRESENTATIVES WITHIN THREE MONTHS.**—In case of the death of the applicant during the period of protection, letters patent may be granted to the personal representatives



during such period, or within three months of the death of the applicant. (§ 21.)

107. **IF LOST, NEW PATENT MAY ISSUE ACCORDING TO COMMISSIONERS' REGULATIONS.**—In case letters patent be lost or destroyed, others of like effect may be issued, subject to such regulations as the Commissioners may make. (§ 22.)

108. **DATE OF LETTERS PATENT.**—Letters patent are to be dated as of the day of the application for the same, and if bearing date prior to the day of actual sealing, are to be equally valid. (§§ 23, 24.)

109. **PATENTS FOR FOREIGN INVENTIONS EXPIRE WITH ORIGINAL FOREIGN PATENT.**—Patents for foreign inventions, previously patented abroad, shall only continue in force in the United Kingdom as long as they shall be valid in the foreign country where the patent is already obtained, and where more than one patent is taken out abroad, the termination of the British patent shall take place when the first of such foreign patents shall expire. (§ 25.)

110. **PATENTS NOT TO PREVENT FOREIGN SHIPS USING THE INVENTION.**—Letters patent granted under this act shall not prevent the use of the invention thereby secured on board of foreign ships resorting to British ports, except when the government to which such ships belong shall forbid the use by British ships of foreign patented inventions. (§ 26.)

111. **SPECIFICATIONS TO BE FILED WITH COPY OF DRAWINGS.**—Specifications are to be filed at the office with an extra copy of any drawings. (§§ 27, 28.) But by the 16 and 17 Vict., ch. 115, a true copy of every specification and complete specification, with the drawings

accompanying them, are to be left at the office on filing such specification or complete specification.

**112. SIZE OF SPECIFICATIONS.**—All specifications, in pursuance of the conditions of letters patent, and all complete specifications accompanying petitions for the grant of letters patent, shall be respectively written bookwise upon a sheet or sheets of parchment, each of the size of twenty-one and a half inches long by fourteen and three-quarter inches broad. The same may be written on both sides of the sheet, but a margin must be left of one and a half inch on every side of each sheet.

**113. SIZE OF DRAWINGS AND SCALE.**—The drawings accompanying such specifications shall be on a sheet or sheets of parchment, each twenty-one and a half inches long by fourteen and three-quarter inches broad, or twenty-one inches broad by twenty-nine and a half inches long, with a margin of one and a half inch on every side of each sheet.

[It is recommended to applicants and patentees to make their elevation drawings according to the scale of one inch to a foot. Lord Chancellor's order, October 1, 1852.]

**114. EXTRA COPY OF SPECIFICATION TO BE LEFT WITH ORIGINAL; SIZE, &c.**—An extra copy of the provisional specification or complete specification is to be left at the office with the original. It is to be written on sheets of brief or foolscap paper, briefwise, and on one side only. The extra copy of drawings must be according to the directions given above. (See Instruction 36.) (3d Set of Rules, Dec. 12, 1853.)

**115. DOCUMENTS TO BE LEGIBLY SIGNED.**—All specifica-

tions, copies of specifications, provisional specifications, petitions, notices, and other documents left at the office of the Commissioners, and the signatures of petitioners or agents, must be written in a large and legible hand. (*Ib.*)

116. NOTICE TO PROCEED MUST BE GIVEN EIGHT WEEKS, AND APPLICATION FOR WARRANT TWELVE CLEAR DAYS BEFORE END OF PROVISIONAL PROTECTION.—The notice of the applicant to proceed for letters patent must be left at the office eight weeks at least before the expiration of the provisional protection, and the application for the warrant of the law officer and for the letters patent must be made at the office twelve clear days at least before the expiration of the provisional protection. But the Lord Chancellor reserves to himself the power to grant a further extension of time under the special circumstances provided for by the 6th § of the 16 and 17 Vict., ch. 115. (See Instruction 29, *ib.*)

117. PROVISIONAL SPECIFICATIONS, AFTER SIX MONTHS, AND ALL OTHER DOCUMENTS OPEN FOR PUBLIC INSPECTION. True copies of provisional specifications, after the expiration of six months, and of all other specifications, disclaimers, and memoranda of alterations, are to be open to public inspection at the offices in London, Edinburgh, and Dublin.

118. DOCUMENTS TO BE PRINTED AND SOLD AND INDEXES OPEN FOR PUBLIC INSPECTION.—Specifications, disclaimers, and memoranda of alterations are to be printed and sold at such prices as the Commissioners shall direct. [This price is fixed by the Commissioners' rules at two-pence for every ninety words.] Indexes of all patents and documents relating thereto are also to be prepared,

and to be open for public inspection and for sale, and printed copies of patents and other documents are to be received as evidence in courts of law. (§§ 30, 32, 33.)

119. PRINTED OR MANUSCRIPT COPIES, &C., WITH COMMISSIONERS' SEAL, AND DOCUMENTS RECORDED AND FILED, EVIDENCE IN COURTS OF LAW.—But by the 4th § of the 16 and 17 Vict., ch. 115, it is declared that printed or manuscript copies, or extracts certified and sealed with the seal of the Commissioners, specifications, disclaimers, and all other documents recorded and filed at the office, are to be received as evidence in all the courts of the United Kingdom, and other places to which the patent shall extend, without the production of the originals.

120. CHRONOLOGICAL REGISTER OF DOCUMENTS TO BE KEPT, INCLUDING LICENSES; COPY OF LICENSE MAY BE HAD, SUCH COPY TO BE EVIDENCE.—A chronological register of patents and other documents shall be kept and be open to public inspection, and also a register of proprietors, to include the assignment of any patent or share thereof, any license under letters patent, with the district to which such license relates, and any other matter affecting the proprietorship of letters patent; and a copy of such entry, properly certified, shall be given to any applicant on payment of a fee, the copy to be evidence. Until such entry shall have been made, the grantee of the patent is to be considered the sole proprietor. Copies of the registers are to be kept at Edinburgh and Dublin. (§§ 34, 35.)

121. ANY NUMBER OF PERSONS MAY BE INTERESTED IN A PATENT.—A larger number than twelve may have a legal interest in a patent. (§ 36.)

122. FALSIFICATION OF REGISTER A MISDEMEANOR.—

Falsification of the register of proprietors is a misdemeanor. (§ 37.)

123. ENTRIES IN REGISTER MAY BE EXPUNGED BY JUDGE'S ORDER.—Entries in the registry of proprietors may be expunged by application to Master of the Rolls, or any common law court. The costs of such application to be paid as the judge shall decree. (§ 38.)

124. DISCLAIMERS.—The provisions of the 5 and 6 Wm. IV, ch. 83, and 7 and 8 Vict., ch. 69, relating to disclaimers and memoranda of alterations in letters patent and specifications, to apply to this act, except as hereafter provided. By the common law, letters patent became wholly void for any partial defect; for instance, the want of novelty in a very small part. The act of 5 and 6 Wm. IV, ch. 83, allows a patentee to put in a disclaimer of any part of either the title or specification, stating the reason for such disclaimer, or enter a memorandum of alteration; but any other person may enter a caveat against such disclaimer or memorandum of alteration, the caveat giving the objector a right to be heard in opposition to the disclaimer or alteration. In case of no opposition, or of the disallowance of any caveat, the disclaimer or memorandum of alteration may be filed and enrolled, and be deemed part of the letters patent and specification. (§ 39.) But the disclaimer or alteration is not to affect any action pending at the time, and the law officer to whom the case shall be referred may require the party applying to advertise such disclaimer or alteration. (*Ib.*) The 7 and 8 Vict. allows a patentee the same faculty of disclaimer or alteration in concert with any party to whom he may have wholly or in part transferred a property in his patent. (*Ib.*)

**125. CONFIRMATION AND PROLONGATION OF A PATENT.** The provisions of the 5 and 6 Wm. IV, ch. 83, and the 2 and 3 Vict., ch. 67, and the 7 and 8 Vict., ch. 69, as to confirmation and prolongation of patents, are to apply to patents under this act. The new letters patent are to be available only for such places as the original patent extended to, and are to bear date on the day after the expiration of the term of the original letters patent. (§ 40.) The fourth section of the act of William enacts, that any patentee may advertise three times in the *London Gazette*, and in three London papers, and three times in some country paper, of or near the town where he may reside or carry on his manufacture, (or in some paper published in the county where he carries on his manufacture or lives, in case there should be no paper in the town,) his intention to petition the Privy Council for a prolongation of his patent, and that any other person may enter a caveat at the council's office. Thereupon the case may be heard before the judicial committee of the Privy Council, and should the report of the committee be in favor of the patentee, the patent may be prolonged for seven years. The second section of the 2 and 3 Vict., ch. 67, allows a patentee to obtain an extension of his patent, though the application for such extension may not have been prosecuted with effect before the expiration thereof. But the petition must be presented six calendar months at least before the expiration of the original patent. The second section of the 7 and 8 Vict., ch. 69, extends the term for which a patent may be prolonged to fourteen years.

**126. INFRINGEMENT.**—In actions for infringement of patents the plaintiff is to deliver with his declaration the

particulars of the breaches complained of, and the defendant shall also deliver with his pleas particulars of any objection on which he means to rely, and at the trial no evidence shall be allowed not contained in such particulars. Similar particulars are obligatory on any prosecutor seeking to repeal the patent. The prosecutor must also particularize the place or places where, and the manner in which, the invention is alleged to have been used prior to the date of the letters patent. But the judge may allow the plaintiff, defendant, or prosecutor to amend his particulars. The defendant, in any suit for repealing his patent, has a right to begin and give evidence of his case, and be entitled to reply. (§ 41.)

