

commerce and prevents commerce. The law requires that a patent should be really worked in a practical manner; a single act of working is not sufficient. (Court of Paris, March 23, 1870.) If a patent contain several modes of procedure, it suffices to comply with the law, that the inventor should have worked one of them. (Court of Paris, February 7, 1859.) If the object manufactured differ only slightly from the object for which the inventor takes out the patent, there is no ground for forfeiture. (Court of Cassation, May 23, 1859.) An inventor is allowed to explain the causes of his inaction. The court has wide power of discretion in these cases; thus it has been decided that the absence of pecuniary resources can be held to justify the default of working. (Court of Paris, January 11, 1859.) The inventor who has caused his invention to be admitted to a public exhibition, and who has sold it to a third party, has sufficiently worked it thereby to avoid forfeiture.

The provisions relating to forfeiture apply equally to the certificate of addition; but it is clear that if the certificate of addition be declared void, the original patent continues to exist. It follows that the patentee can avoid (*déchéance*) forfeiture either by working the patent himself, or by allowing it to be worked by a third party.

THIRD CAUSE. This is a clause in favor of French industry. The object of the law is to favor the national trade; therefore, if the introduction has not a commercial object in view, it cannot injure French industry, and does not, therefore, form a ground for forfeiture. And forfeiture does not follow the simple fact of the introduction in France of the manufacture abroad, of objects similar to those of the patent. It is necessary, besides, that the intention of the patentee to withdraw from the undertaking given by him to permit France to benefit solely by the manufacture and the working of his invention, should be proved. (Court of Paris, June 12, 1869.)

Evidently, no forfeiture will exist if the introduction do not take place by the act of the patentee; thus, in the case of the act of a third party, purchaser, co-proprietor, transferee, etc. In France, acts of default, together with the penalties appertaining thereto, are reputed to be personal. (Court of Paris, April 24, 1855).

The law of May 30, 1856, has modified the severities of article 32 of the former patent law, as regards introduction. This law was necessary; without it, the greater part of the patents of importation would be void.

ART. 33. Any person who, in advertisements, prospectuses, signs, publications, marks or stamps, describes himself as a patentee, without possessing a patent delivered pursuant to law, or after the expiration of a prior patent; or who, being a patentee, makes mention of his titles, without adding the words, "*Sans garantie du Gouvernement,*" shall incur a penalty of from 50 francs to 1,000 francs, and in case of repetition the penalty may be doubled.

It has been decided that the use of the abbreviation *S. G. D. G.*, alone, is not a compliance with the law; to inscribe the words in full is necessary. (Court of Nancy, February 7, 1851.) But in practice the letters *S. G. D. G.* alone are employed, and after the expiration of the patent the owner often continues to use the word "*breveté.*" Either of these acts is a misdemeanor, but the government does not interfere, unless at the instance of a party claiming to have suffered damage therefrom.

SECTION II.

OF ACTIONS FOR ANNULMENT OR FORFEITURE.

ART. 34. All parties interested can institute proceedings for the annulment or forfeiture of a patent. Such actions, as well as all contests relative to property in patents, must be brought before the civil court of first resort.

The persons having interest in the patent in question, must have a *bond fide* interest which can be recognized by the court. It has been decided that a person believing himself to be threatened with an action for infringement by a patentee, has a sufficient interest to entitle him to commence a suit for the annulment of a patent. It results in general that an action for annulment or forfeiture against a patent which has expired cannot be brought. Actions for annulment or forfeiture can be brought either as principal demands or claimed by way of set-off. This latter case arises when a person sued for infringement pleads the nullity or defect of the patent by reason of which it is proceeded against.

A person criminally prosecuted for infringement of patent can plead in the *tribunal correctionnel* that the patent is void. In this case, if he proves the nullity or the defect, he would be acquitted; but that is all the court can do; it cannot annul or forfeit the patent itself, it can only condemn or acquit the defendant. (Court of Cassation, April 1, 1870.)

ART. 35. If the action is brought simultaneously against the proprietor of the patent and against one or several assignees, such action must be brought in the court of the domicile of the owner of the patent.

When the patentee has not been summoned, and a transferee has been sued, the former can intervene in the action in order to defend his patent.

ART. 36. The proceedings must be commenced and carried through in the form prescribed for summary matters by article 405 and the Code of Civil Procedure. Notice thereof shall be given to the *procureur* of the republic.

In the event of two demands being entered with regard to the same patent before two different tribunals, the rules of the Code of Procedure relating to such cases are applied. (Code Civ. Pro. art. 171.)

In the same manner, if criminal proceedings for infringement are taken at the same time as civil proceedings for cancellation of a patent, the criminal proceedings are adjourned until the question of the nullity of the patent has been decided. (Court of Cassation, February 14, 1855.)

ART. 37. In all proceedings to obtain the repeal or forfeiture of a patent, the public minister may intervene and demand that a judgment for the same be rendered. He may even proceed immediately in a special action to obtain a judgment for the repeal of a patent in the cases provided by Nos. 2, 4 and 5 of article 30.

Judgments pronounced for the annulment or forfeiture of patents, have only a relative value (Civil Code, art. 1351); that is to say, the benefit of such annulment or forfeiture can only be invoked by the parties to the action; the patent remains good as regards persons who have taken no part in the proceedings.

It has been decided that a judgment rendered by a foreign court upon the question of the invalidity of a patent taken abroad, cannot be invoked as final in case the question is raised before a French court by the same parties, or in relation to a patent taken in France arising out of the same invention. (Court of Paris, December 13, 1860.)

ART. 38. In the cases provided by article 37, all parties interested in the patent, whose muniments of title have been registered at the ministry of agriculture and commerce, pursuant to article 21, must be cited.

ART. 39. When a final judgment for the absolute repeal or forfeiture of a patent has been rendered, notice thereof shall be given to the minister of agriculture and commerce, and the repeal or the forfeiture shall be published in the form prescribed by article 14, relating to the obtaining of patents.

