

THE
P A T E N T L A W S

OF

ALL NATIONS:

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COMPILED AND ANNOTATED

BY

BENJAMIN VAUGHAN ABBOTT.

VOL. I.

ALGERIA—TURKEY.

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~~COMPAN. LAW~~

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PREFACE.

THE usefulness of works like this is well understood. They enable a solicitor of patents to inform an inventor in what countries and at what cost he can patent his invention. They assist counsel to advise the owner of a patent what rights and protection it gives him, what will constitute an infringement, and what, in various countries, are his remedies. These being their uses, they must be published often, in order that changes in the various laws may be promptly chronicled, and that statutes newly enacted may be early substituted for any repealed.

This volume presents the Patent Laws of All Nations, so far as I have been able to find them in English dress. Little has been done in revising the translations; those given are such as have been found in trustworthy works, and appear correct. Each law is followed by a reference to the source whence it was derived; and in instances where materially differing translations have been found both are given, or that preferred is copied, adding a reference to the other, to aid comparison. The explanations of points in civil and political geography which abound, though brief, have been prepared with care, on

the basis of a wide search among the cyclopedias and geographic works in use in this country; and will be useful in showing the territorial authority of the various acts.

More of the within laws have been taken from a compilation by Messrs CARPMAEL, published in England about two years ago, than from any other one source; the United States Patent-office Gazette coming next. It was prepared with ability and skill, and at the time of its appearance was satisfactory. But since that time eight or ten new laws have been promulgated which are here collected; and there are as many more of which I have thought best to give versions different from those presented by the English work. For example, I have enlarged the quotations from the acts of the British Parliament; have added one or two Canadian acts (being indebted for them to a digest in pamphlet form by Mr. RICHARDS of New York City); have taken the Patent provisions of the French Code of Commerce from M. GOIRAND'S translation, adding extensive notes of French decisions, founded on his commentary; and under several other countries have made considerable additions. The reader will also notice that my presentation of the laws of the United States is brought down to date, is accompanied by extensive notes (in which the more important of the cases collected in ABBOTT'S NATIONAL DIGEST are rearranged, and those published since that work are added), and is followed by the official forms.

BENJ. VAUGHAN ABBOTT.

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PATENT LAWS OF ALL NATIONS.

VOL. I.

ALGERIA-TURKEY.

ALGERIA.

IN the encyclopedias and geographical works most in use throughout the United States at the present time, "Algeria" is the name of the largest and most important of the colonial possessions of France; "Algiers" being its capital city. In general, the patent law of France extends over her colonies (see FRANCE); but according to M. Leopold Goirand, there is a decree on the subject of patents, dated June 5, 1850, "specially relating to Algiers." *Goirand's French Code of Commerce* (1880), 454, art. 15.

ANTIGUA.

See LEEWARD ISLANDS.

ANTILLES.

See SPAIN.

ARGENTINE REPUBLIC.*Law of October 11, 1864.***TITLE I.****GENERAL PROVISIONS.**

ARTICLE 1. All new discoveries or inventions in any branch of industry confer on their originators the exclusive right of working the same during a fixed term and under certain conditions, conformably to article 17 of the constitution, upon the said right being established by a document called a *Patent of Invention*, to be delivered in the form prescribed by the present law.

ART. 2. The preceding paragraph applies not only to inventions and discoveries made in this country but also to those patented in foreign countries, provided the applicant be the inventor or his assignee, and provided also the conditions and formalities mentioned hereafter be duly observed.

ART. 3. The following shall be considered as new discoveries or inventions, viz., all new products of industry ; new means, and the new application of known means, for obtaining an industrial result or product.

ART. 4. The following are not patentable ; viz., pharmaceutical compositions ; financial schemes ; such discoveries or inventions as have, previous to the application, received a sufficient publicity in works, pamphlets, or periodicals, in this country or abroad, for being worked ; those of a mere theoretical nature, without any indication of their practical use in industry ; and finally, inventions contrary to morals or to the laws of the republic.

ART. 5. Patents shall be granted for the term of five, ten, or fifteen years, according to the merit of the invention and the wish of the applicant ; the re-issue (confirmation) of foreign patents shall be limited to ten years, and in no case shall the term exceed that of the original patent, at the expiration of which they shall lapse.

ART. 6. A new patent has to be paid for at the rate of 80, 200, or 350 piasters (*pesos fuertes*), according to its being taken for the term of five, ten, or fifteen years. The re-issue of foreign patents is subject to the payment of a sum proportional to the term for which it is granted according to the same scale of fees.

ART. 7. The payment of the fees shall be made, one half at the

time of application, and the other half by successive yearly payments.

ART. 8. The executive government shall regulate by a special decree the mode in which the patent-office has to pay over the said fees to the public treasury.

TITLE II.

PATENT-OFFICE.

ART. 9. The before mentioned patents are to be delivered by a special office established for that purpose.

ART. 10. The official staff of the patent-office is to be composed of a commissioner, at a salary of 1,200 piasters per annum ; of four sub-commissioners, at a salary of 800 piasters per annum ; of a secretary, at a salary of 600 piasters per annum ; and a porter, at a salary of 240 piasters. The five former are to be appointed by the president of the republic direct, and the two latter on the recommendation of the commissioner.

ART. 11. No officer of the patent-office is allowed to hold an interest, directly or indirectly, in patents which come under his control, under pain of dismissal, and a fine of from 100 to 1,000 piasters, if convicted.

ART. 12. The commissioner is chief of the office, and responsible to the government for all the documents and objects deposited, which must be carefully kept and registered.

ART. 13. The sub-commissioners must possess a special knowledge of the applied sciences relating to industry, to enable them to examine, under the direction of the commissioner, all inventions or discoveries sought to be patented, the grant of the patent depending on said examination.

ART. 14. The patent-office shall form a department of the ministry of the interior.

TITLE III.

PROCEEDINGS FOR GRANTING LETTERS PATENT.

FIRST SECTION. APPLICATIONS.

ART. 15. All applications for letters patent must be made by petition addressed to the commissioner of patents. This petition, with a 25 cent stamp affixed, has to be delivered at the patent-office in the capital, or at one of the chief post-offices in the provinces, and must be accompanied by a description, with proper drawings and patterns (all in duplicate), and a list of the objects presented.

ART. 16. In cases where the application is made through the post-office, applicants may deliver the descriptions, patterns, and drawings in a sealed packet, and require the same to be safely forwarded, at their own cost, to the patent-office.

ART. 17. The commissioner of patents shall provide the postmasters mentioned in article 15 with a ledger, duly paged and headed, in which the petitions shall be entered in order of their presentation, with the date and time. A similar book shall be kept as a register at the patent-office. This register is to state in a few words the subject of the application, and has to be signed by the commissioner, the secretary, and the applicant, or his attorney. At the request of the applicant, a certificate of deposit may be delivered to him at the mere cost of a fourth-class paper stamp.

ART. 18. No petition shall be delivered without at the same time depositing one-half of the fees mentioned before, such payment being authenticated by the certificate mentioned in the previous paragraph. The officer neglecting to see this payment made at the time of the application shall be made liable to a fine of double the amount. The same fine shall be imposed upon postmasters who neglect to forward applications to the commissioner of patents by the earliest mail, which is to be proved by the certificate of deposit and a certificate of the postmaster-general, unless such delay is caused by want of time, accidents, or circumstances beyond control.

ART. 19. Applications are to refer to a single chief object, with its accessories and applications; they must mention the term for which the patent is sought, without containing any restrictions, conditions, or reservations whatever; they must indicate a short and precise title of the invention; they must be written in the Spanish language; the omissions or additions must be duly mentioned, and the drawings accompanying the same are to be made in ink, and according to a metrical scale.

SECOND SECTION. ISSUE.

ART. 20. As soon as the application is in the hands of the commissioner, and when it appears that the object applied for is within the limits of article 2, and does not come under the limitation of article 4, the patent is granted, provided the term applied for does not exceed ten years; if it exceeds that time, the application is referred to the minister of the interior for ulterior decision, from which decision there lies no appeal.

ART. 21. All patents shall be issued in the name of the nation, by

authority of the government, and shall bear the signature of the commissioner and secretary, with the official seal, and shall consist of the decree granting the same, accompanied by the duplicate of the description and drawings.

ART. 22. Immediately after the issue of the patent it shall be delivered to the applicant or his attorney. However, if the application has been made through the post-office, the patent shall be forwarded by the same channel, the respective postmasters having to acknowledge the receipt as soon as possible. All subsequent certificates applied for shall be delivered at the rate of 5 piasters each.

ART. 23. The grant of a patent does not obviate the exceptions mentioned in article 46.

ART. 24. Applicants not complying with the provisions of article 15, shall have their patent refused, in which case one half of the sum deposited is returned to them, the other half being forfeited.

ART. 25. On the refusal of a patent an appeal may be made within ten days to the minister of the interior, who, after proper investigation, shall confirm or annul the refusal; in the former case the whole sum deposited is to be forfeited.

ART. 26. A quarterly list of all patents delivered and refused, with their respective dates, has to be forwarded by the commissioner to the government for publication.

THIRD SECTION. CERTIFICATES OF ADDITION OR IMPROVEMENT.

ART. 27. Improvements in patented discoveries or inventions entitle the originators to apply for a certificate of addition, which cannot be granted for a longer period than the original patent has yet to run, provided it does not exceed ten years, except when half that time has expired, or when the improvement lessens by half at least the cost of production, time, risk, or danger, or for other similar reasons, in which case the commissioner has to fix the proper term for which such a patent may be granted.

ART. 28. Certificates of addition are subject to the same formalities as patents, with the exception of the fees, the original patentee having only to pay one-fourth, and others than the patentee one-half of the said fees.

ART. 29. When such certificates of addition have been obtained by others than the original patentee, they do not confer on their owners the exclusive right of working their invention, except under the condition of paying a premium to the original inventor, the

amount thereof having to be fixed by the commissioner by taking into account the importance of the improvement and of the part used of the original invention.

ART. 30. The original inventor has the option between availing himself of the provision contained in the preceding paragraph and of working the improvement jointly with the improver; if he chooses the latter, a patent of addition shall be delivered to him on the same terms as that to the improver.

ART. 31. In no case shall improvers acquire the right of solely working the original invention, and the original inventor may only work the improvement under the second provision of the previous paragraph.

ART. 32. If two or more parties should apply at the same time for a certificate of addition for the same improvement, and if they should not come to some arrangement between themselves, no patent shall be issued to either. The same provision applies also to letters patent.

FOURTH SECTION. PROVISIONAL PATENTS.

ART. 33. Inventors or improvers may obtain a provisional patent, for the term of one year, and renewable at the expiration of each year.

ART. 34. Such a patent shall be obtained, on the payment of 50 piasters, by petition drawn up according to the provisions contained in Art. 15, pointing out the object of the invention and the means of carrying it out.

ART. 35. On the receipt of this petition the commissioner shall deliver the provisional patent, entering the same in a special book, to be kept in his custody in the secret archives, together with all the documents relating thereto.

ART. 36. No provisional patent shall be granted for inventions prohibited by article 4.

ART. 37. The effect of provisional patents is to defer, whilst they are in force, all grants of patents relating to the same invention or improvement until previous notice thereof is given to the original patentee at his own domicile.

ART. 38. The owner of a provisional patent may oppose an intended patent for an invention similar to his own, within three months. At the expiration of that term, or if he has not given due notice of his change of domicile, he shall forfeit his right.

ART. 39. In case of an opposition by the owner of a provisional

patent, the commissioners shall give a separate hearing to both applicants ; and if the inventions should be identical, neither shall obtain a patent, unless both parties come to an arrangement. Should such inventions be different, the patent applied for shall be granted.

ART. 40. The fees paid for a provisional patent shall be deducted from the sum to be paid for letters patent, or for a certificate of addition obtained previous to the expiration of the former.

TITLE IV.

FIRST SECTION. ASSIGNMENT OF PATENTS.

ART. 41. Owners of patents or certificates may assign their rights on their own terms ; such assignments, however, must be made by a notarial act, and after the payment of the entire fees mentioned in article 6. In order to give such assignments legal force with respect to third parties, they must be registered either at the patent-office in the capital, or at the before-mentioned post-offices in the provinces ; and, to have this registration performed, it is necessary to produce the notarial act of assignment. Within five days of this registration, or by the earliest mail if in the provinces, a certificate of the register and the assignment shall be forwarded to the patent-office. The mutations that have taken place shall be entered in a special book, the entries to be published quarterly.

ART. 42. Assignments transfer all the rights of the original patentee, except in cases of special reservations by the latter.

SECOND SECTION. COMMUNICATION AND PUBLICATION OF PATENTS.

ART. 43. On the issue of a patent or certificate the commissioner shall publish it in the newspapers by inserting the name of the patentee, the duration of the patent, and a summary of the invention or discovery.

ART. 44. All descriptions, drawings, patterns, and models of the patents granted, not coming under the provision of article 33, shall be kept at the patent-office for public information. They shall be open to inspection without charge by any person applying for the same ; and copies of the written documents shall be delivered without any other charge than the paper stamp duty of the fourth class.

ART. 45. At the beginning of each year the commissioner of patents shall publish in a volume the list of patents granted during

the preceding year, together with the descriptions and drawings required for the comprehension of the patented inventions or discoveries. A copy of the said publication is to be deposited at the patent-office and at the post-offices mentioned in article 15, for free public inspection.

TITLE V.

NULLITY AND INVALIDITY OF PATENTS.

ART. 46. All patents or certificates obtained contrary to article 4 are null and void, as likewise all those that have been obtained under a fraudulent title, not corresponding to the invention ; whenever the drawings or descriptions are incorrect or incomplete ; whenever, in the case of certificates, they refer to a patent not actually obtained ; or, whenever, in case of a foreign invention, the foreign patent confirmed by the republic has expired ; or, whenever, at the date of the patent the discovery or invention was already in operation in the republic.

ART. 47. All patents duly issued become void whenever the invention has not been worked within two years of the issue of the patent ; whenever the working has been interrupted for a similar period, except by circumstances beyond control, or accident, duly certified by the office ; or, finally, at the expiration of the term for which the patent has been granted.

ART. 48. Actions for the nullity or avoiding a patent can only be instituted by interested parties before the sectional tribunals.

ART. 49. No special judicial decree of nullity or lapse is required for causing the patent discovery or invention to become public property ; the mere fact of nullity or lapse suffices for authorizing every one to work freely the patent articles.

ART. 50. In case the owner of a void or invalid patent should dispute the free working of the invention or discovery to which it relates, either by complaint or otherwise, the official declaration of the invalidity or nullity of the patent may be obtained from the same sectional tribunals.

ART. 51. All decisions are summary ; all proper proofs of title shall be admitted ; but patentees cannot produce any evidence contrary to what is established by the documents of the patent-office, in proof of their privileges. The term for showing cause is to be fixed prudentially by the judge ; however, it can never exceed six months, and that term is only granted in exceptional cases referring to matters lying beyond the sea, and on giving sufficient security in

favor of the claimant. Within ten days of the expiration of the term allowed for evidence, the judge shall deliver judgment and award costs. From this judgment there lies an appeal to the Supreme Court, which must be entered within three days. This court, after previously consulting the patent-office, shall deliver a final judgment.

ART. 52. The nullity or invalidity of a patent being established by judgment, and the judgment having become final, the tribunal shall inform the commissioner of patents thereof, that he may publish it in the prescribed form.

TITLE VI.

INFRINGEMENTS, LEGAL PROCEEDINGS, AND PENALTIES.

ART. 53. Infringements of patent-rights shall be considered as forgeries, and punished by a fine of from 50 to 500 piasters, or by imprisonment of from one to six months, and the forfeiture of the infringing articles, all without prejudice to any indemnity for losses and damages.

ART. 54. The same penalty shall be applied to those who knowingly participate in the infringement by selling, exhibiting, importing, or communicating the infringing articles.

ART. 55. In case of a second offense within five years the before mentioned penalty shall be doubled.

ART. 56. The fact of having been in the employ of the patentee, or having acquired surreptitious information of the invention, shall be considered as an aggravating circumstance.

ART. 57. All actions for the recovery of the above mentioned penalty are private, and are to be pleaded before the same sectional tribunals on the production of the patent, without which the complaint cannot be entered into; the defendant can only plead by way of answer the annulment or invalidity of the patent, his co-interest in the same, or his exclusive right of property.

ART. 58. The claimant has a right to demand security from the defendant for any loss which may be occasioned by his continuing to work the invention pending the trial, and, in default thereof, he may claim the suspension of the working and the seizure of the objects in dispute upon giving in his turn, to the defendant, if required, sufficient security. The seizure is to be effected with the usual legal forms.

ART. 59. All those who call themselves patentees without really

having patents shall be considered as forgers, and are liable to the penalties inflicted on forgers, with the exception of the loss of the infringing articles.

ART. 60. All fines imposed by this law shall be divided equally between the treasury and the informers.

TITLE VII.

RE-ISSUE OF PROVINCIAL PATENTS.

ART. 61. Owners of the provincial patents which are in force at the promulgation of the present law may obtain a re-issue within the six months following, by accompanying the patent with a petition according to the form prescribed by article 15.

ART. 62. Provincial patents not re-issued within said term shall have no effect whatever before the tribunals of the republic.

ART. 63. The re-issue may take place in two ways ; either for the same province in which the patent right was exercised, or for the whole republic. In the former case the patent shall be granted free of expense and without any previous examination ; in the latter case the proceedings shall be the same as for a new patent, and the portion of the fees corresponding to the term allowed must be paid in the usual way.

ART. 64. Re-issues of patents granted for the same province shall only be valid for the remainder of the term of the patent, and the patent rights conferred shall relate to the said province only. When granted for the whole republic, such re-issues may extend to ten years, the time they have already run being deducted.

ART. 65. There shall be kept a special register of these re-issues.

ART. 66. From the promulgation of the present law, all contrary provisions shall be abrogated.

ART. 67. The executive government shall be informed thereof.

From Carpmael's Patent Laws of the World, 1.

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

AUSTRALASIA.

*An Act to constitute a Federal Council of Australasia.**
August 14, 1885, 48 & 49 Vict. c. 60.

Whereas it is expedient to constitute a Federal Council of Australasia, for the purpose of dealing with such matters of common Australasian interest, in respect to which united action is desirable, as can be dealt with without unduly interfering with the management of the internal affairs of the several colonies by their respective legislatures :

Be it enacted, &c. :

1. *Definitions.* In this Act, unless the context otherwise require, the following terms shall bear the meanings set opposite to them respectively :

“Colonies.” The colonies (including their respective dependencies) of Fiji, New Zealand, New South Wales, Queensland, Tasmania, Victoria and Western Australia, and the province of South Australia, and any other colonies that may hereafter be created in Australasia, or those of the said colonies in respect to which this Act is in operation :

“Crown Colony.” Any colony in which the control of public officers is retained by Her Majesty’s imperial government :

“Her Majesty’s possessions in Australasia.” The colonies and such other territories as Her Majesty may from time to time declare by order in council to be within the operation of this Act :

“Council.” The Federal Council as hereby constituted :

* The names Australia and Australasia are used in somewhat different senses in modern times ; but, with reference to the operation of the Act given in the text, Australia is the immense island of that name lying between the Indian and the South Pacific oceans, considered alone, that is, without including the smaller, though settled and important islands of Tasmania, immediately south of Australia (of Victoria), New Zealand, lying south-east, and the Feejee (or Fiji) islands, to the east. New South Wales,

Queensland, Victoria, Western Australia, and South Australia, are divisions of the island Australia, but do not form the whole of it ; the island contains, also, two large regions or divisions, known on the maps as North Australia and Alexandra Land, respectively. Thus the Act given in the text brings under the limited legislative power of a “Federal council of Australasia,” the greater part, but as yet not the whole of Australia, and the most important, but not all of the other islands within Australasia.

“Governor.” The Governor, lieutenant governor, or other officer administering the government of the colony referred to, with the advice of his executive council, except in the case of a Crown Colony, in which case the word shall mean the Governor, lieutenant governor, or such other officer alone.

2. *Institution of Federal Council.* There shall be in and for Her Majesty’s possessions in Australasia a Federal Council, constituted as hereinafter provided, and called the Federal Council of Australasia, which shall have the functions, powers, and authority hereinafter defined.

3. *Power to make laws.* Within such possessions Her Majesty shall have power, by and with the advice and consent of the council, to make laws for the purposes hereinafter specified, subject to the provisions herein contained respecting the operation of this Act.

15. *Matters subject to legislative authority of Council.* Saving Her Majesty’s prerogative, and subject to the provisions herein contained with respect to the operation of this Act, the council shall have legislative authority in respect to the several matters following.

(i.) Such of the following matters as may be referred to the Council by the legislatures of any two or more colonies, that is to say, . . . patents of invention and discovery, copyright, . . . and any other matter of general Australasian interest with respect to which the legislatures of the several colonies can legislate within their own limits, and as to which it is deemed desirable that there should be a law of general application ; provided that in such cases the Acts of the Council shall extend only to the colonies by whose legislatures the matter shall have been so referred to it, and such colonies as may afterwards adopt the same.

17. *Royal assent to bills passed by Council.* Every bill passed by the Council shall be presented, for Her Majesty’s assent, to the Governor of the colony in which the Council shall be sitting, who shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty’s instructions, either that he assents thereto in Her Majesty’s name, or that he withholds such assent, or that he reserves the bill for the signification of Her Majesty’s pleasure, or that he will be prepared to assent thereto, subject to certain amendments to be specified by him.

18. *Power to Her Majesty to disallow Acts.* When the Governor

assents to a bill in Her Majesty's name, he shall, by the first convenient opportunity, send an authentic copy of the Act to one of Her Majesty's principal secretaries of state, and if Her Majesty, within one year after receipt thereof by the secretary of state, thinks fit to disallow the Act, such disallowance (with a certificate of the secretary of state of the day on which the Act was received by him) being signified by such Governor by message to the Council, or by proclamation in the Government Gazette of all the colonies affected thereby, shall annul the Act from and after the day of such signification.

19. *Bill reserved for signification of Her Majesty's pleasure.* A bill reserved for the signification of Her Majesty's pleasure shall not have any force unless and until within one year from the day on which it was presented to the Governor for Her Majesty's assent, such Governor signifies, by message to the Council, or by proclamation published as last aforesaid, that it has received the assent of Her Majesty.

20. *Acts of Council, when assented to, laws.* All Acts of the Council, on being assented to in manner hereinbefore provided, shall have the force of law in all Her Majesty's possessions in Australasia in respect to which this Act is in operation, or in the several colonies to which they shall extend, as the case may be, and on board all British ships, other than Her Majesty's ships of war, whose last port of clearance or port of destination is in any such possession or colony.

21. *Publication of Acts.* Every Act assented to in the first instance shall be proclaimed in the Government Gazette of the colony in which the session of the Council at which it was passed was held, and shall also be transmitted by the Governor assenting thereto to the Governors of the several colonies affected thereby, and shall be proclaimed by them within the respective colonies of which they are Governors.

22. *Acts of Council to supersede colonial enactments.* If in any case the provisions of any Act of the Council shall be repugnant to, or inconsistent with, the law of any colony affected thereby, the former shall prevail, and the latter shall, so far as such repugnance or inconsistency extends, have no operation.

28. *Evidence of proceedings.* Whenever it shall be necessary to prove the proceedings of the Council in any court of justice, or otherwise, a certified copy of such proceedings, under the hand of

the clerk or other officer appointed in that behalf by the Council, shall be conclusive evidence of the proceedings appearing by such copy to have been had or taken.

30. *Commencement of Act in respect of any colony.* This Act shall not come into operation in respect of any colony until the legislature of such colony shall have passed an Act or ordinance, declaring that the same shall be in force therein, and appointing a day on and from which such operation shall take effect, nor until four colonies at the least shall have passed such Act or ordinance.

31. *Power to determine operation of Act in any colony.* This Act shall cease to be in operation in respect to any colony the legislature of which shall have passed an Act or ordinance declaring that the same shall cease to be in force therein: provided, nevertheless, that all Acts of the council passed while this Act was in operation in such colony, shall continue to be in force therein, unless altered or repealed by the Council.

32. *Short title.* This Act shall be styled and may be cited as the Federal Council of Australasia Act, 1885.

From 125 *Publ. Gen. Stat.* 324.

See also: NEW SOUTH WALES; NEW ZEALAND; QUEENSLAND; SOUTH AUSTRALIA; TASMANIA; VICTORIA; WESTERN AUSTRALIA.

AUSTRALIA.

See NEW SOUTH WALES; QUEENSLAND; SOUTH AUSTRALIA; VICTORIA; WESTERN AUSTRALIA.

AUSTRIA-HUNGARY.

Law of August 15, 1852.

WE, FRANCIS JOSEPH the First, by the grace of God Emperor of Austria, King of Hungary and Bohemia, King of Lombardy and Venice, of Dalmatia, &c., &c.,

Being desirous of granting proper protection to the inventive genius even in those provinces of our empire which hitherto have been deprived of patent laws, and considering that the experience earned since the promulgation of the law of March 31, 1832, has shown that many reforms and enlargements are necessary, at the advice of our ministers and of our Imperial Council we have decreed the following rules for the whole extent of our empire:—

SECTION I.

OF THE SUBJECT OF AN EXCLUSIVE PRIVILEGE.

§ 1. Exclusive privileges may be granted under the restrictions stated in §§ 2, 3, 4 and 5, for every new discovery, invention, or improvement having for its object—

- a. A new product of industry; or,
- b. A new means of production; or,
- c. A new method of production;

whether such privileges be demanded by an Austrian subject or by a foreigner, unless the invention be not patentable according to §§ 2-5.

The term *discovery* is applied to the finding out an industrial process that may have been used in former times, but which has since been lost sight of or remained unknown in the empire.

The term *invention* is applied to the producing a new object by new means, or a new object by means known before, or a known object by means different from those used hitherto for the same object.

The term *improvement* or *alteration* is applied to every apparatus, arrangement, or process added to an object known or patented before, by means of which, in the object in view or in the means of arriving at it, a better result or greater economy is attained.

The term *new* is applied to any discovery, invention, or improvement that, up to the time of the application for a privilege,

has neither been worked nor become known through publications in the empire.

§ 2. No privileges can be granted for preparations of food, beverages, and medicines, nor for discoveries, inventions, or improvements which cannot be worked for reasons of public health, morals, or safety, or as being contrary to the general interest of the state, according to the existing regulations.

§ 3. A new discovery, invention, or improvement which is to be imported into the Austrian empire from abroad can only be patented during the currency of the foreign patent; nor can such a grant be made except to the foreign patentee or his assign. Under these restrictions a privilege can be granted for a discovery, invention, or improvement made abroad, provided it has not yet been published in the empire.

§ 4. Improvements of inventions that were known or patented before can only be patented with the restrictive clause that such a privilege does not refer to the whole article, but only to the improved part.

§ 5. Scientific principles, or purely scientific theorems, cannot be patented, even if the principle or theorem admit of a direct application to industrial objects. However, patents may be granted for every new application of such principles or theorems as lead to the creation of a new industrial product, a new means, or a new method of production.

§ 6. Two or several discoveries, inventions, or improvements that are different from each other may only be united into one patent if those discoveries, inventions, or improvements relate to one and the same object, as component parts or operative means.

SECTION II.

OF THE CONDITIONS FOR OBTAINING AN EXCLUSIVE PRIVILEGE, AND THE FORMALITIES TO BE FULFILLED.

§ 7. Applicants for an exclusive privilege for a new discovery, invention, or improvement must fulfill the conditions prescribed in the present law.

Those conditions are:—

a. Applying to the competent authorities by means of a petition in due form, accompanied by the prescribed documents.

b. Payment of a fixed tax.

c. Fulfilling the obligation of describing the new discovery,

invention, or improvement clearly and completely; and, if required for the sake of clearness, of illustrating it by drawings or models, so as to enable every competent man to execute the same after its publication at the expiration of the patent.

§ 8. Petitions for exclusive privileges may be lodged with the stadtholder, or with the judges of districts (judges, delegates, county magistrates), to be forwarded by them.

§ 9. Those petitions must be arranged according to the Form A. They may be delivered by the applicant himself or his attorney. Such petitions must contain—

a. The christian and family name, profession, and residence of the applicant; and, in case of his not being settled in the empire, also the name, profession, and residence of an attorney domiciled in the empire. Applicants must state their christian and family name, profession, &c., even if the privilege is to be worked under a firm bearing a different name from that of the patentee. In such cases the name of the firm chosen must be stated. The said firm, however, must not correspond with an existing firm unless the consent of its proprietor be obtained.

b. The name (title) of the discovery, invention, or improvement; giving the essence of it.

c. The number of years for which the patent is demanded. That number of years cannot exceed fifteen, except by a special grant of the Emperor; and those inventions patented already abroad, and which are to be imported by their proprietors or their assigns, can only be patented for the unexpired term of the foreign patent.

d. The statement whether the discovery, invention, or improvement is to be kept secret or not.

§ 10. Petitions for patents must be accompanied by—

a. The due tax, or the receipt for the same, given by a public treasurer to whom the said tax had been paid. Except that tax, no other fees are to be demanded for a patent, even in the case of a previous examination on public grounds.

b. The power of attorney in case the applicant delivers his petition through an agent (§ 9).

c. In cases of discoveries, inventions, or improvements to be imported from abroad, the foreign letters patent in the original, or in an authenticated copy.

d. The above-mentioned (§ 7 *c*) description of the invention under sealed cover, on which is written the essence of the discovery.

invention, or improvement, corresponding with the statement made in the petition, and the address of the applicant or his attorney.

§ 11. The patent tax is in proportion to the duration of the privilege, and is the same for discoveries, inventions, improvements; for foreigners, or natives. It amounts to 100 florins for the first five years, 200 florins for the following five years, and 400 florins for the last five years; the annual ratio being 20 florins for the first five years, and that of the subsequent years as follows:— 6th year, 30 fl.; 7th year, 35 fl.; 8th year, 40 fl.; 9th year, 45 fl.; 10th year, 50 fl.; 11th year, 60 fl.; 12th year, 70 fl.; 13th year, 80 fl.; 14th year, 90 fl.; 15th year, 100 fl., amounting to 700 fl. for fifteen years, the longest period allowed.

The tax due for the whole number of years which the privilege has been applied for must be paid down at once, or a receipt for the amount has to be produced, to avoid the petition being rejected.

The said tax can only be repaid in case of the privilege being annulled on public grounds, and such repayments shall be in proportion to the unexpired term.

§ 12. The specification (§ 10), which is considered as an essential condition for obtaining an exclusive privilege, must answer the following requirements:—

a. It must be written in German, or in the usual language of the province where the application is made, and be signed by the applicant, or the attorney named in the petition.

b. It must contain the detailed description of the discovery, invention, or improvement, the essence of which was indicated in the petition.

c. It must be drawn out in such a manner as to enable all competent men to manufacture the article according to this description, without the addition of new inventions, additions or improvements.

d. What is new and also what constitutes the object of the privilege must be clearly described and pointed out in the specification.

e. The discovery, invention, or improvement must be set forth in a clear and plain manner, and contain no ambiguities that might lead astray, contrary to the provisions contained in *c.*

f. It must not keep secret anything relating either to the means or mode of working; therefore it is neither permissible to indicate means that are more expensive or do not produce the same effect, nor to conceal devices that relate to the success of the operation.

g. Should drawings, patterns, or models be required for better

understanding the specification, the former must be annexed in lasting colors ; besides which (in as far as it may add to clearness according to *c*), any other print or writing may be added which the applicant shall think fit.

§ 13. The authority to whom a petition is presented is to examine in the presence of the applicant,—

- a.* Whether the petition is in due form, and has been signed;
- b.* Whether the required documents are annexed ;
- c.* Whether the prescribed tax, or a receipt for the same is inclosed.

If the authority finds the petition in good order in this respect, he inscribes, in the presence of the applicant, on the cover of the specification, the day and hour of its presentation, and the amount paid, and hands to the applicant or his attorney a certificate containing the name and residence of the applicant or his attorney, the day and hour of presentation, the payment of the tax, and the title and essence of the discovery, invention, or improvement as set forth in the petition.

From that day and hour, the priority of the discovery, invention, or improvement disclosed, is reckoned, that is, every opposition on the ground of a similar discovery, invention, or improvement made or practiced after that time is considered ineffectual, and cannot refute and annul the novelty of the discovery, invention, or improvement which has been disclosed and described in due order by the applicant.

If an omission or other defect is found out on examination of the petition, the latter is returned to the applicant that he may amend the same.

§ 14. All petitions approved of, together with their annexed documents, are transmitted to the governors of the respective province within three days at the latest, if not addressed to them directly.

§ 15. The governors examine such petitions—

a. As to whether the object of the petition is not evidently unfit for a privilege.

b. As to whether the annexed documents fulfill the prescribed conditions, and particularly as to whether the description of the object of the patent inscribed on the cover of the specification corresponds with the indication made in the petition, and whether the latter is duly signed.

Should a governor think the article to be patented absolutely unfit for a privilege according to § 2-6, he is to inform the petitioner

thereof, requiring him to withdraw and give a receipt for the sealed specification, as well as to receive back the tax paid up, or otherwise to appeal to the ministry of commerce and trades within the term assigned in the regulation of trades.

Should it appear that the annexed documents do not answer the requirements, or that the object of the privilege, as indicated on the cover of the sealed description, does not correspond with the contents of the petition, the governor is to keep back the petition, and to assign a proper term for the amendment of the defect. Should that term not be observed, the petition is to be returned.

All petitions in due form, and not unfit for privilege, as well as those that have been amended within the prescribed term, shall be submitted by the governors, together with the sealed specifications, and all other documents, to the minister of commerce and trades.

§ 16. The minister of commerce and trades is to re-examine whether all the formalities have been fulfilled, and he has the exclusive authority to open the sealed specification and see—

a. Whether the specification is written in a current language (§ 12), and whether it is duly signed.

b. Whether the object for which a patent is desired does not comprehend two or more different objects (§ 6) and requires to be divided.

c. Whether the title of the invention is the same in the petition as on the cover of the annexed specification, and as in the specification itself; moreover, whether the specification possesses that degree of clearness and distinctness required by § 12, particularly whether the required drawings, patterns, and models are present, and whether all formal requirements about the same have been observed.

d. Whether the object to be patented as indicated in its essential features in the petition and on the cover of the specification is not contrary to sanitary laws, or to other public regulations, whereby it becomes entirely unfit for a privilege, or fit only under certain conditions and restrictions. Besides, special care is to be taken for the required secrecy being observed, and due precautions against any possible violation of the secret are to be adopted.

§ 17. No examination ever takes place as to the novelty or utility of the discovery, invention, or improvement before the granting of the privilege; on the other hand, no guarantee is given by the government, which grants the patent in this respect at the mere risk, peril and cost of the patentee.

§ 18. In all those cases, where the checking and examination

according to § 16 disclose no obstacle, the privilege is granted by the minister of commerce and trades by a separate document, otherwise all petitions deemed unfit for acceptance are rejected, the motive for so doing being mentioned, and the tax being ordered to be repaid. However, where there exist defects that may be amended, such rejections take place only after the applicant has failed to amend such defects within the proper term assigned to him for that purpose.

§ 19. The grant of a privilege releases a patentee in no case from the laws, regulations, and prescriptions that exist, or may be promulgated in the interest of public health, safety, morals, or in the interest of the State; the working of the patent is therefore subordinate to such regulations and prescriptions as may limit or defend it without the patentee being allowed to invoke an exceptional rule.

§ 20. The inclosed specifications belonging to the privileges, together with the annexed documents (§ 16), are delivered to the custody and the ulterior use of the central record office for patents, as will be explained in section V. of the present law.

SECTION III.

OF THE ADVANTAGES AND LIBERTIES INCIDENT TO EXCLUSIVE PRIVILEGES.

§ 21. An exclusive privilege secures to the patentee the exclusive use of his discovery, invention, or improvement, as laid down in his specification, for the number of years mentioned in his privilege.

§ 22. The patentee is authorized to establish those workshops and to engage those workmen which are required for the complete working of the subject of the patent to any extent; they may thus form everywhere in the whole empire establishments and depots for the manufacture and sale of the subject of their privilege, and authorize others to work their discovery, invention, or improvement, under the protection of their privilege; they may form partnerships, and work their patent to any extent, dispose of their patent, bequeath it, sell it, give licenses, or otherwise part with it, and obtain patents abroad for the same object.

However, those rights are strictly limited to the proper object of the patented discovery, invention, or improvement, and therefore must not be extended to similar objects, nor be used contrary to existing laws or other privileges.

§ 23. If the privilege relates to an improvement or an alteration

of a patented object it is merely limited to the individual improvement or alteration itself, and it gives to the privileged improver and alterer no right to the rest of the object that has already been patented, or of a process that is already known. On the other hand, the patentee of an object improved or altered by another patentee is not allowed to use the said improvement or alteration without his consent.

SECTION IV.

OF THE EXTENT AND DURATION OF EXCLUSIVE PRIVILEGES, AND THEIR PUBLICATION.