127. JUDGE'S ORDER IN CASE OF INFRINGEMENT.—The judge of any court where an action may be brought for infringement of patent to make order for injunction, inspection, or account, and give such directions respecting the action, &c., as the court or judge may see fit. (§ 42.)

128. TAXING COSTS IN CASE OF INFRINGEMENT.—In taxing costs in actions for infringement regard is to be had to the particulars delivered in such actions, and costs are only to be allowed on such particulars as the judge may certify to. Other enactments are also made respecting taxed costs. (§ 43.)

129. SCHEDULES OF FEES AND STAMP DUTIES.—Fees and stamp duties are to be paid according to schedule annexed to the act. The stamp duties are to be under the management of the Commissioners of Inland Revenue, and the fees to be paid into the Exchequer, and form part of the consolidated fund. (§§ 44, 45, 46.)

## SCHEDULE TO WHICH THE ACT REFERS, CONSOLIDATED.

	£	s.	d.
On leaving the petition for grant of letters patent.....	5	0	0
On notice of intention to proceed with the application.....	5	0	0
On warrant of law officer for letters patent.....	5	0	0
On sealing of letters patent.....	5	0	0
On filing specifications.....	5	0	0
At or before expiration of the third year.....	50	0	0
At or before expiration of the seventh year.....	100	0	0
On leaving notice of objections.....	2	0	0
Every search and inspection.....	0	1	0
Entry of assignment or license.....	0	5	9
Certificate of assignment or license.....	0	0	5
Filing application for disclaimer.....	5	0	0
Caveat against disclaimer.....	2	0	0

The fees to be paid to the law officers and to their clerks shall be—

By a person opposing a grant of letters patent:

	£	s.	d.
To the law officer.....	2	12	6
To his clerk.....	0	12	6
To his clerk for summons.....	0	5	0
	<hr/>		
	£3	10	0
	<hr/>		

By the petitioner on the hearing of the case of opposition:

	£	s.	d.
To the law officer.....	2	12	6
To his clerk.....	0	12	6
To his clerk for summons.....	0	5	0
	<hr/>		
	£3	10	0
	<hr/>		

By the petitioner for the hearing, previous to the fiat of the law officer allowing a disclaimer or memorandum of alteration in letters patent or specification:



	£	s.	d.
To the law officer.....	2	12	6
To his clerk .....	0	12	6
	<hr/>		
	£3	5	0
	<hr/> <hr/>		

By the person opposing the allowance of such disclaimer or memorandum of alteration on the hearing of the case of opposition.

	£	s.	d.
To the law officer.....	2	12	6
To his clerk .....	0	12	6
	<hr/>		
	£3	5	0
	<hr/> <hr/>		

By the petitioner for the fiat of the law officer allowing a disclaimer or memorandum of alteration, or letters patent and specification.

	£	s.	d.
To the law officer.....	3	3	0
To his clerk.....	0	12	6
	<hr/>		
	£3	15	6
	<hr/> <hr/>		

NOTE.—The following is an abstract of the comparative cost of patents in the principal foreign States in British currency:

- France, £4 per annum for fourteen years.
- Great Britain, (provisional protection,) £5.  
Sealed, £25.  
At the end of three years, £50 additional.  
At end of seven years, £100 additional.
- Belgium, 8s. first year, and increasing progressively for twenty years up to £8 for last year.
- Austria, £10 for first five years.  
£20 for second five years.  
£40 for third five years.

Italy, 8s. 4d. per year, paid at once.

£1 12s. per annum first three years.

£2 12s. per annum second three years.

£3 12s. per annum third three years.

£4 12s. per annum fourth three years.

£5 12s. per annum fifth three years.

Saxony, £4 10s. for first five years.

£8 for second five years.

Sweden, fees not fixed, and expenses of advertising.

Victoria, (Australia,) £7 4s. 6d. for first three years.

Prussia, £20 and upwards from six months to fifteen years.

Bavaria, £2 for first year, increasing by degrees annually to £23 for fifteen years.

Netherlands, £12 10s. for five years.

From £25 to £33 for ten years.

From £50 to £62 for fifteen years.

Russia, £14 10s. for three years.

£24 10s. for five years.

£72 10s. for ten years.

### VIII. Forms and Proceedings to obtain a Patent.

SEC.

130. Form of petition.

131. How to be written, and stamp.

132. Declaration to accompany petition.

133. Petition and declaration, accompanied by specification.

134. Reference indorsed on petition.

135. Form provisional specification.

SEC.

136. Form of complete specification.

137. Reference to law officer.

138. Notice to proceed to be made two months before end of provisional term.

139. Form of warrant.

140. Form of letters patent.

141. The specification.

#### 130. FORM OF PETITION FOR LETTERS PATENT.—

No. —.

*To the Queen's Most Excellent Majesty*

The humble petition of \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, showeth—

That your petitioner is in possession of an invention for [here insert the

*title of the invention,*] which invention he believes will be of great public utility; that he is the first and true inventor thereof, [*if the invention be a communication from abroad, here insert the words, "within the realm,"*] and that the same is not in use [*if from abroad, insert the word "therein"*] by any other person or persons, to the best of his knowledge and belief. Your petitioner therefore humbly prays that your Majesty will be pleased to grant unto him, his executors, administrators, and assigns, your royal letters patent, for the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, for the term of fourteen years, pursuant to the statutes in that case made and provided.

And your petitioner will ever pray.

**131. HOW TO BE WRITTEN, AND STAMP.**—This petition must be written distinctly, or printed, on a £5 stamp, specially provided for the purpose by the Stamp Office, and care must be taken to conform exactly to the instructions given in the act, respecting the dimensions, payments, and other details.

**132. DECLARATION TO ACCOMPANY PETITION.**—

No. —.

I, \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, do solemnly and sincerely declare, that I am in possession of an invention for, &c., [*the title as in the petition,*] which invention I believe will be of great public utility; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons, to the best of my knowledge and belief, [*where a complete specification is to be filed with the petition and declaration, insert these words, "and that the instrument in writing under my hand and seal, hereunto annexed, particularly describes and ascertains the nature of said invention, and the manner in which the same is performed;"*] and I make this declaration conscientiously, believing the same to be true; and by virtue of the provisions of an act made and passed in the session of Parliament, held in the fifth and sixth years of the reign of his late Majesty King William the Fourth, intituled "An act to repeal an act of the present session of Parliament, intituled 'An act for the more effectual abolition of oaths and affirmations taken and made in various departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits,' and to make other provisions for the abolition of unnecessary oaths."

A. B.

Declared at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_, before  
me, \_\_\_\_\_,

*A Commissioner to Administer Oaths in Chancery,  
or Justice of the Peace.*

**133. PETITION AND DECLARATION MUST BE ACCOMPANIED BY SPECIFICATION.**—The petition and declaration must be accompanied by either a provisional specification or a complete specification, at the option of the inventor. A provisional specification need only give the general principle of the invention, but it must be stated with sufficient distinctness to enable the law officer to whom it is referred to judge of the nature of the improvements discovered, and of the manner in which they are to be carried into effect. The inventor will then have an interval of six months for maturing his invention, and may introduce into his complete specification any improvements or development not inconsistent with the title, or with the principle enounced in the provisional specification.

**134. REFERENCE TO BE INDORSED ON THE PETITION.**—The following is to be indorsed on the petition:

“Her Majesty is pleased to refer this petition to [*name of law officer,*] to consider what may be properly done therein.”

**135. FORM OF PROVISIONAL SPECIFICATION.**—

No.—

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_

*[To be signed by applicant or his agent.]*

[It will be for the inventor to judge whether it will be most to his interest to content himself with a provisional specification or proceed at once to a complete specification; by following the former course he will have abundant leisure to perfect his discovery; by adopting the latter he will be able the sooner to bring it into commercial

operation, a point worthy of consideration, since the six months of provisional protection form part of the term for which the patent is granted.]

### 136. FORM OF COMPLETE SPECIFICATION.—

*To all to whom these presents shall come:*

I, \_\_\_\_\_, of \_\_\_\_\_, send greeting:

Whereas I am in possession of an invention for (*here insert title*), and have petitioned Her Majesty to grant unto me, my executors, administrators, and assigns, her royal letters patent for the same, and have made solemn declaration that I really believe myself to be the first and true inventor thereof: Now, know ye that I, the said \_\_\_\_\_, do hereby declare that the following complete specification, under my hand and seal, fully describes the nature of my said invention and the manner in which the same is to be performed (that is to say): [*Here insert description.*]

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_.

[*To be signed by applicant or his agent.*]

[The drawing up of the complete specification is an operation which requires the utmost care, skill, and attention on the part of the person undertaking so delicate a duty, for the validity of the patent will depend on this document being clear, explicit, and circumstantial. Few inventors will venture to assume a task which is calculated to try the capacity and experience of the most able professional man. "In the specification the invention must be accurately ascertained and particularly described; it must be set forth in the most minute detail. The disclosure of the secret is considered as the price which the patentee pays for this limited monopoly, and therefore it ought to be full and correct, (for the benefits thus secured to him are great and certain,) in order that the subject of his patent may, at its expiration, be well known, and that the public may reap from it the same advantages as have accrued to him." (Godson on Patents, ch. iv.)