The public minister cannot intervene before the *tribunal correctionnel*, as such court cannot annul or forfeit a patent (Court of Amiens, December 28, 1850); nor in the action which article 34 provides for a further action against a patentee, viz.: an action relating to the property itself of the patent. The ownership of a patent can be contested; but the public minister cannot in such cases intervene.

TITLE V.

OF INFRINGEMENT.—PROCEEDINGS AND PENALTIES RELATING THERETO.

ART. 40. Any violation of the rights of the patentee, either by the manufacture of articles, or by the employment of means patented, constitutes the misdemeanor of infringement. Such offense is punished by a fine of from 100 francs to 2,000 francs.

WHAT CONSTITUTES INFRINGEMENT IN GENERAL. It is not necessary, in order to constitute an infringement of the rights of the patentee, that the manufacture or the employment as above should cause him prejudice. (Court of Cassation, March 20, 1857.) It matters not whether the invention be important or otherwise, or whether the infringement be total or partial, or whether it be made for the sake of gain or simply for the personal use of the infringer. (Court of Paris, February 25, 1851.)

MANUFACTURE OF PATENTED OBJECTS. As regards the manufacture of an isolated piece of a machine, it is certain that if such portion is the essential contrivance or one of the essential contrivances of the machine, the fabrication thereof will constitute infringement. There may be infringement when all the portions manufactured are individually public property, only, however, when the intention exists of uniting them, later, to construct the object patented in its entirety. (Court of Cassation, July 26, 1851; Court of Paris, February 15, 1867.)

Upon the question whether a manufacturer who repairs portions of a patented object is guilty of infringement as against the patentee, the law was for a long time unsettled. A judgment of the *Tribunal Civil* of the Seine, confirmed by a judgment of the Court of Appeal of Paris, February 15, 1867, established it as follows: "Repairs do not amount to infringement, when the effect thereof does not amount to the construction of an entirely new article."

The great principle by which the judges are guided is, that in order to decide whether there has been infringement, we must examine the resemblances and not the points of difference between the product or means patented and the product or means asserted to be infringements. (Tribunal Correctionnel of Paris, January 11, 1876; Court of Appeal of Paris, February 25, 1876; Court of Cassation, June 23, 1876.) From this principle it follows that the infringer cannot, to excuse himself, contend that he has perfected the invention, because to improve, in such a case, is to infringe. (Tribunal Civil of the Seine, January 14, 1870; Court of Appeal of Paris, July 2, 1878; Court of Cassation, March 4, 1876.) To adjudicate upon questions of infringement, the judges should compare the object claimed to be infringed with the object described in the patent, and not that manufactured by the patentee. (Court of Cassation, December 30, 1843.) This is natural, as the object manufactured by the patentee does not deserve the protection of the law, unless it be covered by the patent itself.

As the law punishes the infringing manufacturer of a patented article, the person ordering such article must be placed upon the same footing; his culpability is equally great, if not greater than that of the manufacturer (Paris, February 10, 1859); but the law does not treat in the capacity of manufacturer, the workman, or even the foreman, who is only working under orders.

EMPLOYMENT OF PATENTED MEANS. The employment itself is punished, whether the infringer have acted *bona fide* or not. (Court of Cassation, December 3, 1841.) The rule is severe, but it follows from the text of the law. (Compare article 40 with article 41.) The word "knowingly," which is contained in article 41, which permits the infringer to be acquitted if he has not acted "knowingly," and if he has acted in good faith, does not exist in article 40, therefore the *bona fides* mentioned in article 40, can be taken in consideration of extenuating circumstances, but not as an excuse giving a right to acquittal. Evidently, the employment or use punished by law, must be a commercial user; a user purely personal does not constitute infringement. Thus a person who purchases an infringed object thoughtlessly or without an intention of commercial speculation, but for his personal use, does not commit the offense of infringement. (Court of Cassation, February 27, 1858.)

ART. 41. Parties who have knowingly concealed, sold, or exposed for sale, or introduced upon French territory one or more infringed articles, incur the same penalties as infringers.

COMPLICITY IN INFRINGEMENT. The four acts defined by above law to be separate offenses, are in reality rather acts of complicity, included by the law with cases of infringement specially punished by article 40, viz., manufacture and employment. Such acts are the sole acts of complicity punished by the law of 1844. The agent of an infringer is not his accomplice, even should he act knowingly. Thus, he cannot be prosecuted for any act of concealment, sale, or exposure for sale, or introduction. (Court of Cassation, July 26, 1850.)

A person guilty of one of the four offenses mentioned in article 41, can plead his

good faith. This arises from the word "knowingly" inserted in the text. Thus, a retailer or introducer can plead good faith. His best means of proving such good faith is to disclose the name of the manufacturer of the articles infringed, in order that the infringed articles may be seized upon his premises.

A single act of sale suffices to bring an offender within the law. Article 41 enacts a certain punishment, and must be as strictly construed as other penal enactments. Thus, the gift or exchange of a patented object cannot be punished. Again, the purchase of an infringed object is not a misdemeanor; but the possession of such object by the purchaser can be construed into an act of user or an act of sale, according to the good faith of the holder, or the contrary. As regards exposure for sale, such exposure must be made by the trader with the evident intention of sale. The placing of goods in the Universal Exhibition of 1867, did not constitute an exposure for sale within the law. (Paris, January 9, 1868.)

The introduction of counterfeit articles into France, in transit only, does not constitute a misdemeanor. (Paris, July 23, 1860.) It is otherwise if the goods are found in the custom-house or bonded warehouses, as such goods are not necessarily destined for re-exportation. (Court of Paris, May 30, 1861.)

Such are the four offenses to which the law of 1844 extends the penalties for infringement by manufacture or user, but the law makes this difference, viz., that the bona fides admitted simply as extenuating circumstances with respect to the offenses comprised in article 40 constitutes, on the contrary, an entire defense, with right of acquittal, with respect to offenses contained in article 41. With the sole exception of this difference, these two categories of offenses are subject to the same principles. The penalty is the same, viz., 100 francs to 2,000 francs. In case of repetition, the increase of the punishment is the same; one month to two months' imprisonment.