§ 24. The legal effect of exclusive privileges shall be co-extensive with the Austrian territory.

§ 25. The longest duration of privileges is fixed at fifteen years. We reserve to ourselves the right of extending that term, yet such a prolongation shall be demanded by the public authorities only for highly meritorious cases.

§ 26. Every exclusive privilege begins from the day of the delivery of the patent. The publication of the grant of the privilege shall be made in the same manner and within the same time as is provided for laws.

§ 27. Every patentee whose privilege has been granted for a shorter period than the longest (§ 9 c) may claim its prolongation for one or more years within the fixed longest period, provided they demand such a prolongation before the privilege has become extinct (§ 29—2 a, b). To obtain such a prolongation a petition for the same must be delivered in due time, together with the original patent, and the tax in full for the required term of prolongation (§ 11), or the receipt for the same from a public treasurer.

The prolongation is granted by the minister of commerce and trades, and is officially confirmed on the letters patent.

§ 28. Every privilege granted or prolonged by the minister of commerce and trades, as well as every cession of a privilege and its extinction, is published according to § 26.

§ 29. Privileges lose their force—

1. By nullity or by termination (recall, surrender or decree):

a. Such an annulment may take place if it is shown that the legal requirements for an exclusive privilege do not exist, particularly

aa. If it is shown that the description of the privilege is deficient, and particularly if it is not in accordance with § 12, *c—f*, and therefore insufficient.

bb. If any one proves legally that the patented discovery, invention, and improvement, before the day and hour of the official certificate, had already no longer the character of novelty in the empire, according to the provisions of § 1, or that the patented discovery, invention, or improvement had been imported from abroad, and that the privilege in the Austrian States has not been granted to the original proprietor of the foreign patent, or his legitimate assignees (§ 3) ;

cc. If the proprietor of a valid privilege proves that the discovery, invention or improvement patented at a later period is identical with his own discovery, invention, or improvement, as previously laid down according to prescriptions ;

b. If an obligation constituting the validity of the privilege is not fulfilled :

c. If the privilege is contrary to public law (§ 19).

2. By extinction, which takes place,—

a. If within one year at the latest from the date of the patent the patentee has not begun to work his discovery, invention, or improvement in the empire, or whenever he has interrupted his works for two complete years ;

b. If the original or prolonged term of the patent has expired ;

c. If the privilege is surrendered voluntarily.

It is well understood that those reasons, whereby the validity of a privilege ceases or becomes extinct, apply to purchasers of a privilege as well as to the original patentee.

§ 30. As soon as a privilege is invalidated, the use of the respective discovery, invention, or improvement is open to all under the observance of the existing laws regulating trades, and regulations relating thereto.

SECTION V.

OF THE REGISTRATION OF PRIVILEGES AND RECORDING OF SPECIFICATIONS.

§ 31. All privileges as soon as granted are inscribed in a register at the ministry of commerce and trades.

If the privilege is worked under a chosen firm that differs from the true name of the patentee, that firm must also be entered in the register.

The descriptions, drawings, models, &c., belonging thereto are kept in a special record office at the ministry. Every alteration in a privilege is noted in the above register.

§ 32. Any person is at liberty to obtain verbal or written information respecting granted privileges at the patent-office, and for this purpose to inspect the register for himself. The specifications kept at the same place, together with the annexes about which secrecy has not been demanded or belonging to extinct patents, are likewise open to the public ; finally, copies may be taken of single parts of such privileges from the register, or from the privileges that are not to be kept secret. On such occasions those provisions in the present law (§ 44) that relate to infringements are expressly to be pointed out to the applicants.

§ 33. The record office of patents shall submit every month to the minister of commerce and trades a synopsis of the alterations made in privileges during that period by new grants, prolongations, transfers, and extinctions. A copy of that synopsis is forwarded to the governors of provinces and chambers of commerce and trades in the different provinces for the establishment of a register for giving information about patent matters, which information is to be given on demand in the proper way. At the expiration of each year a similar annual synoptical table is published.

§ 34. The specifications of patents expired are printed yearly according to their apparent utility, and circulated in a proper manner.

SECTION VI.

OF THE TRANSFERS OF PRIVILEGES.

§ 35. All exclusive privileges may be transferred entirely or partially to others, during lifetime, as well as by bequest.

§ 36. All assignments, together with the patent, must be submitted to the minister of commerce and trades, directly, or through the governor of the province where the transfer took place, or where the petitioner resides, and for this purpose they must be duly legalized, unless they are issued by a public authority.

If the evidence of the assignment is found by the government or ministry to be defective, it shall be returned for correction.

All proper assignments are to be inserted in the special register (§ 31), and that insertion is to be confirmed on the patents themselves, and in case of a mere partial transfer a special certificate is to be delivered.

§ 37. All registered transfers of privileges are to be published immediately. After such publication no one is allowed to plead ignorance about the transfer.

SECTION VII.

OF INFRINGEMENTS AND THE PROCEEDINGS IN LITIGATION.

§ 38. The following are to be considered as infringements, or as an injury to the holder of a patent. When any one without the consent of the patentee:—

a. Counterfeits or imitates the object of the patent in the manner described in the enclosed specification, even in the case where the counterfeiting or imitating takes place in consequence of the grant of a later patent which is entirely or partially identical.

b. Counterfeits or imitates the object of a patent by importing or bringing such articles from abroad for sale, or for storing and exhibiting for sale; or, finally,

c. Undertaking the sale, or even the storing or exhibiting of such articles for sale.

§ 39. If the specification of a privilege is inserted in the open registers, the very first infringement comes under the law; but if the specification has been kept secret, the repetition only of the infringement is considered as contrary to law, both being punishable, at the request of the injured party with the confiscation of the existing counterfeit goods, and a fine of from 25 fl. to 1000 fl. In case of insolvency of the guilty party, the fine is to be discharged by imprisonment at the rate of one day for 5 fl. As for the tools and means exclusively used for such counterfeitings, they are to be destroyed, transformed, or made useless, according to their nature, unless a special agreement be made between the parties.

The fine is to be paid into the poor-box of the place where the infringement took place. The confiscated objects are to be destroyed, unless the plaintiff agrees to take them in payment of damages given to him.

If the defendant has taken advantage of any knowledge of the discovery, invention, or improvement acquired in the service or by the trust of the plaintiff, such a circumstance must be considered as aggravating the guilt.

§ 40. Should the injured person not proceed criminally, or in cases of a first infringement of a privilege of which the specification is kept secret, the injured person is only authorized to demand the discontinuance of counterfeiting and selling counterfeit goods, and a security against the use or sale, during the term of the patent, of the counterfeit goods found at the infringer's establishment, pro-

vided they were manufactured in the empire, and for their re-exportation in case they were imported from abroad for sale.

§ 41. In all litigation relating to patents the discovery, invention, or improvement is only to be judged according to the specification annexed to the petition; that specification must therefore be taken as a basis in all cases where the decision depends on the contents of the specification, without regard to its being kept secret, and no additional alteration or framing whatever of the patent article can be taken into consideration at those proceedings.

§ 42. The ministry of commerce and trades alone decides the question, whether a patent, from any legal cause whatever, is to be considered as null and void, or as extinct (§ 29). It therefore especially decides the question of the novelty of a discovery, invention or improvement; moreover, the question as to whether it had only been imported from abroad, and was not appropriate for a privilege; finally, in contestations arising between two patentees, the ministry decides the question of the total or partial identity of their privileges.

§ 43. The examination and punishment of the infringements mentioned in §§ 38 and 39 belongs, except so far as other regulations be published in future, to the tribunal of the district in which they took place, according to the laws concerning trades. An appeal to the higher tribunal of the respective province is open for parties who feel themselves injured by such decisions, and in case of the first decision being modified before that tribunal, also to the ministry of commerce and trades; however, such appeals must in all cases be made within fourteen days at the latest of the signification of the judgment.

In cases of appeals the execution of the judgment is to be postponed till the confirmatory decision has been made. If, during the inquiry, the decision is found to depend upon a preliminary question belonging to the jurisdiction of civil tribunals, the parties are referred by the criminal court to the competent civil court, and in such cases the former can only give its own decision according to the legal decision of the latter. Moreover, the final decision of the criminal court by which any one has been found guilty of infringement and fined, may be invoked by the injured party before civil courts for claiming damages, as the case may be.

§ 44. The criminal court may, if sufficient reasons exist, order an inspection or inquiry to be made by an expert, and if by these or other means the case of an infringement is clearly made out, the

court may, at the request of the injured party, order the immediate confiscation or other effective keeping of the counterfeit articles, and the tools and means exclusively used thereto.

However, due care must be taken not to do, without a stringent necessity, any irreparable injury to the defendant, and therefore to demand, if required, security from the plaintiff for any injury and damages that may occur.

§ 45. If during the inquiry the decision is found to depend on preliminary questions determinable by the ministry of commerce and trades (§ 42), such a decision must be sought for officially, and the criminal proceedings are to be suspended till it is obtained:

However, any confiscations that may already have taken place, or any other provisional measures, may be maintained till the question is decided as to whether the proceedings are to be continued.

§ 46. In cases of infringements where no penalty is required, but where merely the discontinuance (§ 40) of the infringement is demanded, or in cases of decisions about privileges as to the priority of the discovery, invention or improvement, or as to private rights or in cases of private claims of the injured party that have been referred by the criminal court to the usual course of justice, the civil tribunals are called upon to give judgment according to the existing regulations respecting summary proceedings in civil matters, wherever such proceedings have been introduced.

§ 47. The civil tribunal likewise may, if the infringement is clearly made out or proved, by an inspection or an expert, order, at the request of the plaintiff, the immediate confiscation or other effective keeping of the counterfeit articles, either unconditionally or against proper security for damages (§ 40), and under the provisions of § 44.

Such measures, however, must be justified, like a prohibition, within eight days after the entry of the order, by a complaint, otherwise they will be rescinded immediately at the request of the opponent, and a claim may be made for damages for the outrage.

§ 48. If the decision of a complaint within the jurisdiction of a civil tribunal depends on preliminary questions that are to be decided by the minister of commerce and trades (§ 42), the parties are required to obtain his decision, and to produce it in the course of the proceedings.

§ 49. Infringements of the rights of third parties, which patentees commit in working their patent by exceeding the limits of their rights founded thereon, are to be punished by those authorities to

whose competency it belongs to decide on infringements of the regulations on trades, according to the special prescriptions on that subject. The circumstance of their having used the privilege for spoiling trades must be considered as aggravating the guilt.

§ 50. The question about the frauds or culpable actions committed by parties appropriating illicitly to themselves the original discovery, invention or improvement of others, in order to obtain a privilege thereon by themselves or other parties, is to be decided according to the penal laws.

SECTION VIII. [*Omitted* because relating to patents delivered before the promulgation of this law.]

FORM A.

Petition for a Privilege.

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

I [we] N. N. [*insert christian and family name, profession and domicile of the petitioner or petitioners*] beg to state that I [we] have made a new discovery [*invention, improvement*] consisting essentially in [*insert the comprehensive title*].

The complete specification drawn up according to the provisions of § 12 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, etc., if any.*]

For this discovery [*invention, improvement,*] announced and duly specified, which I [we] the undersigned petitioner, believe to the best of my knowledge to be patentable and new according to the provisions of the said Patent Law, and legal for obtaining an exclusive privilege at my [our] own risk and responsibility, I [we] 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 I [we] pay the entire patent tax of _____ florins, due according to § 11 of the said patent law, and request the delivery of an official certificate for securing my [our] prior claims.

[*Address and date.*]

Signature[s].

From *Carpin. Pat. L. of World*, 14.

Extracts from a Digest of the patent law of Austria-Hungary, by Mr. A. H. Mounsey, of the British Legation at Vienna, published 1873.*

On the establishment of the dual system of government in Austria-Hungary, it was decided by a special agreement between the ministers of Hungary and Cisleithania that the Imperial Decree of August 15, 1852, in which the law and practice with regard to inventions are fully explained, should remain in force throughout the whole Empire.

In accordance with the terms of this agreement, the Cisleithanian and Hungarian ministers of commerce submit to mutual approval the inventions for which they intend granting patents, and subsequently to such approval each minister issues patents, bearing identical dates, for its respective division of the Empire.

Thus an inventor, desirous of securing an exclusive right to his invention in Austria-Hungary, must provide himself with two patents. These are, however, granted on a single application, addressed, at the choice of the applicant, either to the Cisleithanian or Hungarian ministry of commerce, and on one payment of the fees.

The patents thus issued are likewise valid in the principality of Lichtenstein.

The taxes on patents, for natives and foreigners indiscriminately, are as follows:

	Fl.	kr.	
For the first five years.....	100	10	= \$48 72
For the second five years.....	200	20	= 97 44
For the third five years.....	400	40	= 194 88
			<hr/>
For fifteen years.....	700	70	= 341 04

These taxes must be paid or deposited in the hands of the government officials previous to the issue of the patent. They are only returned in cases where patents are canceled on public grounds.

From 4 *Pat. Off. Gaz.* 207.

* The omitted portions of Mr. Mounsey's paper are occupied with a concise statement of the substance of the law given in full in the text above.

Law of June 27, 1878.

NOTE.*—This law empowers the ministry of the kingdoms and countries represented in the house of parliament, to establish a commercial and tariff union with the ministry of the countries of the Hungarian Crown. The following article relates to patents for inventions.]

ARTICLE XVI. Patents legally obtained are valid in both countries. For this purpose the conditions of the grant of such patents will be decreed on the same principles by the legislatures of both countries by mutual understanding, and shall, when necessary, be altered in the same way.

Until this takes place the rules relating thereto which are actually existent in both countries, and which do not materially differ from each other remain in force.

As regards proceedings in granting patents, the petition for a patent must be deposited at the ministry of that country in which the inventor has his domicile. Foreigners may present their petitions for the grant of patents at the ministry of one or the other of the two countries.

The ministry where the petition for a patent has been filed shall send the petition, after due examination, officially, to the ministry of the other country, in order to obtain the approbation of the latter.

The letters patent will be issued separately by each ministry for the country under its government, but both deeds must bear the same date, and will be delivered together to the petitioner through the ministry at which he filed the petition.

The prolongation or annulment of patents for inventions shall also be effected by mutual understanding.

The tax for the patent shall be paid in that country where the grant of the patent is petitioned for. For the grant of the patent in the other country a registration fee amounting to 25 per cent. of the patent tax shall be paid.

The registration fee must be paid at the same time as the patent tax, and will be remitted to the ministry of the other country.

From *Carpmaels' Pat. L. of World*, 32.

* Notes printed in this manner are from Carpmael's edition.

Law of December 20, 1879.

[NOTE.—This law relates to the creation of a mutual union of tariffs with Bosnia and Herzegovina. The following clause refers to patents for inventions.]

SECTION 9. Patents which have been acquired in accordance with Article XVI. of the Tariff and Commercial Union of June 27, 1878, shall be valid also for Bosnia and Herzegovina according to the laws and regulations existing in both countries of the Austro-Hungarian monarchy.

Patents cannot be acquired by Bosnian and Herzegovinian subjects, except according to the said laws and regulations.

Detailed rules for the execution of these principles shall be issued by the administrations.

From Carpm. Pat. L. of World, 33.

Extract from a Decision of the Minister of Commerce, July 27, 1882, relative to the term of an Austrian patent:

Imp. Roy. Ministry of Commerce, No. 19, 328.

It is herewith affirmed that, according to the provisions of the Patent-Law of August 15, 1852, (Reichs-Gesetzblatt, No. 184) each extension of a patent has solely to be considered as an officially authenticated acknowledgment of the fact that the patentee really avails himself of the right to maintain his patent further in vigor, this right being conferred on him for the lawful term of fifteen years by the original granting of the letters patent, although this latter may not purport to be a fifteen years' one; that for this reason no Austro-Hungarian patent expires in consequence of its original term having elapsed, if the extension of the patent has been applied for in due time, and all the other lawful requirements have been fulfilled in the same time.

VIENNA, July 27, 1882.

By proxy of the minister of commerce,

PROFF, M. P.

From 23 Pat. Off. Gaz. 273.

BADEN.

Baden, also Bavaria, Prussia, Saxony and Württemberg, while independent, had patent laws of their own. Translations of them or statements of their substance may be consulted as follows: Baden, 4 *Pat. Off. Gaz.* 235; Bavaria, *Id.* 237; Prussia, *Id.* 395; *post*, 442; Saxony, *Id.* 473; Württemberg, *Id.* 579, 607.

In 1871 these sovereignties became merged in the German Empire under a constitution, which confided the subject of patent legislation, among others, to the imperial legislature. Some time was, of course, required before this constitutional provision could be carried into full effect, but in 1877 a general patent law for the empire was enacted, which superseded the separate laws above mentioned.

BALIZE: BELIZE.

These names were formerly applied to the region of country now more commonly known as BRITISH HONDURAS (which see); also to its capital city, by which they are retained.

BARBADOES.

An Act to amend the law relating to the granting of Exclusive Privileges to the Inventors of new and useful Inventions. December 12, 1883.

Preamble. Whereas it is deemed expedient to amend the law relating to the granting of exclusive privileges to the inventors of new and useful inventions ; Be it therefore enacted by the Governor, Council and Assembly of this island, and by the authority of the same as follows :

I. *Title of act.* This Act may be cited for all purposes as “ The Patent Act, 1883.”

II. *Specification to be filed in the colonial secretary's office.* Every person who desires to obtain in this island such exclusive privileges in respect of any invention as are hereinafter in this Act mentioned, shall file in the colonial secretary's office of this island a complete specification of the invention, with a copy of the same, particularly describing and ascertaining the nature of the invention, and in what manner the same is to be performed.

III. *Fee for filing specification.* Every person who files in the colonial secretary's office a specification of an invention shall pay to the colonial secretary for the benefit of the general revenue a fee of three pounds six shillings and eight pence.

IV. *Patentee to have exclusive right for seven years.* Every person who complies with the two last preceding sections of this Act, 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, his executors, administrators and assigns shall at any time agree with and no others from time to time, and at all times during the term of seven years from the date of the filing of the specification as aforesaid, shall and lawfully may make, use, exercise and vend within this island the invention described in the specification so filed as aforesaid in such manner as to him, his executors, administrators and assigns, or any of them shall in his or their discretion seem meet, and he, his executors, administrators, and assigns shall and lawfully may have and enjoy the whole profit, benefit, commodity and advantage from time to time coming, grow-

ing, accruing, and arising by reason of the said invention for and during the term of years hereinbefore mentioned.

V. *Protection to Patentees.* It shall not be lawful for any person or persons, body or bodies politic or corporate, or any of them at any time during the continuance of the term hereinbefore mentioned, either directly or indirectly, to make, use, or put in practice the invention described in any specification so filed as aforesaid, or any part of the same, or in anywise counterfeit, imitate or resemble the same, or to make or cause to be made any addition thereto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors thereof, without the consent, permission, license or agreement of the person who filed the specification thereof, his executors, administrators or assigns in writing, under his or their hand or hands, and seal or seals, first had and obtained in that behalf.

VI. *Remedy for infringement of patent.* If any person or persons whomsoever, body or bodies politic or corporate, shall during the continuance of the term hereinbefore mentioned at any time, either directly or indirectly make, use, exercise, put in practice or vend the invention described in any specification so filed as aforesaid or any part thereof within this island without a consent, permission, license or agreement in writing first had and obtained from the person who filed the specification thereof, his attorneys, executors, administrators or assigns under his or their hand or hands, and seal or seals, the person who filed the specification thereof, his executors, administrators and assigns, shall have and be entitled to such and the like remedies both at law and in equity in the courts of this island against every such person or persons, body or bodies politic or corporate, for every such infringement or violation of the rights and privileges to which he and they is and are under this Act entitled, or against the person or persons for whose benefit the said invention or any part thereof shall have been so made, used, exercised, put in practice or vended without such consent, permission, license or agreement as aforesaid as the grantee of any letters patent for any invention would be entitled to in the like case by the law of England but to none other remedies; and in any action, suit or other proceeding which may be brought, instituted or taken against any such person or persons, body or bodies politic or corporate, it shall be lawful for the defendant to plead any such matter in defense as may be pleaded by any defendant in any action brought in any division of Her Majesty's High Court of Justice in England for the

infringement of any patent granted by Her Most Gracious Majesty the Queen.

VII. *No benefit unless invention a new one, or if person applying is not the true inventor, &c.* Nothing in this Act contained shall be deemed to confer on any person who files in the colonial secretary's office a complete specification of an invention the exclusive privileges mentioned in sections four, five, and six of this Act, if the invention described in such specification is not at the time when such specification is filed a new invention as to the public use and exercise thereof within this island, or if such person is not the true and first inventor within this island of the invention described in such specification, or if such invention was at the time when such specification was filed an invention well known elsewhere and also known to some person or persons in this island other than the person filing such specification.

VIII. *Not to give privilege to use the invention of any other person.* Nothing in this Act contained shall extend or be construed to extend to give to any person who files in the colonial secretary's office a complete specification of an invention, or to his executors, administrators or assigns or any of them, privilege to use or imitate any invention or work whatever which has prior to the filing of such specification been found out or invented by any other person whomsoever and publicly used or exercised within this island, and for the sole use, exercise and benefit whereof within this island the exclusive privileges mentioned in sections four, five and six of this Act or similar privileges have, prior to the filing of such specifications, been obtained; but the person filing such specification, his executors, administrators and assigns, and all and every other person and persons who have as aforesaid previously obtained like privileges, shall distinctly use and practice their several inventions by them invented and found out.

IX. *Rights to cease if invention not brought into operation within three years.* When the invention described in a specification filed under this Act is not brought into operation within a period of three years after the filing of the specification, the exclusive right hereby granted or intended to be granted shall be forfeited and shall cease to exist.

X. *Specifications to be numbered.* All specifications filed under this Act in the colonial secretary's office shall be numbered in that office consecutively from Number 1 upwards in the order of the dates on which they are filed.

XI. *Form of certificate.* Whenever a specification is filed under this Act, a certificate of the following form shall be filled up and signed by the colonial secretary, and given to the person filing such specification.

No.

Name of inventor filing specification.

Address.

Date of filing specification.

Title of invention.

I hereby certify that the facts above stated are true, and that the inventor whose name and address are given above is in respect of the invention herein referred to entitled to the several privileges specified in "The Patent Act, 1883," subject to the limitations and conditions therein mentioned.

(Sgd.)

Colonial Secretary,

Barbadoes.

XII. *Numbers of certificate and specification to be the same.* The number of each certificate given in compliance with the last preceding section of this Act shall be the same as that of the specification to which such certificate relates.

XIII. *Power of renewal.* Every person who at the date of the passing of this Act, or at any time hereafter, is, in respect of any invention, entitled under this or any other Act of the legislature to the exclusive privileges mentioned in this Act, or to similar privileges, may on or before, but not after the expiration of such privileges obtain a renewal thereof, for a second or further period of seven years, and may, on or before, but not after the expiration of such further period again obtain a renewal thereof for a third period of seven years; provided always that no person shall enjoy the exclusive privileges mentioned in this Act or similar privileges for more than twenty-one years.

XIV. *Fees to be paid on renewal.* Every person who desires to obtain a renewal of the exclusive privileges to which he is, in respect of any invention, entitled for a second or further period of seven years, shall pay to the colonial secretary for the benefit of the general revenue the sum of ten pounds, and shall thereupon become entitled to such exclusive privileges during such second or further period; and every person who desires to obtain a renewal of such exclusive privileges for a third period of seven years shall pay to the colonial secretary for the benefit of the general revenue the sum of twenty pounds, and shall thereupon become entitled to such exclusive privileges during such third period.

XV. *Renewal certificate.—Form.* The colonial secretary shall, on receipt of any fee under the last preceding section of this Act, fill up and give to the person by or on whose behalf the same is paid a certificate having on it the number of the specification of the invention to which it relates, and of the following form:

Specification No. .

I hereby certify that the exclusive privileges enjoyed by
in respect of the invention described in the specification above referred to have been
this day renewed for a period of seven years.

(Sgd.)
Colonial Secretary, Barbadoes.

Dated,

And the Colonial Secretary shall cause a copy of the same to be published three times in the Official Gazette.

XVI. *Copy certificate to be published in Official Gazette.* Whenever a specification is filed under this Act, the Colonial Secretary shall cause a copy of the certificate given to the person filing the same to be published three times in the Official Gazette.

XVII. *Repeal clause.* The Act of this island of the twenty-sixth day of August, one thousand eight hundred and fifty-two, entitled, "An Act relating to the Law of Patents," is hereby repealed.

From *Carp. Pat. L. World*, 34.

BAVARIA.

See GERMAN EMPIRE.

BELGIUM.

Extracts from a Report of the patent-law of Belgium, by Mr. J. G. Kennedy of the British Legation, published, 1873.

Patents for invention are delivered in Belgium by virtue of the law of May 24, 1854. This law and the royal decree of the same date, determine the rights and the obligations of inventors. The said law has remained unchanged since the date of the publication, with the exception of two slight and unimportant modifications, both favorable to inventors, introduced in 1857, in articles VII. and XXII., and, taken as a patent law, it appears to have given general satisfaction on most points.

By the provisions of the law of 1854, patents for inventions are granted without previous examination either of the novelty or of the merit of the invention, and at the risk and peril of the inventor. It is the substitution of the repressive system for the preventive which formed the basis of the old law of January 25, 1817. The law of 1854 has also introduced special modifications with respect to the taxation of patents. By the law of 1817, the tax, which varied from \$60.25 to \$285.00 and upwards, had to be paid at once on delivery of the patent. The general effect of this condition was the exclusion of all poor inventors. Now that patents cost only \$1.90 for the first year, \$3.80 for the second, with a yearly increase of \$1.90, and that the previous examination is suppressed, the number of inventors has greatly increased.

In granting patents the duty of the government is simply to ascertain that the formalities prescribed by the law and the royal decree have been fulfilled. In this case, provided the invention is a licit one, the patent is granted at the risk and peril of the patentee. In the contrary case, the patent is refused.

The government also interferes in questions of annulment of patent, first, for default of payment of the annuity tax within the time prescribed; and, secondly, in the event of the invention not being worked ("*exploitée*"). Excepting in the above two cases, all disputes concerning the exclusive rights of inventors must be decided by the ordinary civil tribunals.

The chief cause of the annulment, or rather of the lapse of pat-

ents, is default of payment of the annuity within the time prescribed. More than ninety-five one-hundredths of the patents become public property in this way.

The action of government with regard to the concession of patents is very simple. In the case of the canceling of a patent for default in payment, the Finance Department transmits to the Home Department a statement of non-payment drawn up by the tax-receiver ("*receveur*") of the Finance Department, and thereupon the annulment of the patent is pronounced and published by royal decree.

It remains to investigate some of the clauses of the Belgian law of 1854, in order to illustrate the practical working of the different sections, and the nature of the privileges conferred on and obligations incurred by patentees in Belgium.

Article I. enacts that three kinds of patents may be granted—a patent of invention, of importation, and of improvement. A patent of invention is granted to the inventor who takes out his Belgian patent before obtaining letters patent in any other country. In that case, he is entitled to protection for twenty years. A patent of importation is granted to an inventor who, previously to lodging his demand in Belgium, has applied for letters patent in any other country. The patent of importation is limited to the term for which the previous foreign patent is granted, and expires with it. Thus a Belgian patent of importation for an invention already protected in Great Britain would be granted for fourteen years, and if the invention were patented in France the Belgian patent would be for fifteen years.

Belgian patents of importation may be taken out in the name of the inventor or his assign duly appointed. It has been decided by the courts in 1858-59, that a simple power from the inventor authorizing a party to take out a Belgian patent in his own name suffices for the purpose, said power being stamped and registered.

A patent of improvement may be obtained by a patentee for an improvement on or addition to his previous invention. The patent of improvement must be for improvement of the same nature as the original invention, otherwise it would not be held to be legally valid. No tax is required for a patent of improvement, which forms part of the original patent, and expires with it.

In article second the government declines all responsibility as to the value of the patent or of the invention. In case of legal proceedings the patentee may be obliged to lodge a certain sum previ-

ously to the case being brought before the courts. When the patentee is a foreigner he is always obliged to make a deposit, but said deposit rarely exceeds \$95.00.

Under article XVII., in applying for a Belgian patent the inventor or his attorney, having paid the first year's tax, presents himself at the office of the provisional government or "*Commissariat d'Arrondissement*," where he lodges a receipt for the tax and a petition to the minister of the interior, praying that letters patent may be granted to him, and also a sealed packet containing two copies of the specifications and drawings illustrating the invention. The specification may be in any form, and written either in French or Flemish ; the drawings may be made on paper of any size. The patent clerk registers the hour and date of the demand in a book kept for the purpose, and signed by the inventor or his attorney and by the head of the office.

Article XXI. treats of transfers. All transfers of patents are subject to a registration tax, fixed by the law at \$1.90, but, in practice, a few francs more are charged for additional ; and the deed of transfer has to be stamped according to the size of the paper upon which the deed is drawn up. The transfer is then notified to the minister of the interior, who has it recorded in the patent-office and published summarily in the "*Recueil des Brevets d'Invention*."

Article XXII. of the law of 1854 prescribed that a patent should be null and void in case the annual tax should not be paid within a month of its becoming due. In 1857 this article was modified, and a delay of six months was allowed to pay the tax, with an additional fee of \$1.90 ; and the government is now obliged to call the attention of the inventor to the fact that the tax is due, by a registered letter to that effect. This duty devolves on the delegates ("*receveurs*") of the ministry of finance.

Article XXIII. enacts that all patentees shall work their invention, or cause it to be worked, within a year of its having been worked in any other country. The question whether this manufacture or construction of the article must take place in Belgium has been answered in various ways. The law has, however, left this matter entirely to the discretion of the government, which alone has power to decide what is to be understood by the working of an invention, and to judge in each case whether the requirements of the law have been complied with. The courts decline all competency in this matter, and assume that a patent has been worked according to law until it has been annulled by the government.

The views of the government in respect of working an invention may be inferred from divers cases in which patents have been annulled. It would appear that it is not considered sufficient to import the patented articles from abroad and put them on sale in one or more shops or warehouses, even if large numbers were sold in the country by this means. It is not even considered sufficient to have a certain number of the patented articles made and sold in Belgium, the same articles being imported also from abroad and sold in Belgium. The mere fact of importing the patented articles into Belgium, excepting a very limited number to serve as models seems to be considered as quite contrary to the spirit of the law, while a patentee having his invention manufactured in Belgium, and so badly made, owing to the lack of skill or tools, or means of the workmen he employed, that no purchaser could be found to buy it, would, in all probability, be held to have complied with the law, from his having manufactured in the country, and thus favored the "national industry."

The government seldom or never interferes as regards the working of a patented invention, unless called upon to do so by any party having an interest to overthrow the patent. The head of the department there states the case to the patentee or his agent, and requests him to say when and where the patent has been worked. Every facility is afforded him to explain his case and prove that he has complied with the law; and it is only if he fail to do so to the satisfaction of the department that his patent is annulled.

By Article XXIII. (a.) The courts may annul a patent if the invention has been worked commercially in the kingdom by a third party before the demand of the patent.

This alludes to the working commercially by a third party; but if the real and true inventor shall have commercially worked his invention before applying for a patent, such commercial working has no influence on the validity of his patent.

(b.) The intentional omission of part of the inventor's secret, or an erroneous specification given in intentionally, also invalidates a patent.

(c.) If the complete specification and exact drawings should have been printed and published previously to the demand of the Belgian patent, unless such publication should have been prescribed by law—thus, for the publication of an invention to invalidate a subsequent Belgian patent the complete specification and exact drawings must be published—an abridged specification would have

no influence on the Belgian patent. And, as regards patents of importation, an especial exception is made for such publications as the Blue Book printed specifications of English patents, by order of the commissioner of patents.

It may be interesting to mention a further peculiarity connected with Belgian patents of importation, showing what importance is attached by the Belgian law to the patentee being the first and real inventor.

A foreign patentee, though his foreign patent may be several years old, may, should his invention not come under any of the stipulations of article XXIV., take out a valid Belgian patent, and his Belgian patent will have priority over any patents for the same invention taken out by others between the date of his foreign patent and that of his Belgian patent of importation.

From 4 *Pat. Off. Gaz.* 263.

*Law of May 24, 1854.**

ARTICLE I. Exclusive and temporary rights shall be granted under the name of patents of invention, of improvement, or of importation, for all discoveries or all improvements capable of being employed as articles of industry or of commerce.

ART. II. Patents shall be granted without previous examination at the risk and peril of the demander, without guarantee as to the reality, or the novelty, or merit of the invention, or to the accuracy of the specification, and without prejudice to the rights of other parties.

ART. III. The duration of patents is fixed at twenty years, save the case provided for in article fourteen, and shall take effect from the date on which the *procès verbal* shall have been made, as mentioned in article eighteen.

For each patent yearly and progressive dues shall be paid, as follows, viz :

First year, \$1.00 ; second year, \$3.80 ; third year, \$5.70 ; and so on to the twentieth year, for which the tax shall be \$38.00.†

* Another translation of the law of 1854, differing very slightly from that in the text, is given in Carpmuels' edition.

† There shall be paid for every patent an annual and progressive tax, as follows :

1st year 10 francs, 2nd year 20 francs, 3rd year 30 francs, and so on till the 20th year, for which the tax shall be 200 francs. *Carp. Pat. L. of World*, 40.

These dues shall be paid in advance, and shall not in any case be reimbursed.

No payment of dues shall be required for patents of improvement when granted to the proprietor of the original patent.

ART. IV. The patents guarantee to their possessors or assigns the exclusive right—

(a.) To make and sell to their profit the patented article, or cause or license it to be made or sold by other parties.

(b.) To sue in the courts of law such persons who may infringe on their rights, either by making the patented article, or by employing the means comprised in the patent, or retaining, selling, or exposing for sale, or introducing into the Belgian Territory one or more counterfeited articles of the same.

ART. V. If the persons sued in virtue of article IV. (b) shall have knowingly infringed (the patent right,) the courts of law shall pronounce, to the profit of the patentee or of his assigns, confiscation of the articles made in contravention of the patent, or the instruments, tools, or utensils especially destined for executing the same, or award the payment of a sum equal to the price of the articles which may have been already sold.

If the persons sued are of good faith, the court shall prohibit them, under penalty as above stated, from commercially making use of the machines or apparatus of production proved as counterfeits, or to make use of, with the same intent, tools and utensils for making the patented articles.

In either case, damages and interest may be awarded to the patentee or his assigns.

ART. VI. Possessors of patents or their assigns may obtain, by request, authorization from the president of the tribunal of the first instance, to name one or several persons as experts, in order to inspect and make an inventory of the machines, apparatus, or articles supposed to be counterfeited.

The president may by the same ordinance forbid the holders to part with the said articles, and permit the patentee to appoint a guardian, or even to place the articles under seal.

The ordinance of the president shall be communicated by a bailiff *ad hoc*.

ART. VII. The patent shall be joined to the request, which shall contain the address where the inventory is to be made. The examiners named by the president of the court shall be sworn by him,

or by a magistrate specially authorized by him prior to the proceedings.*

ART. VIII. The president may bind the patentee to deposit a sum as caution money.

In this case his ordinance shall not be delivered unless proof be given that the caution money has been deposited. The caution money shall always be required from foreigners.

ART. IX. The plaintiff may be present at the inventory if he should be specially authorized by the president of the court.

ART. X. If the doors shall be closed, or access refused, proceedings shall be adopted conformably to article 587 of the Code of Civil Procedure.

ART. XI. A copy of the *procès verbal* of the inventory made by the examiners shall be left by the detainer of the articles prescribed.

ART. XII. If in eight days the inventory is not followed by a summons before the tribunal of the district where the inventory was made, the ordinance delivered conformably to article six will lose its effect, and the detainer of the articles described may reclaim the original *procès verbal*, and prevent the patentee from making use of its contents, and render public the same, without prejudice to all damages and interest.

ART. XIII. The courts shall consider patent affairs to be summary and urgent.

ART. XIV. The author of an invention already patented in a foreign country, or his assigns, may obtain a patent of importation in Belgium. The duration of such patent shall not exceed the term of the patent previously granted in another country for the longest term, and in no case exceed the limit fixed by article III.

ART. XV. In case of modification of an invention a patent of improvement may be obtained, the term of which shall end at the expiration of the original patent.

If, nevertheless, the possessor of the new patent is not the principal patentee, he shall not, without the consent of the latter, make use of the original invention, and reciprocally the principal patentee shall not make use of the improvement without the consent of the holder of the new patent.

* As modified by the law of March 27, 1857, enabling the president to depute a magistrate to swear the examiners.

ART. XVI. Patents of importation and of improvement confer the same rights as patents of invention.

ART. XVII. Any person desirous of obtaining a patent shall be bound to deposit, under seal, in duplicate at the *greffe* (office) of one of the provisional Governors of the Kingdom, or at the office of a *Commissariat d'Arrondissement*, observing the formalities which shall be determined by a royal decree, an exact and complete specification, in one of the languages used in Belgium, and an exact drawing made to a metrical scale of the invented article.