In the case of mechanical inventions drawings are almost always necessary, but they are merely intended to illustrate the description, so as to make it more clearly understood; but the law requires that the specification itself should be so explicit, that any one acquainted with the subject should be able to carry out the invention without any other aid. Want of sufficient exactness in this respect would therefore be a ground for invalidating a patent.]

137. REFERENCE TO LAW OFFICER, (EITHER ATTORNEY OR SOLICITOR GENERAL FOR ENGLAND.)—Having complied with the requirements of the act in all these respects, the application is then referred to one of the law officers, (practically either the Attorney or Solicitor General for England,) and, if he is satisfied with the accuracy and propriety of the description, he grants a certificate of protection for six months, which is generally published in the *London Gazette* on the Friday after.

138. NOTICE TO PROCEED TO BE ON £5 STAMP, AND MADE TWO MONTHS BEFORE END OF PROVISIONAL PROTECTION.—The next step is the notice to proceed, which must be on a £5 stamp, and be deposited at the office at least two months before the expiration of the six months' protection. This is usually published in the ensuing Tuesday's *Gazette*, accompanied by a notice, "that all parties having an interest in opposing such application are at liberty to leave particulars in writing of their objections to such application at the office of the Commissioners within twenty-one days after the date of the *Gazette* in which the notice is issued." Should no opposition appear within this period, application may be made for the

warrant for letters patent. This must be done at least twelve days before the protection expires. The warrant will be issued in due course.

### 139. FORM OF WARRANT.—

In humble obedience to Her Majesty's command, referring to me the petition of \_\_\_\_\_, of \_\_\_\_\_, to consider what may be properly done therein, I do hereby certify as follows: That the said petition sets forth that the petitioner [*here follow the allegations of the petition*], and the petitioner prays [*prayer of the petitioner*]:

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

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

That it appears that the said application was duly advertised.

Upon consideration of all the matters aforesaid, and as it is entirely at the hazard of the said petitioner whether the said invention is new or will have the desired success, and as it may be reasonable for Her Majesty to encourage all arts and inventions which may be for the public good, I am of opinion that Her Majesty may grant her royal letters patent unto the petitioner, his executors, administrators, and assigns, for his said invention, within the United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, [*colonies to be mentioned, if any,*] for the term of fourteen years, according to the statute in that case made and provided, if Her Majesty shall be graciously pleased so to do, to the tenor and effect following: [*See next form.*]

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

### 140. FORM OF LETTERS PATENT.—

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith:

*To all to whom these presents shall come, greeting:*

Whereas \_\_\_\_\_ hath by his petition humbly represented unto us that he is in possession of an invention for \_\_\_\_\_, which the petitioner conceives will be of great public utility; that he is the true and first inventor thereof; and that the same is not in use by any other person or

persons, to the best of his knowledge and belief. The petitioner therefore most humbly prayed that we would be graciously pleased to grant unto him, his executors, administrators, and assigns, our royal letters patent for the sole use, benefit, and advantage of his said invention, within our United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, [*colonies to be mentioned, if any,*] for the term of fourteen years, pursuant to the statutes in that case made and provided:

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

And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioner's request: Know ye, therefore, that we, of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said \_\_\_\_\_, his executors, administrators, and assigns, our especial license, full power, sole privilege and authority, that he, the said \_\_\_\_\_, his executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants or agents, or such others as he, the said \_\_\_\_\_, his executors, administrators, or assigns, shall at any time agree with, and no others, from time to time, and at all times hereafter during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within our United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, in such manner as to him, the said \_\_\_\_\_, his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet; and that he, the said \_\_\_\_\_, his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention, for and during the term of years herein mentioned; to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages, hereinbefore granted or mentioned to be granted, unto the said \_\_\_\_\_, his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years from the \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_, next and immediately ensuing, according to the statute in such case made and provided; and to the end that he, the said \_\_\_\_\_, his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention, according to our gracious inten-



tion hereinbefore declared, we do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within our United Kingdom of Great Britain and Ireland, the Channel Islands, and Isle of Man, [*colonies to be mentioned, if any*] that neither they nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said \_\_\_\_\_ as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make, nor cause to be made, any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisers thereof, without the consent, license, or agreement of the said \_\_\_\_\_, his executors, administrators, or assigns, in writing, under his or their hands and seals, first had and obtained in that behalf, upon such pains and penalties as can and may be justly inflicted on such offenders for their contempt of this our royal command, and further to be answerable to the said \_\_\_\_\_, his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned.

And, moreover, we do by these presents, for us, our heirs and successors, will and command all and singular the justices of the peace, mayors, sheriffs, bailiffs, constables, headboroughs, and all other officers and ministers whatsoever, of us, our heirs and successors, for the time being, that they or any of them do not, nor shall at any time during the said term hereby granted, in anywise molest, trouble, or hinder the said \_\_\_\_\_, his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention or anything relating thereto: Provided always, and these our letters patent are and shall be upon this condition, that if, at any time during the said term hereby granted, it shall be made to appear to us, our heirs or successors, or any six or more of our or their Privy Council, that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said \_\_\_\_\_ is not the true and first inventor thereof within this realm as aforesaid, these our letters patent shall forthwith cease, determine, and be utterly void, to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided also that these our letters patent, or anything herein contained, shall not extend or be construed to extend to

give privilege unto the said \_\_\_\_\_; his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use, exercise, and benefit thereof: It being our will and pleasure that the said \_\_\_\_\_, his executors, administrators, or assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions, by them invented and found out, according to the true intent and meaning of the same respective letters patent and of these presents: Provided likewise, nevertheless, and these our letters patent are upon this express condition, [that if the said \_\_\_\_\_ shall not particularly describe and ascertain the nature of his said invention, and in what manner the same is to be performed, by an instrument in writing under his hand and seal, and cause the same to be filed in \_\_\_\_\_ within calendar months next and immediately after the date of these our letters patent;] [and also if the said instrument in writing, filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed;] and also if the said \_\_\_\_\_, his executors, administrators, or assigns, shall not pay or cause to be paid at the office of our Commissioners of Patents for inventions, that is to say, the sum of £50 stamp duty before the expiration of three years from the date hereof, and also £100 stamp duty before the expiration of seven years from the date of these our letters patent, and produce these our letters patent stamped with a proper stamp to these amounts respectively, pursuant to the provisions of the act of the sixteenth year of our reign, chapter 5; and also if the said \_\_\_\_\_, his executors, administrators, or assigns, shall not supply, or cause to be supplied, for our service all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms, as shall be settled for that purpose by the said officers or commissioners requiring the same, that then, and in any of the said cases, these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted; and, lastly, we do by

these presents, for us, our heirs and successors, grant unto the said \_\_\_\_\_, his executors, administrators, and assigns, that these our letters patent, on the filing thereof, shall be in all and by all things, good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said \_\_\_\_\_, his executors, administrators, and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors, in our United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, [*colonies to be mentioned, if any,*] and amongst all and every the subjects of us, our heirs and successors, whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducting and belonging. In witness whereof we have caused these our letters to be made patent, this \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_, and to be sealed and bear date as of the said \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_, in the \_\_\_\_\_ year of our reign.

141. THE SPECIFICATION.—Should the applicant have preferred in the first instance to file a provisional specification, his next step will be the complete specification.

*To all to whom these presents shall come:*

I, \_\_\_\_\_, of \_\_\_\_\_, send greeting:

Whereas Her most Excellent Majesty Queen Victoria, by her royal letters patent, bearing date the \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_, in the \_\_\_\_\_ year of her reign, did for herself, her heirs and successors, give and grant unto me, the said \_\_\_\_\_, her special license, that I, the said \_\_\_\_\_, my executors, administrators, and assigns, or such others as I, the said \_\_\_\_\_, my executors, administrators, and assigns, should at any time agree with, and no others, from time to time, and at all times thereafter during the term therein expressed, should, and lawfully might, make, use, exercise, and vend, within the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, [*the colonies to be mentioned if, any,*] an invention for [*insert title as in letters patent*], upon the condition (amongst others) that I, the said \_\_\_\_\_, by an instrument in writing under my hand and seal, should particularly describe and ascertain the nature of the said invention, and in what manner the same was to be performed, and cause the same to be filed in

within                      calendar months next and immediately after the date of the said royal letters patent: Now, know ye that I, the said                      , do hereby declare the nature of my said invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement, that is to say: [*Describe the invention.*]

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

[*Signed by the applicant.*]

This will complete all the proceedings necessary for obtaining a patent in cases where no opposition is made.

Patentees are reminded that unless before the expiration of the third year a further sum of £50, and before the expiration of the seventh year a further sum of £100, be paid at the Patent Office, the letters patent will become void.

### IX. Patent Laws of the Dominion of Canada.

SEC.

142. Patent Office constituted.

143. Seal.

144. Rules and regulations.

SEC.

145. Deputy Commissioner.

146. Report.

[NOTE.—The new patent law of the Dominion came in force on the 1st of July, 1869, and abrogated the local provincial laws which previously to that time had been in force in the different provinces. Patents granted under those late laws will, however, still continue in force in the provinces for which they were granted for the unexpired periods they have to run. It will also be seen that, under certain conditions, those local patents may be extended over the entire Dominion.