ART. 42. The penalties provided by the present law cannot be cumulated.

The heaviest penalty alone may be imposed for all acts anterior to the commencement of proceedings

ART. 43. In case the offense is repeated, a penalty of imprisonment for a term of from one to six months shall be pronounced over and above the fine provided by articles 40 and 41.

An offense is deemed to have been repeated when the defendant has been convicted of the same offense within the previous five years.

Imprisonment for from one to six months may also be inflicted, if the infringer be a workman or an employe who has worked in the factory, or in the establishment of the patentee, or if the infringer has associated himself with such workman or employe of the patentee, or acquired knowledge from the latter of the details comprised in the patent. In the latter case, the workman or employe can be prosecuted as an accomplice.

"Associated," in the third paragraph means that an agreement or fraudulent conspiracy has been formed. In order to punish the former workman and the new

employer, proof that an agreement of partnership existed between them is not required.

ART. 44. Article 463 of the Penal Code * may be applied in the cases covered by the preceding provisions.

ART. 45. Proceedings in the *tribunal correctionnel* to obtain the application of the penalties above mentioned, cannot be instituted by the public minister except upon complaint of the injured party.

PARTIES who may sue for infringement. They are: 1. The owner of the patent. He may institute proceedings, whether he be a simple individual or a company. The heirs and legatees of the patentee and the transferees of the patent can also sue. Those who have the uses of the patent can proceed, but naked ownership does not justify an action, as infringement must injure the exercise of the right to work the patent, not the mere title to it.

2. The public prosecutor, in the *tribunal correctionnel*. But although infringement constitutes a misdemeanor, the public prosecutor cannot act of his own accord. He can only act upon a complaint made by the injured party. Yet, the offense is a misdemeanor, the withdrawal of the injured party does not necessarily put an end to the proceedings of the public prosecutor.

If the proprietor of the patent be under legal incapacity, such as a minor, an interdicted person, or an individual provided with a *conseil judiciaire*, or a married woman, he or she cannot proceed without the aid of parties legally capable of representing him or her, such as guardians or the *conseil judiciaire*, the husband, or the permission of a court of justice. But a bankrupt can sue for infringement without the consent of his assignee.

TIME WITHIN WHICH SUIT MAY BE BROUGHT. The duration of the right to sue dates from the day of the demand of the patent, pursuant to article 5. If the patent by virtue of which the suit is brought has expired, the action can still be brought upon two conditions: 1. That the acts of the plaintiff all took place previous to the expiration of the patent;

2. That they were not barred by lapse of time at the period of the commencement of the proceedings.

Moreover, actions for infringement are regulated by articles 637 and 638 of the Criminal Code, and are barred after three years. Acts of manufacture and of sale, although continuous, do not constitute successive offenses. It follows, therefore, that infringements by manufacture and by sale constitute a series of distinct misdemeanors, each of which can be prosecuted, and the limitation of action of three years runs, in relation to each, from the date upon which the offense was committed. (Court of Cassation, August 8, 1857.)

WHO MAY OR SHOULD BE SUED. The parties to be prosecuted are: The infringer and those included with him by law. (Articles 40 and 41.) If the infringer is in bankruptcy, the *syndic* must be sued, even if the cause be tried before a criminal court, on account of the pecuniary penalties demanded by the plaintiff. If a company is the infringer, each of the members must be proceeded against in the criminal court, as misdemeanors are personal. If a company is in liquidation, the liquidator must be sued, as above, on account of the pecuniary penalties which the plaintiff demands.

* This article authorizes the admission of "extenuating circumstances."

ART. 46. The *tribunal correctionnel*, if it has once obtained jurisdiction of an action for infringement, may decide upon the defenses put forward by the defendant, either as regards the repeal or forfeiture of the patent, or upon questions relating to property in the said patent.

ART. 47. The owners of the patent can by virtue of an order of the court of first resort, proceed by *huissier* to designate and describe in detail, with or without seizure, the objects which they assert are infringed. The order may be made upon a simple petition, or upon the production of the patent. It shall name, if necessary, an expert to assist the *huissier* in his description.

If an application is made for an order of seizure, the said order may require the plaintiff to furnish security, and to pay the money into the *Caisse de Consignations*, before proceeding further.

A foreign patentee who has recourse to seizure must always furnish security.

A copy of the articles described or seized, and of the deed proving the deposit of security when such security is required, shall be served upon the defendant, or the proceedings shall be void, and the *huissier* responsible for the damages.

EVIDENCE. In order to be successful in his suit, the plaintiff must prove the infringement. It is therefore important that he should produce evidence of its existence from the period when the infringement came to his knowledge. To this effect, the patentee has several means open to him.

He can lodge a complaint with the *procureur* of the republic. In this case, the infringement would be governed by the rules of criminal procedure, and adjudicated upon by *juges correctionnels*. Or, he can purchase of the infringer an object infringed, and obtain an invoice, indicating the source from which the retailer obtains his goods, and with such evidence he can proceed with his action; or if the infringer does not contest the evidence, he can content himself with his declaration before the judges. But in practice, as it is important that the counterfeit article should be preserved, the proceeding called "seizure with description" is employed, or the mode of "simple description by *constat d'huissier*." The patentee can supplement either of these modes by any other documentary evidence in his possession. (Court of Amiens, 1850; Court of Paris, February 2, 1856; and August 13, 1873.)

PROCESS OF DESCRIPTION WITH SEIZURE. In order to seize an object which he alleges to be infringed, the patentee must fulfill a preliminary indispensable formality,—he must present a petition to the president of the tribunal for permission to seize. This petition must be accompanied by the patent, as the patentee must prove his right. If the patent has expired, the petition can, nevertheless, be presented, but upon condition, that the facts alleged against the infringer have taken place prior to the expiration of the patent. The president is free to refuse to make the order upon the petition, as his power is discretionary. (Court of Cassation, June 15, 1866.) No appeal can be made from his decision granting or refusing the petition.