No deposit shall be received without the production of a receipt showing that the first annuity tax shall have been paid.

A *procès verbal*, drawn up free of cost by the provisional *greffier*, or by the district commissary, in a special register, and signed by the demander, shall authenticate each deposit and express the day and hour of the delivery of the document.

ART. XVIII. The legal date of the invention is established by the *procès verbal*, which shall be drawn up when the demand of the patent is deposited.

A duplicate of this *procès verbal* shall be given to the depositor free of expense.

ART. XIX. A decree of the minister of the interior, proving that the described formalities have been accomplished, shall be delivered forthwith to the depositor, and shall constitute his patent. An extract of this decree shall be published in the *Moniteur*.

ART. XX. The specifications of patents granted shall be published *verbatim*, or in substance, under the care of the administration, in a special collection, three months after the grant of the patent. When a patentee shall require a complete publication or extract furnished by himself, such publication shall be effected at his expense.

After the same term the public shall be admitted to inspect the specifications, and copies of them may be obtained on payment of the expenses.

ART. XXI. All legal transfers of patents between persons, or by will, shall be recorded on payment of a fixed fee of ten francs (\$1.90).

ART. XXII. If the tax fixed by article III. of the law of May 24, 1854, shall not have been paid in the month when due, the patentee, after previous notice, must pay before the expiration of six months, under penalty of forfeiture of his rights, a sum of ten francs, (\$1.90,) besides the usual annuity.

Holders of patents granted since the enforcement of the above law who may not have paid within the legal delay the annuity tax, conformably to article III., will be relieved of the forfeiture incurred by payment, within three months of the publication of the present law, of the sum of ten francs, (\$1.90,) besides the annuities due.

The forfeiture of patents shall be published in the *Moniteur*. The same shall happen in case the patentee shall have been, at his own request, relieved of the forfeiture.

ART. XXIII. The proprietor of a patent must work, or cause to be worked, in Belgium, the patented article within a year from the date of its having been worked or used in a foreign country.

The government may, however, by an explanatory decree, inserted in the *Moniteur* before the expiration of this term, grant a prolongation of one year, at most.

At the expiration of the first year, or of the delay which shall have been granted, the patent shall be annulled by a royal decree.

Annulment shall also be pronounced when the patented article, made use of in a foreign country, shall have ceased to be worked in Belgium during one year, unless the possessor of the patent shall be able to justify the motives of his inaction.

ART. XXIV. Patents shall be declared null and void by the courts for the following causes :

(a.) When it shall be proved that the patented object has been worked or made use of for commercial purposes by other parties prior to the legal date of its invention, or importation, or improvement.

(b.) When the patentee shall have intentionally omitted to explain in the specification joined to his demand any part of his secret, or shall have inaccurately specified the same.

(c.) When it shall be proved that the complete specification and accurate drawings of the patented object have been published in a printed work prior to the date of the deposit, unless, as regards patents of importation, this publication should be a case for legal prescription.

ART. XXV. A patent of invention shall be declared null by the courts if the object for which it was granted shall have been previously patented in Belgium or in a foreign country.

Nevertheless, if the demand has the quality required by article fourteen, the patent may be maintained as a patent of importation on the terms of the said article.

These dispositions shall be applicable, should the case arise, to patents of improvements.

ART. XXVI. When forfeiture or extinction of a patent shall have been pronounced, according to articles XXIV. and XXV. by judgment or decree, having acquired the force of a case judged, the annulment of the patent shall be proclaimed by a royal decree.

ART. XXVII. [Omitted because relating only to patents existing when the law took effect.]

From 4 *Pat. Off. Gaz.* 265.

Royal Decree for the Execution of the Foregoing Law.

ARTICLE I. Any person desirous of obtaining a patent of invention, of improvement, or of importation, must deposit a demand to this effect in the office (*greffe*) of one of the provincial governments of the kingdom, or in the office of one of the *Commisariats d'Arrondissements* situate out of the chief town of the province.

To this demand must be joined, under sealed cover—

1. The specification of the article invented ;
 2. The drawings, models, or patterns which may be necessary for the comprehension of the specifications ;
 3. A duplicate certified copy of the specification and drawings ;
- and
4. A list of the documents and objects deposited.

ART. II. The deposit of the documents mentioned at article I. shall not be received without the production of a receipt showing the payment of 10 francs, (\$1.90,) forming the first annuity of the tax.

This receipt shall be joined to the other papers.

ART. III. The demand must be written on stamped paper, and indicate the name, surname, occupation, (*profession*,) and the real or elected abode of the inventor in the kingdom. It must express a title, including a summary and precise designation of the object of the invention. Each demand shall comprise only one sole principal object, with the details and applications relating thereto.

When a patent of importation shall be demanded the petition shall make known the date and duration of the original patent, and the country where it has been granted. If the petitioner is not the owner of the foreign patent, but his attorney, (*ayant cause*,) he must justify his title by means of an act in due form.

ART. IV. The specification must be written in the French, or German, or Flemish language.

The specification must be written without alterations or interlineations; the words erased as null shall be counted and verified; the pages and references must be initialed, (*paraphés.*)

The specification shall explain the invention in a clear and complete manner, and conclude with a clear enunciation of its component parts.

ART. V. The drawings shall be traced in ink, and to a metrical scale; they must represent as near as possible the article to be invented, by plans, and sections, and elevations, and those parts of the drawings which specially characterize the invention must have a different tint from the other parts.

ART. VI. All the documents must be dated and signed by the inventor or his attorney, whose power, duly legalized, shall remain annexed to the demand.

ART. VII. A *procès-verbal* drawn up by the *greffier* of the provincial government, or by the district commissary, shall be evidence of each deposit, stating the day and hour of the said deposit.

The invention shall be designated by the summary and truthful title which the demander shall have indicated.

This *procès-verbal* shall contain the name, surname, quality, and residence of the demander or his attorney, (“*mandataire.*”) It shall also indicate, when a patent of importation is asked for, the date and duration of the original patent, and the name of the patentee. It must make mention of the payment of the first annuity.

This *procès-verbal* shall be signed by the depositor and by the writer of the same, and shall be affixed on the cover of the package containing the documents relative to the demand of the patent.

A copy of the *procès-verbal* shall be delivered free of cost to the depositor.

ART. VIII. The legal date of the invention is confirmed by the said *procès-verbal*.

ART. IX. The officers of the provincial *Greffiers* and those of the *Commissaires d'Arrondissement* shall be open for the demand of patents every day from 10 A. M. to 2 P. M., excepting Sundays and fête days.

ART. X. All the documents relating to demands of patents shall be transmitted within five days to the department of the interior.

ART. XI. On the arrival of these documents at the above depart-

ment the demands shall be enrolled, in the order of their date of admission, in a special register, which the public may inspect any day, excepting Sundays and fête days from 10 A. M. to 2 P. M.

ART. XII. In case of omission or irregularity of form the demander shall be required ("*invite*s") to make the necessary rectifications.

A note of these rectifications shall be made in the special register mentioned in the preceding article.

ART. XIII. Patents demanded in a regular manner shall be delivered without delay.

A decree of the minister of the interior, stating the accomplishment of the prescribed formalities, shall be delivered to the demander, and shall constitute his patent.

ART. XIV. The patent shall expressly state that the grant of the same is made without previous examination, at the risk and peril of the demander, and without guarantee as to the reality or the novelty, or the merit of the invention, or to the accuracy of the specification, and without prejudice to the rights of other parties.

ART. XV. The first delivery of patents shall be made free of expense, but all future deliveries demanded by the patentee or his assigns shall be subject to the reimbursement of the expenses.

ART. XVI. The specifications of patents shall be published verbatim or in substance, under the care of the administration, in a special collection three months after the grant of the patent.

When the patentee shall require a complete publication of his specification, or of an extract of the same furnished by himself, he must inform the administration of his desire one month at least before the expiration of the term fixed by the preceding paragraph, and consign the amount requisite to cover the cost of this publication.

ART. XVII. After the said term of three months the public shall be admitted to examine the specifications, and may obtain copies thereof on reimbursement of the expenses.

ART. XVIII. The patentee who may desire to obtain a prolongation of the delay, as provided for by article XXIII. of the law, for putting into activity the patented article, must address his demand to the minister of the interior two months at least before the expiration of the delay fixed by the said article.

This demand must contain sufficient motives and indicate within the legal limit the term necessary for putting into activity the invention.

ART. XIX. All cessions or mutations, total or partial, of a patent shall be notified to the department of the interior.

The notification of the cession or any other act involving mutation must be accompanied by an authentic extract of the act of cession or of mutation.

ART. XX. Proprietors of patents not expired or annulled at the time of the publication of the law of the 24th May, 1854, may have their rights placed under the administration of this law on forming their demand before the 25th May, 1855.

A patentee who shall not have paid, when the benefit of his disposition shall be demanded, a sum equal to the amount of the annuities due according to article III. of the law, shall be bound to effectuate this payment and justify the same by a receipt joined to their demand ; otherwise the demand shall be of no avail.

A declaration stating that the patent is placed under the administration of the new law shall be sent to the interested party.

ART. XXI. The grants of patents, the acts of cession or of mutation, as also the declarations mentioned in the preceding article, shall be published in a special collection of patents. The decrees pronouncing annulment of patents, or their having been given up to the public, shall likewise be inserted in the same collection.

ART. XXII. At the expiration of patents the original drawings and specifications shall be deposited in the Museum of Industry.

ART. XXIII. The minister of the interior is charged with the execution of the present decree.

From 4 *Pat. Off. Gaz.* 267.

BOSNIA.

See AUSTRIA-HUNGARY.

BRAZIL.

*Law of October 14, 1882.**

ARTICLE I.

By the grant of a patent to the author of any invention or discovery the law guarantees his right to the property and exclusive use of the invention.

SECTION 1. According to this law the following shall constitute an invention or discovery.

1. The invention of new industrial products.

2. The invention of new processes or the new application of known processes for obtaining an industrial product or result.

3. The improvement of an invention already patented if it facilitates the manufacture of the product or the use of the patented invention, or if it increases its utility.

Those industrial products, processes, applications, and improvements shall be considered new which, up to the application for a patent, have never been employed or used within or without the empire, nor have been described or published so that they could be employed or used.

SEC. 2. The following inventions cannot be the subjects of patents:—

1. Those contrary to law or morality.

2. Those dangerous to public security.

3. Those hurtful to public health.

4. Those which do not offer practical industrial results.

SEC. 3. The patent will be granted by the executive power after the fulfillment of the formalities prescribed in this law and in its regulations.

SEC. 4. The exclusive privilege for a principal invention will only be valid for fifteen years, and that for an improvement to the

* The substance of the former law, which was promulgated August 28, 1830, is given in a report by Mr. Phipps of the British Legation, published Sept. 16, 1873, 4 *Pat. Off. Gaz.* 289, together with accounts of the practice and formalities in granting patents in Brazil, and of the

project then pending for a more complete and comprehensive legislation on the subject. A translation of the Law of 1852, differing very slightly from that presented in the text, may be found in 23 *Pat. Off. Gaz.* 193.

invention granted to the inventor will terminate at the same time as the original patent.

If public necessity or utility require the free use (*vulgarisação*) of an invention or its exclusive use by the State during the privilege for it, the patent can be disappropriated in conformity with the legal formalities.

SEC. 5. The patent is transmissible by any of the modes of cession or transfer recognized by law.

ARTICLE II.

Inventors receiving privileges in other countries can obtain confirmation of their rights in the empire, provided they fulfill the formalities and conditions of this law and observe the further provisions in force applicable to the case. The confirmation will give the same rights as a patent granted in the empire.

SEC. 1. The priority of right of property of an inventor who, having solicited a patent in a foreign country, shall make a similar petition to the imperial government within seven months, will not be invalidated by facts which may occur during this period—such as another similar petition, the publication of the invention, and its use or employment.

SEC. 2. To the inventor who, before obtaining a patent, desires to experiment in public with his inventions, or wishes to exhibit them in an official or officially recognized exhibition, will be given a document provisionally guaranteeing to him his right of property for a specified time and with the formalities required.

SEC. 3. During the first year of the patent only the inventor himself or his legal successors can obtain a patent for improvements on the invention. Third parties will be permitted, however, to present their petitions within the said period in order to establish their rights.

The inventor of an improvement cannot make use of the improved article while the patent for the principal invention lasts without an authorization from its inventor. Nor can the latter employ the improvement without agreement with the former.

SEC. 4. If two or more persons petition for patents at the same time for an identical invention, the government, except in the hypothesis of section 1 of this article, will require that they previously determine the priority either by means of agreement or in a competent court.

ARTICLE III.

The inventor who seeks a patent shall deposit in duplicate in the department which the government shall designate, in a closed and sealed envelope, a specification in Portuguese, describing the invention with accuracy and clearness, its purpose and the method of using it, with the plans, designs, models, and samples which may contribute to an exact understanding of the invention and the elucidation of the specification, so that any person competent in the matter can obtain or apply the result, means, or product of which it treats. The specification shall clearly set forth the characteristic features of the invention. The rights under the patent will be limited to the said features, mention of this being made in the patent.

SEC. 1. With the documents deposited shall be presented the petition, which should be limited to one single invention, specifying its nature and its purposes or applications in accordance with the specification and the documents deposited.

SEC. 2. If it shall appear that the subject of the invention involves an infraction of section 2, article I., or has for its object alimentary, chemical, or pharmaceutical products, the government will order a previous secret examination of one of the samples deposited, in conformity with the regulations to be issued, and in accordance with the result it will or will not concede a patent. From an adverse decision there will be an appeal to the Council of State.

SEC. 3. With the sole exception of the cases mentioned in the preceding paragraph, the patent will be issued without previous examination. The patent will always designate the object of the privilege in a concise manner, saving the rights of third parties and without guarantee of the government, as to the originality or utility of the invention.

In the patent of an inventor privileged outside of the empire it will be declared that it is valid so long as the foreign patent is in force, never exceeding the specified period of section 4, article I.

SEC. 4. Besides the expenses and fees incurred, patentees shall pay a tax of twenty dollars for the first year, thirty dollars for the second, forty dollars for the third, the annuity for each year of the privilege being ten dollars more than the preceding annuity. In no case will the annuities be refunded.

SEC. 5. To the privileged inventor who improves his own inven-

tion will be given a certificate of improvement, which will be appended to the original patent. For this certificate the inventor will pay, once for all, an amount corresponding to the annuity about to become due.

SEC. 6. The transfer or cession of a patent or certificate will not come into effect until it has been registered in the bureau of agriculture, commerce, and public works.

ARTICLE IV.

The patent having been issued, within a period of thirty days the opening of the deposited envelopes shall take place with the formalities which the regulations shall specify. The specification shall be immediately published in the *Diario Oficial*, and one of the copies of the designs, plans, models, or samples will be open to the inspection of the public and the study of parties interested, copies being allowed to be taken.

SEC. 1. In case the previous examination mentioned in section 2, article III., has not taken place, the government, having published the report, will order the verification of the requisites and conditions required by law for the validity of the privilege by means of experiments according to the procedure established for such examination.

ARTICLE V.

A patent shall be of no effect in case of nullity or lapsing.

SEC. 1. The patent shall be null—

1. If in its granting any one of the requirements of sections 1 and 2 of article I. has been violated.

2. If the patentee did not have priority.

3. If the patentee has falsified the truth or concealed essential matter in the specification describing the invention, whether in its object or in the manner of using it.

4. If the title of the invention is, with fraudulent purpose, diverse from its real object.

5. If an improvement has not an indispensable relation with the principal invention, but can constitute a separate industry, or if there shall have been the state of priority referred to in article II., section 3.

SEC. 2. The patent shall lapse—

1. If the patentee does not make effective use of the invention within three years, counting from the date of patent.

2. If the patentee suspends the effective use of the invention for

more than one year, except by reason of *force majeure* admitted by the government after consulting the Council of State. By use is understood, in these two cases, the effective exercise of the patented industry, and the supply of the products in proportion to their employment or consumption. On proof that the supply of the products is evidently insufficient for the needs of employment or consumption, the privilege can be restricted to a zone determined by a decree of the government with the approval of the legislative power.

3. If the patentee does not pay the annuities within the terms of the law.

4. If a patentee residing out of the empire does not appoint an accredited agent to represent him before the government or in court.

5. If the patent is expressly renounced.

6. If the patent or foreign privilege for an invention also patented in the empire ceases from any cause.

7. When the term of the privilege has expired.

SEC. 3. The nullity of a patent or of a certificate of improvement shall be declared by a decision of the commercial court (*jurzo commercial*) of the capital of the empire by means of the summary process of the decree No. 737 of November 25, 1850.

The following are competent to promote an action for nullity:—the solicitor of the treasury (*procurador dos feitos da fazenda*) and his assistants, to whom will be forwarded the documents and proofs corroborative of the infraction, and any interested party, with the assistance of that official and his assistants.

An action for nullity in the cases of article I., section 2, Nos. 1, 2, and 3, having been begun, the effect of the patent and the use or employment of the invention will be suspended until the final decision. If the patent is not annulled, the patentee will be reinvested in its enjoyment for the whole term of the privilege.

SEC. 4. The lapse of patents shall be declared by the minister and secretary of state for affairs of agriculture, commerce, and public works, with an appeal to the Council of State.

ARTICLE VI.

The following will be considered infringers of the patent:—

1. Those who, without license from the patentee, manufacture the products or employ the processes or make the applications which are the subject of the patent.

2. Those who import, sell, or expose for sale, conceal, or receive for the purpose of sale products which are infringements of the privileged industry, knowing them to be such.

SEC. 1. The infringers of a patent will be punished, for the benefit of the treasury, with a fine from five hundred dollars to five thousand dollars, and for the benefit of the patentee, with from ten to fifty per cent. of the damage caused or which may be caused.

SEC. 2. The following will be considered as aggravating circumstances:—

1. The infringer being, or having been, an employe or workman in the establishment of the patentee.

2. The infringer having associated with an employe or workman of the patentee for acquiring knowledge of the practical method of obtaining or employing the invention.

SEC. 3. The cognizance of infringements of a privilege belongs to the *juizes de direito* (district judges) of the *comarcas* (districts) where they occur, who will issue, on the petition of the patentee or his legal representative, warrants of search, apprehension, and deposit, and will prescribe the preparatory or preliminary proceeding of the process. The sentence shall be governed by law No. 562 of July 2, 1850, and by decree No. 707 of October 9th of the same year, so far as they apply to the case. The products of which Nos. 1 and 2 of this article treat, and the respective instruments and apparatus, will be adjudged to the patentee by the same sentence which condemns the authors of the infringements.

SEC. 4. The process will not hinder an action by the patentee to secure indemnification for damage caused or which may be caused.

SEC. 5. Commercial jurisdiction is competent for all cases relative to industrial privileges in conformity with this law.

SEC. 6. The following will be punished with a fine of from one hundred dollars to five hundred dollars for the benefit of the treasury :—

1. Those who announce themselves as possessors of a patent, by using emblems, marks, placards, or labels upon products or articles prepared for commerce or exposed for sale, as if they had been patented.

2. Inventors who continue to exercise an industry as patented when the patent has been suspended, annulled, or has lapsed.

3. Privileged inventors who in prospectuses, advertisements, placards, or by any mode of public notice shall mention patents without designating the special object for which they were obtained.

4. Professional men or experts who being employed under section 2, of article III. cause the general diffusion of the secret of the invention; without prejudice in this case to such criminal or civil actions as the laws permit.

SEC. 7. The offenses of which the preceding paragraph treats shall be prosecuted and judged as simple police offenses, in conformity with the legislation in force.

ARTICLE VII.

When a patent has been conceded to two or more co-inventors, or when it becomes common property by deed of gift or succession, each one of the co-proprietors may use it freely.

ARTICLE VIII.

If a patent shall be given or left in usufruct, the usufructuary will be obliged, when his rights cease through the extinction of the usufruct or termination of the term of privilege, to give to the owner of the property the value at which it shall be estimated, calculated with relation to the time which the usufruct has lasted.

ARTICLE IX.

Patents of inventions already granted will continue to be governed by the law of October 26, 1830, the provisions of article V. section 2, Nos. 1 and 2, and of article VI. of this present law, with the exception of pending processes or actions, being applicable to them.

ARTICLE X.

All enactments contrary to the present law are hereby repealed.

From Carpm. Pat. L. of World, 46.

See also INTERNATIONAL CONVENTION.

BRITISH COLUMBIA

See CANADA.

BRITISH GUIANA.

Ordinance No. 13, of (July 12), 1861, to regulate the granting of Patents.

Preamble.

Whereas it is expedient to regulate the granting of patents for inventions in this colony: Be it therefore enacted by His Excellency the Lieutenant-Governor of British Guiana, with the advice and consent of the court of policy thereof, as follows:—

1. *Petition for patent to be accompanied by affidavit and provisional specification.* From and after the taking effect of this ordinance, every inventor desirous of obtaining protection for his invention within this colony shall petition the Governor to grant to him, his heirs, executors, administrators, and assigns, letters patent for his invention, in the name of Her Majesty, under the public seal of this colony, and every petition for letters patent as aforesaid, shall be lodged at the office of the government secretary, accompanied by an affidavit, signed by the petitioner, that he is the true and first inventor, and that the invention is not in use by any other person or persons within the colony, to the best of his knowledge and belief, and also by a statement in writing, hereinafter called the provisional specification, signed by or on behalf of the petitioner, describing the nature of the invention; and all such petitions, affidavits, and provisional specifications shall be preserved in, and a registry thereof kept at, the said office.

2. *Petition and affidavit of absent inventor to be legalized.—Also complete specification.* In the event of any such inventor being resident out of the colony, the petition, affidavit, and provisional specification may be lodged by any person acting as his agent in the colony, provided that the petition and affidavit of such inventor (or his declaration in places where a declaration is allowed by law instead of an oath) be certified and transmitted under the signature and seal of any mayor, notary public, or justice of the peace, or of any British consul, or vice-consul, or of any other officer authorized to administer oaths or receive declarations; and in like manner the complete specification referred to in the 4th and 12th sections may be deposited by the agent of any such absent inventor, provided the same be legalized as aforesaid.

3. *Applications to be referred to attorney-general for examination.* Every application for letters patent under this ordinance, together with all documents connected therewith, shall be referred for examination, and report to the attorney-general, who shall be at liberty in examining the provisional specification to call to his aid such scientific or other person as he may think fit, and to cause to be paid to such person by the petitioner such remuneration as the attorney-general shall appoint; and if the attorney-general be satisfied that the provisional specification describes the nature of the invention, he shall allow the same, and give a certificate of his allowance, and such certificate shall be filed in the office of the government secretary, and thereupon the invention therein referred to may, during the term of twelve months from the date of the application for letters patent for the said invention, be used and published without prejudice to any letters patent to be granted for the same, and such protection from the consequences of use and publication is hereinafter referred to as provisional protection: Provided always, that in case the title of the invention or the provisional specification be too large or insufficient, it shall be lawful for the attorney-general to allow or require the same to be amended; it being, nevertheless, in every case, entirely at the hazard of the petitioner whether the invention is new or will have the desired effect.

4. *Inventors may deposit a complete specification; to confer rights for 12 months.* The applicant for letters patent for an invention, instead of leaving with the petition and affidavit a provisional specification as aforesaid, may, if he think fit, deposit in the registrar's office for the counties of Demerara and Essequibo an instrument in writing under his hand (hereinafter called a complete specification), particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, of which specification an authentic copy shall be filed with the petition and affidavit, and the day of the delivery of every such petition, affidavit, and complete specification shall be recorded at the office of the government secretary, and a certificate thereof given to such applicant or his agent, and thereupon, subject and without prejudice to the provisions hereinafter contained, the invention shall be protected under this ordinance for the term of twelve months from the date of the application, and the applicant shall have during such term of twelve months, the like powers, rights and privileges as might have been conferred upon him by

letters patent for such invention issued under this ordinance and duly sealed as of the day of the date of such application ; and during the continuance of such powers, rights, and privileges under this section, such invention may be used and published without prejudice to any letters patent to be granted for the same ; and where letters patent are granted in respect of such invention, then in lieu of a condition for making void such letters patent in case such invention be not described and ascertained by a subsequent specification, such letters patent shall be conditioned to become void if such complete specification deposited 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 every such complete specification shall be open to the inspection of the public as hereinafter provided, from the time of depositing the same.

5. *Patent not invalidated by protection obtained in fraud.* In case of any application for letters patent for any invention, and the obtaining upon such application of provisional protection for such invention or of protection for the same, by reason of the deposit of a complete specification as aforesaid in fraud of the true and first inventor, any letters patent granted to the true and first inventor of such invention shall not be invalidated by reason of such application or of such provisional or other protection as aforesaid, or of any use or publication of the invention subsequent to such application, and before the expiration of the term of such provisional or other protection.

6. *Protections to be advertised and provisional specifications deposited.* Where any invention is provisionally protected under this ordinance, or protected by reason of the deposit of such complete specification as aforesaid, the government secretary shall cause public notice of such provisional protection or other protection as aforesaid to be given in the Official Gazette, and the government secretary shall cause to be delivered to the registrar for the counties of Demerara and Essequibo every provisional specification after the term of the provisional protection of the invention has expired, to be by him entered free of charge in the "Register of Patents" hereinafter mentioned.

7. *Application to be advertised, and oppositions may be entered.* The applicant for letters patent, so soon as he may think fit after the invention shall have been provisionally protected under this ordinance, or where a complete specification has been deposited at the time of filing his petition and affidavit, then so soon as he may

think fit after such deposit, may give notice at the office of the government secretary of his intention of proceeding with his application for letters patent for the said invention, and thereupon the government secretary shall cause his said application to be advertised in the Official Gazette in such manner as he may see fit; and any person having an interest in opposing the grant of such letters patent for the said invention shall be at liberty to file particulars in writing of their objections to the said application in the office of the government secretary within one month from the date of the notice, and all such objections shall be referred to the attorney-general.

8. *Patent to issue on report of attorney-general.—Appeal.* When the time allowed for filing objections as aforesaid shall have expired, the attorney-general shall report in writing to the Governor upon each application for letters patent as aforesaid, and also upon any opposition that may be entered thereto, and public notice of all such reports having been submitted to the governor shall be given in the Official Gazette for two successive weeks, at the expiration of which time, if the attorney-general shall have reported that there is no valid legal objection to letters patent being granted, the governor may direct letters patent to issue, as hereinafter provided: Provided always, that within the said period of two weeks any party interested who may consider himself aggrieved by any such report of the attorney-general shall be at liberty to apply by petition to the Supreme Court of Civil Justice of the colony, or chief justice during non-session of said court, for their or his judgment upon the question at issue; and the court or chief justice, after hearing the parties interested if they or any of them shall think proper to appear, shall give judgment accordingly, and all costs shall be in the discretion of such court or chief justice; and the attorney-general shall alter or amend his report according to such judgment if necessary.

9. *Duration and effect of patent.* All letters patent for inventions under this ordinance shall be granted by the governor, in the name of Her Majesty, under the public seal of the colony, and the same shall extend to whole of the colony, and shall continue in force within this colony for the term of fourteen years from the date of the original application, and during such term the patentee, his heirs, executors, administrators, and assigns, shall have full power, sole privilege, and authority, by himself and themselves, and by his and their deputy or deputies, servants or agents, or such others as he,

the said patentee, his heirs, executors, administrators, or assigns, shall at any time agree with, and no others, from time to time, and at all times during the said term of fourteen years, lawfully to make, use, exercise, and vend the invention mentioned in such letters patent within this colony, in such manner as to him, the said patentee, his heirs, executors, administrators, and assigns, or any of them, shall, in his or their discretion, seem meet; and he, the said patentee, his heirs, 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 such invention for and during such term of fourteen years; but all such letters patent shall be subject to the conditions hereinafter mentioned.

10. *No person to use or imitate the invention without consent.* During the continuance of the said term it shall not be lawful for any person whomsoever at any time, either directly or indirectly, to make, use, or put in practice within this colony the said invention or any part of the same, nor in any wise to counterfeit, imitate, or resemble the same, nor to make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself the inventor or devisor thereof, without the consent, license, or agreement of the said patentee, his heirs, executors, administrators, or assigns, in writing under his or their hands, first had and obtained in that behalf; and if any person shall, at any time during the continuance of the said term, either directly or indirectly, make, use, or put in practice within this colony the said invention or any part of the same, or shall in any wise counterfeit, imitate, or resemble the same, or make or cause to be made any addition thereto, or subtraction therefrom, whereby to pretend himself the inventor or devisor thereof, without such consent, license, or agreement as aforesaid, every such person shall be liable to such pains and penalties as can or may be inflicted upon any person for any such breach or violation of this ordinance, and shall further be answerable to the said patentee, his heirs, executors, administrators, and assigns, according to law, for his and their damages thereby occasioned.

11. *Patent to be avoidable on non-fulfillment of certain conditions.* All letters patent for inventions under this ordinance shall be made and shall be subject to the conditions that the same shall be void, and that the powers and privileges thereby granted shall cease and determine, if any person shall, during the continuance of the said term of fourteen years, successfully establish and prove

before the Honorable the Supreme Court of Civil Justice of this colony that the grant of such letters is contrary to law, or prejudicial or inconvenient to Her Majesty's subjects in general, or that the invention mentioned in such letters patent is not a new invention as to the public use and exercise thereof, or that the grantee of such letters patent is not the true and first inventor within this colony : And such letters patent, or anything therein contained, shall not extend or be construed to extend to give privilege unto the grantee thereof, his heirs, executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatever theretofore found out or invented by any other of Her Majesty's subjects whatsoever, and publicly used or exercised in this colony, unto whom like letters patent or privileges shall have already been granted in this colony for the sole use, exercise, and benefit thereof.

12. *Patent to be avoidable on non-fulfillment of further conditions.* All letters patent for inventions under this ordinance shall also be made and shall be subject to the further conditions that the same shall be void, and that the powers and privileges thereby granted shall cease and determine, if the patentee shall fail or neglect to record the said letters patent in the registrar's office for the counties of Demerara and Essequibo within ten days from the date thereof, and also if the patentee shall fail or neglect to deposit in the said registrar's office, within six months from the date of the said letters patent, save (and except as provided in the 4th section of this ordinance) a clear and copious statement in writing, herein called the complete specification, under his hand, particularly describing and ascertaining the nature of his invention, and in what manner the same is to be performed, and also if the said instrument in writing deposited 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 patentee, his heirs, executors, administrators or assigns, shall not supply or cause to be supplied for Her Majesty's service in this colony all such articles of the said invention as he or they shall be required to supply by the officers administering the department of Her Majesty's service in this colony 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 governor; and further that the said letters patent shall be void, and that the powers and privileges thereby granted shall cease and determine, at the expiration of seven years from the date thereof, unless

there be paid before the expiration of the said seven years the stamp duty in the schedule A to this ordinance annexed; and such letters patent, or a duplicate thereof shall, on such payment, be stamped with a proper stamp, showing the payment of such duty, and notice of such payment shall be given by the government secretary in the Official Gazette.

13. *No patents to be issued after three months.* No letters patent for inventions under this ordinance shall be issued or be of any force or effect unless the same shall be applied for, and the stamp duty then payable in respect thereof tendered, within the period of three months from the date of the attorney-general's report; and no letters patent shall be issued or be of any force or effect unless the same be granted during the continuance of the provisional protection under this ordinance, or unless a complete specification has been deposited under this ordinance, or then unless such letters patent be granted during the continuance of the protection conferred under this ordinance by reason of such deposit; save that where the application to seal such letters patent has been made during the continuance of such provisional or other protection as aforesaid, and the sealing of such letters patent has been delayed by reason of a caveat, or an application to the Supreme Court or chief justice against or in relation to such letters patent, then such letters patent may be sealed within such extended time as the court or chief justice shall be pleased to grant for enabling the applicant to apply to the Governor to order such letters patent to be sealed.

14. *Patent may be granted to heirs, &c., of applicant.* Where the applicant for such letters patent dies during the continuance of the provisional protection, or the protection by reason of the deposit of a complete specification (as the case may be), such letters patent may be granted to the heirs, executors or administrators of such applicant during the continuance of such provisional or other protection, or at any time within three months after the death of such applicant notwithstanding the expiration of the term of such provisional or other protection, and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such provisional or other protection.

15. *Patent may be dated as of the day of application.* It shall be lawful to cause any letters patent to be issued in pursuance of this ordinance to be sealed and bear date as of the day of the application for the same, or where the governor thinks fit and

directs any such letters patent as aforesaid may be sealed and may bear date as of the day of the sealing of such letters patent, or of any other day between the day of such application and the day of such sealing.

16. *Patent antedated to be valid.* Any letters patent issued under this ordinance, sealed and bearing date as of any day prior to the day of the actual sealing thereof, shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date: Provided always, that, save where such letters patent are granted for any invention in respect whereof a complete specification has been deposited upon the application for the same under this ordinance, no legal proceeding shall be had upon such letters patent in respect of any infringement committed before the same were actually granted.

17. *Patent obtained in the colony for patented extra-colonial inventions.* Where upon any application made after the taking effect of this ordinance for or in respect of any invention first invented in the United Kingdom, or in any foreign country, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in the United Kingdom, or in any foreign country is there obtained before the grant of such letters patent in this colony, all rights and privileges under such letters patent shall (notwithstanding any term in the letters patent limited) cease and be void immediately upon the expiration or other determination of the term during which the patent or other like privilege obtained in the United Kingdom or in such foreign country shall continue in force, or where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges: Provided always that no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained in the United Kingdom or in any foreign country, and which shall be granted in this colony after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

18. *Patent not to prevent the use of invention in foreign ships.* No letters patent for any invention (granted after the taking effect of this ordinance) shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of of any foreign ship or vessel which may be in any port in this colony or in any of the waters within the jurisdiction of any of

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

19. *Patents heretofore granted in the United Kingdom.* Nothing herein contained shall extend to prejudice or affect any letters patent heretofore granted in the United Kingdom, and made applicable by the tenor thereof to this colony, and such letters patent shall be in every respect as valid and effectual as if this ordinance had not been passed : and printed or manuscript copies or extracts, certified and sealed with the seal of the commissioners of patents, of every such letters patent, and of the specification thereto relating, and of any disclaimer or memorandum of alteration in respect thereof, shall be deposited or recorded in the registrar's office, and notice thereof given in the Official Gazette.

20. *Disclaimer and memorandum of alteration—notice and appeal.* Any person who, as grantee, assignee, or otherwise, shall obtain letters patent under this ordinance, may, if he think fit, enter at the said registrar's office, having first obtained the leave of the attorney-general, certified by his fiat and signature, a disclaimer of any part of either the title of the invention or of the complete specification, stating the reason for such disclaimer, or may, with such leave as aforesaid, enter a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said letters patent ; and such disclaimer or memorandum of alteration, being entered at the said office and notified by the registrar in the Official Gazette, shall be deemed and taken to be part of such letters patent, or such complete specification, in all courts whatever in this colony : Provided always, that any person desirous of entering any such disclaimer or alteration shall be bound to give three weeks previous notice in the Official Gazette of his intention to enter the

same: And provided further, that any party aggrieved by any decision of the attorney-general under this section may, within two weeks from the date of such decision apply by petition to the Supreme Court or chief justice to alter or amend the same; and the court or chief justice, after hearing the parties interested, if they or any of them shall think proper to appear, shall give judgment accordingly, and all costs shall be in the discretion of such court or chief justice; and the attorney-general shall alter or amend his decision, according to such judgment, if necessary.

21. *Caveats may be entered.* Any person may enter a caveat against such disclaimer or alteration at the said registrar's office within the said period of three weeks, which caveat, being so entered, shall be referred to and heard and determined by the attorney-general, subject to an appeal to the court or chief justice in like manner as is provided in the last preceding section: Provided always, that no disclaimer or alteration shall be receivable in evidence in any action or suit pending at the time when such disclaimer or alteration was entered, but in every such action or suit the original title and complete specification alone shall be given in evidence and deemed and taken to be the title and complete specification of the invention for which the letters patent shall have been granted: And provided further, that such entry and notification in the Official Gazette of any disclaimer or memorandum of alteration in pursuance of the leave of the attorney-general, shall, except in cases of fraud, and subject to the aforesaid appeal, be conclusive as to the right of the party to enter such disclaimer or alteration; and no objection shall be allowed to be made in any proceeding in this colony upon or touching such letters patent, specification, disclaimer, or alteration, on the ground that the party entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf.