During the passage of the patent bill through Parlia-

ment strong efforts were made to obtain a more liberal law than the one we now publish—a law which would assimilate with those of other civilized countries, in not demanding residence as a necessary preliminary to the application for a patent, and also in extending the right of a patent to all inventors, irrespective of nationality.\*]

142. PATENT OFFICE CONSTITUTED.—There shall be attached to the Department of Agriculture, as a branch thereof, an office to be named the Patent Office; and the Minister of Agriculture for the time being shall be the Commissioner of Patents of invention; and it shall be the duty of the said Commissioner to receive all applications, fees, papers, documents, and models for patents, and to perform such acts and things respecting the granting and issuing of patents for new and useful inventions, discoveries, and improvements as are herein provided for; and he shall have the charge and custody of the books, records, papers, models, machines, and other things belonging to the said office. (§ 1.)

143. SEAL.—The Commissioner shall cause a seal to be made for the purposes of this act, and may cause to be sealed therewith letters patent and other instruments and copies proceeding from the Patent Office; and all courts, judges, and other persons whomsoever

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\* Since the publication of the first edition of this work, a law has been passed by the Parliament of Canada, under the provisions of which citizens of the United States and other countries may obtain patents. This law, together with the latest edition of the rules of the Canada Patent Office, for which I am indebted to the courtesy of the Canadian Minister of Agriculture, will be found in the Appendix.

shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the great seal are received in evidence, and shall also take notice of and receive in evidence, without further proof and without production of the originals, all copies or extracts certified under the seal of the said office to be copies of or extracts from documents deposited in such office. (§ 2.)

144. RULES AND REGULATIONS.—The Commissioner may from time to time, subject to the approval of the Governor in council, make such rules and regulations, and prescribe such forms, as may appear to him necessary and expedient for the purposes of this act, and notice thereof shall be given in the *Canada Gazette*; and all documents executed after the same and accepted by the Commissioner shall be held valid so far as relating to proceedings in the Patent Office. (§ 3.)

145. DEPUTY COMMISSIONER.—The Deputy of the Minister of Agriculture shall be the Deputy Commissioner of Patents of Invention; and the Governor may from time to time appoint such clerks and officers under him as may be necessary for the purpose of this act, and such clerks and officers shall hold office during pleasure. (§ 4.)

146. REPORT.—The Commissioner shall cause a report to be prepared annually and laid before Parliament of the proceedings under this act, and shall from time to time, and at least once in a year, publish in the *Canada Gazette* a list of patents granted, and may, with the approval of the Governor in council, cause such specifications and drawings as may be deemed of interest, or essential parts thereof, to be printed from time to time for distribution or sale. (§ 5.)

## X. Who may Obtain Patents.

SEC.	SEC.
147. Who may obtain a patent.	150. A resident may obtain, but not vend a patent.
148. An original inventor, having foreign patent, must apply within six months.	151. Joint applications to be made by joint inventors, and patents issue accordingly.
149. Right of assignment.	

147. WHO MAY OBTAIN A PATENT.—Any person having been a resident of Canada for at least one year next before his application, and having invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement on any art, machine, manufacture, or composition of matter, not known or used by others before his invention or discovery thereof, or not being at the time of his application for a patent in public use or on sale in any of the provinces of the Dominion, with the consent or allowance of the inventor or discoverer thereof, may, on a petition to that effect presented to the Commissioner and on compliance with the other requirements of this act, obtain a patent, granting to such person an exclusive property therein; and the said patent shall be under the seal of the Patent Office and the signature of the Commissioner, or the signature of another member of the Privy Council, and shall be good and valid to the grantee, his heirs, assigns, or other legal representatives, for the period mentioned in such patent; but no patent shall issue for an invention or discovery having an illicit object in view, nor for any mere scientific principle or abstract theorem. (§ 6.)

**148. AN ORIGINAL INVENTOR, HAVING FOREIGN PATENT, MUST APPLY WITHIN SIX MONTHS.**—An original and true inventor or discoverer shall not be deprived of the right to a patent for his invention or discovery by reason of his having, previously to his application, taken out a patent therefor in any other country, at any time within six months next preceding the filing of his specification and drawing, as required by this act. (§ 7.)

**149. RIGHT OF ASSIGNMENT.**—The patent may be granted to any person to whom the inventor or discoverer entitled under the sixth section to obtain a patent has assigned or bequeathed the right of obtaining the same and the exclusive property in the invention or discovery in Canada, or, in default of such assignment or bequest, to the executor or administrator of the deceased inventor or discoverer, or other legal representative. (§ 8.)

**150. A RESIDENT MAY OBTAIN, BUT NOT VEND A PATENT.** Any person, having been a resident of Canada for at least one year next before his application, and who has invented or discovered any improvement on any patented invention or discovery, may obtain a patent for such improvement, but shall not thereby obtain the right of vending or using the original invention or discovery, nor shall the patent for the original invention or discovery confer the right of vending or using the patented improvement. (§ 9.)

**151. JOINT APPLICATIONS TO BE MADE BY JOINT INVENTORS AND PATENTS ISSUE ACCORDINGLY.**—In cases of joint applications, the patent shall be granted in the names of all the applicants; and in such cases any assignment from one of the said applicants or patentees to the other



shall be registered in the manner of other assignments.  
(§ 10.)

### XI. Conditions and Formalities.

SEC.	SEC.
152. Oath or affirmation as to invention must be made by applicants.	155. Drawings to be furnished in duplicate, with references.
153. Applicants to elect a domicile in Canada.	156. Working model of invention, or samples of ingredients, if a discovery, required.
154. Nature of petition and specifications.	

**152. OATH OR AFFIRMATION AS TO INVENTION MUST BE MADE BY APPLICANTS.**—Every applicant for a patent, before he can obtain the same, shall make oath, or, when entitled by law to make an affirmation instead of an oath, shall make an affirmation, that he verily believes that he is, or that the person whose assignee or representative he is, is or was the true inventor or discoverer of the invention or discovery for which the patent is solicited, and that he, or the person whose assignee or representative he is, was a resident of Canada for one year next before the application, or, in case of death of the inventor or discoverer, for one year next before such death. Such oath or affirmation may be made before any justice of the peace in Canada; but if the applicant is not at the time in Canada, the oath or affirmation may be made before any minister plenipotentiary, *chargé d'affaires*, consul or consular agent, holding commission under the Government of the United Kingdom, or any judge of the country in which the applicant happens at the time to be. (§ 11.)

**153. APPLICANT TO ELECT A DOMICIL IN CANADA.**—The

petitioner for a patent shall, for all the purposes of this act, elect his domicile at some known and specified place in Canada, and mention the same in his petition for a patent, and he shall in the same petition state the place or places in Canada at which he, or, if his application be as assignee or representative, the person whose assignee or representative he is, was resident during the year of residence required by this act, and the period of residence at each such place. (§ 12.)

154. NATURE OF PETITION AND SPECIFICATIONS.—The applicant shall in his petition for a patent insert the title or name of his invention or discovery, its object, and a short description of the same, and shall distinctly allege all the facts which are necessary under this act to entitle him to a patent therefor, and shall, with the petition, send in a written specification, in duplicate, of his invention or discovery, describing the same in such full, clear, and exact terms as to distinguish it from all contrivances or processes for similar purposes. (§ 13.)

155. DRAWINGS TO BE FURNISHED IN DUPLICATE, WITH REFERENCES.—The specification shall correctly and fully describe the mode or modes of operating contemplated by the applicant, and shall state clearly and distinctly the contrivances and things which he claims as new, and for the use of which he claims an exclusive property and privilege; it shall bear the name of the place where it is made, the date, and be signed by the applicant and two witnesses. In the case of a machine, the specification shall fully explain the principle and the several modes in which it is intended to apply and work out the same; in the case of a machine, or in any other case where the invention or discovery admits of illustration by means

of drawings, the applicant shall also with his application send in drawings in duplicate, showing clearly all parts of the invention or discovery, and each drawing shall bear the name of the inventor or discoverer, and shall have written references corresponding with the specification, and a certificate of the applicant that it is the drawing referred to in the specification; but the Commissioner may require any greater number of drawings than those above mentioned, or dispense with any of them, as he may see fit; one duplicate of the specification and of the drawings, if any drawings, shall be annexed to the patent of which it forms an essential part, and the other duplicate shall remain deposited in the Patent Office. (§ 14.)

156. WORKING MODEL OF INVENTION, OR SAMPLES OF INGREDIENTS, IF A DISCOVERY, REQUIRED.—The applicant shall also deliver to the Commissioner, unless specially dispensed from so doing for some good reason, a neat working model of his invention or discovery, on a convenient scale, exhibiting its several parts in due proportion, whenever the invention or discovery admits of such model; and shall deliver to the Commissioner specimens of the ingredients and of the composition of matter sufficient in quantity for the purpose of experiment, whenever the invention is a composition of matter, provided such ingredients and composition are not of an explosive character or otherwise dangerous, in which case they are to be furnished only when specially required by the Commissioner, and then with such precautions as shall be prescribed in the said requisition. (§ 15.)

## XII. Contents, Duration, Surrender, Reissue of Patents, and Disclaimers.

SEC.	SEC.
157. Contents of the patent and powers granted thereby.	tified by minister of justice before delivery.
158. Duration of patent.	160. New patent in case of error.
159. Patent to be examined and cer-	161. Patentee may make disclaimer.