The order when made may appoint an expert to assist the *huissier* in his description. This expert is a person possessing special knowledge of the product or apparatus alleged to be infringed. The patentee himself can attend the seizure, as he is more competent than any one else to draw up a description of the infringement. The order requires in all cases the presence of the *commissaire de police*. This is indispensable, for if by chance the infringer refuse to open his premises, or if he be absent, or if no infringements be discovered upon the premises, the presence of the *commissaire de police* will prevent the alleged infringer from proceeding against the patentee for violation of his domicile. By law the president can grant a general order, viz., he can authorize the patentee to seize in all places at once, in which he believes infringements to exist, such as exhibitions, custom-houses, bonded warehouses, etc., and upon the premises of all the persons possessing infringed objects, without its being necessary for the patentee to specify in his petition the names of such persons or their addresses. (Court of Cassation, June 15, 1866.) A patentee can, by virtue of one order, issue several seizures upon the premises of the same individual. (Tribunal of St. Etienne, November 4, 1859.) The president can order that the books, correspondence and papers of the infringer be impounded, initialed or examined. He can also order that those containing proofs of the infringement be seized on the spot. (Court of Lyons, November 30, December 5, and 26, 1865, January 8, 1866; Court of Cassation, June 15, 1866.)

When the president grants the order for seizure, he can, if he thinks expedient, require the plaintiff to furnish security. In this case, such security must be deposited before the seizure takes place. Such security, demand for which is discretionary with the president, is always obligatory in the case of foreigners suing for infringement, except such as are authorized to exercise their civil rights in France, and except those belonging to States between which and France diplomatic treaties exist, dispensing French subjects abroad from furnishing security in similar cases. This security is quite distinct from security for costs, which a French defendant can require a foreign plaintiff to furnish at the commencement of legal proceedings. (Paris, November 14, 1860.)

Article 47 requires that a copy of the following should be left with the infringer of the objects described or seized: 1. Of the order of the president. 2. Of the document proving the deposit of the caution money in cases where such security has been ordered. Should default be made in compliance with the above enactment, the proceedings are void, and the *huissier* is liable for damages.

USUAL PROCEDURE ON THE PART OF PATENTEE. The above is the process of "description with seizure." The other remedy open to the patentee to prove infringement is the "simple description" of the object; otherwise called description without seizure. In practice, the two modes of procedure are jointly adopted: 1. Seizure is made of a sample or of articles strictly necessary to prove the infringement. 2. A description is made of the other articles which are left in the possession of the infringer.

WRIT. A writ must be issued, whether the plaintiff take proceedings in the civil court or the *Tribunaux Correctionnels*. The writ must be issued within eight days after the report of the seizure or of the simple description.

ART. 48. In case the complainant fails to prosecute, either in the civil courts, or in the *tribunal correctionnel*, within eight days from

the seizure—allowing one day for every three *myriamètres* of distance between the place in which the articles seized or described are situated and the domicile of the defendant—whether for infringing or for concealing, introducing or selling the infringing articles, such seizure or description shall be void by law, without prejudice to the damages which may be claimed in the manner prescribed by article 36.

The day of the date of the writ is not included in the eight days.

The period is increased according to distance, in the proportion of one day for each five *myriamètres* between the place in which the objects were seized or described, and the domicile of the infringer. If the seizure lasts for several days, the delay for appearance is calculated from the last day of the seizure. If the patentee proceeds against several infringers, and if he makes several seizures or descriptions, each infringer must be served within the prescribed period respectively, under penalty of the seizure being declared void. If the seizure should be declared void, it does not necessarily follow that the plaintiff's demand is canceled. This is natural, as the patentee can dispense with making a seizure, if he possesses other proofs. (Cassation, March 27, 1835; Court of Amiens, December 28, 1850.) However, when the seizure is declared void, the patentee cannot invoke it as a means of proof; therefore, if the patentee possesses other evidence he incurs no danger; but if otherwise, he loses his case by his own default. When the patentee has allowed the time for suing to pass without issuing his writ, he can make a second seizure, or a second description, by virtue of the same judge's order, as the nullity of the seizure does not affect the order of the president, nor the right of action of the patentee. (Court of Amiens, December 28, 1850.) But it is evidently necessary, in order that such second seizure should avail the plaintiff, that he should issue his fresh writ within a legally described period dated from such second seizure. It would be imprudent to rely upon the second seizure, as the nullity of the prior seizure would free the objects attached thereby, and the patentee on making a further seizure would find nothing.

CHOICE OF JURISDICTIONS AND TRIBUNALS. The injured party can proceed either in the civil courts, or in the *tribunal correctionnel*. If he elects to proceed in the *tribunal correctionnel*, he can act either by direct citation or by lodging a complaint with the *procureur of the republic*. In the two cases he can only claim one thing from the tribunal, viz., the condemnation of the infringer to pay damages in reparation of the injury caused to him. As regards the sentence of imprisonment or fine, such cannot be claimed, except by the public prosecutor, who alone has a right to demand it. Advantages and disadvantages are attached to both the above modes of procedure. Advantages of the criminal proceeding are that the expenses are less heavy, and the procedure is more expeditious. The plaintiff can avail himself of witnesses to complete his documentary evidence. The disadvantages are as follows: The defendant can also call witnesses to justify his acts, which privilege he would not possess in a civil action. He can also plead good faith, which can be accepted as extenuating circumstances in the case of principal infringers; and still more so in the case of parties whom the law treats as in complicity with the infringers; such are retailers, and parties introducing the infringed objects. Such plea of good faith can, even in such latter cases, entitle the defendants to acquittal. (Article 41.) In the event of the plaintiff failing in his prosecution, he is exposed to an action for

damages, which are far heavier in relation to proceedings in the criminal courts than in a civil case. Lastly, the decision in a criminal case has far less effect than in a civil case. Thus, a criminal decision does not prevent the plaintiff, in the event of the prosecution failing, from instituting fresh proceedings against the same defendant in the event of his committing the same offense after the date of the first proceedings; on the contrary, when a decision has been rendered in a civil case in the defendant's favor, the question cannot be raised again between the same parties in relation to the same object or proceeding. In the event of such further proceedings being instituted, the defendant would simply have to plead the previous judgment in his favor.