22. *Mode of proceeding for confirmation of the letters patent.* If in any action or suit in this colony it shall be specially found by the court or jury that any person who shall have obtained letters patent in this colony for any invention, or supposed invention, was not the first inventor thereof, or of some part thereof, by reason of some other person or persons having invented or used the same or some part thereof in this colony before the date of such letters patent, or if such patentee or his assigns shall discover that some other person had unknown to such patentee invented or used the same or some part thereof in this colony before the date of such letters

patent, it shall be lawful for such patentee or his assigns to petition the governor, with the advice and consent of the Court of Policy, to confirm the said letters patent, or to grant new letters patent, the matter of which petition shall be referred to and heard before the Court of Policy, and such court, upon examining the said matter, and being satisfied that such patentee believed himself to be the first and original inventor, and further, that such invention or part thereof had not been publicly and generally used in this colony before the date of such letters patent, may state by resolution their opinion that the prayer of such petition ought to be complied with, whereupon the governor may, if he think fit, grant such prayer; and the said letters patent shall in such case be available in law to give such petitioner the sole right of using, making, and vending in this colony the said invention as against all persons whatever, any laws, usage, or custom to the contrary notwithstanding: Provided, that any person opposing such petition shall be entitled to be heard before the said Court of Policy, and that any person party to any former suit or action touching such first letters patent shall be entitled to have notice of such petition before presenting the same.

23. *Application for the prolongation of the term of the patent.* If any person who shall obtain any letters patent under this ordinance, or any assignee of such patentee, shall advertise for one month in the Official Gazette that he intends to apply to the Governor to grant to him, with the advice and consent of the Court of Policy, a prolongation of his term of sole using and vending his invention within this colony, and shall petition the Governor to that effect, it shall be lawful for any person to enter a caveat at the office of the government secretary; and the matter being referred to the consideration of the Court of Policy, the petitioner and the parties entering caveats and their respective witnesses shall be heard, whereupon, and upon hearing and inquiring of the whole matter, the Court of Policy may state by resolution their opinion that a further extension of the term in the said letters patent should be granted, not exceeding seven years; and the Governor may, if he think fit, thereupon grant new letters patent for the said invention for a further term not exceeding seven years after the expiration of the first term, any law, usage, or custom to the contrary notwithstanding; provided always, that no such extension shall be granted unless the petition shall be presented six months at least before the expiration of the term originally granted in such letters patent, and

shall be thereafter prosecuted by the petitioner with due diligence, to the satisfaction of the Governor and Court of Policy.

24. *Witnesses may be summoned in proceeding under this ordinance.* It shall be lawful for the Governor and Court of Policy to order any person to be summoned to appear before them to give evidence in any proceeding before them under this ordinance; and if any person being served with any such order or summons of the Governor and Court of Policy, shall refuse or neglect to appear at the time and place mentioned in such order or summons, such person shall be subject to a fine by the Governor and Court of Policy, not exceeding two hundred and forty dollars, to be recovered at the instance of the attorney-general by summary execution.

25. *Evidence to be given upon oath.* It shall be lawful for the Governor and Court of Policy to administer to any person who shall appear as a witness in any such proceeding, any oath or affirmation that may lawfully be administered in any court of justice, and every witness who shall willfully give a false answer to any question that may be put to him or her, or shall swear falsely on any oath, or shall falsely affirm any matter or thing, shall be deemed guilty of perjury, and on conviction thereof before the Supreme Court of Criminal Justice shall be subjected to the pains and penalties imposed on persons guilty of willful and corrupt perjury.

26. *Summonses to be served by the provost-marshal.* All summonses and orders of the Governor and Court of Policy, granted in any of such proceedings as aforesaid, shall be served and executed by provost-marshal of the colony, or his lawful deputy, and for the making and serving of each copy of any such summons or order the provost-marshal shall be allowed to charge the sum of fifty cents, and no more, and for traveling expenses or distance money the fees chargeable by the marshal under ordinance No. 27 of the year 1855, and the costs of procuring the attendance of every such witness shall be borne by the party requiring him to be summoned, unless the Governor and Court of Policy shall otherwise direct.

27. *Register of patents to be kept.* There shall be kept at the Registrar's office aforesaid, a book or books, to be called the "Register of Patents," which shall be kept alphabetically indexed, and wherein shall be entered and recorded in chronological order all letters patent granted or filed under this ordinance (and nothing contained in section 24 of ordinance No. 3 of 1860, shall extend or

apply to any such letters patent), all provisional specifications after the term of the provisional protection of the invention has expired, all complete specifications, disclaimers and memoranda of alterations entered in respect of such letters patent, all amendments in such letters patent and specifications, all assignments of such letters patent, or of any share or interest therein, all confirmations and extensions of such letters patent, the expiry, vacating or cancelling of such letters patent, with the dates thereof, respectively, and all other matters and things affecting the validity of such letters patent as the government secretary may direct: and such register, on payment of the fee hereinafter provided, shall be open at all convenient times to the inspection of the public, subject to such regulations as the Supreme Court may make.

28. *In suits for infringement, particulars to be delivered.* In any suit for the infringement of letters patent the plaintiff shall deliver, with his claim and demand, particulars of the breaches complained of in the said suit, and the defendant, on pleading thereto, shall deliver with his pleading, and the plaintiff, in any proceedings to have declared void letters patent granted under this ordinance, shall deliver with his claim and demand, particulars of any objections on which he means to rely at the trial in support of the defense in the said suit or of the averments in the said claim and demand in the proceedings to have declared void such letters patent respectively; and at the trial of such suit or proceeding no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such letters patent, which shall not be contained in the particulars delivered as aforesaid: Provided always, that the place or places at or in which, and in what manner, the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars; provided also that it shall and may be lawful for any judge of the Supreme Court to allow such plaintiff or defendant, respectively, to amend the particulars delivered as aforesaid upon such terms as to such judge shall seem fit; provided also, that at the trial of any proceeding to have letters patent declared void the defendant shall be entitled to begin and to give evidence in support of such letters patent, and in case evidence shall be adduced on the part of the plaintiff impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

29. *Supreme Court or chief justice may grant an interdict.* In any suit for the infringement of letters patent, it shall be lawful

for the Supreme Court or chief justice in non-session, on the application of the plaintiff or defendant, respectively, to make such order for an interdict, inspection, or account, and to give such directions respecting such suit, interdict, inspection, and account, and the proceedings therein respectively, as to such court or chief justice may seem fit.

30. *Particulars to be regarded in taxation.* In taxing the costs in any suit, after the taking effect of this ordinance, for infringing letters patent, regard shall be had to the particulars delivered in such suit, and the plaintiff and defendant, respectively, shall not be allowed any costs in respect of any particular, unless certified by the court or judge before whom the trial was had to have been proved by such plaintiff or defendant, respectively, without regard to the general costs of the cause : and it shall be lawful for the court or judge before whom any such suit shall be tried to certify on the record that the validity of the letters patent in the claim and demand mentioned came in question, and the record with such certificate being given in evidence in any suit or action for infringing the said letters patent, or in any proceeding to have the letters patent declared void, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding, on obtaining a final sentence, to his full costs, charges, and expenses, taxed as between attorney and client, unless the court or judge trying such action or proceeding shall certify that the plaintiff or defendant, respectively, ought not to have such full costs.

31. *Copies of Official Gazette, and certified copies of letters patent, &c., to be evidence.* Copies of the Official Gazette containing all notices and other matters required by this ordinance to be inserted therein, and copies certified and signed by the registrar of all letters patent granted under this ordinance, and of all specifications, disclaimers, memoranda of alterations, and all other documents recorded, deposited, or entered in his office under this ordinance, shall be received in evidence in all proceedings relating to letters patent for inventions in all courts whatsoever within this colony without further proof or production of the originals.

32, 33. [Omitted because relating only to patents existing when the law took effect.]

34. *Solicitor-general to act in case of absence or inability of attorney-general.* In case of the absence or inability to act of the attorney-general, the duties of his office may, for all the purposes

of this ordinance, be discharged, and the fees in respect thereof received by the solicitor-general.

35. Fees and stamp duties on patent to be as in schedule A. There shall be paid in respect of letters patent applied for or issued as herein mentioned, the filing of complete specifications and disclaimers, reports, certificates, entries, inspections, and searches, and other matters and things mentioned in the schedule A to this ordinance, such fees and stamp duties as are mentioned in the said schedule and no other; and all fees and stamp duties by such schedule made payable at the office of the government secretary shall accrue due, and be paid to Her Majesty for the use of the colony and in support of the government thereof.

36. Nothing to affect prerogative of Crown. Nothing herein contained shall extend to abridge or affect the prerogative of the crown in relation to the granting or withholding the grant of any letters patent whatever, or the terms, restrictions, conditions, or provisos thereof.

37. Forms in schedule B may be used. The several forms in the schedule B. to this ordinance annexed may be used for and in respect of the several matters therein mentioned, and the Governor may, with the approval of the Court of Policy, cause to be varied such forms as occasion may require.

38. Interpretation clause. In the construction of this ordinance, the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context (that is to say):

The expression "United Kingdom" shall mean the United Kingdom of Great Britain and Ireland;

The expression "invention" shall mean any manner of new manufacture, the subject of letters patent, and grant of privilege within the meaning of the Act of Parliament of the twenty-first year of the reign of King James the First, chapter three:

The expressions "petition," "affidavit," "provisional specification," "letters patent" and "complete specification" respectively shall mean instruments in form and to the effect in the schedule B hereto annexed, subject to such alterations as may from time to time be made therein under the powers and provisions of this ordinance.

39. Short title. In citing this ordinance in other ordinances, instruments, and proceedings, it shall be sufficient to use the expression "The Patent Law Ordinance, 1861."

40. Commencement of ordinance. This ordinance shall come into operation and take effect on the publication thereof.

And that no ignorance may be pretended of this our ordinance, these presents shall be printed and published in the customary manner.

SCHEDULE A.

Fees to be paid at the attorney-general's office.

On examining provisional specification, to be paid on filing petition.....	\$25	0
On reporting on application for letters patent after notice to proceed.....	25	0
On giving notice of disclaimer or alteration	25	0
On entering caveat.....	25	0

Stamp duties to be paid at the government secretary's office.

On notice to proceed.....	5	0
On the sealing of letters patent.....	20	0
On the letters patent or a duplicate thereof before the expiration of the seventh year.....	100	0
On petition for confirmation or prolongation of patent.....	50	0
On the sealing of grant confirming or prolonging letters patent.....	100	0

Fees to be paid at the registrar's office.

On recording letters patent.....	5	0
On depositing complete specification, including copy.....	15	0
On entering disclaimer or alteration, including copy and notification in the Official Gazette.....	10	0
On entering caveat, including copy and notification in the Official Gazette....	10	0
For copy of any of the before-mentioned documents, or of any provisional specification deposited, per page.....	0	25
On inspecting register of patents, for each patent, and all documents connected therewith.....	0	48

N. B.—For copies of drawing attached to specifications, the registrar to be allowed to charge extra, subject to the approval of the chief justice.

SCHEDULE B.

FORMS.

Petition.

To His Excellency [*here insert the name of the Governor*] Governor and Commander-in-Chief, in and over the colony of British Guiana, Vice-Admiral and Ordinary of the same, &c., &c., &c.

The humble petition of [*name of the petitioner*] respectfully sheweth,—

That your petitioner is in possession of an invention for [*the title of the invention*], which invention he believes will be of great public utility; that he is the true and

first inventor thereof ; and that the same is not in use by any other person or persons in this colony, to the best of his knowledge and belief.

Your petitioner, therefore, humbly prays,—

That your Excellency will be pleased to grant unto him, his heirs, executors, administrators, and assigns, letters patent, in the name of Her Majesty, for the sole use, benefit and advantage of his said invention, within the colony of British Guiana, for the term of fourteen years, pursuant to the ordinance in that case made and provided.

And your petitioner will ever pray, &c.

Affidavit.

I _____, of _____, having been duly sworn, make oath and say, that I am in possession of an invention for [*the title as in petition*], which invention I believe will be of great public utility ; that I am the true and first inventor thereof ; and that the same is not in use by any other person or persons in this colony, to the best of my knowledge and belief. A. B.

Sworn this _____ day of _____, A. D. _____, before me, _____
A commissioner for administering
oaths to affidavits, &c.

Provisional Specification.

I _____ do hereby declare the nature of the said invention [*the title of the invention*] to be as follows : [*here insert description*].

Dated this _____ day of _____ A. D. _____
(*To be signed by petitioner or his agent.*)

Letters Patent.

By His Excellency [*name of Governor*], Governor and Commander-in-Chief [L. S.] in and over the colony of British Guiana, Vice-Admiral and Ordinary of the same, &c., &c., &c.

To all to whom these presents shall come, greeting :

Whereas _____ hath, by his petition, humbly represented unto me 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 in this colony, to the best of his knowledge and belief ; the petitioner therefore most humbly prayed that I would be pleased to grant unto him, his heirs, executors, administrators and assigns, letters patent in the name of Her Majesty, for the sole use, benefit, and advantage of his said invention, within the colony of British Guiana, for the term of fourteen years, pursuant to the ordinance in such case made and provided ; Know ye, therefore, that I, in the name and on the behalf of Her most Gracious Majesty the Queen, and being thereto duly authorized by the ordinance in such case made and provided, do by these presents, give and grant unto the said _____, his heirs, executors, administrators, and assigns, my special license, full power, sole privilege and authority that he, the said _____, his heirs, 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 heirs,

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 the colony of British Guiana, in such manner as to him the said , his heirs, executors, administrators, and assigns, or any of them, shall in his or their discretion, seem meet ; and that he, the said , his heirs, 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 heirs, executors, administrators, and assigns, for and during, and unto the full end and term of fourteen years from the day of in the year of our Lord one thousand eight hundred and next and immediately ensuing, according to the ordinance in such case made and provided ; and to the end that he, the said , his heirs, 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, I do, by these presents, require and strictly command all and every person and persons, bodies politic and corporate, and all others, of what estate, quality, degree, name, or condition soever they be, within this colony, 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, nor in any wise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the consent, license, or agreement of the said , his heirs, executors, administrators, or assigns, in writing under his or their hands first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt, and further not be answerable to the said , his heirs, executors, administrators, and assigns, according to law, for his and their damages thereby occasioned : Provided always, and these 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 the Honorable the Supreme Court of Civil Justice of this colony, that this grant is contrary to law, or prejudicial or inconvenient to Her Majesty's 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 colony as aforesaid, these letters patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein contained to the contrary thereof in anywise notwithstanding : Provided also, that these letters patent, or anything hereinbefore contained, shall not extend or be construed to extend to give privilege unto the said , his heirs, 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 Her Majesty's subjects whatsoever, and publicly used or exercised in this colony, unto whom like letters patent or privileges have been already granted in this colony for the sole use, exercise, and benefit thereof, it being my will and pleasure that the said , his heirs, executors, administrators and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly

use and practice their several inventions by them invented and found out, according to the true intent and meaning of the same respective letters patent, and of these presents: Provided likewise nevertheless, and these letters patent are upon this express condition, that if the said shall not record these letters patent in the registrar's office for the counties of Demerara and Essequibo within ten days from the date of these presents, and also 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 cause the same to be deposited in the office of the said registrar within six calendar months next and immediately after the date of these letters patent, and also if the said instrument in writing, deposited 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 heirs, executors, administrators, or assigns, shall not supply or cause to be supplied for Her Majesty's service in this colony, all such articles of the said invention as he or they shall be required to supply by the officers administering the department of Her Majesty's service in this colony, 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 Governor of this colony, and also if the said , his heirs, executors, administrators, or assigns, shall not pay or cause to be paid at the office of the government secretary, the sum of one hundred dollars stamp duty, on or before the day of , A. D., that then and in any of the said cases, these 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, I do by these presents, in the name and on the behalf of Her Majesty, grant unto the said , his heirs, executors, administrators, and assigns, that these letters patent, or the filing thereof, shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said , his heirs, executors, administrators, and assigns, in all courts of record as well as elsewhere in this colony, and by all and singular the officers and ministers whatsoever of Her Majesty, and amongst all and every the subjects of Her Majesty in this colony, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging.

In witness whereof I have caused these 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 Her Majesty's reign.

Specification.

To all to whom these presents shall come, I , of , send greeting.

Whereas His Excellency [*Governor's name*], Governor and Commander-in-Chief in and over the colony of British Guiana, &c., &c., &c., by letters patent, bearing date the day of , in the year of our Lord one thousand eight hundred and

, in the year of Her Majesty's reign, did, in the name of Her Majesty, pursuant to the ordinance in such case made and provided, give and grant unto me, the said , his special license, that I, the said , my heirs, executors, administrators, and assigns, or such others as I, the said , my heirs, executors, administrators and assigns, should at any time agree with, and no others, from time to time, and at all times thereafter, during the term therein expressed, should, and lawfully might make, use, exercise, and vend within the colony of British Guiana, 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, 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 deposited in the registrar's office for the counties of Demerara and Essequibo, within six calendar months next and immediately after the date of the said letters patent: Now know ye, that I, the said , do hereby declare the nature of my said invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement; (that is to say) [describe the invention].

In witness whereof I, the said , have hereto set my hand, this day
of A. D. , in the presence of the subscribing witnesses.

From Carpm. Pat. L. of World, 55.

BRITISH HONDURAS.

An Act for amending the Law for granting Patents for Inventions. September 10, 1862; 26^o Victoriæ, Sessio 1^a, cap. II.

WHEREAS it is expedient to amend the law concerning Letters Patent for inventions: Be it enacted by the Lieutenant Governor, by and with the advice and consent of the Legislative Assembly, as follows:

I. *Commissioners of patents.* The Lieutenant Governor and the members of the Executive Council for the time being respectively, together with such other person or persons as may be from time to time appointed by the Lieutenant Governor as hereinafter mentioned, shall be commissioners of patents for inventions; and it shall be lawful for the Lieutenant Governor from time to time, by warrant under his hand and seal, to appoint such other person or persons as he may think fit to be a commissioner or commissioners as aforesaid; and every person so appointed shall be a commissioner during Her Majesty's pleasure; and all the powers hereby vested in the commissioners may be exercised by any three or more of them, two members of the Executive Council being two of them.

II. *Authentication of documents and copies.* Three or more of such commissioners, of whom two shall be members of the Executive Council, shall subscribe their names to all warrants for letters patent under this Act, and all instruments proceeding from the office of the commissioners; and all copies or extracts from documents deposited in the commissioners' office shall be certified by the clerk of the commissioners, and all courts, judges, and other persons in this colony shall take notice of and receive the signatures of such commissioners in evidence, and shall also take notice of and receive in evidence, without further proof or production of the originals, all copies or extracts, certified under the hand of the said commissioners' clerk, of or from documents deposited in such office.

III. *Power of commissioners to make rules and regulations.* It shall be lawful for the commissioners from time to time to make such rules and regulations (not inconsistent with the provisions of this Act), respecting the business of their office, and all matters and things which under the provisions herein contained are to be under

their control and direction, as may appear to them necessary and expedient for the purposes of this Act ; and all such rules shall be laid before the Legislative Assembly within fourteen days after the making thereof, if the General Assembly be sitting in annual session, and if it be not sitting in annual session, then within fourteen days after the next meeting of the General Assembly in annual session ; and in the meantime, and until the commissioners shall make such rules and regulations, those contained in the schedule annexed to this Act shall be observed.

IV. *Colonial secretary's office to be the office of the commissioners, and he their clerk.* The office the colonial secretary shall be the office of the commissioners for the filing of specifications, and the office of the colonial secretary and the office of clerk of the commissioners shall be combined ; and the colonial secretary for the time being shall be the clerk of the commissioners for the purposes of this Act.

V. *Petition and declaration, specification.* Every petition for the grant of letters patent for an invention, and the declaration required to accompany such petition, shall be left at the office of the colonial secretary, and there shall be left therewith a statement in writing, hereinafter called the provisional specification, signed by or on behalf of the applicant for letters patent, describing the nature of such invention ; and the day of the delivery of every such petition, declaration, and provisional specification, shall be recorded at the said office, and indorsed on such petition, declaration, and provisional specification, and a certificate thereof given to such applicant or his agent ; and all such petitions, declarations, and provisional specifications shall be preserved in such manner as the commissioners may direct, and a registry thereof, and of all proceedings thereon, kept at the office of the colonial secretary.

VI. *Applications to be referred to attorney-general.* Every application for letters patent made under this Act shall be referred by the commissioners, according to such regulations as they may think fit to make, to Her Majesty's attorney-general for this colony.

VII. *Provisional specifications to be referred to attorney-general, who may give certificate.* The provisional specification shall be referred to the attorney-general, who shall be at liberty to call to his aid such scientific or other person as he may think fit, and cause to be paid to such person by the applicant such remuneration as the attorney-general shall appoint ; and if the attorney-general be satisfied that the provisional specification describes the nature of

the invention, he shall allow the same, and give a certificate of his allowance, and such certificate shall be filed in the office of the colonial secretary, and thereupon the invention therein referred to may, during the term of six months from the date of the application for letters patent for the said invention, be used and published without prejudice to any letters patent to be granted for the same, and such protection from the consequences of use and publication is hereinafter referred to as a provisional protection: Provided always, that in case the title of the invention or the provisional specification be too large or insufficient, it shall be lawful for the attorney-general to allow or require the same to be amended.

VIII. *Inventor may deposit a complete specification to confer rights.* The applicant for letters patent for an invention, instead of leaving with the petition and declaration a provisional specification as aforesaid, may, if he thinks fit, file with the said petition and declaration an instrument in writing under his hand and seal (hereinafter called a complete specification), particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, which complete specification shall be mentioned in such declaration, and the day of the delivery of every such petition, declaration, and complete specification, shall be recorded at the office of the colonial secretary, and indorsed on such petition, declaration, and specification, and a certificate thereof given to such applicant or his agent, and thereupon, subject and without prejudice to the provisions hereinafter contained, the invention shall be protected under this Act for the term of six months from the date of the application, and the applicant shall have during such term of six months the like powers, rights, and privileges as might have been conferred upon him by letters patent for such invention, issued under this Act and duly sealed as of the day of the date of such application; and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any letters patent to be granted for the same; and where letters patent are granted in respect of such invention, then in lieu of a condition for making void such letters patent in case such invention be not described and ascertained by a subsequent specification, such letters patent shall be conditioned to become void if such complete specification, filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed; and a copy of every such complete specification shall be open to the

inspection of the public, as hereinafter provided, from the time of depositing the same, subject to such regulations as the commissioners may make.

IX. Patent not to be invalidated by protection in fraud. In case of any application for letters patent for any invention, and the obtaining upon such application of provisional protection for such invention, or of protection for the same by reason of the deposit of a complete specification as aforesaid, in fraud of the true and first inventor, any letters patent granted to the true and first inventor of such invention shall not be invalidated by reason of such application, or of such provisional or other protection as aforesaid, or of any use or publication of the invention subsequent to such application, and before the expiration of the term of such provisional or other protection.

X. Commissioners to cause protections to be advertised. Where any invention is provisionally protected under this Act, or protected by reason of the deposit of such complete specification as aforesaid, the commissioners shall cause such provisional protection or such other protection as aforesaid to be advertised in such manner as they may see fit.

XI. Application to be advertised, particulars of opposition. The applicant for letters patent, so soon as he may think fit after the invention shall have been provisionally protected under this Act, or where a complete specification has been deposited with his petition and declaration, then so soon as he may think fit after such deposit, may give notice at the office of the colonial secretary of his intention of proceeding with his application for letters patent for the said invention, and thereupon the said commissioners shall cause his said application to be advertised in such manner as they may see fit ; and any persons having an interest in opposing the grant of letters patent for the said invention shall be at liberty to leave particulars in writing of their objections to the said application at such place, and within such time, and subject to such regulations as the commissioners may direct.

XII. Specification and objections to be referred to attorney-general. So soon as the time for the delivery of such objections shall have expired, the provisional specification, or the complete specification (as the case may be) and particulars of objection (if any) shall be referred to the attorney-general.

XIII. Power of attorney-general to order costs. It shall be lawful for the attorney-general, if he see fit, by certificate under his

hand, to order by or to whom the costs of any hearing or inquiry upon any objection, or otherwise in relation to the grant of such letters patent, or in relation to the provisional (or other) protection acquired by the applicant under this Act shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid be not paid within fourteen days after the amount shall be so ascertained, it shall be lawful for the attorney-general to make an order for the payment of the same, and any such order may be made a rule of the Supreme Court to the effect that execution may pass thereupon in common form.

XIV. *Power of attorney-general to warrant sealing patent.—Lieutenant governor to have discretion granting.—Scire facias.* It shall be lawful for the attorney-general, after such hearing (if any) as he may think fit, to cause a warrant to be made for the sealing of letters patent for the said invention, and such warrant shall be signed by three of the said commissioners, of whom two shall be members of the Executive Council, and shall set forth the tenor and effect of the letters patent thereby recommended to be granted, and shall direct the insertion in such letters patent of all restrictions, conditions, and provisos as he may deem usual and expedient in such grants, or necessary in pursuance of the provisions of this Act; and the said warrant shall be the warrant for the making and sealing of letters patent under this Act, granting to the applicant, his executors, administrators, and assigns, for a term not exceeding fourteen years, the sole right and liberty of making, using, exercising, and vending the said invention according to the tenor of the said warrant: Provided always, that the Lieutenant Governor shall and may have and exercise a discretion in respect of the said warrant, and any letters patent thereby proposed to be made under this Act; and the writ of scire facias shall lie for the repeal of any letters patent issued under this Act in the like cases as the same would lie in England for the repeal of letters patent issued under the Great Seal of the United Kingdom of Great Britain and Ireland.

XV. *Patent to be avoidable on non-payment of certain sums.* All letters patent for inventions granted under the provisions hereinbefore contained, shall be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid before the expiration of the said three and seven years respec-

tively the sum or sums of money in the schedule to this Act annexed; and the payment of the said sums of money shall be indorsed on the warrant for the said letters patent, and the colonial secretary shall issue under his hand a certificate of such payment, and shall indorse a receipt for the same on any letters patent issued on such warrant, and such certificate or payment shall be evidence of the payment of the several sums respectively.

XVI. *Patent under public seal to be valid in the colony.* The commissioners, so soon after the signing of the said warrant as required by the applicant for the letters patent, shall cause to be prepared letters patent for the invention according to the tenor of the said warrant, and it shall be lawful for the lieutenant governor to cause such letters patent to be sealed with the public seal of the colony, and such letters patent so sealed shall extend to the whole of the Colony of British Honduras.

XVII. *No patent to be issued after three months from date of warrant.* Provided always, that no letters patent, save as hereinafter mentioned in the case of letters patent destroyed or lost, shall issue on any warrant granted as aforesaid, unless application be made for the issue of such letters patent within three months after the date of the said warrant.

XVIII. *No patent to be issued after expiration of protection given by this Act.* Provided also, that no letters patent (save letters patent issued in lieu of others destroyed or lost) shall be issued or be of any force or effect unless the same be granted during the continuance of the provisional protection under this Act, or where a complete specification has been deposited under this Act, then unless such letters patent be granted during the continuance of the protection conferred under this Act by reason of such deposit, save that where the application to seal such letters patent has been made during the continuance of such provisional or other protection as aforesaid, and the sealing of such letters patent has been delayed by reason of any caveat or on application to the lieutenant governor against or in relation to the sealing of such letters patent, then such letters patent may be sealed at such time as the lieutenant governor shall direct.

XIX. *Patent may be granted to personal representative.* Provided also, that where the applicant for such letters patent dies during the continuance of the provisional protection, or the protection by reason of the deposit of a complete specification (as the case may be), such letters patent may be granted to the executors or admin-

istrators of such applicant during the continuance of such provisional or other protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such provisional or other protection, and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such provisional or other protection.

XX. *If patent destroyed or lost, other may be issued.* Provided also, that in case any such letters patent shall be destroyed or lost, other letters patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the commissioners may direct, be issued under the authority of the warrant in pursuance of which the original letters patent were issued.

XXI. *Patent may be dated as of the day of application.* It shall be lawful to cause any letters patent to be issued in pursuance of this Act to be sealed and bear date as of the the day of the application for the same.

XXII. *Patent ante-dated.* Any letters patent issued under this Act, sealed and bearing date as of any day prior to the day of the actual sealing thereof, shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date: Provided always that, save where such letters patent are granted for any invention in respect whereof a complete specification has been deposited upon the application for the same under this Act, no proceeding at law or in equity shall be had upon such letters patent in respect of any infringement committed before the same were actually granted.

XXIII. *Patent for patented foreign inventions.* Where upon any application made after the passing of this act, letters patent are granted in this colony for or in respect of any invention first invented in the United Kingdom of Great Britain and Ireland, or in any foreign country, or in any other British colony, or by the subject of any foreign power or state, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in the United Kingdom of Great Britian and Ireland, or in any foreign country, or in any other British colony is there obtained, before the grant of such letters patent in this colony, all rights and privileges under such letters patent shall (notwithstanding any term in such letters patent limited) cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in the United Kingdom, such foreign

country, or other British colony (as the case may be) shall continue in force, or where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges: Provided always, that no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained in the United Kingdom of Great Britain and Ireland, in any foreign country, or in any other British colony, and which shall be granted in this colony after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

XXIV. *Patent not to prevent use of inventions on board ships.* No letters patent for any invention shall extend to prevent the use of such invention in any ship or vessel not registered in British Honduras, or for the navigation of any ship or vessel not registered in British Honduras which may be in any port of this colony, or any of the waters within the jurisdiction of the courts of this colony, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the colony: Provided always, that this enactment shall not extend to the ships or vessels of any foreign state of which the laws authorize the subjects of such foreign state, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British ships or vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture of goods and commodities to be vended within or exported from the territories of such foreign state.

XXV. *Specifications to be filed—Enrollment not necessary.* All letters patent to be granted under this Act (save only letters patent granted after the filing of a complete specification) shall require the specification thereunder to be filed in the colonial secretary's office, instead of requiring the same to be enrolled, and no enrollment shall be requisite.

XXVI. *Specification to be preserved in Secretary's office.* Every specification to be filed in pursuance of the condition of any letters patent shall be filed in the colonial secretary's office, and every provisional specification and complete specification left at the office of the colonial secretary, on the application for any letters patent, shall forthwith after the grant of the letters patent, or if no letters patent be granted, then immediately after the expiration of

six months from the time of such application, be filed and preserved in the said office ; and in case reference is made to drawings in any specification deposited or filed under this Act, an extra copy of such drawings shall be left with such specification.

XXVII. *Copies of specifications to be open to inspection.* The commissioners shall cause true copies of all specifications (other than provisional specifications), disclaimers, and memoranda of alterations filed under or in pursuance of this Act, and of all provisional specifications after the term of the provisional protection of the invention has expired, to be open to the inspection of the public at the office of the colonial secretary at all reasonable times, subject to such regulations as the commissioners may direct.

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

XXIX. *Register of proprietors to be kept.* There shall be kept at the colonial secretary's office a book or books entitled the Register of Proprietors, wherein shall be entered, in such manner as the commissioner shall direct, the assignment of any letters patent, or of any share or interest therein, and any license under letters patent, with the name or names of any person or persons having any share or interest in such letters patent or license, the date of his or their acquiring such letters patent, share and interest, and any other matter or thing relating to or affecting the proprietorship in such letters patent or license ; and a copy of any entry in such book, certified under the hand of the colonial secretary, shall be given to any person requiring the same, on payment of the fees hereinafter provided ; and such copies, so certified, shall be received in evidence in all courts and in all proceedings, and shall be *prima facie* proof of the assignment of such letters patent, or share and interest therein, or of the license or proprietorship as therein expressed : Provided

always, that until such entry shall have been made, the grantee or grantees of the letters patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such letters patent of all the licenses and privileges thereby given and granted; and any writ of scire facias to repeal such letters patent may be issued to the provost marshal in case of the grantee or grantees residing in this colony, and in case such grantee or grantees do not reside in the colony, it shall be sufficient to file such writ in the clerk of the court's office, and serve notice in writing thereof at the last known residence or place of business of such grantee or grantees; and such register, or a copy, shall be open to the inspection of the public at the colonial secretary's office, subject to such regulations as the commissioners may make.

XXX. *Falsification or forgery of entries in Registers.* If any person shall willfully make or cause to be made any false entry in the said register of proprietors, or shall willfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in the said book, or shall produce or tender, or cause to be produced or tendered, in evidence any such writing knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall be punished by fine and imprisonment accordingly.

XXXI. *Entries may be expunged or varied.* If any person shall deem himself aggrieved by any entry made under color of this Act in the said register of proprietors, it shall be lawful for such person to apply by motion to the Supreme Court, or by a summons to the chief justice in chambers, for an order that such entry may be expunged, vacated, or varied; and upon any such application the said court or chief justice respectively may make such order for expunging, vacating, or varying such entry and as to the costs of such application, as to the said court or chief justice may seem fit; and the colonial secretary, on the production to him of any such order for expunging, vacating, or varying any such entry, shall expunge, vacate, or vary the same according to the requisitions of such order.

XXXII. *Disclaimers, and memoranda of alterations.* Any person who, as grantee, assignee, or otherwise, shall obtain letters patent for the sole making, exercising, vending, or using of any invention, and in case the original patentee or patentees hath or have departed with his or their whole or any part of his or their interest by assignment to any other person or persons, such patentee, together with such assignee or assignees, if part only hath been

assigned, and the assignee or assignees, if the whole hath been assigned, may, if he or they think fit, lodge with the colonial secretary an application for leave to enter a disclaimer of any part of either the title of the invention or of the specification, stating the reason of such disclaimer, or to enter a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said letters patent ; and all such applications shall be referred by the commissioners to the attorney-general ; and every such disclaimer or memorandum of alteration, when approved by the attorney-general, certified by his fiat and signature, and being filed in the colonial secretary's office with the specification to which the same relates, shall be deemed and taken to be part of such letters patent or such specification in all courts whatever : Provided always, that any person may lodge with the said colonial secretary a caveat against such disclaimer or alteration, and every such caveat shall be referred by the commissioners to the attorney-general ; and such caveat, being so entered, shall give the party entering the same a right to have notice of the application being heard by the attorney-general : Provided also, that no such disclaimer or alteration shall be receivable in evidence in any action or suit (save and except by any proceeding by scire facias) pending at the time when such disclaimer or alteration was filed ; but in every such action or suit the original title and specification alone shall be given in evidence and deemed and taken to be the title and specification of the invention for which the letters patent shall have been granted : Provided also, that it shall be lawful for the attorney-general, before granting such fiat, to require the party applying for the same to advertise his disclaimer or alteration, in such manner as to the attorney-general shall seem right, and shall, if he so require such advertisement, certify in his fiat that the same has been duly made : Provided also, that such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the attorney-general, certified as aforesaid, shall, except in cases of fraud, be conclusive of the right of the party to enter such disclaimer or memorandum of alteration ; and no objection shall be allowed to be made in any proceeding upon or touching such letters patent, specification, disclaimer, or memorandum of alteration, on the ground that the party entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf : Provided also, that no action shall be brought upon any letters patent in which, or in the specification

of which, any disclaimer or memorandum of alteration shall have been filed, in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the attorney-general shall certify in his fiat that any such action may be brought notwithstanding the entry or filing of such disclaimer or memorandum of alteration.

XXXIII. *Prolongation of term of patent.* If the grantee of any letters patent as aforesaid shall advertise, in such manner as the commissioners may direct, that he intends to apply to the commissioners for a prolongation of his term of sole using and vending his invention, and shall enter with the colonial secretary a petition addressed to the lieutenant governor to that effect, it shall be lawful for any person to enter a caveat against the same with the colonial secretary; and, notice being first given, to any person or persons who shall have entered such caveats, the petitioner shall be heard in person, or by his counsel or agent and witnesses, to prove his case, and the persons entering caveats shall likewise be heard in person, or by their counsel or agents and witnesses, whereupon, and upon hearing and inquiring of the whole matter, the commissioners are hereby authorized and empowered, if they shall think fit, to authorize to issue their warrant for the grant of new letters patent for the said invention for a term not exceeding seven years or any shorter period than that prayed, after the expiration of the first term: Provided always, that no such extension shall be granted if a petition for the same shall not have been presented before the expiration of the term sought to be extended.

XXXIV. *Commissioners may warrant extensions.* If in any petition for the extension of the term for which the letters patent as aforesaid have been granted, presented before the expiration thereof, it be set forth that the grantee thereof has been unable to obtain a due remuneration for his expense and labor in perfecting such invention, and that an exclusive right of using and vending the same for the further period of seven years in addition to the term in such patent mentioned will not suffice for his reimbursement and remuneration, then upon consideration of the same in manner aforesaid the commissioners may, if they think fit, grant their warrant for the extension thereof for a term not exceeding fourteen years, or any shorter period than that prayed, after the expiration of such first term.

XXXV. *Grant of new letters patent, extending period.* It shall be lawful to grant any such extension either to an assignee or

assignees, or to the original patentee or patentees or to an assignee or assignees and original patentee or patentees conjointly.

XXXVI. *Warrant and sealing such letters patent.* In the granting of any new letters patent, extending the term for which the original letters patent were granted, the warrant of the commissioners shall be a sufficient authority for the sealing of any new letters patent, and for the insertion in such new letters patent of any restrictions, conditions, and provisions in the said warrant mentioned; and the lieutenant governor shall thereupon cause letters patent, according to the tenor and effect of such warrant, to be made and sealed in the manner herein directed for letters patent issued under the certificate of the attorney-general and the commissioners' warrant thereupon: Provided always, that such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the original letters patent, which may first expire.