**157. CONTENTS OF THE PATENT AND POWERS GRANTED THEREBY.**—Every patent granted under this act shall recite briefly the substance of the petition on which it is granted, and shall contain the title or name of the invention or discovery and a short description of the same, referring for a fuller detail to the specification, and shall grant to the patentee, his assigns and legal representatives, or in trust, as the case may be, for the period therein mentioned from the granting of the same, the exclusive right, privilege, and liberty of making, constructing, and using, and vending to others to be used, the said invention or discovery, and shall contain a condition that it is nevertheless subject to adjudication before any court of competent jurisdiction. (§ 16.)

**158. DURATION OF PATENT.**—Patents of invention or discovery issued by the Patent Office shall be valid for a period of five years; but at or before the expiration of the said five years the holder thereof may obtain an extension of the patent for another period of five years, and after those second five years may again obtain further extension for another period of five years; and the instrument delivered by the Patent Office for such extension of time shall be in the form which may be from time to time adopted, and shall be made in duplicate,

one duplicate to remain of record and be duly registered, and the other to be attached, with reference, to the patent, under the seal of the Patent Office and signature of the Commissioner, or any other privy councillor in case of absence of the Commissioner. (§ 17.)

159. PATENT TO BE EXAMINED AND CERTIFIED BY MINISTER OF JUSTICE BEFORE DELIVERY.—Every such patent, and every instrument for granting a further extension of any patent, shall, before it is signed by the Commissioner or any other member of the privy council, and before the seal hereinbefore mentioned is affixed to it, be examined by the Minister of Justice, who, if he finds it conformable to law, shall certify accordingly, and such patent or instrument may then be signed and the seal affixed thereto, and, being duly registered, shall avail to the grantee thereof and be delivered to him. (§ 18.)

160. IN CASE OF ERROR THE COMMISSIONER MAY CAUSE NEW PATENT TO BE ISSUED.—Whenever any patent shall be deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee claiming more than he had a right to claim as new, but at the same time it appears that the error arose from inadvertence, accident, or mistake, without any fraudulent or deceptive intention, the Commissioner may, upon the surrender of such patent and the payment of the further fee hereinafter provided, cause a new patent, in accordance with an amended description and specification to be made by such patentee, to be issued to him for the same invention or discovery, for any part or the whole of the then unexpired residue of the five years period for which the original patent was or might have been, as hereinbefore directed, granted. In case of the

death of the original patentee, or of his having assigned the patent, a like right shall vest in his assignee or legal representative: The new patent and the amended description and specification shall have the same effect in law, on the trial of any action thereafter commenced for any cause subsequently accruing, as if the same had been originally filed in such corrected form before the issue of the original patent. (§ 19.)

161. PATENTEE MAY MAKE DISCLAIMER.—Similarly, whenever, by any mistake, accident, or inadvertence, and without any willful intent to defraud or mislead the public, a patentee has made his specification too broad, claiming more than that of which he or the party through whom he claims was the first inventor or discoverer, or has in the specification claimed that he or the party through whom he claims was the first inventor or discoverer of any material or substantial part of the invention or discovery patented, of which he was not the first inventor or discoverer, and had no legal right thereto, the patentee may, on payment of the fee hereinafter provided, make disclaimer of such parts as he shall not claim to hold by virtue of the patent or the assignment thereof; such disclaimer shall be in writing and in duplicate, and attested in the manner hereinbefore prescribed for a patent, one copy to be filed and recorded in the office of the Commissioner, the other copy to be attached to the patent and made a part thereof by reference, and such disclaimer shall thereafter be taken and considered as part of the original specification. Such disclaimer shall not affect any action pending at the time of its being made, except in so far as may relate to the question of unreasonable neglect or delay in mak-

ing it. In case of the death of the original patentee, or of his having assigned the patent, a like right shall vest in his assigns or legal representatives respectively, any of whom may make disclaimer. The patent shall thereafter be deemed good and valid for so much of the invention or discovery as is truly the disclaimant's own and not disclaimed, provided it be a material and substantial part of the invention or discovery, and definitely distinguished from other parts claimed without right; and the disclaimant shall be entitled to maintain a suit for such part accordingly. (§ 20.)

### XIII. Assignment and Infringement of Patents.

SEC.	SEC.
162. Government of Canada may use any patented invention by making reasonable compensation.	164. Penalty for infringement.
163. Patents to be assignable.	165. Prosecution for infringement.
	166. Court may discriminate in certain cases.
	167. Defense in such cases.

**162. GOVERNMENT OF CANADA MAY USE ANY PATENTED INVENTION BY MAKING REASONABLE COMPENSATION.**—The Government of Canada may always use any patented invention or discovery, paying to the patentee such sum as the Commissioner may report to be a reasonable compensation for the use thereof. (§ 21.)

**163. PATENTS TO BE ASSIGNABLE.**—Every patent for an invention or discovery, whensoever issued, shall be assignable in law, either as to the whole interest or as to any part thereof, by any instrument in writing; but such assignment, and also every grant and conveyance of any exclusive right to make and use, and to grant to others

the right to make and use, the invention or discovery patented, within and throughout the Dominion of Canada, or within and throughout any one or more of the Provinces of Ontario, Quebec, Nova Scotia, or New Brunswick, or any part of any of such Provinces or of the Dominion, shall be registered in the office of the Commissioner; and every assignment affecting a patent for invention or discovery shall be deemed null and void against any subsequent assignee, unless such instrument is registered, as hereinbefore prescribed, before the registering of the instrument under which such subsequent assignee may claim. (§ 22.)

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

165. PROSECUTION FOR INFRINGEMENT.—An action for the infringement of a patent may be brought before any court of record having jurisdiction to the amount of damages asked for, and having its sittings within the Province in which the infringement is said to have taken place, and being at the same time, of the courts of such jurisdiction within such Province, the one of which the place of holding is nearest to the place of residence or of business of the defendant, and such court shall decide



the case and determine as to costs. In any action for the infringement of a patent, the court, if sitting, or any judge thereof in chambers if the court be not sitting, may, on the application of the plaintiff or defendant respectively, make such order for an injunction restraining the opposite party from further use, manufacture, or sale of the subject matter of the patent, and for his punishment in the event of disobedience to such order, or for inspection or account, and respecting the same and the proceedings in the action, as the court or judge may see fit; but from such order an appeal shall lie under the same circumstances and to the same court as from other judgments or orders of the court in which the order was made. (§ 24.)

166. COURT MAY DISCRIMINATE IN CERTAIN CASES.—Whenever the plaintiff fails to sustain his action, because his specification and claim embrace more than that of which he was the first inventor or discoverer, and it appears that the defendant used or infringed any part of the invention or discovery justly and truly specified and claimed as new, the court may discriminate, and the judgment may be rendered accordingly. (§ 25.)

167. DEFENSE IN SUCH CASES.—The defendant in any such action may specially plead as matter of defense any fact or default which by this act or by law would render the patent void; and the court shall take cognizance of that special pleading and of the facts connected therewith, and shall decide the case accordingly. (§ 26.)

**XIV. Nullity, Impeachment, and Voidance of Patents.**

SEC.	SEC.
168. Patents to be void in certain cases, or only valid for part.	170. Proceedings for impeachment of patent.
169. Patents to be conditioned on manufacture in Canada within three years; importing the article patented.	171. Certificate of judgment voiding patent to be entered.
	172. Judgment to be subject to appeal.

**168. PATENT TO BE VOID IN CERTAIN CASES, OR ONLY VALID FOR PART.**—A patent shall be void if any material allegation in the petition or declaration of the applicant be untrue, or if the specification and drawings contain more or less than is necessary for obtaining the end for which they purport to be made, such omission or addition being willfully made for the purpose of misleading; but if it shall appear to the court that such omission or addition is simply an involuntary error, and it is proved that the patentee is entitled to the remainder of his patent *pro tanto*, the court shall render a judgment in accordance with the facts, and determine as to costs, and the patent shall be held valid for such part of the invention described, and two office copies of such judgment shall be furnished to the Patent Office by the patentee, one to be registered and to remain of record in the office, and the other to be attached to the patent and made a part of it by a reference. (§ 27.)

**169. PATENTS TO BE CONDITIONED ON MANUFACTURE IN CANADA WITHIN THREE YEARS; IMPORTING THE ARTICLE PATENTED.**—Every patent granted under this act shall be subject, and expressed to be subject, to the condition that such patent, and all the rights and privileges thereby

granted, shall cease and determine and the patent shall be null and void at the end of three years from the date thereof, unless the patentee shall, within that period, have commenced, and shall after such commencement carry on in Canada, the construction or manufacture of the invention or discovery patented, in such manner that any person desiring to use it may obtain it, or cause it to be made for him, at a reasonable price, at some manufactory or establishment for making or constructing it in Canada, and that such patent shall be void if, after the expiration of eighteen months from the granting thereof, the patentee or his assignee or assignees, for the whole or a part of his interest in the patent, imports or causes to be imported into Canada the invention or discovery for which the patent is granted. (§ 28.)

170. PROCEEDINGS FOR IMPEACHMENT OF PATENT.—Any person desiring to impeach any patent issued under this act may obtain a sealed and certified copy of the patent, and of the petition, declaration, drawings, and specification thereunto relating; and may have the same filed in the office of the prothonotary or clerk of the superior court for the Province of Quebec, or of the court of queen's bench or common pleas for the Province of Ontario, or of the supreme court in the Province of Nova Scotia, or of the court of queen's bench in the Province of New Brunswick, according to the domicil elected by the patentee as aforesaid, which courts shall adjudicate on the matter and decide as to costs. The patent and documents aforesaid shall then be held as of record in such court, so that a writ of *scire facias* under the seal of the court, grounded upon such record, may issue for the repeal of the patent for legal cause as aforesaid, if upon

proceedings had upon the writ in accordance with the meaning of this act the patent be adjudged to be void. (§ 29.)