With respect to *what tribunals* have jurisdiction in civil cases, article 59 of the Code of Civil Procedure provides as follows:—The patentee can proceed against infringers in the civil tribunal of the domicile of either of them, at his choice, in the case in which several joint defendants exist who are not strangers to each other. And in the case of several joint defendants and the institution of criminal proceedings, article 63 of the Code of Criminal Instruction applies. Thus, the patentee can proceed either in the tribunal of the domicile or residence of the infringer, or, if there are several infringers who have participated in the same act of infringement, before the court of the domicile of either of them, either in the court of the place in which the defendant resides, or in the court of the place in which the act of infringement was perpetrated.

A defendant cited criminally, can be represented by an *avoué* in the cases in which the penalty relating to the misdemeanor for which he is prosecuted does not amount to imprisonment.

Lastly, in prosecutions for infringements, as well as those relating to all other misdemeanors, the public minister must always be heard.

PROCEEDINGS AGAINST FOREIGNERS. Inasmuch as the French tribunals are incompetent to adjudicate upon misdemeanors committed out of France by foreigners, if the offense of infringement be committed abroad, the patentee cannot proceed in France; but the rule is otherwise if the offense be committed in France by a foreigner. For instance, if after having manufactured goods abroad, he enter France to dispose of them, he can be prosecuted or proceeded against in the French courts.

OBSTACLES AND DEFENSES. Apart from security for costs, limitation of actions and special pleas in bar, the defendant in civil and criminal cases can plead various defenses. For instance, he can plead that he was authorized by transfer or otherwise to act as he did; or that the infringement in question was not committed by him; or that the patent has become void; or that, assuming the patent to be valid, the object manufactured by him is not an imitation of the object patented.

When prosecuted in the *tribunal correctionnel*, the defendant, if proceedings have been commenced in the civil courts to have the patent of the plaintiff declared void, can require the criminal proceedings to be adjourned until judgment has been given in the civil courts. This proceeding is called a *sursis*. The judges of the *tribunal correctionnel* are at liberty to grant or refuse the application. (Court of Cassation, June 15, 1866.) In the civil courts, a defendant cannot demand an adjournment until the *tribunal correctionnel* has adjudicated in the same matter.

A defendant in proceedings before a *tribunal correctionnel* cannot compel a party who has sold the infringed object to him, to intervene in the proceedings to guarantee him in respect of the consequences, as misdemeanors are personal offenses. (Court of Cassation, March 5, 1872.) In the civil courts, on the contrary, a defendant can

call upon another party to pay the amount of pecuniary damages in which he may be condemned.

Whether proceedings are instituted in the civil courts or *tribunal correctionnel*, the defendant can put in a counter-claim for damages for the prejudice which such proceedings may have caused him, morally and actually.

ART. 49. A judgment for the confiscation of articles admitted to be infringements, and, if there be any, of instruments or utensils destined specially to the manufacture thereof, shall, even in the case of acquittal, be rendered against the defendant, whether for infringement, or for concealing, introducing or selling the infringing articles. The articles confiscated shall be handed to the proprietor of the patent, without prejudice to an action for further damages, and to the publication of the judgment, when so ordered.

CONFISCATION is not discretionary with the court, but obligatory. (Court of Cassation, December, 9, 1848.) It must always be pronounced as regards the object infringed, even when the defendant is acquitted upon proving his good faith. Confiscation can be ordered not only in respect of the object seized, but in respect of objects simply as described. (Court of Cassation, August 20, 1851.) Confiscation pronounced in cases of infringement is not a penalty; thus civil courts as well as *tribunaux correctionnels* can pronounce it. (Court of Cassation, May 9, 1859.)

DAMAGES can be granted both in civil courts and in the *tribunaux correctionnels*. There are two sorts of procedure adopted by the judges in relation to damages. The amount can be decided forthwith, or it can be ordered to be calculated pursuant to a statement to be drawn up relating to the damage. The parties then come before the court again, and a further decision is rendered, which definitively fixes the amount thereof.

DAMAGES granted to a patentee should represent two kinds of prejudice caused to him, viz. : material and moral injury. Material damage represents all profits lost to the inventor by the infringements. In calculating the same, the profits realized by the infringer must not be considered alone, as such profits may have been less than those which the real inventor would have realized, but the profits which the patentee has lost through the fraudulent sales made by the infringer, calculated at the price realized by the patentee for the same goods in the ordinary course of his business. Moral prejudice consist in the fact that the rights of the patentee have been contested by the infringer, and that such rights, notwithstanding the gaining of the suit, may nevertheless have been damaged. Again, the infringer, in order to sell at a cheaper rate, may have manufactured the goods in an inferior manner, and thus brought discredit upon the invention.

ARREST has been abolished in civil cases by the law of July 22, 1867, but can still be pronounced by the *tribunaux correctionnels* in connection with damages. A civil tribunal can also pronounce it in the following case, viz. : when the patentee has contented himself with requiring the *tribunal correctionnel* simply to punish the infringer by fines or imprisonment, and when he has afterward commenced an action in the civil tribunal, to have the amount of damage ascertained and adjudged. This is the only case in which a civil tribunal can sentence to a term of imprisonment.

COSTS. The infringer can be condemned to pay the costs on one or several publi-

cations and insertions of the judgment in the newspapers. The above measure, designed to advertise legal decisions, does not constitute a penalty, but a simple reparation for the prejudice caused to the patentee; therefore civil tribunals as well as *tribunaux correctionnels* can pronounce it.

TITLE VI.

SPECIAL AND PROVISIONAL MEASURES.

ART. 50. Royal ordinances, having the effect of *Règlements d'Administration Publique*, shall provide the necessary measures for the execution of the present law.

This law shall not take effect until three months after its promulgation.

ART. 51. Ordinances rendered in the same form shall control the application of the present law in the colonies, with the modifications that may be considered necessary.