XXXVII. *In action for infringement, particulars to be delivered.* In any action in the Supreme Court for the infringement of letters patent the plaintiff shall, two weeks at least previously to the entering of his complaint, deliver or cause to be delivered to the person against whom such action is intended to be brought, particulars of the breaches intended to be complained of in such action, and the defendant, on pleading or filing any notice of defense thereto, shall deliver with his pleas or notice, and the prosecutor in any proceedings by scire facias to repeal letters patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in said action, or of the suggestions of the said declaration in the proceedings by scire facias respectively; and at the trial of such action or proceeding by scire facias no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such letters patent, which shall not be contained in the particulars delivered as aforesaid: Provided always, that the place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars: Provided also, that it shall and may be lawful for the chief justice at chambers to allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid, upon such terms as to such judge as shall seem fit: Provided also, that at the trial of any proceeding by scire facias to repeal letters patent the defendant shall be entitled to begin and to give evidence in support of such letters patent, and in

case evidence shall be adduced on the part of the prosecutor impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

XXXVIII. *Supreme Court may grant injunctions.* In any action in the supreme court for the infringement of letters patent, it shall be lawful for the court if then sitting, or if the court be not sitting then for the chief justice, on the application of the plaintiff or defendant respectively, to make such order for an injunction and inspection or account, and to give such directions respecting such injunction, inspection, and account, and the proceedings therein, respectively, as to such court, or chief justice may seem fit.

XXXIX. *Particulars to be regarded in taxation of costs.* In taxing the costs in any action in the Supreme Court regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular unless certified by the chief justice to have been proved by such plaintiff or defendant respectively, without regard to the general costs of the cause; and it shall be lawful for the chief justice to certify on the record that the validity of the letters patent in the declaration mentioned came in question; and the record with such certificate being given in evidence in any suit or action for infringing the said letters patent, or in any proceeding by scire facias to repeal the letters patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by scire facias, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, taxed as between attorney and client, unless the chief justice shall certify that the plaintiff or defendant respectively ought not to have such full costs.

XL. *Fees and payments in letters patent to be as in schedule.* There shall be paid in respect of letters patent applied for or issued as herein mentioned, the filing of specifications and disclaimers, certificates, entries, and searches, and other matters and things mentioned in the schedule to this Act, such fees as are mentioned in the said schedule; and there shall be made unto and for the use of Her Majesty, her heirs and successors, to be applied to the purposes of the government of this colony, for or in respect of the warrants and certificates mentioned in the said schedule, or the paper on which the same respectively are written, the payments mentioned in the said schedule; and no other fees shall be levied, or payments, except as hereinafter mentioned, taken in respect to

such letters patent and specifications, and the matters and things in such schedule mentioned.

XLI. *Payment of fees to attorney-general and colonial secretary.* Provided always, that nothing herein contained shall prevent the payment to the attorney-general on the investigation of each application, caveat, disclaimer, and memorandum of alterations, including certificate or report, or certificate and report, and in cases of opposition to the granting of letters patent, and to the colonial secretary for office or other copies of documents in his office, and in respect of the additional duties imposed on him by this Act, of the fees fixed in the schedule hereunto annexed.

XLII. *Defrayment of expenses incurred under Act.* It shall be lawful for the Lieutenant Governor and Council to allow from time to time the necessary sums for the defraying the current and incidental expenses by virtue of this Act, and the sums to be so allowed shall be paid out of such moneys as may be provided by the General Assembly for that purpose, or if no moneys be specially provided for them, from any unappropriated moneys in the public treasury.

XLIII. *Forms in schedule may be used.* The several forms in the schedule to this Act may be used for and in respect of the several matters therein mentioned, and the commissioners may, when they think fit, vary such forms where occasion may require, and cause to be printed and circulated such other forms as they may think fit to be used for the purposes of this Act.

XLIV. *Patent granted out of colony.* No letters patent hereafter to be obtained in Great Britain or elsewhere, for the exclusive privilege of any trade or manufacture, or any invention in connection therewith, shall be of any validity or effect in this colony, unless letters patent for the privilege of invention in respect of which such foreign letters patent may have been obtained, shall be granted and issued in pursuance of this Act, nor until all the provisions and requirements of this Act shall have been complied with in respect to letters patent.

XLV. *Interpretation of terms.* In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context :

The expression the "commissioners" shall mean the commissioners for the time being acting in the execution of this Act :

The expression "chief justice" shall include any person

appointed to act as chief justice during a vacancy in the office, and any senior or other puisne judge of the Supreme Court acting in the place of the chief justice during his absence or incapacity, and also any person appointed acting chief justice during such absence or incapacity :

The expression "colonial secretary" shall include any person who shall be appointed to act as colonial secretary during any vacancy in the office, and any person appointed to act or acting for such officer during the absence on leave or incapacity of the colonial secretary :

The expression "the attorney-general" shall include any person who shall be appointed to act as attorney-general during any vacancy in the office of attorney-general, and any person appointed to act for the attorney-general during his absence or incapacity :

The expression "invention" shall mean any manner of new manufacture, the subject of letters patent and grant of privilege within the meaning of the Act of the Imperial Parliament passed in the twenty-first year of the reign of King James the First, chapter three, entitled An act concerning monopolies, and dispensations with penal laws and the forfeitures thereof :

The expressions "petition," "declaration," "provisional specification," "warrant," and "letters patent" respectively shall mean instruments in the form and to the effect in the schedule hereto annexed, subject to such alterations as may from time to time be made therein under the powers and provisions of this Act.

XLVI. *Short title.* In citing this Act in other Acts of the Legislature, instruments, and proceedings, it shall be sufficient to use the expression "The Patent Law Amendment Act, 1862."

XLVII. *Operation suspended until confirmation of Act, &c.* This Act shall not come into operation until Her Majesty's gracious allowance and confirmation thereof shall have been communicated to the Legislative Assembly, or made public by proclamation by His Excellency the Lieutenant Governor.

FOREIGN LAWS.

The SCHEDULE to which this Act refers.

FEES to be paid.

1. *To Colonial Secretary.*

	\$	Rls.
On leaving petition for grant of letters patent.....	0	4
On notice of intention to proceed with application.....	0	2
On sealing of letters patent or duplicate.....	5	0
On filing specification.....	0	4
On certificate of payment at or before the expiration of the third year.....	2	0
On certificate of payment at or before the expiration of the seventh year.....	3	0
On leaving notice of objections.....	0	2
Every search or inspection, per hour or less.....	0	2
Entry of assignment or license.....	1	0
Certificate of assignment or license.....	1	0
Filing application for disclaimer.....	0	4
Caveat against disclaimer.....	0	4
Copies of documents, per folio of 90 words.....	0	2
On each certificate on copy.....	0	3
For preparing each advertisement.....	1	0

2. *To the Attorney-General.*

By the person opposing a grant of letters patent, including summons.....	16	0
By the petitioner on hearing the case of opposition, including summons....	16	0
By the petitioner for the hearing previous to the fiat of the Attorney-General allowing a disclaimer or memorandum of alteration in letters patent and specification.....	14	0
By the person opposing the allowance of such disclaimer or memorandum of alteration, on the hearing of the case of opposition.....	14	0
By the petitioner for the fiat of the Attorney-General allowing a disclaimer or memorandum of alteration on letters patent and specification.....	16	0
On investigation of each application, and certificate and report thereon.....	10	0

PAYMENTS to be made to the Colonial Secretary and accounted for to the Public Treasurer.

On sealing letters patent.....	25	0
On every assignment or license.....	5	0
At or before the expiration of the third year.....	50	0
At or before the expiration of the seventh year.....	100	0
On duplicate of letters patent lost or destroyed.....	5	0

FORMS.

No.

Petition.

To His Excellency the Lieutenant Governor of the Colony of British Honduras.
The humble petition of [*here insert the name and address of the petitioner*]

Showeth,

That your petitioner is in possession of an invention for
[*the title of the invention*]

which invention he believes will be of great public utility ; that he is the true and first inventor thereof ; and that the same is not in use by any other person or persons, to the best of his knowledge and belief.

Your petitioner therefore humbly prays that your Excellency will be pleased to grant unto him, his executors, administrators, and assigns, letters patent for the colony of British Honduras, for the term of fourteen years, pursuant to the statutes in that case made and provided.

And your petitioner will ever pray.

No. *Declaration.*

I , of , in the colony of British Honduras , do solemnly and sincerely declare that I am in possession of an invention for, &c.

[*the title as in petition*]

which invention I believe will be of great public utility ; that I am the true and first inventor thereof ; and that the same is not in use by any other person or persons, to the best of my knowledge and belief ; [*where a complete specification is to be filed with the petition and declaration, insert these words :—*“ and that the instrument in writing under my hand and seal hereunto annexed, particularly describes and ascertains the nature of the said invention, and the manner in which the same is to be performed ;”] And I make this declaration, conscientiously believing the same to be true, 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.”

Declared at in British Honduras, this day of A. B. A. D. before me,

C. D., Judge of Supreme Court.

or
Justice of the Peace.

No. *Provisional Specification.*

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 the applicant or his agent.*)

Reference.

[*To be indorsed on the petition.*]

The commissioners of patents for inventions refer this petition to the attorney-general, to consider what may properly be done therein.

A. B., Member of Council	} Three of the commissioners of patents.
C. D., Member of Council	
E. F.	

*Certificate of the Attorney-General, and Warrant thereon of the
Commissioners.*

In obedience to the order of the commissioners of patents referring to me the petition of _____, of _____, to consider what may be properly done thereon, I do hereby certify as follows: That the said petition sets forth that the petitioner

[*allegations of the petition*]:

And the petitioner humbly prays,

[*prayer of the petition*]:

That in support of the allegations contained in the said petition, the declaration of the petitioner has been laid before me, whereby he solemnly declares that

[*allegations of the declaration*]:

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

That it appears 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 to encourage all arts and inventions which may be for the public good, I am of opinion that letters patent may be granted unto the petitioner, his executors, administrators, and assigns, for his said invention within the Colony of British Honduras, for the term of fourteen years, according to the statute in that case made and provided, if the Lieutenant Governor shall be graciously pleased so to do according to the tenor and effect following:—

[*See next Form.*]

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

G. H., Attorney-General.

We, the undersigned, commissioners of patents for inventions in British Honduras, do warrant hereby the issue of letters patent, according to the tenor and effect above set forth.

A. B. } C. D. } E. F. }	Members of the Executive Council	} Three of the commissioners of patents.
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Letters Patent.

BRITISH HONDURAS SS.

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 the Lieutenant Governor of our Colony of British Honduras, 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 most graciously pleased to grant unto him, his executors, administrators, and assigns, our letters patent for the sole use, benefit, and advantage of his said invention within our said Colony of British Honduras, 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 the office of the colonial secretary :]

And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioners' 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 said colony of British Honduras, 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 intention hereinbefore declared, we do by these presents for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all others our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within our said colony of British Honduras, 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 any wise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the consent, 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, provost-marshal, alcaldes, constables, and all other officers and ministers whatsoever of us, our heirs and successors, for the time being, that they or any of them do not nor shall at any time during the

said term hereby granted, in any wise molest, trouble, or hinder the said _____, his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall be made appear to us, our heirs or successors, or to the commissioners of patents in our said colony of British Honduras, 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 our colony of British Honduras as aforesaid, these our letters patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein-before contained to the contrary thereof in anywise notwithstanding: Provided also, that these our letters patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said _____, his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use, exercise, and benefit thereof, it being our will and pleasure that the said _____, his executors, administrators, and assigns, and all and every other person and persons to whom 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 the colonial secretary's office within six 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 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 the colonial secretary the sums following; that is to say, the sum of fifty dollars on or before the _____ day of _____ A. D. _____, and the sum of one hundred dollars on or before the _____ day of _____ A. D. _____; and also if the said _____, his executors, administrators, or assigns, shall not supply or cause to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same, that then and in any of the said cases these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything herein-before 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, or the filing thereof, shall be in and by all

things good, firm, valid, sufficient, and effectual in the law according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said , his executors, administrators, and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors, in our said colony of British Honduras; and amongst all and every the subjects of us, our heirs and successors, whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention or of the materials thereunto conducing and belonging. In witness whereof we have caused these our letters to be made patent.

Witness His Excellency , Lieutenant-Governor of our said colony of British Honduras, at Government House, Belize, the day of A. D. , in the year of our reign.

—
Specification.

To all to whom these presents shall come:

I , of , send greeting:

Whereas Her most Excellent Majesty Queen Victoria, by her 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 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 time therein expressed, should and lawfully might make, use, exercise, and vend within the colony of British Honduras 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 the office of the colonial secretary within six calendar months next and immediately after the date of the said letters patent: Now know ye, that I, the said , do hereby declare the nature of my said invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement; (that is to say), [*describe the invention*].

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

A. B. (Seal.)

From *Carp. Pat. L. of World*, 78.

CAMBODIA.

See FRANCE.

YALE LAW LIBRARY.

CANADA.

*An Act respecting Patents of Invention. June 14, 1872, 35 Vict. c. 26 ; as amended or modified by later laws.**

Preamble. Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

PATENT-OFFICE CONSTITUTED.

1. *Minister of agriculture to be commissioner of patents.* There shall be attached to the department of agriculture, as a branch thereof, an office to be called the patent-office ; and the minister of agriculture for the time being shall be the commissioner of patents; and it shall be the duty of the said commissioner to receive all applications, fees, papers, documents, and models for patents, and to perform all acts and things requisite to the granting and issuing of patents of inventions; and he shall have the charge and custody of the books, records, papers, models, machines, and other things belonging to the said office.

2. *Seal to be made, and impressions thereof to be received in evidence.* The commissioner shall cause a seal to be made for the purposes of this Act, and may cause to be sealed therewith patents and other instruments and copies proceeding from the patent-office; and all courts, judges, and other persons whomsoever shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the Great Seal are received in evidence,

* At the larger law libraries throughout the United States one may consult the Canadian patent laws in the Statutes of Canada themselves; where they may be found as follows :

Act of June 14, 1872, Stat. 35 Vict. c. 26, Can. Stat. 97.

Act of May 23, 1873, 36 Vict. c. 44, Can. Stat. 129.

Act of May 26, 1874, 37 Vict. c. 44, Can. Stat. 190.

Act of April 8, 1875, 38 Vict. c. 14, Can. Stat. 91.

Act of May 25, 1883, 46 Vict. c. 19, Can. Stat. 331.

These enactments may be found sep-

arately in 20 Pat. Off. Gaz. 960, and 23 Id. 2241. Carpmaels' Pat. L. of World gives them consolidated, placing the amendments taken from later laws in their connection with the sections of the law of 1872 amended. Richards' Digest of Patent Laws, &c. of Canada does the same; he however adds :

Act of May 17, 1882; and

Act of April 19, 1884.

The version given in the text is that of Messrs. Carpmaels collated with that of Mr. Richards (the two do not materially differ) with the addition of the Acts of 1882 and 1884 quoted from Mr. Richards' reprint.

and shall also take notice of and receive in evidence, without further proof and without production of the originals, copies, or extracts certified under the seal of the said office to be copies of or extracts from documents deposited in such office.

3. *Commissioner to make rules.—Publication and effect.* 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 in conformity with the same and accepted by the commissioner, shall be held valid so far as relating to proceedings in the patent-office.

4. *Deputy commissioner and clerks.—Employes in patent-office not to be concerned in patents.—Exception.* The deputy of the minister of agriculture shall be the deputy commissioner of patents of invention; and the Governor in Council may, from time to time, appoint such clerks and officers under him as may be necessary for the purposes of this Act, and such clerks and officers shall hold office during pleasure. No officer or employe of the patent-office shall buy, sell, or acquire, or traffic in an invention or patent, or rights to patents therefor; and every such purchase and sale, and every assignment or transfer thereof; by or to any officer or employe as aforesaid, shall be utterly null and void. But this shall not apply to any original inventor, or to the acquisition by bequest.

5.* *Annual report and list of patents.—Publications of specifications.* 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 each year, publish 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.

WHO MAY OBTAIN PATENTS.

6. *Any person may obtain a patent for his invention, it not having been then in public use in Canada for more than one year.—Form of patent.—Proviso: what shall not be patentable.* Any person having invented any new and useful art, machine, manufacture,

*According to Richards' edition of the patent law of Canada, the text is Section 5 "as amended by Act of May 23, 1873;"

Carpmaels' edition does not mention the fact of amendment, but gives the section in the same language.

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 thereof, and not being in public use or on sale for more than one year previous to his application in Canada, with the consent or allowance of the inventor 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 avail to the grantee, his executors, administrators, or assigns, for the period mentioned in such patent; but no patent shall issue for an invention having an illicit object in view, nor for any mere scientific principle or abstract theorem.

7. *As to inventions for which foreign patents have been taken out.* But an inventor shall not be entitled to a patent for his invention, if a patent therefor in any other country shall have been in existence in such country more than twelve months prior to the application for such patent in Canada; and if during such twelve months any person shall have commenced to manufacture in Canada the article for which such patent is afterwards obtained, such person shall continue to have the right to manufacture and sell such article, notwithstanding such patent; and under any circumstances, where a foreign patent exists, the Canadian patent shall expire at the earliest date at which any foreign patent for the same invention expires.

8. *Representatives of inventor may obtain the patent.* The patent may be granted to any person to whom the inventor entitled under the sixth section to obtain a patent has assigned or bequeathed the right of obtaining the same, or in default of such assignment or bequest, to the executors or administrators or *other legal representatives* of the deceased inventor.

[NOTE.*—The words in italics were added by 36 Vict. cap. 44.]

9. *As to patents for improvements on patented inventions.—*
Proviso. Any person who has invented any improvement on any patented invention may obtain a patent for such improvement, but shall not thereby obtain the right of vending or using the original invention, nor shall the patent for the original invention confer the right of vending or using the patented improvement.

* Notes printed in this form are from Carpmaels' edition.

10. *As to joint application for patent.* 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, or to any person, shall be registered in like manner as other assignments.

CONDITIONS AND FORMALITIES.

11. *Declaration to be made by application for a patent.—Before whom.—Applicant to elect a domicile in Canada.* Every inventor, before a patent can be obtained, 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, in the case of the inventor being deceased, the applicant shall make oath or affirm that the person whose assignee or representative he is, was the inventor of the invention for which the patent is solicited, and that the several allegations in the petition contained are respectively true and correct. Such oath or affirmation may be made before any justice of the peace in Canada; but if the inventor or the applicant is not at the time in Canada the oath or affirmation may be made before any minister plenipotentiary, chargé d' affaires, consul, vice-consul, or consular agent, holding commission under the government of the United Kingdom, or any Judge of a court of record or a public notary, or the mayor or other chief magistrate of any city, borough, or town corporate in the country in which the applicant happens at the time to be.

[NOTE.*—The words in italics were added by 36 Vict. cap. 44.]

12. *Particulars required in application.* 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.

13. *Specification and drawing, form of, and what to show.* The applicant shall, in his petition for a patent, insert the title or name of the invention, and shall, with the petition, send in a specification, in duplicate.

14. *Commissioner may require further drawings.—Drawings, how disposed of.* The specification shall correctly and fully describe the mode or modes of operating contemplated by the inventor; and shall state clearly and distinctly the contrivances and things which he claims as new; and for the use of which he

* Notes printed in this form are from Carpmals' edition.

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 inventor; if he be alive (and if not, 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 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 ; and each drawing shall bear the signature of the applicant or of his attorney, and shall have written references corresponding with the specification, but the commissioner may require further drawings or dispense with any of them, as he may see fit ; one duplicate of the specification and of the drawings, if there are 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. *But the said commissioner may, in his discretion, dispense with the said duplicate specification and drawing, and in lieu thereof cause copies of the specification and drawing, in print or otherwise, to be attached to the patent of which they shall form an essential part.

[NOTE.—The words following the asterisk were added by 36 Viet. cap. 44.]

15. *Working model to be delivered to the commissioner.—Or specimens of ingredients.—Exception as to explosive materials.* 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 on a convenient scale, exhibiting its several parts in due proportion, whenever the invention 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.

CONTENTS, DURATION, SURRENDER, RE-ISSUE OF PATENTS, AND DISCLAIMERS.

16. *Contents of patents.—Conditions.* Every patent granted under this Act shall contain the title or name of the invention, with a reference to the specification,—and shall grant to the patentee,

his executors, administrators, *legal representatives*, and assigns, for the period therein mentioned for 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, subject, nevertheless, to adjudication before any court of competent jurisdiction.

[NOTE.—The words in italics were added by 26 Viet. cap. 44.]

17. *Duration of patents and periodical extension—not exceeding fifteen years in all.—Form of extension.* The term limited for the duration of every patent of invention issued by the patent-office shall be fifteen years; but at the time of the application therefor it shall be at the option of the applicant to pay the full fee required for the term of fifteen years, or the partial fee required for the term of five years, or the partial fee required for the term of ten years. In case a partial fee only is paid the proportion of the fee paid shall be stated in the patent, and the patent shall, notwithstanding anything therein or in this Act contained, cease at the end of the term for which the partial fee has been paid, unless at or before the expiration of the said term the holder of the patent pays the fee required for the further term of five or ten years, and takes out from the patent-office a certificate of such payment (in the form which may be from time to time adopted) to be attached to and to refer to the patent, and under the signature of the commissioner, or, in case of his absence, another member of the Privy Council; and in case such second payment, together with the first payment, makes up only the fee required for ten years, then the patent shall, notwithstanding anything therein or in this Act contained, cease at the end of the term of ten years, unless at or before the expiration of such term the holder thereof pays the further fee required for the remaining five years, making up the full term of fifteen years, and takes out a like certificate in respect thereof. Every patent heretofore issued by the patent-office in respect of which the fee required for the whole or for any unexpired portion of the term of fifteen years, has been duly paid according to the provisions of the now existing law in that behalf, has been and shall be deemed to have been issued for the term of fifteen years, subject, in case a partial fee only has been paid, to cease on the same conditions on which patents hereafter issued are to cease under the operation of this section.

[NOTE.—The original clause 17 was repealed and the above substituted by 46 Vict. cap. 19.]

18. *Patents or extension to be examined by minister of justice before granted.* Every patent and instrument for the extension of time as aforesaid 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 reistered, shall avail to the grantee thereof.

19. *In certain cases of error, &c., the commissioner may cause a new patent to issue, on amended specification.—Effect of new patent and specification.* 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 for any part or the whole of the then unexpired residue of the 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, *and the commissioner may entertain separate applications and cause patents to be issued for distinct and separate parts of the thing patented, upon payment of the fee for a re-issue for each of such re-issue patents.*

[NOTE.—The words in italics were added by 38 Vict. cap. 14.]

20. *Patentee may disclaim anything included in patent by mistake.—Form.—Disclaimer not to effect pending suits.—In case of death of patentee.—Effect of 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 has in the

specification claimed that he or the party through whom he claims was the first inventor of any material or substantial part of the invention patented, of which he was not the first inventor, and to which he had no legal right ;—the patentee may, on payment of the fee hereinafter provided, make disclaimer of such parts as he does 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 making 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 as is truly the disclaimant's own, and not disclaimed, provided it be a material and substantial part of the invention, and definitely distinguished from other parts claimed without right ; and the disclaimant shall be entitled to maintain a suit for such part accordingly.

ASSIGNMENT AND INFRINGEMENT OF PATENTS.

21. *Government may use patented invention.* The government of Canada may always use any patented invention, paying to the patentee such sum as the commissioner may report to be a reasonable compensation for the use thereof.

22. *Patents to be assignable.—To be registered on pain of nullity.* Every patent for an invention 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 patented, within and throughout Canada or any part thereof, shall be registered in the office of the commissioner, in the manner from time to time adopted by the commissioner of patents for such registration ; and every assignment affecting a patent for invention shall be deemed null and void against any subsequent assignee unless such instrument is registered as hereinbefore prescribed, before the regis-

tering of the instrument under which such subsequent assignee may claim.

23. Remedy for infringement of patent. Every person who, without the consent in writing of the patentee, makes, constructs, or puts in practice any invention for which a patent has been obtained under this Act, or any previous Act, or procures such invention 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 that may be adjudged shall be recovered in like manner as in other cases in the court in which the action is brought.

24. Action for infringement of patent.—Injunction may issue.—Appeal allowed. 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.

25. 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, and it appears that the defendant used or infringed any part of the invention, justly and truly specified and claimed as new, the court may discriminate, and the judgment may be rendered accordingly.

26. Defense in actions for infringement. 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.

NULLITY, IMPEACHMENT, AND AVOIDANCE OF PATENTS.

27. *Patents may be declared void in certain cases, or valid only for part.—Copy of judgment to be sent to patent-office.* 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.

28. *Patents to be conditioned for the manufacture in Canada of the thing patented:—and of the patentee's not importing it into Canada.—Proviso.—Commissioner may extend the term for manufacture in Canada.* 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 two years from the date thereof, unless the patentee, or his assignee or assignees, shall within that period have commenced, and shall, after such commencement, continuously 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 twelve 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 for which the patent is granted; and provided always, that in case disputes should arise as to whether a patent has or has not become null and void under the provisions of this section, such disputes shall be settled

by the minister of agriculture, or his deputy, whose decision shall be final.

(a) Whenever a patentee has been unable to carry on the construction or manufacture of his invention within the two years hereinbefore mentioned, the commissioner may at any time not more than three months before the expiration of that period grant to the patentee a further delay on his adducing proof to the satisfaction of the commissioner that he was for reasons beyond his control prevented from complying with the above mentioned condition.*

[NOTE.—The words to which (a) is prefixed were substituted by 38 Vict. c. 14.]

29. *Proceedings for impeachment of patent.*—*Scire facias may issue.* 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, affidavit, specification, and drawings 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 *Supreme Court* in the province of New Brunswick, according to the domicile elected by the patentee as aforesaid, or in the court of highest jurisdiction in the province of Manitoba or British Columbia, 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 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.

[NOTE.—The words in italics were substituted by 37 Vict. c. 44.]

30. *Judgment voiding patent to be filed in patent-office.* A cer-

* According to Richards' edition of the Patent Laws of Canada the following "sub-section 3" was inserted in section 28, by Act, May 17, 1882.

3. *Further provision as to extension of patent.* The commissioner may grant to the patentee or his assignee or assignees for the whole or any part of the patent, an extension for a further period of time, not exceeding one year beyond the twelve months limited by the first paragraph of this section, during which he

may import or cause to be imported into Canada the invention for which the patent is granted: Provided, that the patentee or his assignee or assignees for the whole or any part of the patent, shall show cause satisfactory to the commissioner to warrant the granting of such extension; but no extension shall be granted unless application be made to the commissioner at some time within three months before the expiry of the twelve months aforesaid or any extension thereof.

tificate 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.

31. *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.

PATENTS ISSUED UNDER FOREIGN LAWS.

32. *Existing provincial and dominion patents to remain in force.—Extension of provincial patents to other provinces, on certain conditions.* All patents issued under any Act of the Legislature of the late province of Canada, or of Nova Scotia, or of New Brunswick, or of British Columbia, and all patents issued for the provinces of Ontario and Quebec, under any Act of the late province of Canada, and all patents issued under the Patent Act of 1869, 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 repealed, but subject to the provisions of this Act in so far as applicable to them.

2. And it shall be lawful for the commissioners upon the application of the patentee named in any such patent, being the inventor of the subject matter of the patent, if the subject matter of the patent has 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, for the remainder of the term mentioned in the provincial patent.

33. *Records of provincial patent-offices to be handed over 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, and British Columbia, shall be handed over by the officers in charge of them to the commissioner of patents of invention, to form part of the records of the patent-office for the purposes of this Act.

TARIFF OF FEES.

34. *Tariff of fees.* 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 5 years.....	20 00
On petition for a patent for 10 years.	40 00
On petition for a patent for 15 years.....	60 00
On petition for extension from 5 to 10 years.....	20 00
On petition for extension from 10 to 15 years.....	20 00
On petition for extension from 5 to 15 years.....	40 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 attach a disclaimer to a patent.....	2 00
On asking for a copy of patent with specification.....	4 00
On petition to re-issue a patent after surrender; and on petition to extend a former patent to the dominion, for every unexpired year of the duration of sub-patent, the fee shall be at the rate of.....	4 00

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

	§
For every single or first folio of certified copy.....	0 50
For every subsequent hundred words (fractions from and under fifty being not counted, and over fifty being counted for one hundred.).....	0 25

35. *For copies of drawings.* 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 any officer of the department or person employed to perform such service.

36. *Fees to be in full of all services.* 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.

37. *Fees to form part of consolidated revenue fund.—Exception.* 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.

38. *Return of fees in certain cases only.—Case of withdrawal.* 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 is necessary to revive the claim, as if no proceeding had taken place in the matter.

MISCELLANEOUS PROVISIONS.

39. *Intending applicant for a patent may file a caveat.—Effect of caveat.—Proviso: duration of caveat.* An intending applicant for a patent who has not yet perfected his invention, and is in fear of being despoiled of his idea, may file in the patent-office a description of his invention 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 ; 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 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 one year from the filing thereof have made application for a patent, the commissioner of patents shall be relieved from the obligation of giving notice, the caveat then remaining as a simple matter of proof as to novelty or priority of invention if needed.

40. *Commissioner may object to grant a patent in certain cases.* The commissioner may object to grant a patent in the following cases :

1. When is he of opinion that the alleged invention is not patentable in law ;
2. When it appears to him that the invention is already in the

possession of the public with the consent or allowance of the inventor ;

3. When it appears to him that there is no novelty in the invention ;

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

5. When it appears that the invention has already been patented in Canada (or elsewhere, when the case is one within the seventh section of this Act), except, however, when the case is one in which the commissioner has doubts as to whether the patentee or the applicant is the first inventor.

41. Commissioner to notify ground of objection to applicant. 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.

42. Appeal by applicant 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.

43. Arbitration in case of interfering applications.—The same: Appointment of arbitrators.—Their oath of office.—Powers of arbitrators to summon and swear witnesses.—Willful false evidence to be perjury.—As to fees to arbitrators, and by whom paid. In case of interfering applications for any 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 officer, may appoint the three arbitrators for the purposes aforesaid :

3. The arbitrators so named shall, before a judge of any court in any of the provinces of Canada, subscribe to the following oath :

“ I, the undersigned (A. B.), being duly appointed an arbitrator under the authority of the forty-third section of the Patent Act of 1872, do hereby solemnly swear (or affirm, *as the case may be*), that I will well and truly perform the duty of such arbitrator on the the interfering applications of (C. D. and E. F.) submitted to me :”

4. The arbitrators, or any one of them, after having been so sworn, shall have the power of summoning before them any party or witness, and of requiring him to give evidence on oath, orally, or in writing (or on solemn affirmation, if the person be entitled to affirm in civil matters), and to produce such documents and things as such arbitrators deem requisite to the full investigation of the matters into which they are appointed to examine, and shall then have the same power to enforce the attendance of such witnesses, and to compel them to give evidence, as is vested in any court of law in civil cases, in the province in which the arbitration is to be had; and any willfully false statement made by any such witness on oath or solemn affirmation, shall be deemed to be willful and corrupt perjury ; but no such party or witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution:

5. The fees for the services of arbitrators shall be a matter of agreement between the said arbitrators and the parties, and shall be paid by the parties naming them, respectively, except those of the arbitrator or arbitrators when named by the Commissioner of Patents, which shall be paid by the applicants jointly.

44. *Documents to be open to inspection.* 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.

45. *As to 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.

46. *Destroyed patent may be replaced.* In case any patent 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.

47. *As to use of patented invention in foreign vessels.* No patent shall extend to prevent the use of any invention in any foreign

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

48. *Patent not to affect a previous purchaser of the invention.—*
Proviso: As to other persons. Every person who before the issuing of a patent has purchased, constructed or acquired any invention for which a patent has been obtained under this Act, shall have the right of using and vending to others, the specific article, 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 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, which circumstance would then have the effect of making the invention one having become public and in public use.

49. *Patented articles to be marked as such.—Penalty for default.* 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 patent applying to such article thus: "Patented 1872," or as the case may be; or when from the nature of the article this cannot be done by fixing to it or to every package wherein one or more of such articles is or are enclosed a label marked with a like notice; and any such patentee selling or offering for sale any such patented article not so marked or not enclosed in a package so marked shall be liable to the punishment of a fine not to exceed one hundred dollars, and in default of the payment of such fine, to imprisonment not to exceed two months.

[NOTE. The original clause 49 was repealed and the above substituted by 38 Vict. c. 14.]

50. *Falsely marking anything as patented to be a misdemeanor.—Punishment.* Whosoever writes, paints, prints, moulds, 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, moulds, 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, or whosoever puts to sale as patented, any article not patented in Canada, for the purpose of deceiving the public,—shall be deemed guilty of 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 two hundred dollars, nor shall the imprisonment exceed three months.

51. *Making false entry or copy in matters subject to this Act to be a misdemeanor.* 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.

52. *Inconsistent enactments repealed.—Exception.* 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 the Patents Ordinance, 1867, of British Columbia, the Patent Act of 1869,—and any Act amending any of the said Acts or laws, or any other Act relating to patents, 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, as to which they shall remain in force, and nothing in this Act contained shall affect any suit pending in any court of law or equity at the time of the coming into force of this Act.

53. *Short title.* In citing this Act it shall be sufficient to call it “The Patent Act of 1872.”

54. *Commencement of Act.* This Act shall commence and take effect on the first day of September, 1872.

From *Carpenter's Patent Law of World*, 105.

Provisions of Act of April 8, 1875, Stat. 38 Vict. c. 14, extending the foregoing law to Prince Edward Island.

4. *Provisions of 35 V., c. 27, and its amending Acts and patents issued under them, extended to Prince Edward Island.* From and after the passing of this Act all and every the provisions of The Patent Act of 1872, as amended by this Act, and of the Acts amending the same, shall have the same force and effect in Prince Edward Island as the same then respectively have in the other provinces forming this Dominion; and every patent theretofore issued under the said Acts or any of them shall extend over the said province for the remainder of the term mentioned therein.

5. *Inconsistent enactments of acts of General Assembly of Prince Edward Island repealed.* The following Acts of the General Assembly of Prince Edward Island are hereby repealed, that is to say—The Act passed in the seventh year of the reign of his late Majesty King William IV., chapter twenty-one, entitled An Act for granting Patents for useful Inventions; the Act passed in the thirty-second year of Her Majesty's reign, chapter twenty, entitled An Act to add to and amend the Act relating to Patents for useful Inventions; and the Act passed in the thirty-third year of her Majesty's reign, chapter nineteen, entitled An Act to amend the Act relating to Patents for useful inventions,—but in so far only as such Acts, 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 Acts, or any of them, before the coming into force of this Act, as to which the said Acts shall remain in force; and nothing in this Act contained shall affect any suit pending in any court of law or equity at the time of the coming into force of this Act.

From *Richards' Digest of Patent-Laws (of Canada)*, 12.

PATENTS ISSUED UNDER FORMER LAWS.

6. *Existing provincial patents to remain in force.* All patents issued under the said Acts of the General Assembly of Prince Edward Island, or any of them, to the date of the passing of this Act shall remain in force in the said province for the same term as if the Act or Acts under which such patent respectively were issued had not been repealed, but subject to all the provisions of this Act,

in so far as such provisions, or any of them, may be applicable to such patents respectively.

2. *Extension of provincial patent provided for.* And it shall be lawful for the commissioner, upon the application of the patentee named in any such patent, being the inventor of the subject-matter of the patent, if the subject-matter of the patent has 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, for the remainder of the term mentioned in the provincial patent.

7. *Records of patent office of Prince Edward Island to be handed over to commissioner.* All the records of the Province of Prince Edward Island shall be handed over by the officers in charge of them to the commissioner of patents of invention, to form part of the records of the patent-office for the purposes of the Act hereby amended and of the Acts amending the same and of this Act.

8. *Proceedings for impeachment of patents.* Any person desiring to impeach any patent issued under The Patent Act of 1872, as amended by subsequent Acts and by this Act, the petitioner for which has elected his domicile at any place in Prince Edward Island, may obtain a sealed and certified copy of the patent and of the petition, affidavit, specification and drawings thereunto relating, and may have the same filed in the office of the clerk of the Supreme Court of Judicature in that province,—which court 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 cause as aforesaid, if upon proceeding had upon the writ in accordance with the meaning of this Act, the patent be adjudged to be void.

9. *Act to be one with former Acts.—Short title.* This Act shall be read and construed as one Act with the Act hereby amended, and the two Acts amending the same; and the said four Acts may be cited together as The Patent Acts, 1872 to 1875.

From *Richards' Digest of Patent Laws, &c. (of Canada)*, 24.

Act of April 19, 1884, Stat. 47 Vict. c. 38.