171. **CERTIFICATE OF JUDGMENT VOIDING PATENT TO BE ENTERED.**—A certificate of the judgment voiding any patent shall, at the request of any person or party filing it to be of record in the Patent Office, be entered on the margin of the enrollment of the patent in the office of the Commissioner, and the patent shall thereupon be, and be held to have been, void and of no effect, unless and until the judgment be reversed on appeal, as hereinafter provided. (§ 30.)

172. **JUDGMENT TO BE SUBJECT TO APPEAL.**—The judgment declaring any patent void shall be subject to appeal to any court of appeal having appellate jurisdiction in other cases over the court by which the same was rendered. (§ 31.)

### XV. Patents Issued under Former Laws.

SEC. 173. Existing provincial patents to remain in force.	SEC.	174. Handing over records of patent offices to Commissioner.
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173. **EXISTING PROVINCIAL PATENTS TO REMAIN IN FORCE.**—All patents issued under any act of the legislature of the late Province of Canada, or of Nova Scotia, or of New Brunswick, and all patents issued for the Provinces of Ontario and Quebec, under the act of the late Province of Canada, to the date of the coming into operation of the present act, shall remain in force for the same term and for the same extent of territory as if the act under which they were issued had not been re-

pealed, but subject to the provisions of this act in so far as applicable to them.

2. And it shall be lawful for the Commissioner, upon the application of the patentee named in any such patent, being the inventor or discoverer of the subject-matter of the patent and a British subject, or a resident in any Province of Canada for upwards of a year, if the subject-matter of the patent had not been known or used, nor with the consent of the patentee on sale in any of the other Provinces of the Dominion, to issue, on payment of the proper fees in that behalf, a patent under this act, extending such provincial patent over the whole of the Dominion, subject to the provisions of the seventeenth section; but no patent so issued shall extend beyond the remainder of the term mentioned in the provincial patent. (§ 32.)

174. HANDING OVER OF RECORDS OF PROVINCIAL PATENT OFFICE TO THE COMMISSIONER.—All the records of the Patent Offices of the late Province of Canada, and of the Provinces of Ontario and Quebec, of Nova Scotia and New Brunswick, shall be handed over by the officers in charge of them to the Commissioner of Patents of invention or discovery, to form part of the records of the Patent Office for the purposes of this act. (§ 33.)

#### XVI. Tariff of Fees.

Sec.	Sec.
175-178. With reference to fees, how and to whom to be paid.	179. The Commissioner to have the power of returning one half of the Government fee.

175. FEES HOW AND TO WHOM TO BE PAID.—The following fees shall be payable to the Commissioner before

an application for any of the purposes hereinafter mentioned shall be entertained, that is to say:

On petition for a patent for five years-----	\$20 00
On petition for extension from five to ten years-	20 00
On petition for extension from ten to fifteen years -----	20 00
On lodging a caveat-----	5 00
On asking to register a judgment <i>pro tanto</i> -----	4 00
On asking to register an assignment-----	2 00
On asking to attack a disclaimer to a patent----	4 00
On asking for a copy of patent with specification-	4 00
On petition to reissue a patent after surrender and on petition to extend a former patent to the Dominion the fee shall be at the rate of--	4 00
for every unexpired year of duration of such patent.	

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

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

(§ 34.)

176. FEES, &c.—For every copy of drawings the party applying shall pay such sum as the Commissioner considers a fair remuneration for time and labor expended thereon by an officer of the department or person employed to perform such service. (§ 35.)

177. FEES, &c.—The said fees shall be in full of all services performed under this act in any such case by the Commissioner or any person employed in the Patent Office. (§ 36.)

178. FEES, &c.—All fees received under this act shall be paid over to the Receiver General, and form part of the consolidated revenue fund of Canada, except such sums as may be paid for copies of drawings when made by persons not receiving salaries in the Patent Office. (§ 37.)

179. COMMISSIONER HAS POWER TO RETURN ONE HALF OF GOVERNMENT FEE.—No fee shall be made the subject of exemption in favor of any person; and no fee, once paid, shall be returned to the person who paid it, except:

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

2. When the petition for a patent is withdrawn.

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

And in the case of withdrawal, a fresh application shall be necessary to revive the claim, as if no proceeding had taken place in the matter. (§ 38.)

## XVII. Miscellaneous Provisions.

SEC.	SEC.
180. Applicant may file a caveat.	189. Patent not to affect previous purchaser of invention.
181. Causes why Commissioner may refuse to grant a patent.	190. Patented articles to be stamped with date of patent.
182. Commissioner to notify applicant of rejection.	191. Punishment of parties who stamp an article as patented when such is not the case.
183. Appeal to Governor in Council.	192. Punishment of offenders for making false entry or copy.
184. Interfering applications.	193. All acts inconsistent with present act repealed.
185. Documents in Patent Office to be open to inspection of the public, except caveats.	194. Title of act: The Patent Act of 1869.
186. Clerical errors.	195. Act to commence and take effect July 1, 1869.
187. Lost or destroyed patent may be replaced.	
188. Use of patented inventions allowed in foreign ships.	

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

181. **CAUSES WHY COMMISSIONER MAY REFUSE TO GRANT A PATENT.**—The Commissioner may object to grant a patent in the following cases:



1. When he is of opinion that the alleged invention or discovery is not patentable in law;

2. When it appears that the invention or discovery is already in the possession of the public with the consent or allowance of the inventor;

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

4. When it appears that the invention or discovery has already been patented, except, however, when the case is one within the seventh section of this act, or one in which the Commissioner has doubts as to whether the patentee or the applicant is the first inventor or discoverer. (§ 40.)

182. COMMISSIONER TO NOTIFY APPLICANT OF REJECTION.—Whenever the Commissioner objects to grant a patent, as aforesaid, he shall notify the applicant to that effect, and shall state the ground or reason therefor with sufficient detail to enable the applicant to answer, if he can, the objection of the Commissioner. (§ 41.)

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

184. INTERFERING APPLICATIONS.—In cases of interfering applications for a patent the same shall be submitted to the arbitration of three skilled persons, one of whom shall be chosen by each of the applicants, and the third person shall be chosen by the Commissioner, or by his deputy, or the person appointed to perform the duty

of that office; and the decision or award of such arbitrators, or any two of them, delivered to the Commissioner in writing, and subscribed by them, or any two of them, shall be final as far as respects the granting of the patent.

2. If either of the applicants refuses or fails to choose an arbitrator, when required so to do by the Commissioner, the patent shall issue to the opposite party; and when there are more than two interfering applicants, and the parties applying do not all unite in appointing three arbitrators, the Commissioner or his deputy, or person appointed to perform the duty of that office, may appoint the three arbitrators for the purposes aforesaid. (§ 43.)

185. DOCUMENTS IN PATENT OFFICE TO BE OPEN TO INSPECTION OF THE PUBLIC, EXCEPT CAVEATS.—All specifications, drawings, models, disclaimers, judgments, and other papers, except caveats, shall be open to the inspection of the public at the Patent Office, under such regulations as may be adopted in that behalf. (§ 44.)

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

187. LOST OR DESTROYED PATENT MAY BE REPLACED.—In case any letters patent shall be destroyed or lost, others of the like tenor, date, and effect may be issued in lieu thereof, on the party paying the fees hereinbefore prescribed for office copies of documents. (§ 46.)

188. USE OF PATENTED INVENTIONS ALLOWED IN FOREIGN SHIPS.—No letters patent shall extend to prevent the use of any invention or discovery in any foreign ship

or vessel, where such invention or discovery is not so used for the manufacture of any goods to be vended within or exported from Canada. (§ 47.)

189. PATENT NOT TO AFFECT PREVIOUS PURCHASER OF INVENTION.—Every person who, before the issuing of a patent, has purchased, constructed, or acquired any invention or discovery, for which a patent has been obtained under this act, shall have the right of using and vending to others the specific art, machine, manufacture, or composition of matter patented, so purchased, constructed, or acquired before the issue of the patent therefor, without being liable to the patentee or his representatives for so doing; but the patent shall not be held invalid as regards other persons by reason of such purchase, construction, or acquisition, or use of the invention or discovery by the person first aforesaid, or by those to whom he may have sold the same, unless the same was purchased, constructed, or acquired, or used for a longer period than one year before the application for a patent therefor. (§ 48.)

190. PATENTED ARTICLES TO BE STAMPED WITH DATE OF PATENT.—Every patentee under this act shall stamp or engrave on each patented article sold, or offered for sale, by him, the year of the date of the patent applying to such article, thus: "Patented 1869," or as the case may be; and any such patentee selling or offering for sale any such patented article not so marked, shall be liable to the punishment of a fine not to exceed \$100, and in default of the payment of such fine to imprisonment not to exceed two months. (§ 49.)