ART. 52. The following laws shall be repealed from the date upon which the present law becomes executory, viz.:

The laws of the 7th of January and 25th of May, 1791; that of the 20th of September, 1792; the *arrêté* of the 17 *vendémiaire*, year 7; the *arrêté* of the 5th *vendémiaire*, year 9; the *Décrets* of the 25th November, 1806, and 25th January, 1807, and all provisions previous to the present law relating to patents of invention, of importation, and of improvements.

[Articles 53 and 54 omitted, because relating only to patents existing and proceedings pending when the law took effect.]

From *Goirand's French Code of Commerce*, pp. 765 and 441.

*Decree of October 21, 1848, Regulating the Application of the Patent Law of July 5, 1844, to the French Colonies.**

ART. 1. The patent law of the 5th July, 1844, shall be applicable in the colonies from the date of the publication of the present decree.

* A French patent extends to the colonies. *Ency. Brit.* 9 ed. tit. Patent.

Royal ordinances, &c. shall control the application of the present law in the colonies, with the modifications that may be considered necessary. Law of July 5, 1844, § 51.

A royal ordinance regulates the application of the law of 1844 to the colonies. The formalities requisite for obtaining patents are the same as in France, except that the documents must be deposited in triplicate instead of in duplicate. The procedure in cases of infringement is

ART. 2. Applicants for patents of invention in the colonies must deliver three copies of the documents prescribed by article 5 of the above law, at the office of the director of the interior.

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

ART. 3. Before making the said entry, the director of the interior shall require the production of :

1. The receipt of the colonial treasury for the payment of 100 francs due for the first installment of the annual patent fees.

2. Three copies of each of the documents mentioned in paragraphs 1, 2, 3, and 4 of article 5 of the patent law of the 5th July, 1844.

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

ART. 4. The governor of each colony shall with the least possible delay, after due registration of the applications, forward to the minister of agriculture and commerce, through the minister of the navy and colonies, the sealed envelope containing the two respective copies, annexing thereto a certified copy of the entry, the receipt for the payment of the first installment of the annual patent fees, and, if there be one, the power of attorney of the applicant.

ART. 5. Patents shall be forwarded with the least possible delay to their owners, through the minister of the navy and colonies.

ART. 6. The registration of assignments of patents mentioned in article 20 of the patent law of the 5th July, 1844, shall take place at the offices of the directors of the interior.

Copies of the entries of registration, accompanied with authentic abstracts of the assignments and the receipts for the payment of the total amount of the patent fees, shall be forwarded to the minister of agriculture and commerce, conformably to article 4 of the present decree.

identical. Goirand's French Code of Commerce (1880), p. 500.

The encyclopedias and geographic works in use in this country vary somewhat in the enumeration they give of the colonies of France, but the following are

usually included : Cambodia, Cochin China, French Guiana, Guadeloupe, Loyalty Islands, Marquesas Islands, Martinique, Micquelon, New Caledonia, Senegambia, St. Pierre, Tahiti.

ART. 7. All patent fees prescribed by articles 4, 7, 11 and 22 of the patent law of the 5th July, shall be paid to the treasurer of each colony, who is to deposit them at the public treasury, and shall at the same time forward to the minister of agriculture and commerce, through the same channel, the returns of the payment of patent fees.

ART. 8. All actions for infringements shall be tried before the court of appeal, in the colonies.

The delay allowed with respect to distances as fixed by article 48 of said law, shall be modified conformably to the ordinances which, in the colonies, regulate proceedings in civil actions.

ART. 9. The minister of agriculture and commerce, and the minister of the navy and colonies, are respectively commissioned with the execution of the present decree.

From *Carp. Pat. L. of World*, 205.

FRENCH GUIANA.

See FRANCE, *ante* p. 203, foot-note.

GERMAN EMPIRE.

Law of July 1, 1877.

FIRST SECTION.

PATENT RIGHTS.

§ 1. Patents are granted for new inventions which can be turned to account in trade.

The following are excepted:—

1. Inventions the use of which would be incompatible with the laws or public morals.

2. Inventions of articles of food (for nourishment or luxuries), of medicines and of substances produced by chemical process, so far as the invention does not relate to a definite method of producing such articles.

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

§ 3. Whosoever first applies for a patent of invention according to the provisions of this law, is entitled to the grant of the same.

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

§ 4. The patent has the effect that nobody is allowed without the permission of the patentee to manufacture, trade in, or offer for sale, the article to which the invention relates.

If the invention relates to a process, to a machine or other mechanical contrivance, to a tool or other implement, the patent has moreover the effect of prohibiting any one from applying such method or of using the article to which the invention relates without permission of the inventor.

§ 5. The patent has no effect against a person who, at the time

the patentee made his application, had already been using the invention in Germany, or who had made the necessary preparations for using the same.

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

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

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

§ 7. The duration of a patent is 15 years: the term commences with the day following the day of application. If an invention is an improvement upon another invention patented in favor of the applicant, the latter may apply for a patent of addition, which terminates with the patent for the original invention.

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

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

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

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

§ 10. A patent will be declared void if it turns out:—

1. That the invention was not patentable according to §§ 1 and 2;

2. That the essential contents of the application were taken from descriptions, tools, contrivances, drawings, or models, of another, or from some means of working used by such other, without his consent.

§ 11. A patent can be declared void after the expiration of three years :

1. If the patentee fails to work his invention in Germany to an adequate extent, or at least to do everything that is necessary to insure its being worked ;

2. Whenever the grant of license to others to use the invention appears to be demanded in the public interest, and the patentee nevertheless refuses to grant such license upon adequate compensation and good security.

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

SECOND SECTION.

PATENT-OFFICE.

§ 13. The granting, the annulment, and the revocation of patents is performed by the patent-office.

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

§ 14. The patent-office consists of several divisions. These are formed in advance for at least one year. A member may belong to several divisions.

The quorum of any division, when dealing with the grant of a

patent, must not be less than three, among whom there must be two non-permanent members.