1. *A bill or note given for a patent right or interest therein, to have certain words on its face.* A bill of exchange or promissory note, the consideration of which consists in whole or in part of the purchase money of a patent right, or of a partial interest (limited geographically or otherwise) in a patent right, shall have written or printed prominently and legibly across the face thereof, before the same is issued, the words "given for a patent right."

2. *Purchaser or holder of such instrument to take it subject to certain rights of defense.* The indorsee or other transferee of any such instrument having the words aforesaid so printed or written thereon shall take the same subject to any defense or set-off in respect of the whole or any part thereof, which would have existed between the original parties.

3. *Punishment for inducing any one to make, take, &c. such bill or note without certain words to it.* Any one who issues, sells or transfers by indorsement or delivery any such instrument not having the words "given for a patent right" printed or written in manner aforesaid across the face thereof, knowing the consideration of such instrument to have consisted in whole or in part of the purchase money of a patent right, or of a partial interest (limited geographically or otherwise) in a patent right, shall be guilty of a misdemeanor, and shall be liable to be imprisoned in any jail or other place of confinement for any term not more than once year, or to such fine as the judge may think fit, not exceeding two hundred dollars.

From Richards' Digest of Patent Laws, &c. (of Canada).

CAPE COLONY : CAPE OF GOOD HOPE.

*Act to provide for the granting, in this Colony, of Patents for Inventions. No. 17 of 1860.**

Preamble. Whereas it is expedient that the making of new and useful inventions should be encouraged by securing to their inventors, for a limited time, the exclusive enjoyment thereof: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :

I. *Interpretation of terms.* In the interpretation of this Act the term "invention" shall bear and have the same meaning as the term "invention" bears and has in the Act of the Imperial Parliament, the 15th and 16th of Her Majesty, chapter 83, and the term "letters patent" shall mean authorizations granted by the governor under the public seal of the colony, and the term "proceeding in the nature of a scire facias" shall mean as much as may be what the same term would mean if used in an Act of the Imperial Parliament.

II. *Power to grant patents.* It shall be lawful to make and issue in the manner hereinafter mentioned, letters patent granting to the true and first inventor of any invention the privilege of the sole and exclusive working, making, and enjoyment of such invention, within this colony, for any term not exceeding fourteen years from the date of such letters patent.

III. *Governor to make rules for executing this Act.* It shall be lawful for the governor, with the advice of the Executive Council, from time to time to make such rules and regulations, not inconsistent with the provisions hereof, as may appear to be necessary and expedient for the purposes of this Act, and all such rules and regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the next meeting in Parliament.

IV. *Applicants to deposit specifications.—They may be amended.*

* A translation of this law differing very slightly from that presented in the text, and without the schedules, except

the schedule of fees, may be found in 20 *Pat. Off. Gaz.* 1167.

All applications under this Act for the grant of letters patent for an invention shall be made as follows, that is to say, the applicant shall deposit at the office of the colonial secretary an instrument in writing under his hand, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, and also a copy of such instrument, and of the drawings accompanying the same, if any; and the day of the deposit of every such specification shall be recorded at the said office, and indorsed upon such specification, and a certificate thereof given to such applicant or his agent; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act, for the term of six months next after the said deposit, and the applicant shall have during such term the like powers, rights, and privileges as might have been conferred on him by letters patent for such invention issued under this Act, and duly sealed, as of the day of such deposit, and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any letters patent to be granted for the same; and where letters patent are granted in respect of such invention, such letters patent shall be conditioned to become void if such specification does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed: Provided always, that in the case the title of the invention or the said specification be too large or insufficient, it shall be lawful for the attorney-general hereinafter mentioned, during the said term of six months, and before the grant of the letters patent, to allow or require such specification to be amended, or another and sufficient specification to be deposited in lieu thereof; and every such amended or new specification shall have the force, effect, and operation as if it had been originally deposited in its amended state.

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

VI. *Mode of proceeding after deposit of specification.* The applicant so soon as he shall think fit after the deposit of such specification as aforesaid, and of the drawings and models accom-

panying the same, if any, may give notice in writing at the office of the attorney-general of his intention to proceed with his application for letters patent for the said invention, stating in such notice the title of the said invention, and the day on which the specification thereof was deposited at the office of the colonial secretary, and at the time of giving such notice shall produce the said certificate of deposit; and thereupon the said attorney-general shall deliver to the applicant or his agent an appointment in the form contained in the second schedule to this Act, or to the like effect; and such applicant or agent shall cause the said appointment to be published once in the Government Gazette, once in some newspaper published in the city of Cape Town, and twice in some newspaper published in the town or place at or near to which the applicant uses or exercises the said invention, or (in case he does not use or exercise the same) in or near to which he resides, or if there shall be no newspaper published in such town or place, then twice in some newspaper circulating in the neighborhood where he uses or exercises the said invention, or (in case he does not use or exercise the same) where he resides; and any persons having an interest in opposing the grant of letters patent for the said invention shall be at liberty to leave particulars in writing of their objections to the said application at the office of the attorney-general within such time, not being less than one month, as the said attorney-general by such appointment may direct.

VII. *Attorney-general to hear applications and objections, and award costs.* At the time and place named in the said appointment the applicant shall produce the newspapers containing the same, and the attorney-general shall thereupon hear and consider the said application and all objections to the same mentioned in the said particulars, if any, and for that purpose shall obtain from the office of the colonial secretary the copy of the said specification, and of the drawings and models accompanying the same, if any, and may call to his aid such scientific or other person or persons as he may think fit, and may, by writing under his hand, order to be paid to such person or persons some remuneration for his or their attendance, and may also in like manner order that the costs of any hearing, upon any objection or otherwise, in relation to the grant of such letters patent or the protection acquired by the applicant under this Act, shall be paid, and in and by such writing shall fix the amount of such remuneration or costs, and by or to whom the same respectively shall be paid; and every such order shall be in

the form contained in the third schedule to this Act or to the like effect, and may be made a rule of the Supreme Court: Provided always, that the applicant, the objectors, and their respective witnesses and evidence, shall be respectively heard, examined, and considered separately, and apart from and in the absence of the other and his witnesses and evidence.

VIII. *Attorney-general may issue grant for patent.* The attorney-general after such hearing and consideration may issue a warrant under his hand for the granting of letters patent for the said invention, and by such warrant shall direct the insertion in such letters patent of all such restrictions, conditions, and provisos as he may deem usual and expedient in such grants, or necessary in pursuance of this Act, and the said warrant shall be the warrant for the making and sealing of letters patent under this Act, according to the tenor of the said warrant; and every such warrant shall be in the form contained in the fourth schedule to this Act, or to the like effect.

IX. *Patent may be repealed or withheld, and specifications canceled.* A writ of the Supreme Court, in the nature of a writ of scire facias in England, shall lie for the repeal of any letters patent granted under this Act, and it shall be lawful for the Governor, with the advice aforesaid, to order such attorney-general to withhold such warrant as aforesaid, or that any letters patent, for the granting whereof he has issued a warrant, shall not issue, or to order the insertion in any such letters patent of any restrictions, conditions, and provisos, in addition to or in substitution for any restrictions, conditions, or provisos which would otherwise be inserted therein under this Act; and it shall also be lawful for the Governor, with the advice and consent aforesaid, to order any specification in respect of the invention described in which no letters patent may have been granted, to be canceled, and thereupon the protection obtained by the deposit of such specification shall cease.

X. *Patent void on non-performance of conditions.* All letters patent for inventions granted under this Act shall be in the form contained in the fifth schedule to this Act, or to the like effect, and be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid within the said three and seven years respectively the sum or sums of money in that behalf hereby required to be paid, and the colonial secretary

shall issue under his hand a certificate of such payment, and shall indorse a receipt for the same on the letters patent.

XI. *Patent to be issued within three months.* The colonial secretary, so soon after the receipt by him of the warrant aforesaid as required by the applicant, shall cause to be prepared letters patent for the invention according to the tenor of the said warrant; and it shall be lawful for the Governor, with the advice of the Executive Council, to cause letters patent to be sealed with the public seal of the colony, and such letters patent shall be made applicable to the said colony, and shall be valid and effectual as to the whole of the same; but, except as hereinafter mentioned, no letters patent shall issue on any warrant granted as aforesaid, unless application be made to seal such letters patent within three months after the date of the said warrant, nor unless such letters patent be granted during the continuance of the protection conferred under this Act by reason of such deposit as aforesaid.

XII. *Patent may issue after that time, in certain cases.* Where the application to seal such letters patent has been made during the continuance of such protection as aforesaid, and the sealing of such letters patent has been delayed from accident, and not from the neglect or willful default of the applicant, then such letters patent may be sealed at such time, not being more than one month after the expiration of such protection as the Governor, with the advice aforesaid, shall direct; and where the applicant for such letters patent dies during the continuance of such protection as aforesaid, such letters patent may be granted to the executors, testamentary or dative, of such applicant during the continuance of such protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such protection; and in case any letters patent shall be destroyed or lost, other letters patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the Governor, with the advice aforesaid, may direct, be issued under the authority of the warrant in pursuance of which the original letters patent were issued.

XIII. *Patent to bear date of deposit of specification.* All letters patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such specification as aforesaid, and shall be of the same force and validity as if they had been

sealed on the day as of which the same are expressed to be sealed and bear date ; and after any letters patent shall have been granted or issued under this Act it shall not be necessary or admissible to inquire or ascertain whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

XIV. *Patent for foreign invention ends with foreign patent.* Where, upon any application made under this Act, letters patent are granted for or in respect of any invention, first invented in parts out of the Colony of the Cape of Good Hope, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any parts out of the Cape of Good Hope is obtained before the grant of such letters patent in the Cape of Good Hope, all rights and privileges under such letters patent shall, notwithstanding any term in such letters patent limited, cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such part out of the Cape of Good Hope shall continue in force, or, where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges : Provided always, that no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained abroad, granted in the Cape of Good Hope after the expiration or determination of the term for which such patent or privilege was granted or was in force, shall be of any validity.

XV. *Patent not to prevent use of inventions in foreign ships.* No letters patent for any invention, granted after the passing of this Act, shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of the Cape of Good Hope, in case such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the same.

XVI. *Specification to be filed after issue of patent, &c.* Every specification deposited at the office of the colonial secretary as aforesaid, and the drawings and models accompanying the same, if any, shall forthwith, after the grant of the letters patent, or if no letters patent be granted, then immediately on the expiration of six months from the time of such deposit, be transferred to and kept in

such office as the governor, with the advice aforesaid, shall from time to time appoint for that purpose.

XVII. *Notice of application to disclaim or make alterations.* Any person who shall obtain letters patent under this Act, or in case such person shall depart with the whole or any part of his interest by assignment, such person, together with the assignee (if part only has been assigned), or the assignee alone (if the whole hath been assigned), may apply to the attorney-general for leave to enter a disclaimer of any part of either the title of the invention or of the specification, or a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration, as shall extend the exclusive right granted by the said letters patent; and thereupon the attorney-general shall deliver to such patentee and assignee, or either of them, or to their or either of their agents, an appointment in the form contained in the sixth schedule to this Act, or to the like effect, and such patentee or assignee shall thereupon cause such disclaimer (stating the reason for the same) or such memorandum of alteration to be written at the foot of such appointment, and shall cause the same respectively to be published in the manner hereinbefore required, with respect to the said first-mentioned appointment, and any person having an interest in opposing the said application shall be at liberty to leave particulars, in writing, of their objections to the same, at the office of the attorney-general, within such time, not being less than one month, as the said attorney-general by such appointment may direct: Provided always, that where such application as aforesaid shall be for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the attorney-general may dispense with such appointment and publication, and in that case shall certify in the fiat hereinafter mentioned, that he has dispensed with the same.

XVIII. *Application for disclaimer to be heard.* At the time and place named in such appointment, the said patentee and assignee, or one of them, shall produce the newspapers containing the same, and the said disclaimer or memorandum of alteration at the foot thereof; and the attorney-general shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and all such power and authority shall and may be exercised on such occasion by the attorney-general, as by virtue of the provisions hereinbefore contained can and may be exercised in relation to the hearing and considering an application

for letters patent, and objections to the same, and shall and may be enforced in the same manner.

XIX. *How disclaimer may be entered, and alterations made.* After such hearing and consideration, or without such hearing and consideration where the said appointment and publication shall have been dispensed with, as aforesaid, such patentee and assignee, or either of them, may, by leave of the attorney-general, to be certified by a fiat under his hand (to be written at the foot of the same parchment with the said disclaimer or memorandum), enter such disclaimer, stating the reason for the same, or such memorandum of alteration; and at the time of entering such disclaimer or memorandum of alteration shall deposit a copy thereof in the office next hereinafter mentioned, and such disclaimer or memorandum of alteration being filed in such office as the Governor, with the advice aforesaid, shall from time to time appoint for that purpose, shall be deemed and taken to be part of such letters patent or such specification, and subject to the several incidents thereof in all colonial courts, and shall be valid and effectual in favor of any person in whom the rights under the said letters patent may then be, or hereafter become, legally vested; and no objection shall be allowed to be made in any proceeding upon, or touching such letters patent, specification, disclaimer, or memorandum of alteration, on the ground that the person entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf: Provided always, that no action shall be brought upon any letters patent in which, or on the specification of which, any disclaimer or memorandum of alteration shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration (unless the attorney-general shall certify in his said fiat that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration); and no such disclaimer or alteration shall be receivable as evidence in any action or suit (save and except in any proceeding, as aforesaid, in the nature of a scire facias) pending at the time when such disclaimer or alteration was filed as aforesaid; but in every such last mentioned action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the letters patent have been or shall have been granted: Provided also, that when any such fiat shall have been granted or issued under this Act, it shall not be necessary or material to inquire or ascertain

whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act; and such filing of any disclaimer or memorandum of alteration, in pursuance of the leave of the attorney-general certified as aforesaid, shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Act.

XX. *Copies of specification, disclaimers, &c., open for inspection.* The copies of all specifications, and the drawings and models accompanying the same, if any, and of all disclaimers and memoranda of alterations respectively deposited under or in pursuance of this Act, shall be open to the inspection of the public at all reasonable times after the grant of letters patent, or if no letters patent be granted, then immediately on the expiration of six months from the time of such deposit, but subject to such regulations as the Governor, with the advice aforesaid, may make in that behalf.

XXI. *Mode of obtaining extension of the term.* If any person having obtained letters patent under this Act, or in case such person shall have departed with his whole, or any part of his interest by assignment, if such person, together with the assignee (where part only hath been assigned) or if the assignee alone (where the whole hath been assigned), shall, six months before the expiration or other termination of such letters patent, present to the Governor a petition for the extension of the term in such letters patent mentioned, and shall set forth in such petition that he or they has or have been unable to obtain a due remuneration for his or their expense or labor in perfecting such invention, and that an exclusive right of using and vending the same for some further period, to be named in such petition, in addition to the said term, is necessary for his or their reimbursement and remuneration, it shall be lawful for the Governor, with the advice aforesaid, to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

XXII. *Mode of obtaining confirmation of invalid patent.* If in any suit or action it shall be proved or specially found by the verdict of a jury that any person who shall have obtained letters patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented or used the same or some part thereof, before the date of such letters patent, or if such patentee or his assigns shall discover that some other person had, unknown to such patentee,

invented or used the same or some part thereof before the date of such letters patent, such patentee or his assigns may petition the Governor to confirm the said letters patent, or to grant new letters patent, and it shall be lawful for the Governor, with the advice aforesaid, to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

XXIII. *Governor to appoint commissioners.* For the purpose of considering any such petition as aforesaid, it shall be lawful for the Governor, if, with the advice aforesaid, he shall think fit, to issue and direct in the name of Her Majesty, her heirs or her successors, to five or more persons, of whom some of the judges of the Supreme Court shall be two, a commission reciting such petition, and requiring and authorizing such persons or any three of them, of whom one of the said judges shall be one, to meet at some time, not being less than two months from the publication of the said commission in the Government Gazette, and at some place to be respectively fixed in the said commission, and then and there to consider the said petition and to report to the Governor, in case such petitioner shall have prayed for an extension of the term in the letters patent mentioned, whether any and, if any, what further extension of the said term should be granted, according to the prayer of the said petition, and upon what, if any, conditions, or, in case such petitioner shall have prayed for a confirmation of the letters patent, or for a grant of new letters patent, whether such confirmation or grant should be made.

XXIV. *Notice of commission to be published, and caveats entered.* Two months at least before the time named in the said commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published in the same manner as is hereinbefore required with respect to the said first-mentioned appointment, an advertisement of the contents of the said commission in the form contained in the seventh schedule to this Act, or to the like effect; and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the colonial secretary at any time, not being less than one week before the time named in the said commission for the execution thereof.

XXXV. *Commissioners to hear all parties, and report.* At the time and place fixed in the said commission for that purpose, the commissioners shall meet and proceed to consider such petition, and

the petitioner shall be heard by his counsel and witnesses, to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this Act ; and the persons entering caveats shall likewise be heard by their counsel and witnesses ; and all such witnesses shall be examined upon oath or affirmation, which oath or affirmation such commissioners as aforesaid are hereby authorized and required to administer, and thereupon, and upon hearing and inquiry of the whole matter, in case such petitioner shall have prayed for an extension as aforesaid, the said commissioners may report whether any, and, if any, what further extension of the said term should be granted ; and the Governor is hereby authorized and empowered, if he, with the advice aforesaid, shall think fit, to grant to the petitioner new letters patent for the said invention, for a term not exceeding fourteen years after the expiration of the first term, anything hereinbefore contained to the contrary thereof in anywise notwithstanding ; and such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the first letters patent ; or, in case such petitioner shall have prayed for a confirmation or grant as aforesaid, such commissioners, upon examining the said matter, and being satisfied that such patentee, as aforesaid, believed himself to be the first and original inventor, and being satisfied that such invention, or part thereof, had not been publicly and generally used before the date of such first letters patent, may report to the Governor their opinion that the prayer of such petition ought to be complied with, whereupon the Governor may, if he, with the advice aforesaid, shall think fit, grant such prayer ; and the said letters patent shall be available at law and in equity to give to such petitioner the sole right of using, making and vending such invention, as against all persons whatsoever, anything hereinbefore contained to the contrary thereof notwithstanding: Provided that any person, party to any former action or suit touching such first letters patent as last aforesaid, shall be entitled to have notice in writing of the time and place fixed, as aforesaid, for the first meeting of the said commissioners to consider the said petition, and after any such report shall have been made, it shall not be material to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner hereinbefore directed in that behalf.

XXVI. *Indexes to specifications, disclaimers, &c.* The governor,

with the advice aforesaid, may cause indexes to all specifications, disclaimers, and memoranda of alterations heretofore or to be hereafter enrolled or deposited as aforesaid, to be prepared in such form as may be thought fit, and such indexes shall be open to the inspection of the public at such places as the governor, with the advice aforesaid, shall appoint, and subject to the regulations to be made as hereinbefore provided.

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

XXVIII. *Register of proprietors to be kept.* There shall be kept at the same office a book or books entitled "The Register of Proprietors," wherein shall be entered, in such manner as the governor, with the advice aforesaid, shall direct, the assignment of any letters patent, or of any share or interest therein, any license under letters patent, and the district to which such license relates, with the name or names of any person having any share or interest in such letters patent or license, the date of his or their acquiring such letters patent, share, and interest, and any other matter or thing relating to or affecting the proprietorship in such letters patent, or license; and a copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be *prima facie* proof of the assignment of such letters patent, or share, or interest therein, or of the license or proprietorship as therein expressed: Provided always, that until such entry shall have been made, the grantee or grantees of the letters patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such letters patent, and of all the licenses and privileges thereby given and granted, and such register,

or a copy, shall be open to public inspection subject to such regulations as the governor, with the advice aforesaid, may make.

XXIX. *Falsification or forgery of entries.* If any person shall willfully make, or cause to be made, any false entry in the said registry, or shall willfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in the said book, or shall produce or tender, or cause or suffer to be produced or tendered in evidence, any such writing, knowing the same to be false or forged, he shall be guilty of the crime of contravening this section of this Act, and shall upon conviction be liable to imprisonment with or without hard labor for any period not exceeding five years.

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

XXXI. *Penalty for unauthorized user of word "Patent."* If any person shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark upon anything made, used, or sold by him, for the sole making or selling of which he hath not, or shall not have obtained letters patent, the name or any imitation of the name of any other person who hath or shall have obtained letters patent for the sole making or vending of such thing, without leave in writing of such patentee or his assigns: or if any person, shall, upon such thing not having been purchased from the patentee, or some person who purchased it from or under such patentee, or not having had the license or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "Patent," the words "Letters Patent," or the words "By the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, he shall for every such offense forfeit and pay the sum of one hundred pounds, one half to Her Majesty, Her heirs and successors, and the other half, with full

costs of suit, to any person who shall sue for the said penalty by action of debt: Provided always, that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping, or in any way marking the word "Patent," upon anything for the sole making or vending of which letters patent before obtained shall have expired or otherwise determined.

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

XXXIII. *Particulars to be regarded in taxing costs.* In taxing the costs in any action for infringing letters patent, regard shall be had to the particulars delivered in such action; and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular, unless certified by the court before which the trial was had, to have been proved by such plaintiff or defendant respectively; and it shall be lawful for the court before which any such action shall be tried, to certify on the record that the validity of the letters patent in the declaration mentioned came in question, and the record with such certificate being given in evidence in any suit or

action for infringing the said letters patent, or in any proceeding in the nature of a scire facias to repeal the letters patent, shall entitle the plaintiff in any such suit or action, or the defendant in any such proceeding, on obtaining a decree or judgment, to his full costs, charges, and expenses, to be taxed as between attorney and client, unless the court making such judgment, decree, or order shall certify that the plaintiff or defendant respectively ought not to have such full costs.

XXXIV. Fees on obtaining patents. There shall be paid in respect of letters patent applied for or issued as herein mentioned, the depositing of specifications, disclaimers, and memoranda of alterations, warrants, certificates, entries, and searches, and other matters and things respectively mentioned in the last schedule to this Act, such fees as are enumerated in that schedule; and such of the said fees as are thereby made payable to the attorney-general, as well as the residue thereof, shall form part of the colonial revenue.

XXXV. English patents subject to this Act. All letters patent which shall be granted in the United Kingdom of Great Britain and Ireland after the first day of July, in the year of Our Lord one thousand eight hundred and sixty, for any invention, shall, so far as the same relate to this said colony, be utterly void and of none effect, and in nowise be put in execution: But all such letters patent granted in the said United Kingdom on or before that day, and which, if this Act had not been passed, would have been valid in this colony, shall be deemed and taken to have been granted under this Act and may be dealt with accordingly.

SCHEDULES.

THE FIRST SCHEDULE.

To all to whom these presents shall come, I, John Doe, of Cape Town, engineer, send greeting: Whereas I am desirous of obtaining letters patent for securing unto me Her Majesty's special license that I, my executors and assigns, and such others as I or they should at any time agree with, and no others, should and lawfully might, from time to time and at all times during the term of fourteen years (to be computed from the day on which this instrument shall be left at the office of the colonial secretary), make, use, exercise, and vend within the colony of the Cape of Good Hope, an invention for [*insert the title of the invention*]; and in order to obtain the said letters patent, I must, by an instrument in writing under my hand, particularly describe and

ascertain the nature of the said invention, and in what manner the same is to be performed and must also enter into the covenant herein-after contained ; Now know ye that the nature of the said invention and the manner in which the same is to be performed, are particularly described and ascertained in and by the following statement, that is to say [*describe the invention*]. And I do hereby, for myself, my heirs and executors, covenant with Her Majesty, her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, and that I do not know or believe that any person other than myself is the true and first inventor of the said invention, and that I will not deposit these presents at the office of the colonial secretary with any such knowledge or belief as last aforesaid. In witness whereof I have hereunto set my hand at Cape Town this day of 186 .

SECOND SCHEDULE.

Patent for [*insert the title as in the specification*].

This is to notify that John Doe, of, &c., did, on the day of instant (or last) deposit at the office of the colonial secretary in Cape Town, a specification or instrument in writing under his hand, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, and that by reason of such deposit the said invention is protected and secured to him exclusively for the term of six calendar months thence next ensuing. And I do further notify that the said John Doe has given notice in writing at my office, of his intention to proceed with his application for letters patent for the said invention, and that I have appointed [*Thursday*] the day of next, at o'clock in the noon, at my office, to hear and consider the said application and all objections thereto ; and I do hereby require all persons having an interest in opposing the grant of such letters patent to leave, before that day, at my office in Cape Town, particulars in writing of their objections to the said application, otherwise they will be precluded from urging the same.

Given under my hand, this day of , 186 .

W. P., Attorney General.

THIRD SCHEDULE.

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

Given under my hand, this day of 186 .

W. P., Attorney General.

FOURTH SCHEDULE.

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

Given under my hand, this day of 186 .

W. P., Attorney General.

FIFTH SCHEDULE.

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 John Doe, of in the division of , engineer, hath represented that he is desirous of obtaining our royal letters patent for securing unto him our special license that he, his executors and assigns, and such others as he or they should agree with, and no others, should and lawfully might make, use, vend, and exercise within our colony of the Cape of Good Hope, an invention for [*insert the title of the invention*], and by an instrument in writing under his hand deposited in the office of the colonial secretary, the said John Doe hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed: And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said John Doe the privileges herein-after mentioned. Know ye, therefore, that we of our especial grace, certain knowledge, and mere motion have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said John Doe, his executors and assigns, our especial license, full power, sole privilege, and authority, that he, the said John Doe, his executors, administrators, and assigns, and every of them, by himself and themselves, or his and their deputy or deputies, servants or agents, or such others as he or they shall at any time agree with, and no others, during the term herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within our said colony, in such manner as to him, his executors and assigns, or any of them, shall seem meet; and that he, his executors and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention, during the said term: to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages unto and by the said John Doe, his executors and assigns, for and during and unto the full end and term of years now next ensuing. And to the end that he, his executors and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention, according to our gracious intention, we do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, whatsoever, of what estate, quality, degree, name, or condition soever they be within our said colony, that neither they, nor any of them, at any time during the said term, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said John Doe as aforesaid, nor in any wise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the consent, license, or agreement of the said John Doe, his executors or assigns, in writing under his or their hands first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this our royal command; and further to be answerable to the said John Doe, his executors and assigns, according to law, for his and their damage thereby occasioned: Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted, it shall appear that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and

exercise thereof, or that the said John Doe is not the first and true inventor thereof within this colony, these our letters patent shall forthwith cease, determine, and be utterly void to all intents any purposes, anything herein-before contained to the contrary thereof in anywise notwithstanding; Provided also, that these our letters patent, or anything herein contained, shall not extend, or be construed to extend, to give privilege unto the said John Doe, his executors and assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use and exercise and benefit thereof, within our said colony; it being our will and pleasure that the said John Doe, his executors and assigns, and all and every person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions by them invented and found out, according to the true intent and meaning of the same respective letters patent and of these presents: Provided likewise nevertheless, and these our letters patent are upon this express condition, that if the said instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also, if the said John Doe, his executors or assigns, shall not pay at the office of the colonial secretary of our said colony the sum of pounds within three years next after the date of these presents, and the sum of pounds within seven years next after such date, 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 herein-before contained to the contrary hereof 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 John Doe, his executors and assigns, that these our letters patents shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favorable and beneficial sense for the best advantage of the said John Doe, his executors and assigns.

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

THE SIXTH SCHEDULE.

Patent for [insert the title].

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

Given under my hand this day of .

W. P., Attorney-General.

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

THE SEVENTH SCHEDULE.

Patent for [insert the title].

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

Dated this day of

JOHN DOE.

THE LAST SCHEDULE.

	£	s.	d.
On depositing specification.....	2	10	0
To the attorney-general for any "appointment".....	2	4	6
On obtaining letters patent.....	2	10	0
At or before the expiration of the third year.....	10	0	0
At or before the expiration of the seventh year.....	20	0	0
To the attorney-general with particulars of objections.....	2	4	6
On presenting petition for extension or confirmation.....	2	10	0
Every search and inspection.....	0	1	0
Entry of assignment or license.....	0	10	0
Certificate of assignment or license.....	0	10	0
Filing memorandum of alteration or disclaimer.....	2	10	0
Entering any caveat.....	2	10	0
Copy or extract of any writing per common law folio.....	0	1	0

From *Carp. Pat. L. of World*, 127.

CENTRAL AMERICA.

See COSTA RICA, GUATEMALA, NICARAGUA, SALVADOR.

CEYLON.

An Ordinance for granting exclusive Privileges to Inventors ; No. 6 (of November 2), 1859.

Preamble. Whereas it is expedient for the encouragement of inventors of new manufactures, that certain exclusive privileges in their inventions should be granted to them in Ceylon, it is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :—

1. *Short title of ordinance.* This ordinance may be cited for all purposes as the “Inventions Ordinance, 1859.”

2. *Commencement of ordinance.* This ordinance shall come into operation on the day of passing the same.

3. *Inventor may petition to file specification.—Form, &c., of petition.* The inventor of any new manufacture may petition the Governor for leave to file a specification thereof. Every such petition shall be in writing, in the form or to the effect mentioned in the schedule hereunto annexed, and shall be signed by the petitioner, or, in case the petitioner shall be absent from Ceylon, by an authorized agent, and shall state the name, condition, and place of residence of the petitioner, and the nature of the invention.

4. *Order to file specification.* An *alien ami*, whether resident in Ceylon or not, may petition for leave to file a specification under this ordinance.

5. *Power to refer petition for inquiry and report.* Upon such petition, the Governor may, with the advice of the Executive Council, make an order authorizing the petitioner to file a specification of the invention : Provided always, that before making such order, the governor shall refer the petition to any person or persons for inquiry and report, and such person or persons shall be entitled to a reasonable fee for such inquiry and report, to be paid by the petitioner ; the amount of fee, in case of dispute, to be settled by the district court of Colombo in a summary manner.

6. *Exclusive privilege for fourteen years.—Extension.* If within the space of six months from the date of such order, the petitioner cause a specification of his invention to be filed, in manner hereinafter mentioned, the Governor, with the advice and consent of the Executive Council, may, in the Form D. in the schedule to this ordinance appended, under the public seal of the Island of

Ceylon, grant to the petitioner, his heirs, executors, administrators, and assigns, the sole and exclusive privilege of making, selling, and using the said invention in Ceylon, and authorizing others so to do, for the term of fourteen years from the time of filing such specification ; and for such further term, if any, not exceeding fourteen years from the expiration of the first fourteen years, as the Governor, with the advice of the Executive Council, may think fit to direct, upon petition to be presented by such inventor, at any period, not more than one year, and not less than six months, before the expiration of the exclusive privilege hereby granted.

7. *Order to file specification may be subject to conditions.* An order, authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to such conditions and restrictions as the Governor, with the advice of the Executive Council, may think expedient.

8. *Specification to be in writing, and to describe invention.* Every specification of an invention filed under this ordinance shall be in writing, and shall be signed by the petitioner, and shall particularly describe and define the nature of the said invention, and in what manner the same is to be carried out.

9. *Petition and specification to be left with colonial secretary ; accompanied by declaration.* Every petition for leave to file a specification, and every specification filed under this ordinance, shall be left with the colonial secretary, and shall be accompanied by a declaration in writing, signed by the petitioner, in the form or to the effect mentioned in the schedule hereunto annexed, marked A. and B. respectively ; and if the inventor be absent from Ceylon, the petition and specification shall also be accompanied by a declaration, signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration purporting to be the declaration of the inventor was signed by him, and that the contents thereof are true ; which declaration shall be in the form hereunto annexed, marked C. The date of the delivery of every such petition and specification shall be indorsed on the same respectively, and shall be also recorded at the office of the colonial secretary.

10. *False statement in declaration punishable as perjury.* Any person who shall willfully and corruptly make any false statement in any declaration required by this ordinance shall be liable to the pains and penalties of perjury.

11. *Payment of fees.* No specification shall be filed until the petitioner shall have paid all fees payable under this ordinance.

12. *To be open to inspection.* The specification, or a copy thereof, shall be open at all reasonable times, at the office of the colonial secretary, to public inspection, upon payment of a fee of five shillings.

13. *Book for the registry of petitions, specifications, &c.* A book shall be kept in the office of the colonial secretary, wherein shall be entered every such petition and specification, and every order made upon such petition, or relating to the invention therein mentioned, and every grant of exclusive privilege. Every specification and every such grant as aforesaid shall be numbered according to the order in which it is entered in such book; and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention.

14. *Inspection of registry book.—Certified copy of entry.* Such book, or copy thereof, shall be open at all convenient times for the inspection of any person, upon payment of a fee of five shillings; and the said colonial secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

15. *Certified copy to be primâ facie evidence.* Every such certified copy shall be primâ facie evidence of the document of which it purports to be a copy.

16. *When exclusive privilege does not attach.* No person shall be entitled to any exclusive privilege under the provisions of this ordinance,

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention in Ceylon, or

If the petitioner is not the inventor or importer thereof into Ceylon, or

If the specification filed does not particularly describe the nature of the invention, and in what manner the same is to be carried out.

17. *New invention.—Knowledge of invention fraudulently acquired.—Public use by actual inventor.* An invention shall be deemed a new invention within the meaning of this ordinance, if it shall not, before the time of applying for leave to file the specification have been publicly used in Ceylon. The public use of an invention, prior to the application for leave to file a specification shall not be deemed a public use within the meaning of this section, if the knowledge thereof shall have been obtained surreptitiously, or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor, or in breach of confidence. Provided

the inventor shall, within six months after the commencement of such public use, apply for leave to file a specification, and shall not previously have acquiesced in such public use. Provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing, shall not be deemed a public use thereof, within the meaning of this ordinance.

18. *Inventor having patent in England may petition.* If an inventor who, prior to the time of applying for leave to file a specification of an invention under this ordinance, shall have obtained Her Majesty's letters patent for the exclusive use of such invention in any part the United Kingdom, but not extending to this island, shall petition the Governor for leave to file a specification of such invention, it shall be competent to the Governor, with the advice of the Executive Council, to make an order authorizing the petitioner to file a specification of the invention and exemplification of the letters patent granted to him. On this being done, the petitioner shall be entitled to the sole and exclusive privilege of making, using and selling the said invention in Ceylon for the term or terms mentioned in the 6th section. Provided the petition for leave to file the specification shall state that such letters patent have been granted, and shall also state the date thereof, and the term during which the same are to continue in force.

19. *Exclusive jurisdiction in the district court of Colombo.* And whereas it is expedient that sole jurisdiction over all actions, suits, and proceedings arising in respect of this ordinance should be vested in the district court of Colombo, to the exclusion of other courts having jurisdiction under the 24th and 29th sections of the Letters Patent of his late Majesty King William the Fourth, bearing date the 18th day of February, 1830; And whereas by Letters Patent of her present Majesty, bearing date the 28th day of January, 1843, it is declared that it shall be competent to the Governor, by any law or ordinance to be by him from time to time made, with the advice and consent of the Legislative Council, to make provision for the better administration of justice within this island, anything in the said Letters Patent of King William the Fourth to the contrary notwithstanding: It is therefore enacted that the said district court of Colombo shall have sole and exclusive jurisdiction over all such actions, suits, and proceedings as aforesaid, wheresoever the same may arise, and to the exclusion of all other district courts in the island, subject, however, to appeal, as hereinafter provided.

20. Particulars to be delivered. In any suit for the infringement of such exclusive privilege the plaintiff shall deliver with his libel particulars of the breaches complained of in said suit, and the defendant, in pleading thereto, shall deliver, with his answer, particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to the said district court under the 22nd, 23rd, and 24th sections of this ordinance, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any such suit or issue, no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such exclusive privilege, which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used, shall be stated in such particulars. Provided always, that it shall be lawful for the court in which the suit or proceeding is pending, or in which the issue is tried, to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid, upon any such terms as shall seem fit.

21. Defect in specification or petition, or want of novelty in invention, &c., no defense.—Actual use a defense. No such suit shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor shall any such suit be defended upon the ground of a misdescription of the invention in the petition; unless the defendant shall show that he is the actual inventor or derives title from him.

22. Application to declare exclusive privilege not acquired. It shall be lawful for any person to apply by motion to the district court of Colombo for a rule to show cause why the court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this ordinance, by reason of all or any of the objections following, (to be specified in the rule,) that is to say :—

Invention not new. That the said invention was not, at the time of presenting the petition for leave to file the specification, a new invention; or

Petitioner not the inventor, &c. That the petitioner was not the inventor thereof, and in addition thereto, either that the appli-

cant was the inventor, or that the inventor has dedicated or made known the invention to the public, or has acquiesced in the public use thereof ; or

Invention not described in specification. That the specification filed does not particularly describe and define the nature of the invention, or in what manner the same is to be carried out ; or

Fraud in petition or specification. That the petitioner has fraudulently inserted in the petition or specification, as part of his invention, something which was not new or whereof he was not the inventor ; or

False statement in petition. That the petitioner has willfully made a false statement in his petition ; or

Fraudulent misdescription of part of invention in specification. That some part of the invention, or the manner in which that part is to be carried out as described in the said specification, is not thereby sufficiently described and defined, and that such defect or insufficiency was fraudulent, and is injurious to the public.