191. PUNISHMENT OF PARTIES WHO STAMP AN ARTICLE AS PATENTED WHEN SUCH IS NOT THE CASE.—Whosoever

writes, paints, prints, molds, casts, carves, engraves, stamps, or otherwise marks upon anything made or sold by him, and for the sole making or selling of which he is not the patentee, the name, or any imitation of the name, of any patentee for the sole making or selling of such thing, without the consent of such patentee, or without the consent of the patentee writes, paints, prints, molds, casts, carves, engraves, stamps, or otherwise marks upon anything not purchased from the patentee, the words "patent," "letters patent," "Queen's patent," "patented," or any word or words of like import, with the intent of counterfeiting or imitating the stamp, mark, or device of the patentee, or of deceiving the public and inducing them to believe that the thing in question was made or sold by or with the consent of the patentee, shall be deemed to have committed a misdemeanor, and shall, on conviction, be punished therefor by fine or by imprisonment, or both, in the discretion of the court before which the conviction shall be had; but the fine shall not exceed \$200, nor shall the imprisonment exceed three months. (§ 50.)

192. PUNISHMENT OF OFFENDERS FOR MAKING FALSE ENTRY OR COPY.—Any person willfully making or causing to be made any false entry in any register or book, or any false or altered copy of any document relating to the purposes of this act, or who shall produce or tender any such false or altered document, knowing the same to be such, shall be guilty of a misdemeanor, and shall be punished by fine and imprisonment accordingly. (§ 51.)

193. ALL ACTS INCONSISTENT WITH PRESENT ACT REPEALED.—Chapter thirty-four of the Consolidated Statutes of the late Province of Canada, respecting patents

for inventions, chapter one hundred and seventeen of the Revised Statutes of Nova Scotia, (third series,) chapter one hundred and eighteen of the Revised Statutes of New Brunswick, and any act amending any of the said chapters or any other act, are hereby repealed, in so far as they or any of them may be inconsistent with this act, or make any provision in any matter provided for by this act, except only as respects all rights acquired and penalties or liabilities incurred under the said laws, or any of them, before the coming into force of this act. (§ 52.)

194. **TITLE OF ACT: THE PATENT ACT OF 1869.**—When citing this act it shall be sufficient to call it “The Patent Act of 1869.” (§ 53.)

195. **ACT TO COMMENCE AND TAKE EFFECT JULY 1, 1869.**—This act shall commence and take effect on the first day of July, 1869. (§ 54.)

### XVIII. Rules, Regulations, and Forms of the Canadian Patent Office.

Sec.	Sec.
196. Date of approval.	208. Extension.
197. Personal appearance.	209. Form of patent.
198. Applicant responsible.	210. Model.
199. Correspondence.	211. Fees.
200. Clerical requirements.	212. Time for perfecting application.
201. Address.	213. Separate inventions cannot be claimed in one application.
202. Forms.	214. Protest.
203. Petition.	215. Cases of doubt.
204. Joint application.	216. Caveat.
205. Oath.	217. Intricate cases.
206. Specification.	218. General remarks.
207. Drawings.	

196. **DATE OF APPROVAL.**—The following rules were

approved by the Governor in Council on the 2d of July, 1869, under the patent act of 1869.

197. **PERSONAL APPEARANCE.**—There is no necessity for any personal appearance at the Patent Office, unless specially called for by order of the Commissioner or the Deputy Commissioner, every transaction being carried on by writing. (Rules of 2d July, 1869.)

198. **APPLICANT RESPONSIBLE.**—In every case the applicant or depositor of any paper is responsible for the merits of his allegations, and of the validity of the instruments furnished by him or his agent. (*Ib.*)

199. **CORRESPONDENCE.**—The correspondence is carried on with the applicant, or with the agent who has remitted or transmitted the papers to the office, but with one person only. (*Ib.*)

200. **CLERICAL REQUIREMENTS.**—All papers to be clearly and neatly written on foolscap paper, and every word of them is to be distinctly legible, in order that no difficulty should be met with in taking cognizance of and in registering and copying them. (*Ib.*)

201. **ADDRESS.**—All communications are to be addressed in the following words: "To the Commissioner of Patents, Ottawa." (*Ib.*)

202. **FORMS.**—As regards proceedings not specially provided for in the following forms, any form being conformable to the letter and spirit of the laws will be accepted, and if not so conformable will be returned for correction. (*Ib.*)

203. **PETITION.**—The petition asking for the granting of a patent of invention shall be made after the following form: (*Ib.*)

*To the Commissioner of Patents,*

*Ottawa:*

The petition of [*Christian name or names in full of inventor, inventors, assignee, or other legal representative of inventor*], of the [*city, town, or other locality, as the case may be*], in the Province of [*as the case may be*], [*trade or profession*], showeth: That your petitioner has been a resident of Canada for at least one year next before the present application [*mention to be made of place, and changes of residence*]; that he hath discovered [*or "invented," as the case may be*] a certain new and useful [*art, "machine," "manufacture," or "composition of matter," as the case may be, or certain new and useful "improvements"*], on a certain [*art, "machine," "manufacture," or "composition of matter," as the case may be*], now in ordinary use for [*stating the use or object of the art, &c., as the case may be*], to be called or known as [*"name of invention or improvement"*], and that such his discovery [*or "invention," as the case may be*], was and is not known or used by others before his discovery [*or "invention," as the case may be*] thereof, and was and is not, at the time of this application, in public use or for sale with his consent or allowance as such inventor [*or discoverer, as the case may be*]; and that the oath or affirmation, drawings, descriptions, and specifications thereof, in duplicate, are transmitted herewith, pursuant to the statute in such case made and provided; the said invention being [*insert here a very short description of the invention and of its object*].

Your petitioner, being desirous of obtaining an exclusive property in the said invention or discovery [*as the case may be*], therefore prays that a patent may be granted to your petitioner therefor for the term allowed by law; and, for the purposes of the patent act of 1869, your petitioner elects his domicile in the [*city, town, or locality, as the case may be*], in the county of [*name of county*], in the Province of [*name of Province*].

[*Signature of inventor.*]

[*Place and date.*]

204. JOINT APPLICATION.—In case of joint applications, in cases of applications from assignees, heirs, or other legal representatives, the petition should, otherwise being made after the above given form, be altered, according to the circumstances of the case, to meet the requirements of the statute, particularly of §§ 8, 10, 11, 12. (*Vide supra pp. 116, 117, 118.*)

205. OATH.—The oath to be subscribed by an appli-

cant for a patent of invention shall be made after the following form: (*Ib.*)

Canada, Province of

county of

I, \_\_\_\_\_, of \_\_\_\_\_, in the county of \_\_\_\_\_, in the Province of \_\_\_\_\_, make oath and solemnly swear, that I verily believe that I am the inventor [or discoverer] of the invention which I call [*name of the invention*], and for which I solicit a patent by my petition to the Commissioner of Patents, dated the [*insert date of petition*], and I further make oath that I have been a resident of Canada for one year next before my application. [Signature of deponent.]

Sworn and signed before me }  
this [*day of month and year*], }  
at [*name of place*]. }  
[Signature of J. P.],  
Justice of the Peace.

The same general form is to be adopted, with such alterations as may be necessitated by circumstances, where the application is made abroad, or by joint inventors, by assignees, heirs, or other legal representatives, in conformity with the patent act, § 11. (*Ib.*)

206. SPECIFICATION.—The specification accompanying a petition for a patent of inventions shall be made in duplicate, and after the following form: (*Ib.*)

*To all whom it may concern:*

Be it known that I, [*name of inventor or discoverer, as the case may be,*] of [*place of residence and trade or profession; if more than one inventor, add his or their names, place of residence, and trade or profession, and word the specification throughout according to circumstances*], have invented a new and useful [*art, "machine," &c., same as in petition*], and I do hereby declare that the following is a full, clear, and exact description of the construction and operation of the same. [*Reference being had to the annexed drawings, where the nature of the case admits of drawings; describe the several drawings, and refer to the parts by letters. Here describe the principle, and the several modes in which the applicant contemplates the application of that principle or character, by which the invention or discovery may be dis-*



*tinguished from other inventions or discoveries.]* What I claim in my invention is, *[here express the nature and character of the invention in short, without reference to its advantages, and identify the parts claimed, separately or in combination. If the specification is for an improvement or improvements, the original invention should be disclaimed, and the improvement or improvements clearly and separately enumerated, as distinguished from the original object so improved.]*

*[Place, date, and year.]*

*[Signature of inventor.]*

Signed in the presence of—

*[Signatures of two witnesses, and to be the same as those who attest the drawing.]*

**207. DRAWINGS.**—The drawings illustrating the specification filed with an application for a patent of invention shall be made in accordance with the following directions and form, and furnished in duplicate:

The drawings are to be made on tracing linen, each sheet to be of the size of a foolscap sheet of paper, and the said sheets as few in number as possible. The different figures of the drawings are to be marked thus: Fig. 1, front view; fig. 2, side view, &c., &c.; and the separate parts are to be marked with letters in the specification and on the drawing sheet itself; the drawing must bear the name of the invention, and be signed by the inventor and the two same witnesses who signed the specification, all after the following general form. The drawings are to be neatly executed, and without colors:

*[Title of the invention.]*

Fig. 1, front view.

*[Drawing.]*

Fig. 2, side view.

*[Drawing.]*

Fig. 3, cross section.

*[Drawing.]*

Fig. 4, wheel.

*[Drawing.]*

*Reference for examples:*

- a. Shaft;
- b. Valve;
- c. Regulator;
- &c., &c., &c.

Certified that this is the drawing referred to in the specification hereunto annexed.

[Place and date.]

[Signature of the applicant.]

[Signature of inventor.]

[Signature.]  
[Signature.]

} Witnesses.