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

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

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

§ 15. The resolutions and decisions of the divisions are issued in the name of the patent-office ; the grounds of them must be stated; and office copies must be delivered to each of the interested parties.

Notices by which special terms are fixed, will be sent by post in registered letters against receipt. If a notice cannot be delivered within the country, it will be forwarded by the proper official of the patent-office by post, in accordance with the provisions of §§ 161 and 175 of the civil code.

An appeal lies from the decisions of the patent-office.

§ 16. If the decision of a division of the patent-office is the subject of appeal, such appeal shall be heard before another division or several divisions sitting together.

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

§ 17. The formation of the divisions, the fixing their duties, the forms of procedure and the order of business of the patent-office, so far as these points are not regulated by the present law, will be prescribed by the Emperor, with the consent of the Federal Council.

§ 18. The patent-office is bound, on the request of the law courts, to give opinion in all questions concerning patents. In other cases it is not authorized, without special leave of the Imperial Chancellor, to pass resolutions or give opinions outside its official sphere.

§ 19. A register will be kept at the patent-office, in which the subject and duration of patents granted will be entered, together with the name and address of the patentees and of the representatives, if any, appointed by them at the time of application. The commencement, the termination, the expiration, the decree of annulment, and the revocation of patents, are to be entered in this

register, and simultaneously published in the *Reichsanzeiger* (Gazette).

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

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

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

THIRD SECTION.

PROCEEDINGS IN PATENT-MATTERS.

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

The patent-office will issue regulations respecting the other requisites of the application.

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

§ 21. If an application does not fulfill all the prescribed requirements, the patent-office will point out to the applicant the defects, and demand of him the amendment within a specified time. Should this demand not be complied with within the time, the application will be rejected.

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

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

§ 23. The publication of the application is made by the name of the applicant and the chief points of his application being advertised once in the *Reichsanzeiger*. At the same time the application and accompanying papers will be laid open at the patent-office for public inspection, and a notice inserted to the effect that the subject of the application is provisionally protected against unauthorized use.

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

§ 24. After expiration of eight weeks from the day of publication (§ 23) the patent-office will decide as to the granting of the patent. Until that date objections against the granting can be lodged with the patent-office. They must be made in writing, giving the grounds, which can only be the assertion that the invention is not new, or that it comes under § 3, part 2.

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

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

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

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

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

§ 27. The commencement of proceedings relating to the annulment, or the revocation of a patent is by motion. In cases provided

for by § 10, part 2, only the injured party is entitled to make the motion. The motion must be addressed to the patent-office, and must set out the facts upon which it is based.

§ 28. After the institution of proceedings, the patent-office, in communicating to the patentee that such motion has been made, will invite him to answer the same within four weeks.

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

§ 29. If the patentee answers in due time, or if, in the case of § 28, part 2, the motion is not decided upon immediately, the patent-office will issue the necessary orders for investigating the matter, and moreover, in the first case, communicate the answer to the person making the motion. It may also cause witnesses and experts to be examined. In this respect the regulations of the civil code will apply. The depositions must be taken down in writing by a sworn reporter.

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

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

§ 30. In the decision (§§ 28 and 29) the patent-office has full power to determine in what proportions the costs of the proceedings shall be borne by the parties.

§ 31. The law courts are bound to render legal assistance to the patent-office. The imposition of fines on witnesses and experts who have failed to appear, or who decline to give evidence, or to confirm it on oath, and also the attendance of witnesses who have failed to appear, will be ordered, on application by the courts.

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

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

In other respects the proceedings in court will be determined by

a regulation which will be drawn up by the court and established by Imperial ordinance with the assent of the Federal Council.

§ 33. Regarding the official language of the patent-office, the provisions of the law concerning the organization of the courts, and the language to be used before them, are to be observed. Applications which are not made in the German language will not be considered.

FOURTH SECTION.

FINES AND INDEMNITIES.

§ 34. Whoever knowingly makes use of an invention contrary to the provisions of §§ 4 and 5, will be punished by fine up to 5,000 marks (£250), or by imprisonment not exceeding one year, and is bound to indemnify the person injured.

Prosecutions are only instituted on motion made to that effect.

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

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

If such amercement is ordered, all further claims for damages are excluded.

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

§ 38. Actions for infringement of patent right are barred with regard to each single case at the expiration of three years.

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

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

1. On any person placing on articles, or their packing, any mark calculated to cause the erroneous belief that such articles are protected by a patent in accordance with this law.

2. On any person who in public advertisements, on sign-boards,

on business cards, or in similar notifications, employs any mark calculated to cause the erroneous belief that the articles mentioned thereon are protected by a patent in accordance with this law.

FIFTH SECTION

TRANSITORY PROVISIONS.

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

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

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

§ 43. From the duration of a patent granted according to § 42 will be deducted the time during which the patent has been protected in the country by the oldest of the existing patents. The owner of the patent for the remainder of the duration of the patent is bound to pay the legal fees. (§ 8.) The date of payment and

* The Kingdoms or States which, in 1871, united in forming the German Empire, had, previously to that time, patent laws of their own; but the new constitution confided patents to the general legislature of the empire. In 1877, the law given in the text was enacted as a uniform law for the nationalities com-

posing the empire. See BADEN for some further details.

For an account of the judicial system introduced under the constitution of 1871, see *Constitution of Courts in the German Empire*, 21 Alb. L. J. 66; *Id.* 167.

annual amount of the fees shall be fixed according to the time when the invention was first protected in the country.

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

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

From Carpm. Pat. L. of World, 208.

GREAT BRITAIN AND IRELAND.