23. *Like application as to part of an invention.* Any person may in like manner apply to the said district court for a rule to show cause why that court should not declare that an exclusive privilege has not been acquired under the provisions of this ordinance, in any part of the invention to be specified in the rule, by reason of all or any of the objections following (to be specified in the rule), that is to say :—

That such part of the invention was not new at the date of the petition for leave to file the specification ; or

That the petitioner was not the inventor of that part of the invention, and, in addition thereto, either that the applicant was the inventor of that part, or that the inventor has dedicated or made known the same to the public, or has acquiesced in the public use thereof ; or

That that part of the invention, and the manner in which it is to be carried out, is not sufficiently described and defined in the specification, and that such defect or insufficiency is injurious to the public.

24. *Application by Queen's advocate on breach of special condition.* It shall be lawful for the Queen's advocate or any deputy Queen's advocate to apply to the said district court for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the leave to file a specification has

been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor under the power hereinafter reserved may, in the judgment of the said Governor, depend, should not be tried in the form of an issue directed by the said court; and if the rule be made absolute, the court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor. The costs of such trial, and also the costs of such proceedings, shall be in the discretion of the said court.

25. *When exclusive privilege shall cease.* Every exclusive privilege under this ordinance shall cease if the governor, with the advice of the Executive Council, shall declare by notification in the Government Gazette that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the petitioner shall have been authorized to file a specification, or upon which the term of the exclusive privilege shall have been extended, shall be proved to the satisfaction of the aforesaid district court, and if the governor, with the advice of the Executive Council, shall thereupon declare that such exclusive privilege shall cease.

26. *District court may direct issue for trial.* The said district court may, if it think fit, direct an issue for trial before the same court of any question of fact arising upon an application under sections 22, 23, 24 of this ordinance, and such issue shall be tried accordingly, in a summary manner.

27. *Judgment.* If it shall appear to the said district court at the hearing of any application under the provisions of sections 22 and 23 of this ordinance that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the court shall give judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just; and thereupon the petitioner, his heirs, executors, administrators, and assigns, shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

28. *Amendment of specification.* If the court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the description of his invention in the petition or specification, included something which at the date of the petition was not new, or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the

error, defect, or insufficiency was not fraudulently intended, the said court may adjudge the said exclusive privilege to have been acquired and to be valid save as to the part thereof affected by such error, defect, or insufficiency; or if the court shall think that the error, defect, or insufficiency can be amended without injury to the public, it may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his heirs, executors, administrators, or assigns, shall, within the time limited by the court for the purpose, file a specification amended according to such order.

29. *Misdescription in petition, not to defeat privilege.* An exclusive privilege shall not be defeated upon the ground that there is any misdescription of the invention in the petition, unless such description was fraudulent.

30. *Entry in Registry Book of judgment, &c.* Whenever it shall be adjudged by the said district court that an exclusive privilege as to the whole or any part of an invention has not been acquired, the colonial secretary shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

31. *Actual inventor entitled to assignment of privilege fraudulently obtained.* If upon proceedings instituted within two years from the date of a petition to file a specification the inventor shall prove to the satisfaction of the said district court that the petitioner was not the inventor, and that at the time of the petition he knew, or had good reason to believe, that the knowledge of the invention was obtained by himself, or by some other person surreptitiously or in fraud of the inventor, or by means of a communication made in confidence by the actual inventor, to him or to any person through whom he derived such knowledge, the court may compel the petitioner to assign to the inventor any exclusive privilege obtained under this ordinance, and to account for and pay over the profits thereof.

32. *Service of proceeding.* A book shall be kept in the office of the colonial secretary, (such book to be open to inspection without fee), wherein every person filing a specification under this ordinance shall cause to be stated, under a number corresponding with the

number of the specification, some place in Ceylon where service of any rules or proceedings, for the purpose of canceling or revoking his exclusive privilege, may be made. Any person, partnership, or company, from time to time being proprietors of, or having shares or interest in such exclusive privilege, shall cause to be entered in such book, under such number as aforesaid, their names, together with the name of some place for the service of such proceedings as aforesaid. All such rules and proceedings shall be deemed sufficiently served on any such person, partnership, or company, if a copy thereof be left at the place entered in such book, or (if any other place be substituted for the same, by entry in the said book) at the place last substituted, by delivering the same to any person resident at or in charge of such place, or if there be no person resident at or in charge of such place, or if such place be not within the local limits of the jurisdiction of the court, by causing such rule or proceeding to be sent by post, by a registered letter directed to such person, partnership, or company, at such place; and if any such person, partnership, or company shall neglect to make or cause to be made such entry, then service of such rule or proceeding may be effected by affixing a copy thereof to some conspicuous part of the court-house, or in such other manner as the court may direct, provided that notice of any rule obtained or proceeding taken under either of the sections 22, 23, and 24, shall be served on all persons appearing to be proprietors, or to have shares or interests in the exclusive privilege under the provisions of this section, and it shall not be necessary to serve such notice on any other person.

33. *Prerogative in respect to letters patent saved.* Nothing in this ordinance contained shall abridge or affect the prerogative of the crown in relation to the granting or withholding the grant of any letters patent for inventions, or otherwise, or affect or interfere with any letters patent for an invention heretofore granted or hereafter to be granted by the crown.

34. *Right of appeal saved.* All decisions and orders of the district court of Colombo, made under the authority of this ordinance, shall be subject to an appeal to the Supreme Court, and every such appeal shall be brought on and prosecuted in such manner and shall be subject to such regulations as now exist or shall be hereafter made by law; and subject to the rules and limitations contained in the 52nd clause of the charter, any party or parties to any suit or proceeding under this ordinance may appeal to her

Majesty, her heirs and successors, in her, his, or their Privy Council, from any final judgment, decree, or sentence of the Supreme Court, or against any rule or order made by such Supreme Court, and having the effect of a final or definitive sentence.

35. *Stamp of petition.* Every petition for leave to file a specification under the provisions of this ordinance, or for the extension of the term of an exclusive privilege, shall be written or printed on a stamped paper of the value of ten pounds.

36. *Interpretation.* In the construction of this ordinance, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such constructions :—

The word “invention” shall include an improvement. The word “manufacture” shall be deemed to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture. The word “inventor” when not used in conjunction with the word “actual” shall include the importer of an invention not publicly known or used in Ceylon. The words “inventor” and “actual inventor” shall include the heirs, executors, administrators, or assigns of an inventor or actual inventor, as the case may be. The word “assigns” shall include grantees of the sole use or benefit in Ceylon, of an invention, or of the sole use of an exclusive privilege, for a limited time. The words “colonial secretary” shall include any person acting as or for the colonial secretary. The words “Queen’s advocate” shall include any person acting as or for the Queen’s advocate.

SCHEDULE.

FORM OF PETITION.

To the Governor of Ceylon.

The petition of [*here insert name, addition, and place of residence*] for leave to file a specification under the Inventions Ordinance, 1859.—Showeth,

That your petitioner is in possession of an invention for [*state the title of the invention*], which invention he believes will be of public utility; that he is the inventor or owner of the said invention [*or, as the case may be, the assignee, or the executor, or administrator, or heir of the inventor or owner of the said invention*]; and that the same is not publicly known or used in Ceylon, to the best of his knowledge and belief [*or, as the case may be, that he is the first importer into Ceylon of the said invention, and that the same is not publicly known or used in Ceylon*].

If letters patent have been obtained for the invention, state according to the requirements of section 18.

The following is a description of the invention [*here describe it*].

Your petitioner therefore prays leave to file a specification of the said invention, pursuant to the provisions of the Inventions Ordinance, 1859.

And your petitioner, &c.

(Signed)

The day of

FORMS OF DECLARATION.

A.

I [*here insert name, addition, and place of residence*] do solemnly and sincerely declare, that I am in possession of an invention for [*state the title of the invention as in the petition*]; that I believe the said invention will be of public utility; that I am the inventor or owner of the said invention [*or, as the case may be, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention; or, that I am the first importer of the said invention into Ceylon*]; and that the same is not publicly known or used in Ceylon, to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said invention is truly described in my petition for leave to file a specification thereof.

(Signed)

The day of

B.

I [*here insert name, addition, and place of residence*] do solemnly and sincerely declare that I am in possession of an invention for [*state the title of the invention*], which invention I believe will be of public utility; that I am the inventor or owner of the said invention [*or, as the case may be, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention; or, that I am the first importer of the said invention into Ceylon*], and that the same is not publicly known or used, in Ceylon, to the best of my knowledge and belief; and that, to the best of my belief the instrument in writing under my hand hereunto annexed particularly describes and defines the nature of the said invention, and in what manner the same is to be carried out.

(Signed)

The day of

C.

I of , do solemnly and sincerely declare, that I have been appointed by the said , his agent for the purpose of , and I verily believe that the declaration purporting to be the declaration of the said marked () was signed by him, and that the contents thereof are true.

(Signed)

The day of

FORM OF GRANT.

D.

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

To all to whom these presents shall come, greeting.

Whereas A. B. of C. D. has presented to us [*insert name of Governor*] Governor

of Ceylon, a petition (numbered in the book of petitions for exclusive privilege in inventions in the colonial office), praying for leave to file a specification of a certain invention, intituled [*here insert title of invention*], and we have, with the advice and consent of the Executive Council, made an order, dated the day of 18 , authorizing the said A. B. to file a specification of the said invention; and whereas the said A. B. did on the day of 18 , file a specification in accordance with the said order, and the same is entered in the Book of Specifications in the colonial office, and bears the number therein; and whereas the said Governor and the Executive Council are agreed that the said A. B. hath done all things to entitle him to exclusive privilege in the invention in the said petition and specification instituted, mentioned, and described, for the term of years; Now know ye that we, with the advice and consent of the Executive Council, do grant to the said A. B. his heirs, executors, administrators and assigns, the exclusive privilege of making, selling, and using (as the case may be) the said invention in the said specification described in Ceylon for the term of years, in terms of and subject to the provisions of the Inventions Ordinance, 1859 (*here insert any condition under which the grant is made*).

(Signed) (*Signature of Governor*).

From Carpm. Pat. L. of World, 149.

CHANNEL ISLANDS.

See GREAT BRITAIN AND IRELAND.

CHILI.

Law of September 9, 1840.

ARTICLE 1. The author or inventor of an art, manufacture, machine or instrument, preparation of materials or any improvement thereof, who seeks to obtain the exclusive right to it assured by Article 152 of the Constitution, * shall present at the ministry of the interior a faithful, clear, and succinct account of the work or invention, declaring that the discovery is original and unknown in the country, accompanying it with samples, drawings, or models, as the circumstances of the case may require, and soliciting a patent which may establish his property therein.

ART. 2. The minister of the interior shall name a commissioner of one or more experts to examine the work or invention, and inform him as to its originality; they, in presence of the applicant, making oath to the faithful discharge of their duty, and also to religiously guard during the whole time prescribed by the law the secret which may be communicated.

ART. 3. After due investigation, the President of the Republic shall grant the exclusive privilege for a term not exceeding ten years, and shall order the issue of the necessary patent, which shall be authenticated by his signature, and sealed with the seal of the Republic.

ART. 4. This patent shall be registered in full in a book kept in the office of the ministry of interior.

ART. 5. Before delivery of the letters of patent to the applicant, he shall show by the exhibition of the proper receipt that he has paid into the public treasury the sum of \$50† and that he has deposited in the National Museum drawings, samples or models, and a specification in full, to the satisfaction of the inspecting commission, and bearing the signature of each of its members, which shall

* Article 152 of the Chilian constitution, dated May, 1833, accords to every author or inventor the exclusive proprietorship of his discovery or invention for the time which the law may cede to him, and further authorizes the payment of a proper indemnity should it be found nec-

essary to publish the invention. Report of Mr. J. De V. Drummond-Hay, of the British Legation, 4 Pat. Off. Gaz. 317.

† Mr. J. De V. Drummond-Hay states the fee as the "sum of £10 (about \$50)." 4 Pat. Off. Gaz. 318.

contain a complete, minute, and specific description distinguishing the invention or discovery from other matters previously known and employed, and defining the method or principles adopted, in order to enable any other competent person to use the same for the public benefit at the expiration of the term of the patent. This written specification shall be closed in presence of the commission, the title or subject of the patent being written on the envelope, and the proprietor shall declare that he has faithfully fulfilled the conditions here imposed, and the commission shall certify thereto. The proprietor during the term of his privilege may examine the envelope as often as he pleases, in order to see if it remains sealed and closed as when he handed it over.

ART. 6. In the National Museum a room shall be set apart for the reception of the plans, samples or models, and a secure chest for the safe keeping of the closed packets above mentioned, which shall not be opened or published before the expiration of the patent, except in cases of articles 11, 12, 15.

ART. 7. The \$50 above mentioned shall go toward the maintenance, &c., of the room in the Museum.

ART. 8. * [Omitted because repealed by law of July 25, 1872.]

ART. 9. Property in a patent is transferable like anything else, but in such cases the minister of the interior must first be informed, reasons being given. If these are found to be good, the transfer shall be noted in the transfer book, and if not, the provisions of article 11 shall come into play.

ART. 10. Any person constructing protected articles by the same method shall pay a fine of from \$100 to \$1000, the articles so constructed, and the machines, implements, &c., made use of being confiscated, and the value thereof being divided between the Gov-

*ART. 8 permitted "introducers of arts, industries or machines invented elsewhere and entirely unknown or not established nor employed in Chili" to obtain exclusive privileges on same conditions as prescribed for new inventions, except that the term was limited to eight years. By a law of August 16, 1856, the restriction was imposed upon any petitioner for the introduction of inventions already known in other countries, that the privileges solicited should be published in the Official Journal for thirty days, in order that parties who might have already brought

into the country, or established such conventions or industries, or have taken steps for their introduction or establishment, and thereby incurred expense previous to the petition for such exclusive privilege, should have a right to oppose the cession of the monopoly desired. By the law of July 25, 1872, the provision of ART. 8 of the law of 1840 allowing introducers to obtain patents was repealed. See report of Mr. J. De V. Drummond-Hay, 4 Pat. Off. Gaz. 318; Carpm. Pat. L. of World, 165.

ernment and the patentee, and in addition losses and damages may be recovered.

ART. 11. Patentees whose patents have been surreptitiously obtained, that is to say, by false testimony or under a false name, or for industries already established in the country, shall immediately in the same manner be fined, besides which they shall be condemned in costs, and shall incur imprisonment of from three to twelve months.

ART. 12. In case of dispute between rival inventors, arbitration shall be employed, one arbitrator being named by each party, and a third by the minister of the interior.

ART. 13. Patents conceded may be general, that is for the whole Republic, or particular, that is for a department or portion thereof.

ART. 14. For each patent a proportionate term shall be fixed for the establishment of the machinery, plant or manufactures, on the conclusion of which the term of the patent shall commence to run.

ART. 15. If, at the expiration of this term of establishment, the invention has not come into work, the privilege shall lapse, as shall it also do if after establishment it shall be abandoned for more than one year, or if the products are adulterated, becoming inferior to the samples, specimens, or models exhibited.

ART. 16. Renewal of patents can only be granted when accidents or unforeseen circumstances render the patentees really deserving of it, and it shall be sought at least six months before the expiration of the actual patent.

ART. 17. The present law shall not invalidate the mining *ordenanza* with respect to patents in that branch, nor what is established in the law of 24th July, 1834, with reference to literature and the fine arts.

From *Carp. Pat. L. of World*, 164.

Decree of August 1, 1851.

Having noticed in several reports of the experts nominated for the concession of special privileges, that the necessary demonstration of the specialty of that to which the privilege relates has not been submitted to the government, and it being indispensable to correct this abuse in order to the due fulfillment of the law,

I have granted and decreed that those persons who, as experts, are nominated agreeably to article 2 of the law of 9th September, 1840, shall not only report as to the usefulness or introduction of the invention, but also to the injury which might result to industry or commerce, also as to the difficulties and expenses incurred by the petitioners, in order to regulate the period for which the privilege should be granted, and the time within which the said industry shall be established.

They shall also show whether it relates to a new invention, or only to one newly introduced into the country, and specify what particulars should be required for the clear recognition of the invention, introduction, or industry, which by granting of the above privilege shall be otherwise prohibited.

Signed, &c.

From Carpm. Pat. L. of World, 167.

CISLEITHANIA: AUSTRIA.

See AUSTRIA-HUNGARY

COCHIN CHINA.

See FRANCE.

COLOMBIA.

*Law No. 35 of (May 13,) 1869.**

ART. 1. All new discoveries or inventions, in whatever kind of industry, give the inventor under the conditions and for the time mentioned in this law a right to the exclusive benefit of his invention or discovery. This right is secured by grants issued by the Executive Power of the Union, called Patents of Invention.

ART. 2. Any Colombian or foreigner who shall invent or improve any machine, mechanical contrivance, combination of materials, or process, useful to industry, arts or sciences, or any manufacture or industry, may obtain a patent from the Executive Power, securing to him or to his lawful representatives, for a term of from five to twenty years, the exclusive right to make, sell, or use his discovery or invention.

ART. 3. No privileges shall be granted for the importation of natural or manufactured productions from foreign countries.

ART. 4. Persons applying for a patent in Colombia for inventions which have already been patented in a foreign country may obtain the said patent, provided the invention in question has not been already introduced into public use. A patent granted in Colombia for an invention which has already been patented in a foreign country, shall expire at the same time as the foreign patent.

ART. 5. In order to obtain a patent of invention or improvement, the person interested shall apply either personally or through his attorney to the Executive Power, specifying his invention or improvement, explaining it with clearness, and asking for the patent to be granted to him; and if the said patent be granted, he is required before he receives it to furnish within forty days an exact drawing or model of the machine or mechanical contrivance he shall have invented, or a full and detailed description of the new method or process, or a specimen of the manufacture, if the nature of the case should admit, in order that the same may be deposited in the

* A statement of the patent law of Colombia, by Mr. Charles O'Leary, of the British Legation, founded on the same law as is given in the text, but differently expressed, was published September 23, 1873, in 4 Pat. Off. Gaz. 318.

corresponding department of state, to be there at hand should any questions arise touching the patent.

ART. 6. Every patent shall contain a copy of the present law, as also of the executive decree granting the privilege, and specifying the invention, improvement, or new industry, and the term of its duration, and shall declare the patentee to be in possession of said privilege, and it shall be published twice at least in the National Official Gazette.

ART. 7. A patent of invention or improvement shall be granted without previous inquiry as to the usefulness of the article, or as to whether it be really an invention or improvement. The government does not declare, on issuing a patent, that the invention or improvement is genuine or useful, or that the patentee is the actual inventor, or the article is a new one, or that the descriptions or models are exact ; as those who are interested in the matter are at liberty to prove the contrary before the law courts.

The Executive Power shall give notice through the National Gazette thirty days before issuing the grant of any applications that may be made for patents.

ART. 8. No patent shall be issued unless all the formalities laid down in this law are fulfilled, or in case the invention, improvement, or new industry, should endanger public health or security, or if it should be opposed to morality or to existing rights.

ART. 9. When the term for which a patent is granted expires, the manufacture, sale, or use of the patented invention or improvement shall become free ; the descriptions furnished by the inventor shall be published, and copies of the respective drawings or models may be had on application at the expense of the person asking for them. This will likewise take place when, before the expiration of the term, the patent is declared null and void.

ART. 10. All attempts to imitate or counterfeit patented articles or industries, shall be prosecuted in accordance with the penal laws of the Union.

ART. 11. Besides the case mentioned in article 4, patents become void when they have been granted to the prejudice of a third party, which shall be decided by the tribunals of the States.

ART. 12. A patent for a new industry will also be void when said industry is not practiced during a whole year, unless unavoidable circumstances should have intervened.

ART. 13. On receiving the patent the patentee shall pay into the national treasury a fee of from five to ten dollars (\$5 to \$10) for

every year of the privilege. The person who applies for a patent shall fix a term for its duration within the maximum fixed, and shall deposit at the treasury the sum of ten dollars (\$10) which he shall forfeit if the patent be refused, and which shall be taken in part payment of the patent fee should the patent be granted.*

ART. 14. The law of May 15, 1848, respecting Patents of Invention or Improvement of Machines and Industrial Apparatus is hereby repealed.

From *Carpn. Pat. L. of World*, 169.

COSTA RICA.

According to a memorandum published October 7, 1873, in 4 *Gaz.* 373 (under the title San José), the constitution states that it belongs to the constitutional Congress to promote the progress of the arts and sciences, and to secure, for a limited time, to authors or inventors the exclusive right of their writings or discoveries; and every one who believes himself to have a right to a patent of invention must solicit it from Congress.

CUBA.

See SPAIN.

* The fee is thus stated by Mr. Charles O'Leary. To secure a privilege a fee of from \$5 to \$10 (£1 to £2) for every year of its duration must be paid to the government, the entire sum being levied when the patent is granted. In soliciting a patent, the number of years for which

it is desired to take it out is mentioned in the petition, but no petition is entertained unless preceded by a payment into the treasury of \$10 (£2), which the petitioner forfeits if the application is refused, or if granted is computed as part payment of the fee.

DENMARK.

Report by Mr. Strachey, of the British Legation, published 1873.

1. No laws have been passed in Denmark on the subject of protection to inventions.

Inventors are protected by royal letters patent granted through the ministry of the interior, in accordance with rules prescribed by the traditional practice of that department.

2. A person who wishes his invention to enjoy *gueret*, or monopoly, must address the ministry of the interior, accompanying his demand by detailed specifications and drawings.

3. The ministry forwards these papers to the Polytechnic School, with a request that the director will report on the applicant's scheme. The director, after consulting, if necessary, the professors of the institute, reports to the ministry whether the alleged invention is new and deserving of protection. He also states the period for which, in his opinion, the *gueret* or patent should be granted.

4. The ministry always adopts the director's conclusion. It is understood that a patent will be allowed whenever the alleged invention really contains something novel in principle or practice. Generally speaking, the applicant's request is granted.

5. The patents usually run for three, four, or five years. Important inventions are protected for ten years, and in special cases for fifteen years. Patents granted to foreigners never run for more than five years.

6. The fee charged at the ministry of interior for the whole transaction is £1 17s. 6d. (\$9.) The time occupied in the correspondence is about two months.

7. The patent is forfeited (1) if it is shown that a similar invention has been used in Denmark before ; or (2) if the patentee does not carry out his invention within the year, and continue to employ it.

COPENHAGEN, *December 24, 1872.*

From 4 *Pat. Off. Gaz.* 319.

DOMINICA.

See LEEWARD ISLANDS.

EAST INDIES (French).

See FRANCE.

ECUADOR.

See INTERNATIONAL CONVENTION.

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

ENGLAND.

See GREAT BRITAIN AND IRELAND.

FIJI: FEEJEE ISLANDS.

Ordinance No. III. 1879.—To repeal Ordinance No. XXIV. of 1877, and to make other provisions in lieu thereof for the issue of Letters Patent.

I. *Privileges.* Every inventor shall be entitled, under the conditions and restrictions hereinafter enacted, to the sole exclusive right of and in his invention.

II. *Interpretation clause.* In the interpretation of this ordinance the word "invention" shall mean and include any manner of new manufacture, also every new process of manufacture, and every new method of application of known processes, and improvements in any known process.

The word "inventor" shall include the heirs, executors, administrators or assigns of an inventor.

III. *Form of letters patent and privileges conferred.* The right and privilege granted to inventors shall be conferred by letters patent under the seal of the colony in form contained in schedule A hereto, whereby the inventor shall be entitled to the sole and exclusive privilege of using, selling, or making his said invention in the colony, and of authorizing others so to do, for the term of fourteen years from the date of the letters patent.

IV. *Letters patent not to be granted in certain cases.* No person shall be entitled to letters patent—

a. If the invention is of no utility.

b. If the invention at the time of presenting the petition was not a new invention.

c. If the petitioner is not the true and first inventor thereof.

d. If the petition or any specification contain a willfully false statement.

And the attorney-general may make an application to the Supreme Court on any such grounds for the cancellation or revocation of any letters patent.

V. *Proceeding in application for letters patent.* Every person desirous of obtaining letters patent under this ordinance shall file in the office of the colonial secretary a petition in the form contained in schedule B signed by him or his agent or attorney, setting forth the residence of the inventor and the title of the invention. To the

petition shall be annexed a specification (or instrument in writing), particularly describing and ascertaining the nature of the said invention and the manner in which the same is to be produced or performed, and with such specification or instrument in writing shall be filed the drawings necessary to elucidate the same, and such petition, and all documents and drawings accompanying the same, shall be in duplicate.

VI. *Petition to be accompanied by declaration.* Every petition and specification particularly describing the nature of an invention shall be accompanied by a declaration in writing, signed by the petitioner, or his agent or attorney for him, in the form contained in schedule C, hereto.

VII. *Petition, specification, &c., to be recorded.* The colonial secretary shall cause to be filed every petition and specification, with accompanying drawings, if any, explaining the nature of any invention; and also any certificate granted by the attorney-general, and every letters patent issued, and a memorandum of any order relating thereto.

VIII. *Records may be inspected.* Such records shall be open to the inspection of all persons, at any reasonable hour, upon the payment of a fee of four shillings, and any person may have a copy of any document recorded on payment for the same at the rate of eight-pence for every folio of seventy-two words.

IX. *Certified copies to be received as evidence.* Copies of any documents so recorded, certified as correct by the colonial secretary, shall be received in evidence in any court of law in the colony.

X. *Specification may be amended.* A specification may be amended on application to the attorney-general, provided that if the attorney-general shall refuse to allow such specification to be amended the same may be amended by leave of the Governor in Council, and when so amended shall, except as to suits and proceedings relative to the exclusive privilege claimed by any inventor pending at the time, have the same effect as if no amendment had been made, and no extension or enlargement of any exclusive privilege before acquired should be effected thereby.

XI. *Provisional certificate.* When any applicant has filed his petition for letters patent, the Governor shall direct the same to be referred by the colonial secretary to the attorney-general, with one of the duplicates of such petition and the specification, and all other accompanying documents and drawings, and a certificate of the filing of the petition; and the attorney general shall, if he deem the

invention as *primâ facie* entitled to protection, issue a certificate to that effect, as in form contained in schedule D, and the inventor shall, subject to the provisions of this ordinance, be protected for a period of six months in like manner as by letters patent ; Provided nevertheless, that it shall be competent to the attorney-general to extend the period of such protection pending the decision as to any opposition made to the granting of any letters patent as to him shall seem necessary.

XII. *Where certificate is refused, appeal may be made.* If in any case the attorney-general shall refuse to issue such certificate as hereinbefore provided, an appeal shall lie from the decision of the attorney-general so refusing such certificate to the Governor in Council, who may direct the same to be issued by the clerk of the council in such manner and subject to such conditions and restrictions as shall seem fit, provided that such application shall be made to the Governor in Council within one month from the time of the decision of the attorney-general refusing a certificate being made known to the applicant for letters patent, or to his agent or attorney : provided also that any certificate to be issued by direction of the Governor in Council shall be issued within three months from the date of such appeal, and upon the issue of such certificate like proceedings shall be had and taken as if such certificate had been issued by the attorney-general.

XIII. *Procedure where no opposition is made to application.* Within two months of the issue of the certificate of the attorney-general, or, where the attorney-general has refused to issue such certificate, from the date of the issue of the same by the clerk of the council, as provided in the next preceding section, the applicant for letters patent shall give notice in the form contained in schedule E, hereto, twice in the Royal Gazette, and one other paper published in Fiji ; and if no notice of opposition to the application for letters patent be sent to the attorney-general within three months of the date of publication of the first of such notices, the attorney-general shall report such fact to the Governor in Council, and the Governor in Council shall, within three months from the date of such report, cause letters patent to be issued with such reservations, provisos, and conditions as may be deemed fit.

XIV. *Where application is opposed, holder of certificate may appeal.* Any person desiring to oppose such application shall, within the time last mentioned in the next preceding section, give notice in writing of his opposition to such application and of the grounds

thereof to the attorney-general, who shall, after hearing the parties to and against such application, and such witnesses as he may deem necessary, decide the same and intimate his decision to the Governor in Council, and the Governor in Council shall, within three months from the date of such intimation, if the same be favorable to the person holding a provisional certificate, direct the issue of letters patent to such person with such reservations, provisos, and conditions as may be meet. And in case the decision be adverse to the party holding the provisional certificate, he may appeal against such decision to the Governor in Council; and the Governor in Council shall, within three months from the date of such appeal, either direct the issue of letters patent to the appellant, subject to such reservations, provisos, and conditions as he may deem fit, or make such other order as may be meet.

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

XVI. *Patents for inventions protected by imperial patent.* Any person holding Her Majesty's letters patent for any invention may obtain letters patent for the same in this colony on satisfactory proof of the issue of such letters patent, provided the patent obtained in this colony shall be subject to the provisions relating to patents obtained in places beyond the colony contained in the next preceding section.

XVII. *Letters patent to be registered.* All letters patent and assignments of letters patent shall be registered in the office of the

registrar-general on the payment of fees in respect thereof, as specified in schedule F.

XVIII. *Governor in Council may annul letters patent.* Letters patent may be annulled by the Governor in Council if the same be proved to be prejudicial to the public interests, or if the special conditions on which the same have been granted are not observed. Notice of any letters patent being annulled, and the cause thereof, shall be inserted in the Royal Gazette. On the issue of any letters patent any petition, specification, and other documents and drawings referring thereto, shall be transferred from the office of the colonial secretary to the registrar-general, and shall be filed by him forthwith.

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

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

XXI. *Where letters patent may be canceled or revoked by order of Supreme Court.* If upon any of the grounds set out in section IV. of this ordinance, the Supreme Court or a ~~judge thereof~~ shall order any letters patent to be canceled or revoked, a copy of such order shall be forthwith forwarded by the registrar of the court to the registrar-general, who shall record the same, and all right under any letters patent so canceled or revoked shall cease.

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

XXIII. *Penalty for making false declaration.* Any person making a false declaration under this ordinance shall be deemed guilty of perjury, and upon conviction be liable to imprisonment

not exceeding two years, without prejudice to any action which any injured parties may bring against him.

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

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

XXVI. Short title. This ordinance may be cited as "The Patents Ordinance, 1879."

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

SCHEDULE A.

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

Whereas A. B., of in the colony of Fiji hath represented that he is desirous of obtaining our royal letters patent for securing unto him our special license, that he, his executors, administrators and assigns, and such others as he or they should agree with, and no others, should and lawfully might make, use, exercise and vend within our colony of Fiji and its dependencies, an invention for [*insert the title of the invention*], and by an instrument in writing under his hand and seal deposited in the office of the colonial secretary, the said A. B. hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed. And we, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said A. B. the privileges hereinafter mentioned. Know ye therefore that we, of our special grace, certain knowledge and mere motion, have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said A. B., his executors, administrators and assigns, our special license, full power, sole privilege and authority, that he the said A. B., his executors, administrators and assigns, and every of them, by himself and themselves, or his and their deputy or deputies, servants or agents, or such others as he or they shall at any time agree with, and no others, during the term herein expressed, shall, and lawfully may, make

use, exercise and vend his said invention within our said colony and its dependencies, in such a manner as to him, his executors, administrators and assigns, or any of them shall seem meet, and that he, his executors, administrators and assigns shall, and lawfully may, have and enjoy the whole profit, benefit, commodity and advantage from time to time coming, growing, accruing and arising by reason of the said invention during the said term. To have, hold, exercise and enjoy the said licenses, powers, privileges and advantages unto and by the said A. B., his executors, administrators and assigns, for and during, and unto the full end and term of fourteen years now next ensuing. And to the end that he, his executors, administrators and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention according to our gracious intention. We do by these presents, for us, our heirs and successors, require and strictly command all and every person and persons, bodies politic, corporate, and all other our subjects whatsoever, of what estate, quality, degree, name or condition soever, may be within our said colony and its dependencies, that neither they nor any of them at any time during the said term, either directly or indirectly, do make, use or put in practice the said invention, or any part of the same so attained unto by the said A. B. as aforesaid, nor in anywise counterfeit, imitate or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the consent, license or agreement of the said A. B., his executors, administrators or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders, on their contempt of this our royal command, and further to be answerable to the said A. B., his executors, administrators and assigns, according to law, for his and their damages thereby occasioned. Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall appear that this our grant is contrary to law or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said A. B. is not the true and first inventor thereof within this colony or its dependencies, these our letters patent shall forthwith cease, determine and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding. Provided also that these our letters patent, or anything herein contained, shall not extend or be construed to extend to give privilege unto the said A. B., his executors, administrators or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any of our subjects whatsoever, and publicly used or exercised, or unto whom our like letters patent or privileges have been already granted for the sole use, exercise and benefit thereof within our said colony or its dependencies, it being our will and pleasure that the said A. B., his executors, administrators and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions by them invented and found out, according to the true intent and meaning of the said respective letters patent, and of these presents. Provided likewise nevertheless, and these our letters patent are upon this express condition, that if the said instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also if the said A. B., his executors, administrators or

assigns shall not supply or cause to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the persons administering the department of our service, for the use of which the same shall be required in such manner, at such times and at and upon such reasonable prices and terms as shall be settled for that purpose by the said persons requiring the same, that then and in any of the said cases, these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding. Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted. And lastly, we do by these presents for us, our heirs and successors, grant unto the said A. B., his executors, administrators and assigns, that these our letters patent shall be in all things good, firm, valid and sufficient, and effectual in law, according to the true intent and meaning thereof, and shall be taken, construed and adjudged in the most favorable and beneficial sense for the best advantage of the said A. B., his executors, administrators and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors in our said colony and its dependencies, and amongst all and every the subjects of us, our heirs and successors whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging. In witness whereof we have caused these our letters to be made patent.

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

SCHEDULE B.

Petition.

I _____ of _____ do hereby humbly petition his Excellency the Governor for letters patent in respect of an invention [*state title of invention*].

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

Signed _____

Petitioner

or agent or attorney for petitioner.

SCHEDULE C.

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

SCHEDULE D.

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

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

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

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

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

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

SCHEDULE E.

In the matter of the application of of , for letters patent for

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

A. B., Applicant.

SCHEDULE F.

	£	s.	d.
On depositing petition and specification	5	5	0
For provisional certificate of protection.....	3	3	0
For obtaining letters patent	10	10	0
On lodging particulars of objections	2	10	0
Every search and inspection.....	0	4	0
Registration of letters patent.....	0	5	0
Filing memorandum of alteration or amendment of specification.....	1	1	0
Registration and assignment of letters patent.....	0	10	0
Copy or extract of any writing, per folio of 72 words	0	0	8

From *Carpin. Pat. L. of World*, 174.

FINLAND.*Supreme Decree of March 30, 1876.*

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

CHAPTER I.

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

SECTION 1. A patent entitles the owner of the invention to make, exercise and vend, alone or through others, everywhere in Finland, the invention to which it relates, to the exclusion of all others, during the time specified by the letters patent. It is incumbent upon the owner that he should strictly conform to whatever is prescribed by the existing laws with regard to the manufacture and the sale of wares, without being obliged in order to enjoy the advantages of the said right, to acquire the dignity of a master craftsman or the freedom of a citizen.

The patent right is to be considered as the personal property of the owner, and may in consequence be devised by will, and also, in accordance with the ordinary legal practice, be assigned to other persons, together with the rights acquired by the letters patent, but subject to the observance of what is hereinafter prescribed in sec. 2 of the succeeding chapter.

SEC. 2. A patent may be granted: (1) For new inventions relating to handicraft, industry or art.

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

A patent cannot be granted for the preparation of medicines nor

for any invention which is of such a nature that the employment of the same would be contrary to the existing laws, to the public safety or to good morals.

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

SEC. 3. A patent will be granted for the period of at least three years, and at the utmost twelve years, according to the nature and importance of the invention.

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

SEC. 4. The inventor only is entitled to the patent.

CHAPTER II.

On the manner in which patents will be granted.

SEC. 5. If an inventor wishes to obtain a patent he must present his petition to the finance department of the Senate, and the said petition must contain, together with a declaration of the object of the patent, the following particulars :—

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

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

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

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

If the petitioner is not in a position at once to send in a full description, such fact must be mentioned in the petition, and he is

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

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

SEC. 6. After the petition, together with the supplemental documents, has been sent in to the finance department of the Senate, and after subsequent examination and approval by the said department, a patent will be issued for the invention.

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

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

The privileges which are to be conferred by the patent ;

And the obligations which the holder of the patent must fulfill in order to enjoy the privileges of the patent right.

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

SEC. 7. The *Manufactures-Direction* is to be informed of all petitions for patents granted by the Senate, and the whole of the collective documents belonging to the matters connected with the patent are to be made over to them.