208. EXTENSION.—An application to obtain the extension of a former patent to the whole of the Dominion must be accompanied with the former patent itself, with neat duplicate copies of the original specification and drawing, certified by the inventor before the same two witnesses signing the petition; and the said petition shall be made after the following form: (*Ib.*)

*To the Commissioner of Patents,*

*Ottawa:*

I, [names,] of the [locality of residence], in the county of [name of county], in the province of [or elsewhere, as the case may be], being a British subject, [or a resident of Canada for upwards of a year,] and being the discoverer [or inventor] of the subject-matter of a patent granted to me on [day, month, and year], in the province of [Nova Scotia, New Brunswick, or former Province of Canada, or for the Provinces of Ontario and Quebec, as the case may be], which I now produce, and the said subject-matter of my said invention and patent called [name of invention] being not, with my consent, known or used nor on sale in any of the other Provinces of the Dominion, I hereby therefore pray that a patent, under the "Patent Act of 1869," be granted to me, extending the privileges of my former patent over the whole of the Dominion for the remainder of the term mentioned in my former patent, namely, to the [insert day, month, and year at which the former patent was to expire.]

In testimony thereof I have signed in the presence of the two undersigned witnesses at the place and date hereunder mentioned.

[Place and date.]

[Signature of the applicant.]

[Signatures of the two witnesses.]

209. FORM OF PATENT.—A patent of invention will be made after the following form: (*Ib.*)

*Canada Patent of Invention.*

[SEAL.] Whereas in accordance with an act of the Parliament of Canada, called "The Patent Act of 1869," [*names of patentee*], of the [*name of locality*], in the province of [*name of province*], being a resident of Canada, having elected his domicile, for the purpose of the present patent, in [*designation in full of domicile elected*], having otherwise complied with the requirements of the said act to obtain a patent, and having furnished specification and drawings, one duplicate of each being hereunto annexed as part essential of this present patent, the said specification and drawings being the description and illustration of the said invention called [*name of the invention or improvement*], of which the said [*names*] declares himself to be the inventor.

The present patent is granted to him, his heirs, assigns, or other legal representatives, for the period of five years from the date thereof, subject to extension of further periods, in accordance with "The Patent Act of 1869," to confer on the said patentee all the privileges intended to be conferred by the said act, or by the patentee complying with the further obligations required by the said act.

Provided always that the validity of this present patent rests on the truthfulness of the allegations, description, and specification of the said patentee.

The present patent, however, shall cease and determine and be null and void at the end of three years from the date thereof, unless the patentee shall within that period have commenced, and after such commencement carry on, in Canada the construction or manufacture of the said invention, and shall cease and determine and be null and void at the end of eighteen months from the granting thereof, if the patentee or his legal representatives import, or cause to be imported, into Canada the invention for which the patent is granted.

In testimony whereof the present patent has been signed according to the said act, sealed with the seal of the Patent Office, and countersigned in the Department of Agriculture, on the [*date, month, and year written in full and prominently.*]

[*Signature of the Commissioner of Patents  
or of a member of the Privy Council.*]

Countersigned:

Deputy Commissioner. }

This specification will be attached to the patent to form an essential part thereof, and the first folio of the said specification will be sealed at one corner with the seal of the Patent Office. (*Ib.*)

The present form, otherwise remaining the same, will be altered in some particulars to meet the circumstances of the case when the patent is given to joint inventors, to an assignee or assignees, to legal representatives, or when it is a patent extending a former patent to the whole of the Dominion, or is a reissue, or in any other special case. (*Ib.*)

210. MODEL.—The models required by law must be neat and substantial working models, the dimensions of which are not to exceed, in any case, eighteen inches in their longest side, unless otherwise allowed by special permission previously obtained. Such models must be so constructed as to show exactly every part of the invention and its mode of working. In cases where samples of ingredients and samples of the composition made of such ingredients (neither of which being dangerous or explosive substances) are required by law, they must be contained in glass bottles, properly arranged. Both models and bottles must bear the name of the inventor, the title of the invention, and the date of the application; and they must be furnished to the Patent Office free of every charge, and delivered in good order.

211. FEES.—All fees required by law shall be transmitted with the application to which they appertain in values not subject to any discount, and be better made, whenever practicable, in post-office money-orders, inclosed in registered letters. (*Ib.*)

212. APPLICATIONS TO BE PERFECTED WITHIN TWO

YEARS.—All applications must be proceeded with and perfected within two years after the lodging of the petition, in default of which it will be regarded as abandoned, and all previous proceedings and payment of fees will be held at the expiration of that period as of no avail. (*Ib.*)

213. SEPARATE INVENTIONS CANNOT BE CLAIMED IN ONE APPLICATION.—Two or more separate inventions cannot be claimed in one application, nor patented in one patent, unless they are so dependent of and connected with each as to be necessarily taken together to obtain the end sought for by the inventor; and in this latter case the Commissioner of Patents is the judge as to whether or not the pretensions of the applicant are founded in fact and reason. (*Ib.*)

214. PROTEST.—The filing of a protest against the issuing of a patent shall not be taken in itself as a sufficient reason to withhold the granting of such patent to an applicant. (*Ib.*)

215. CASES OF DOUBT.—In cases of doubt, and in accordance with the letter and meaning of the law, patents may be issued for an invention already patented, a trial before a judicial tribunal being in such cases the only means of discovering who is the real or first inventor.

216. CAVEAT.—A caveat must be composed of a specification, (and drawings,) and as long as it remains uninterfered with, and that the filer is not called upon to lodge his application in due form on account of an interfering application, the said proprietor thereof can lodge with it additional papers, provided these papers are relevant exclusively to the perfecting of the same invention in progress of completion. (*Ib.*)

217. **INTRICATE CASES.**—All cases connected with the intricate and multifarious proceedings issuing from the working of a law of patents of invention, which are not specially defined and provided for in these rules, shall be decided, in accordance with the merits of each case, by authority of the Commissioner of Patents, and the decision shall be communicated to the interested parties through the departmental correspondent of the Patent Office. (*Ib.*)

218. **GENERAL REMARKS.**—The correspondence with the department is carried through the Canadian mail free of postage. The forwarding of any paper should always be accompanied by a letter, and a separate letter should be written in relation to each distinct subject.

It is particularly recommended that reference should be made to the law before writing on any subject to the department, in order to avoid unnecessary explanations and useless loss of time and labor; and it is also recommended in every case to have the papers and drawings prepared by a competent person, for the interest both of the applicant and of the public service.

A sufficient margin should be left on paper, and especially on specifications and assignments, for the insertion of references or certificates and for the affixing of the seal thereto.

Although it is optional for the applicant to annex drawings to the specification of a caveat or not, still it is important in the party always to attach drawings to the said specification.

It must be remembered, that the better papers are executed the sooner the work is dispatched at the office,

and the surer the regularity of the proceedings is guaranteed.

It must be remembered, when drawing the petition for a patent of inventions, that if a change in the residence mentioned has taken place during the year next to the date of the petition, the change or changes should be mentioned, in accordance with the twelfth section of the patent act of 1869. (*Ib.*)

### XIX. Cape of Good Hope.

SEC.	SEC.
219. Law, date, and where recorded.	223. Documents, where to be left.
220. Kinds of patents.	224. Assignments.
221. Duration.	225. Specifications and drawings.
222. Government fees.	226. Other legal provisions.

219. LAW, DATE, AND WHERE RECORDED.—Act No. 17, of 1860, dated 30th August, 1860. (See *Commissioners of Patents' Journal*, *vide supra* 71, No. 727, An., 1860.)

220. KINDS OF PATENTS.—Letters patent granted to the true and first inventor. Disclaimer and alterations. English patents granted *before* the 1st July, 1860, to be valid in the colony.

221. DURATION.—Fourteen years. Patents to expire at the end of the third or seventh year, if the requisite payments are not made. Letters patent for foreign inventions not to continue after expiration of foreign patent. Extension for a term not exceeding fourteen years after the expiration of the first term.

222. GOVERNMENT FEES.—On deposit of specification, £2 10s.; to the Attorney General for any appointment, £2 4s. 6d.; on obtaining letters patent, £2 10s.; at or

before the expiration of third year, £10; at or before the expiration of seventh year, £20; to the Attorney General with particulars of objections, £2 4s. 6d.; on presenting petition for examination or confirmation, £2 10s.; every search and inspection, 1s.; entry of assignment or license, 10s.; certificate of assignment or license, 10s.; filing memorandum of alteration or disclaimer, £2 10s.; entering any caveat, £2 10s.; copy or extract of any writing, per common law folio, 1s.

223. DOCUMENTS REQUIRED, AND WHERE TO BE LEFT.—A complete specification (two copies) and drawings and models, if any, to be deposited at the office of the Colonial Secretary. Notice to proceed to be given to the Attorney General for publication in the government gazette and two local papers. Grant for letters patent issued by Attorney General after one month's notice. Letters patent, bearing date of deposit of specification, to be issued within three months after said warrant, or during the protection.

224. ASSIGNMENTS.—Registered as above, and legal copies thereof to be had. More than twelve persons may have a legal and beneficial interest in one patent.

225. ORIGINALS OF SPECIFICATIONS AND DRAWINGS, DISCLAIMERS, &c.—To be filed at the end of six months, at a proper office, with indexes, registers, &c., for public inspection.

226. OTHER LEGAL PROVISIONS.—Patent of true inventor not to be affected by specification of pretended inventor. Letters patent may be repealed or withheld and specification canceled by writ of the supreme court, in the nature of a writ of *scire facias* in England. Letters patent not to prevent the use of invention in foreign