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

SEC. 8. If two or more persons present themselves desiring to obtain a patent for inventions of a like nature, it shall be decided upon examination whether the one of them who has first sent in the completed documents before the others shall receive the patent, or whether all the petitions are to be refused.

SEC. 9. In addition to the customary dues which are payable to the Senate for the issue of a patent, an impost duty of twenty marks per annum is to be paid into the state treasury of Finland for every year for which the patent right is granted.

CHAPTER III.

Of the obligations and rights of the owners of patents.

SEC. 10. Whoever has received a patent is obliged:—

1. To bring the patent right to public notice by means of the publication of the patent and the description three times in the official Swedish and Finnish newspapers of the country. The description must be in the same terms as that included in the petition for the patent. Such publication is to be effected within two months, to be reckoned from the day of the issuing of the patent.

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

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

SEC. 11. If the holder of a patent wishes to assign the same to any other person, or if it comes by inheritance into the possession of another person, such fact must be notified to the *Manufactures-Direction*, whereupon the matter is to be referred by a memorandum to the finance department of the Senate. The new patent holder will have brought to his notice by the medium of the memorandum, the obligations which are to be fulfilled by him during the continuance of the patent.

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

SEC. 12. The patent right ceases and becomes forfeited:

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

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

SEC. 13. When a patent has become forfeited, and also when the time for which the patent was originally granted has expired, it is incumbent upon the *Manufactures-Direction* to publish in the official Swedish and Finnish newspapers of the country the fact that the patent has become canceled.

CHAPTER IV.

Of the judicial conduct of actions relating to a patent.

SEC. 14. If a patent is granted for an invention similar to one previously patented, or which has already been discovered by some other person in Finland or elsewhere, or if the owner of the patent has falsely declared himself to be the inventor, or if it is proved that the patented invention is dangerous to the public safety or to the public health, or may lead to immorality, any person who believes his right to be prejudiced by the patent may, within one year after the patent resolution has been published for the third time in the newspapers named in section 10, and also the state attorney, so soon as the protection of the commonwealth requires it, may bring an action against the owner of the patent, before the tribunal of the place wherein the owner—or, in case of his residing out of the country, his legally appointed representative—is domiciled. The tribunal shall, in case any of the above enumerated events have happened, declare that the patent is to be revoked, in which case a copy of the judgment of the tribunal is to be forwarded to the *Manufactures-Direction* without delay. This latter shall proceed to act in the matter, after the judgment has become legally valid, in the manner prescribed in section 13.

SEC. 15. If the owner of a patent believes that after the granting of the patent another person works the patented invention illegally, he may bring his action against him by means of a citation before the public tribunal to which the person informed against belongs. If the owner of the patent is able to give proof that his rights are being infringed upon in the matter mentioned the accused person shall be subject to a fine for the first time of from one hundred to three hundred Finnish marks, and in the case of repeated infringements of from three hundred to six hundred marks, and

also be condemned each time to payment of compensation for the full amount of damages. Of the money fine, one half of the amount is to go to the owner of the patent, who alone can bring such action before the tribunal, and the other half to the poor and work-house fund of the country. If the condemned person is not in a position to pay the fine, the same shall be, in accordance with the prescriptions now in force with regard to pecuniary amercement, exchanged for imprisonment.

SEC. 16. Should it appear upon the trial of an action for the infringement of a patent right that the invention to which the patent relates has been known or used in the country or elsewhere before the petition for the patent was presented to the finance department, or that the holder of the patent has given an incorrect or incomplete description of the method and the means to be employed for working the invention, and that a trustworthy basis for forming a judgment as to the peculiar characteristics of the invention has not thereby been obtained; or if the owner of the patent has falsely held himself out as the inventor, the defendant is not answerable.

CHAPTER V.

General provisions.

SEC. 17. Whenever in this decree "months" are spoken of within which particular obligations are to be fulfilled, in the application of this term each month is to be reckoned as 30 days.

SEC. 18. This decree comes into force on the 1st June, 1876, without prejudice, however, to the legal validity of patents previously granted.

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

From *Carp. Pat. L. of World*, 185.

FRANCE.

Law of July 5, 1844 ; with Notes Founded on the Commentary of M. Leopold Goirand.

TITLE I.

GENERAL PROVISIONS.

ARTICLE 1. Every new discovery or invention, in all kinds of industry, confers upon its author, subject to the conditions and for the periods hereafter determined, the exclusive right to work for his benefit the said discovery or invention. This right is evidenced by documents delivered by the government, under the name *brevets d' invention* (letters patent).

NOTE, founded on the commentary of M. Leopold Goirand.—A patent of invention in France consists of an official declaration, delivered by the government to any individual who claims to be an inventor, to the effect that on a given day, such individual deposited with the minister of agriculture and commerce, a demand, accompanied by certain documents in which he claims the invention of which he declares himself to be the author. This official declaration does no more than state a fact ; it has but one object, and that is, to indicate the period from which the right of the party applying for the patent is to run, in France. The government does not at this stage examine the claim, and does not, therefore, guarantee the genuineness thereof. The formula which the law requires to be placed upon all patented articles is accordingly worded : “ *Breveté sans garantie du gouvernement* (patented without government guaranty) ;” which in practice is abbreviated : *S. G. D. G.*

There is only one kind of patent, but it may be taken out under three different circumstances : 1. For an invention, properly so-called. 2. For an improvement or change in or an addition to an invention. A patent of this kind is called in practice a “ *brevet de perfectionnement* (patent for improvement).” 3. For an invention which has been already patented abroad, and is now sought to be introduced into France. This is called a “ *brevet d' importation* (patent for importation).”

ART. 2. The following are considered as inventions or new discoveries :

The invention of new industrial products.

The invention of new means, or a new application of known means for obtaining a result or an industrial product.

This enumeration must not be construed too strictly ; practically it has been extended to comprise all possible inventions. The courts have gone so far as to decide that not only new applications of known means, but also the merely new combination

of known means to obtain a product or a commercial result, is an invention, within the meaning of the law. There are inventions, however, which, although new, are not patentable. Such are those belonging to pure science, and not capable of being applied to industry. Thus the discovery of a natural law, or a natural phenomenon, etc., cannot be patented. It is proper to distinguish between the simple observation of a scientific phenomenon, and the practical, commercial application to which such observation can be put. The former is not, and the latter is, patentable. (Court of Cassation, December 20, 1851, and February 9, 1853.) As a rule, every invention which has a commercial value is capable of being patented.

An "industrial product," as that term is used in Article 2, is a well defined body or material object which has a form and specific characteristics that distinguish it from all other objects. Thus, a new tissue of known materials can be patented as a new product, if the same materials have never before been combined to make a product having the same characteristics. (Court of Paris, November 19, 1857; December 6, 1859.) It is necessary to distinguish between the product and the *process*; a new result, even if the process is not new, may be patented. A distinction must also be made between a new product, and a new *result*. The latter is never a material object, but simply a new effect, or the better use of known means; as such, it is not patentable in itself; that which is patentable is the process by which the new effect is produced. The Court of Cassation has decided that an industrial result cannot be patented independently of the means employed to obtain it; also, that the object which an inventor has in view when inventing a product or process, cannot be the subject of a patent, but that invention consists only in the means by which the difficulty is overcome and the object realized. (Court of Cassation, April 17, 1870.)

"Means," in the phrase "the invention of new means," in article 2, signifies the processes employed by the inventor to obtain a product or result. They are of three sorts: 1, chemical agents; 2, mechanical forces; 3, processes, which depend on both. The novelty of the means is evidently a simple question of fact; and in France, if the process is new, the law does not go into that question with respect to the product.

The new application of known means to obtain a result or product of commercial value. The greater number of patents belong to this category of inventions: and when such patents are submitted to the courts, they must, in order to form a due estimate of them, consider, not each method or process separately, but all such methods or processes taken together. The expression "new application," &c., employed by the law, is very broad; it comprises any new combination of known means, any new combination of known substances, and all new arrangements of known forces, whether chemical or mechanical, or both. (Court of Cassation, January 17, 1852; December 2, 1859; February 12, 1854; Court of Rouen, March 1, 1860). In short, "to apply known means in a new manner" is purely and simply to employ means that are known, just as they are known, without changing them in any respect, but with a view to obtain a different result from any hitherto produced. Thus it has been decided that: "Though the mode of making boxes by a single roll of card-board is not a new invention, it is certain that such mode had never before been applied to boxes destined for lucifer matches; that by means of this system, by which many slides are manufactured simultaneously, a great saving has been effected in the manufacture of match-boxes, and moreover, that upon this point the application is new; and the patent taken is therefore valid." It has also been decided that the manufacture of a compound by the aid of known ingredients is patentable, from the fact that such elements had not before

been combined to produce the same result. (Court of Cassation, April 7, 1869.) Also, that a machine which has become public property can become once more the subject of a patent when, by new combinations, it is applied to a class of industry different from that to which it had been formerly applied; or more generally, when it is applied in a manner unknown up to the date of application (Court of Rouen, March 4, 1841; Court of Cassation, November 25, 1856; Court of Paris, July 1, 1870); also that the application of water-meters to gas, is, if new, patentable. (Court of Paris, August 1, 1861.) Evidently, when an inventor has obtained a patent for the new application of known means to produce a compound already known, any other individual who can obtain the same result or the same product, by the use of different means, can obtain a valid patent therefor. (Court of Dijon, February 9, 1876.)

The "new application of known means" must not be confounded with the employment of known means for a different purpose. The law does not protect new employment; therefore, if an apparatus, formerly applied to a certain substance, is afterwards applied to another substance, to which it renders exactly the same service, no modification of the apparatus being necessary for such new employment, the second employment will not be patentable. It is upon this ground that the Court of Appeal of Paris refused to sanction an invention to apply rollers to a kitchen range, as rollers had already been applied to stoves; neither would it sanction a patent for closing rings which had already been adapted to the closing of bracelets. (February 28, 1855.) Again, the Criminal Court of the Seine refused to uphold a patent taken for adapting to pianos the same screws which had been formerly adapted to piano stools (December 7, 1858); nor would it uphold one taken for reproducing musical works by photography, which was formerly used for the reproduction of drawings. (February 28, 1865.) So also, mere changes of form and dimensions are not patentable, at least, unless they produce a new result or a new product; in such a case they can be patented.

ART. 3. The following are not capable of being patented;—

1. Medical compositions and medicines of every kind. These remain subject to special laws and regulations, and especially to the decree of August 18, 1810, relating to secret remedies.

2. Plans and combinations of credit or finance.

ART. 4. Patents shall be valid for five, ten, or fifteen years. The following fees shall be paid for every patent taken.

For a patent of five years, 500 francs.

For a patent of ten years, 1000 francs.

For a patent of fifteen years, 1500 francs.

This fee shall be payable in annual sums of 100 francs. The patent shall be forfeited if the patentee allows a term to pass without payment thereof.

Fifteen years is the maximum duration of a patent; but a special act of the Legislature can, on exceptional grounds, prolong such duration for another fifteen years.

A patent taken out for improvement, runs also from the day on which the deposit of the papers for the improvement was made.

At the expiration of the period prescribed for patents, they fall into the public

domain or become public property. Any person can then manufacture or make use of the article patented, but the name of the inventor, if he has given his name to the object of the invention, does not fall into the public domain, and other manufacturers must respect his name, and are not allowed, under penalty of prosecution, to use the name of the inventor, except in connection with the following formula; "*Fabriqué suivant le système de A. B.*" (Court of Paris, November 24, 1865.)

TITLE II.

FORMALITIES ATTENDING THE TAKING OF PATENTS.

SECTION I.

THE APPLICATION.

ART. 5. In order to obtain a patent, the applicant must deposit, under seal, at the office of the secretary of the *prefecture* in the department in which he is domiciled, or in any other department, after having elected domicile therein, the following, viz.:

1. His petition to the minister of agriculture and commerce.
2. A description of the discovery, invention or application that forms the object of the patent.
3. Drawings or samples necessary for the elucidation of the description.
4. A schedule of the documents deposited.

Minors, married women, and persons under legal disability can, nevertheless, become patentees. The heirs of an inventor can take out a patent, either in his name or in their own, for inventions discovered by their ancestor. Foreigners, also, can obtain patents in France.

Nothing prevents a firm or company from taking out a patent, and creditors can take out a patent on behalf of a deceased inventor, upon condition that before his death, the inventor has, by initiating the necessary steps, manifested the intention of having it patented.

When one individual is employed upon wages by another, and such employe discovers an invention, does the invention belong to him or to his master, if no agreement exists between them? This question has been submitted upon various occasions to the French courts. The civil tribunal of the Seine has decided (November 21, 1873), that if workmen or agents, either of the government or of a private undertaking, can be deprived of the right of patenting inventions which they have made, it is only in cases in which such inventions are the result of works executed by them in their relation as employes, under the orders and superintendence of their master or *chef*, and especially when they have received special instructions to examine and apply the improvements in dispute. The Court of Paris (July 21, 1874), has confirmed the above decision.

An inventor who is abroad, and desires to take out a patent in France, without coming into France, can make such deposit of documents as is provided by article 5, by handing them to a French diplomatic representative, who will transmit the same to France.

ART. 6. The application must be limited to a single principal object, the details constituting the same, and the application thereof which may have been indicated. It shall mention the terms that the petitioners have asked for, within the limits prescribed by article 4, and shall contain no conditions, restrictions or reserves.

It shall designate a title, consisting of a summary and precise description of the object of the invention. Such description must not be written in a foreign language, and must not contain alterations or additions. Words struck out must be counted and stated, and the pages and marginal notes initialed.

Such document must not contain any other denomination of weights and measures than those specified in the tables annexed to the law of July 4, 1837.

Drawings must be traced in ink according to the metrical scale.

Duplicates of the description and of the drawings must be joined to the petition.

All the documents must be signed by the petitioner or by his attorney in fact, whose power must be annexed to the petition.

As the specification may include the details which constitute the invention claimed, and the application of the invention claimed by the inventor, it has been decided that the patentee of a patent for purifying gas by soda and alum can obtain by the same patent the right to obtain soda and alum by processes which are to be specially employed in purifying gas. (Court of Cassation, May 4, 1865.) But it is not necessary that all the applications of an object should be enumerated by the inventor. An application not enumerated is protected by the principal patent if it arises naturally from the invention. (Court of Cassation, December 17, 1837.)

The specification should also give a title to the patent, which should designate plainly the invention claimed. Patents are classed in alphabetical order at the offices of the ministry of agriculture and commerce, in order that the public may be able easily to see, on inspection, if a patent has been taken for such and such an invention or in relation to such and such a matter.

The object of the patent should also be described. The metric system alone must be used to designate weights and measures. The description is of great importance. It must be at least sufficiently detailed to enable the article invented to be manufactured therefrom; that is to say, it should indicate in a complete and straightforward manner, the various means employed by the inventor.

In default of these conditions being complied with, the patent is void and of no effect. The law does not require that the description should enumerate all the points appertaining to the invention; but the patentee acquires the exclusive property in what he describes. A drawing or sample cannot replace a description.

Finally, the drawings and samples necessary for the explanation of the description must be joined to the petition.

ART. 7. No deposit shall be received, unless accompanied by a

receipt acknowledging payment of the sum of 100 francs, on account of the whole fee due for the patent.

A certificate drawn up free of expense by the secretary-general of the *prefecture*, upon a register for that purpose, and signed by the petitioner, shall be evidence of every deposit, and shall state the day and hour of the same. A copy of such certificate shall be handed to the depositor upon payment of the stamp duty.

ART. 8. The patent shall begin to run from the day of the deposit prescribed by article 5.

SECTION II.

ON THE DELIVERY OF PATENTS.

ART. 9. Upon the deposit of the application, and five days from the date of the deposit, the *prefect* shall forward the papers, under the seal of the inventor, to the minister of agriculture and commerce, and join thereto a certified copy of the certificate of registration, the receipt proving the payment of the tax, and, if there be one, the power of attorney mentioned in article 6.

ART. 10. Upon the arrival of the papers at the ministry of agriculture and commerce, they shall be opened and the demand shall be registered ; and the patent shall be issued in the order of the receipt of the petitions.

ART. 11. Patents, the petitions for which have been properly made, shall be delivered, without previous examination, at the risk and peril of the petitioner, and without guarantee either of the existence, novelty or merit of the invention, or of the fidelity or exactness of the description.

A decree of the minister, proving the regularity of the demand, shall be delivered to the petitioner, and shall constitute his patent.

To such decree shall be annexed a certified duplicate of the description, and of the drawings mentioned in article 6, after they have been compared with the originals and declared to be in conformity therewith.

The first copy of patents shall be delivered without cost. For any further copy required by the patentee or his representative, a fee of 25 francs is chargeable. Drawings shall be at the expense of the applicant.

ART. 12. All petitions in which the formalities prescribed by Nos. 2 and 3, of article 5, and by article 6, have not been observed shall be rejected. Half the amount paid shall remain the property of the treasury, but the petitioner may receive back the whole of

the amount, if he repeats his demand for a patent within three months from the day upon which he received notice of the rejection of his prior petition.

ART. 13. In cases where, by the application of article 3, patents cannot be granted, the tax can be returned.

ART. 14. An ordinance in the *Bulletin des Lois* shall publish every three months all the patents delivered within that time.

ART. 15. The term of a patent can only be extended by special law.

SECTION III.

ON CERTIFICATES OF ADDITION.

ART. 16. The patentee or his representatives have the right, during the whole term of the patent, to register changes, improvements or additions thereto, upon fulfilling the formalities prescribed by articles 5, 6 and 7 as regards registration.

Such changes, improvements or additions shall be evidenced by certificates, delivered in the same form as the principal patent, and shall have, from the respective dates of petition and delivery, the same effects as the principal patent, to which they pertain.

A fee of 20 francs shall be paid for every petition for a certificate of addition.

Certificates of addition taken out by one of several parties who have an interest in the patent, shall benefit the remainder.

ART. 17. Any patentee, who, for a change, improvement or addition, desires to take out a principal patent of five, ten, or fifteen years, instead of a certificate of addition which expires with the original patent, must fulfill the formalities prescribed by articles 5, 6 and 7, and pay the tax mentioned in article 4.

The law affords two means of improving the original invention. The patentee can either take out a new patent which is called a "*brevet de perfectionnement*" (patent for improvement), or he can obtain a "*certificat d' addition*" (certificate of addition). If he takes out a patent for improvement, he must proceed in exactly the same way as when taking out the first patent. He must pay an annual tax of 100 f. and carry out all the formalities prescribed for the principal patent. By this course he will actually have a further patent, which will be absolutely independent of the prior one, and will extend to five, ten or fifteen years, according to the period fixed in the petition. As the patent for improvement is a distinct patent altogether from the principal patent, it follows that in the case of the transfer of the principal patent, the transferee, unless a contrary stipulation be made, acquires no right whatever over the patent for improvements.

It may be that the patentee, if the modification is insignificant, is unwilling to take out a new patent, which would necessitate the carrying out on his part of many form-

alities, and the payment of an annual tax of 100 francs. In this case, the law leaves him the resource of taking out a certificate of addition. Such certificate is applied for in the same way as a patent, but it has the advantage of requiring the payment of 20 francs only for the whole of its duration; but in contradistinction to the patent for improvement, the certificate of addition is absolutely dependent upon that of the principal patent. It lasts for the same period, and is liable to extinction at any time that the original patent expires, or becomes canceled for any reason whatever. (Court of Cassation, June 1, 1865, and December 14, 1868.) The same rule holds, though the certificate of addition contains, in fact, a new invention. (Court of Appeal, July 7, 1854.)

A certificate of addition depends upon the prior patent. It follows that all the parties can avail themselves of it, and that all the representatives of the inventor can profit by it. Thus, in the case of a transfer of the original patent, unless a contrary stipulation be inserted, the transferee acquires all the certificates of addition which have been taken out in relation thereto. In short, the certificate of addition is an economical way of taking out a patent for improvements; but it has also its inconveniences, the greatest of which is, that it stands or falls with the principal patent, when the latter expires or becomes annulled or canceled by law. A certificate of addition is also liable to be canceled upon the ground that it has no relation to the principal patent.

ART. 18. No person other than the patentee or his representatives acting as above mentioned can, during the space of one year, legally take out a patent for a change, improvement, or addition to the invention constituting the object of the prior patent. Nevertheless any person who desires to take out a patent for a change, addition, or improvement to a discovery already patented, can, during the said year, send in a petition, which shall be transmitted to, and shall remain deposited under seal with the minister of agriculture and commerce. When the year has expired, the seals shall be broken, and the patent delivered. Nevertheless, the principal patentee shall have a preference as to the changes, improvements and additions, for which he may himself, during the year, have demanded a certificate of addition or a patent.

A change, an improvement or an addition to a patent may be discovered by a third party. The law, however, is less favorable as regards improvements than as regards inventions. The inventor has two means of protecting his improvements, viz.: *brevet de perfectionnement* and *certificat d' addition*. A party other than the original inventor has only one means of protecting his invention, viz.: he must take out a *brevet de perfectionnement*.

Again, in order to prevent competition, which necessarily would be advantageous to the party taking out the patent for improvement, the latter cannot work such patent until after the expiration of the principal patent. This provision is a favor which the law grants to the original patentee. Another favor granted to him is, that if, within the year immediately following, he discovers any improvement on his invention, he has a priority over all others, who may, during the same year, discover the same

improvement. Thus during the year following the taking out of the patent, an immense advantage is secured to the inventor ; but this does not absolutely close the door to other parties, for they can always, during such period, present petitions for patents for improvements invented by themselves, subject to the condition that if the original patentee also invents the same improvement, the preference is granted to him.

In order, however, to conciliate all interests, those of third parties as well as those of the inventor, the law requires that all demands by third parties for patents for improvements, must be deposited under seal, and such applications are not opened until the expiration of one year after the original patent was delivered. This period of one year runs from the day of the deposit of his claim. Certain authorities, however, have decided that the period runs from the date of the delivery of the patent. (Tribunal of Epernay, October 4, 1860.)

ART. 19. No person who has taken out a patent for a discovery, invention, or application attaching to the object of another patent, shall have any right to work the invention already patented ; and reciprocally, the proprietor of the original patent may not work the invention which is the object of such subsequent patent.

SECTION IV.

OF THE ASSIGNMENT OF PATENTS.

ART. 20. A patentee may assign the whole or a part of his patent.

The total or partial assignment of a patent, whether gratuitous or for a valuable consideration, must be by notarial deed, and upon payment of the entire amount of the tax prescribed by article 4.

No assignment shall be legal as regards third parties, until it has been registered at the secretary's office of the *préfecture* of the department in which the deed of assignment shall have been executed.

Assignments, and all other deeds relating to the same, shall be registered upon the filing of an authenticated copy of the assignments. A copy of all certificates of registration involved, together with a copy of the assignment above mentioned, shall be forwarded by the *préfets* (prefects) to the minister of agriculture and commerce, within five days from the date of the registration.

ART. 21. A register shall be provided at the ministry of agriculture and commerce, upon which shall be inscribed every assignment of every patent ; and every three months, an ordinance shall publish in the form provided by article 14, the assignments that have been registered during the previous quarter.

A patent is personal property ; it can therefore be pledged in the same way as all other personal property, and the ordinary rules of law must be observed by relation

thereto. It can also be sold by the creditors of the inventor in the same way as other personalty. Such sale must be effected through a notary. A patent can be transferred wholly or in part gratuitously, or for a valuable consideration, or for the whole of its duration or for a part.

The patentee can, while preserving the property in his patent, and without transferring any part of it, grant to third parties the right of working his invention, in totality or in part. Such a concession is called in French "*tolérance*" (license). No special form is required. A license may be granted by a simple letter.

As in regard to other contracts, a deed of transfer of a patent is, in case of ambiguity, more strictly interpreted against the transferer than against the transferee.

In practice, the *préfets* do not comply as regards this registration with the provisions of article 20. They follow those of the *Instruction Ministérielle* of October 31, 1844, which are as follows:

No deed of transfer can be registered, except upon the production and the deposit of the following, viz.:

1. Of the receipt proving the payment of the last installment at the proper period;
2. Of the receipt of the *Receveur Général* in the departments, and of the *Receveur Central* in Paris, proving the payment of the whole of the taxes relating to the patent;

3. Of an authenticated extract of the notarial deed executed before a notary of the department, and proving the total or partial transfer of the patent, either gratuitously or for a valuable consideration. If the patent, however, had been previously transferred, a certificate of the registration of the said transfer, and an authentic extract of the notarial deed above mentioned would suffice for the registration. Only this document need be annexed to the *procès verbal*.

The law has not indicated a fixed period within which registers of transfers of patents must be filed, but non-compliance with the formalities of registration renders the transfer void as regards third parties. Such nullity, however, concerns third parties alone; the transfer is, nevertheless, binding between the parties themselves. (Court of Paris, March 19, 1861.) But the courts do not consider infringers as third parties. The latter cannot, therefore, plead the irregularity of the transfer. (Court of Paris, March 2, 1849.) The same may be said in regard to the necessity of a notarial deed to make a transfer of a patent. The above two propositions have been decided by the Court of Appeal of Paris, February 19, 1876.

The doctrine above stated applies to transfers for valuable consideration. As regards gratuitous transfer, it is necessary, besides the above mentioned formalities, that the special provisions of the French law relating to deeds executed gratuitously or without valuable consideration, should be observed. Again, what has been said applies to transfers made in France. It is clear that a French patentee can there make an effective transfer according to the formalities of the country in which he is residing; but as soon as he re-enters France, he should, without delay, have the deed registered at the secretary's office of the *préfecture* of one of the districts in France. Lastly, what has been said applies solely to French patents, as transfers of foreign patents can be carried into effect in the form used for the transfer of any other kind of personal property.

When a transfer of personal property takes place, the transferer guarantees to the transferee the existence of the object transferred. This general principle of law applies to transfers of patents, and that if at a future time the patent becomes void or

fails, the transfer has been made without consideration, and consequently becomes void. In order to avoid this guarantee, the transferer should insert special stipulations to this effect in the deed of transfer. Again, notwithstanding all such stipulations, it is clear that he remains responsible, if the invention be not in reality applicable, and if it cannot give the results which constituted the object of the patent. Again, although a transferer may have stipulated that he shall not be liable in the event of the patent being declared void, such a clause cannot protect him in such a case, on account of an act for which he is personally responsible. The transfer of a patent which is declared to be void on the ground of insufficiency, is of no effect.

It has been decided that although the transfer of a patent is, in a certain sense, a contract of chance, yet the transfer is, notwithstanding, a contract, and that it must be regarded as being without consideration, and consequently void, when the invention is not capable of an industrial application. (Cassation, August 22, 1861.) But if the transferee contracted with full knowledge of the facts, and if he profited by the working of the patent until the date when it was declared void, the deed of transfer will hold good. (Paris, August 6, 1855.)

When once the contract of transfer is canceled, what is the situation of the parties? Must the transferer refund the consideration to his transferee?

It has been decided that in the case of a patent being declared void, the transferer is not obliged to reimburse the transferee the installments received by him in payments except after deducting profits derived from the invention up to the date of the declaration of nullity by the transferee. (Court of Cassation, May 25, 1869.)

The fact of the inventor having granted licenses to various parties does not prevent him selling his patent to other parties, but the transferees must respect all licenses granted prior to such transfer. A licensee cannot bring an action for infringement of a patent. A patentee cannot grant power to a licensee to bring such action in his name, as in France no party can plead in the name of a third person. (Cassation, March 8, 1852; April 27, 1869.) A licensee is entitled to be secured, by his grantor, in the peaceable working and quiet enjoyment of the invention: but as long as no one disturbs his enjoyment, he has no claim against the inventor. If, however, an infringer damages his license, his right to security immediately arises.

Besides voluntary transfers of patents, there are other modes of transfer. A patent can be transmitted by succession, gift, transfer to a company, and partition, as in the case when co-proprietors cannot work a patent together. In other cases in which such voluntary transfers take place, the deed must be registered. Again, a patent can be sold by forced sale. An unpaid creditor has the right to seize and sell the patent of his debtor. The seizure of a patent is effected by means of an *opposition* lodged with the minister of agriculture and commerce. Such *opposition* must be preceded by what is called a *commandement* (summons) and can only be made pursuant to a *titre exécutoire*.

ART. 22. The assignee of a patent, and those who may have acquired from a patentee or his representatives the right to work a discovery or invention, are entitled to the benefit of all certificates of addition which may be subsequently delivered to the patentee or his representatives. Reciprocally, the patentee or his representatives shall benefit by the certificates of addition which may be subsequently delivered to assignees.

All parties who have a right to certificates of addition, may obtain delivery of a copy thereof at the ministry of agriculture and commerce, upon payment of the sum of 20 francs.

The patentee can always prevent the transferee being enriched by an important addition. He has only to take out a patent for improvement himself. In this case, he will retain, individually, his improvement, unless it be stipulated in the deed of transfer that all subsequent patents for improvements shall belong to the transferee.

SECTION V.

OF THE COMMUNICATIONS AND PUBLICATIONS OF DESCRIPTIONS AND DRAWINGS OF PATENTS.

ART. 23. Descriptions and drawings, samples and models of patents delivered, shall, until the expiration of such patents, remain deposited with the Ministère of agriculture and commerce, where they may be referred to by the public, free of charge.

Any person may obtain, at his expense, a copy of such descriptions and drawings upon compliance with the formalities prescribed in the *règlement* made as provided by article 50.

ART. 24. After the payment of the second annuity, the descriptions and drawings shall be published in full or in part.

At the commencement of each year a catalogue, containing the titles of patents delivered during the preceding year, shall also be published.

ART. 25. The collection of descriptions and drawings, and the catalogue published pursuant to the preceding article, shall be deposited with the Minister of agriculture and commerce, and with the secretary of the *préfecture* of each department, where they can be consulted free of expense.

ART. 26. At the expiration of the patents, the original descriptions and drawings shall be deposited with the *Conservatoire des Arts et Métiers*.

TITLE III.

OF THE RIGHTS OF FOREIGNERS.

ART. 27. Foreigners may obtain patents of inventions in France.

ART. 28. The formalities and conditions prescribed by the present law shall be applicable to patents demanded or delivered in execution of the preceding article.

ART. 29. The author of an invention or discovery already patented abroad, may obtain a patent in France, but the duration

of such latter patent cannot exceed that of the patent delivered abroad.

TITLE IV.

OF ANNULMENT AND FORFEITURE; AND OF ACTIONS RELATING THERETO.

SECTION I.

OF REPEAL AND FORFEITURE.

ART. 30. Patents delivered in the following cases are void and of no effect:

1. If the discovery, invention or application is not new ;
2. If, pursuant to the terms of article 3, the discovery, invention or application is not susceptible of being patented ;
3. If the patents relate to principles, methods, systems, discoveries, or theoretical or purely scientific conceptions, the commercial applications of which are not described therein ;
4. If the discovery, invention or application is considered contrary to public policy and good manners, and to existing laws,—without prejudice in such case, and in that provided in the preceding paragraph, to the penalties which may be incurred for the manufacture or the sale of prohibited objects ;
5. If the title under which the patent has been demanded fraudulently indicates an object other than the true object of the invention ;
6. If the description joined to the patent is not sufficient for the carrying out of the invention, or if it does not indicate in an explicit and complete manner the true means employed by the inventor ;
7. If the patent has been obtained contrary to the provisions of article 18.

Certificates of changes, improvements, or additions which do not relate to the principal patent, shall also be void and of no effect.

There is a great difference between the *annulment* (repeal) and the *dechéance* (forfeiture) of a patent. Annulment renders the patent void, as well for the past as for the future. Forfeiture renders it void for the future only. There is another distinction between them. Annulment may be pronounced only for a part of a patent, leaving the rest valid, whereas forfeiture affects the entire patent. Actions for either can be instituted against the inventor by individuals or by the *ministère public* (public minister). In the first case, they are valid as between the parties only ; as in France, judgments, affect only the parties thereto. In the second case, they are valid as to all

parties; the public minister represents the public. The same proceeding applies to certificates of addition. Judgments affecting the original patent affect equally all the certificates of addition pertaining thereto, because the existence of the latter depends upon the former; but the converse is not true. The civil tribunals have sole jurisdiction in both cases.

There is valid ground for annulment when the discovery, the invention, or the application is not new. If it were permitted to obtain a patent for an old invention, this would damage the interests of third parties having already taken out patents, and would also prejudice the public who have already acquired a right in such old patents. However, it is not necessary that the invention should be new as regards all its parts; an invention which comprises an assemblage of various elements is patentable, if some of such elements are new. (Court of Appeal of Paris, March 21, 1860.) When the invention patented is composite, the courts can cancel it as regards those parts that are not new, and maintain it as regards those that are new. An invention is not reputed to be new, when an anterior invention, or the fact that it has been previously divulged, can be proven.

Subdivision 7 of article 30 provides, that certificates of addition are also void that have no connection with or reference to the principal patent. It is the intention of the law to prevent the payment of a simple sum of 20 francs, instead of 5, 10, or 15 annuities of 100 francs each, under pretense of taking out a certificate of addition, and thus obtaining an actual patent for quite another invention. The question as to whether a certificate of addition is connected or not with the principal patent is a question of fact. The Court of Appeal of Paris, on July 20, 1875, confirmed a judgment of February 3, 1874, and thereby annulled the certificate of addition taken for fastening cravats without a band round the neck, when the original patent was taken for a system of fastening cravats with a band round the neck; but a sufficient relation exists between the certificate and the patent, although the certificate is only connected as an accessory to the principal operation patented, provided its object is to facilitate and complete the execution of such principal operation. (Court of Lille, July 17, 1874; Court of Douai, March 15, 1875.)

ART. 31. Any discovery, invention or application, which in France or abroad, and previously to the date of the deposit of the demand, has received sufficient publicity to enable it to be worked, shall not be reputed to be new.

In order to constitute a publicity sufficient to annul a patent, it must have been such as to render the execution thereof possible. Simple indiscretions of newspapers or general descriptions without details of special apparatus, do not constitute prior publication. (Court of Appeal of Colmar, December 7, 1864.) Also a statement in a scientific work, unaccompanied by working explanations will not be considered as a previous publication. (Court of Paris, April 16, 1866.) The fact of having divulged one's intention to a third party, does not cause it to fall into the public domain, if the third party does not reveal the secret which has been confided to him. (Court of Appeal of Paris, April 16, 1866.) Again, a communication made to a learned society does not operate as divulcation, if it is made confidentially and privately. Consequently, a confidential communication made to a jury of an exhibition, before a patent is taken out, does not constitute publication. (Court of Appeal of Paris, March 8, 1859.) As regards trials made by an inventor before taking out his patent, it has

been decided, that simple experiments, without results, do not constitute a prior working, especially when the patentee has since modified his invention in important details. There are certain inventions which can only be tried in public, such as fire-engines, guns, cannon, lifts, &c. As regards these inventions, if the trial is made in public, in the absence of any precautions to keep them secret, the inference to be drawn is, that the inventor desired to abandon his invention to the public. Such an act constitutes a divulcation. It will be otherwise, however, if a simple view of the experiment would be insufficient to reveal its nature. These principles relating to trials and public experiments have been affirmed by the Court of Appeal of Paris.

ART. 32. The following shall be deprived of all their rights:—

1. The patentee who has not paid his annual payment before the commencement of each of the years of the duration of his patent.

2. The patentee who has not worked his discovery or invention, in France within a period of two years, dating from the day of the signature of the patent ; or who has ceased during the space of two consecutive years to work the patent—unless in either case he can justify his inaction.

3. The patentee who has introduced into France, objects manufactured abroad, and similar to those protected by his patent. * Nevertheless, the minister of agriculture and commerce and of public works, can authorize the introduction of the following:—1. Models of machines. 2. Objects manufactured abroad destined for public exhibitions or for trials to be made with the consent of the government.

FIRST CAUSE OF FORFEITURE. Each installment must be paid before the commencement of each year of the duration of the payment. The period within which such payment must take place, is reckoned day by day. If the year commences on the 1st of May, it terminates on the 1st of May of the following year. The day on which the patent commences is not reckoned. (Court of Cassation, January 20, 1863.) Thus a patentee who has sent in his demand for a patent on May 1, 1860, can pay his annuity up to midnight of May 1, 1861.

This rule is peremptory, and cannot be transgressed by a single hour ; therefore if the date of the expiration fall on a public holiday, the patentee must pay the installment on the day preceding. (Court of Paris, July 27, 1865.)

“*Force majeure*” alone can release the patentee from a forfeiture of his patent. (Court of Cassation, March 16, 1864.) The illness of the patentee, his madness, or even his death, does not constitute a case of *force majeure*. (Court of Appeal of Paris, May 24, 1859.)

Forfeiture arises by effect of law, and the judge limits himself to giving effect to it ; an ulterior payment cannot revive the patent. (Court of Paris, July 10, 1861.)

SECOND CAUSE. The reason of this forfeiture is, that the fact of the inventor not working his invention renders it useless to trade, and it even becomes hurtful to

* As modified by the law of May 31, 1856, by adding the words which follow the asterisk.