An act concerning monopolies, &c. 21 Jac. 1, c. 3, 1623.*

Forasmuch as your most excellent Majesty, in your royal judgment, and of your blessed disposition to the weal and quiet of your

* This act, which is fundamental to the English and American law of patents, was passed in pursuance of the decision of the great case of monopolies: *Darcy v. Allen*, Moore, 671; Noy., 179; 11 Co. 86. The origin of the act, briefly stated, is, that in early times, in England, exclusive rights to manufacture or trade were freely granted by the crown as a mere means of raising a revenue from the license fees exacted. The exercise of this power was at first believed to be beneficial, because ingenious foreign workmen were from time to time drawn to England by the expectation of substantial commercial advantages being secured to them by royal letters patent (these being, really, grants of monopoly); and enterprising Englishmen were also induced by the like expectation to travel abroad, and acquire a practical knowledge of trades and arts. But the crown experiencing in those days the evils of no regular taxation,—the chief of which was a perpetually recurring want of money to conduct the affairs of government,—the prerogative was exposed to, and its exercise soon became affected with, many abuses, principally of this nature, that the monopoly was sold at a ruinous price, usually to the highest bidder, whether or not he was the true and first inventor of the process of manufacture, and latterly, without any regard at all to his capacity or ability as an inventor or manufacturer,

and frequently, indeed, to courtiers, who made it a means of gain exclusively, and did not assist the national industry at all. But oppressive as it became, the prerogative was freely exercised down to the accession of the Stuarts, and was carried to a very oppressive and injurious extent during the reign of Elizabeth. The validity of the grants was at length contested in the courts, which adjudged them to be mischievous to the public for three reasons: 1. The raising of the price; 2. The commodity will not be so good; 3. The impoverishing of poor artificers. This was the gist of the decision in *Darcy v. Allen*, supra; rendered in the 44th year of Elizabeth, Tr. term; 1602. The abrogation of the practice of making these grants was, from about the same time, agitated in parliament; and at length, in 1623, the statute 21 Jac. 1, c. 3, the portions of which material to the law of patents are reprinted in the text, was enacted. As will be seen at a glance, it declares that all monopolies, grants, letters patent for sole buying, selling, and making of goods and manufactures, shall be null and void; but it excepts future patents for fourteen years, for the sole working or making of any new manufactures within the realm, to the true and first inventors of such manufactures, not contrary to law, nor mischievous to the state.

For recent and instructive discussions

subjects, did, in the year of our Lord God one thousand six hundred and ten, publish in print to the whole realm, and to all posterity, That all grants and monopolies, and of the benefit of any penal laws, or of power to dispense with the law, or to compound for the forfeiture, are contrary to your Majesty's laws, which your Majesty's declaration is truly consonant and agreeable to the ancient and fundamental laws of this your realm : (2) And whereas your Majesty was further graciously pleased expressly to command, that no suitor should presume to move your Majesty for matters of that nature : (3) Yet nevertheless, upon misinformations and untrue pretences of publick good, many such grants have been unduly obtained, and unlawfully put into execution, to the great grievance and inconvenience of your Majesty's subjects, contrary to the laws of this your realm, and contrary to your Majesty's most royal and blessed intention so published as aforesaid : (4) For avoiding whereof, and preventing of the like in time to come, may it please your excellent Majesty, at the humble suit of the Lords spiritual and temporal, and the commons, in this present parliament assembled, That it may be declared and enacted : (5) And be it declared and enacted by authority of this present parliament, That all monopolies, and all commissions, grants, licences, charters and letters patent heretofore made or granted, or hereafter to be made or granted, to any person or persons, bodies politick or corporate, whatsoever, or for the sole buying, selling, making, working or using of any thing within this realm or the dominion of Wales, (6) or of any other monopolies, or of power, liberty or faculty, to dispense with any others, or to give license or toleration to do, use or exercise anything against the tenor or purport of any law or

on the influence of the act on the English and American law of patents, see Curtis Pat. §§ 1-4 ; McKeever v. United States, 14 Ct. of Cl. 396 ; Op. Bradley, J., 111 U. S. 761.

Patent laws in the British Colonies. Prior to 1852, British letters patent extended to all Her Majesty's colonies ; but the act of 1852 restricted the rights obtainable under it to Great Britain and Ireland, the Channel Islands, and the Isle of Man ; soon after which the colonies began to enact patent laws of their own.

(See their names, throughout this work.)

As a rule, the application in a colony must be by petition, accompanied by a specification and drawings ; and must be made by the inventor, his assignee or attorney. Patents are, in all cases, assignable, and the deeds of assignment must be registered in the respective colonies. The patents are usually granted for a term of fourteen years, and the inventions must not have been used in the colony previous to the date of application. Ency Brit. 9 ed. art. Patents.

statute ; (7) or to give or make any warrant for any such dispensation, licence or toleration to be had or made ; or to agree or compound with any others for any penalty or forfeitures limited by any statute ; or of any grant or promise of the benefit, profit or commodity of any forfeiture, penalty or sum of money, that is or shall be due by any statute, before judgment thereupon had ; (8) and all proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things whatsoever, any way tending to the instituting, erecting, strengthening, furthering or countenancing of the same or any of them ; (9) are altogether contrary to the laws of this realm, and so are and shall be utterly void, and of none effect, and in no wise to be put in use or execution.

II. And be it further declared and enacted by the authority aforesaid, that all monopolies, and all such commissions, grants, licences, charters, letters patents, proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things tending as aforesaid, and the force and validity of them and of every of them, ought to be, and shall be, for ever hereafter examined, heard, tried and determined by and according to the common laws of this realm, and not otherwise.

V. Provided, nevertheless, and be it declared and enacted, that any declaration before mentioned, shall not extend to any letters patents and grants of privilege for the term of one and twenty years or under, heretofore made of the sole working or making of any manner of new manufacture within this realm, to the first and true inventor or inventors of such manufactures, which others at the time of the making of such letters patents and grants did not use, so they be not contrary to the law, nor mischievous to the state, by raising of the prices of commodities at home, or hurt of trade, or generally inconvenient, but that the same shall be of such force as they were or should be, if this act had not been made, and of none other : (2) And if the same were made for more than one and twenty years, That then the same for the term of one and twenty years only, to be accounted from the date of the first letters patents and grants thereof made, shall be of such force as they were or should have been, if the same had been made but for term of one and twenty years only, and as if this act had never been had or made, and of none other.

VI. Provided, also, and be it declared and enacted, that any declaration before mentioned, shall not extend to any letters pat-

ents and grants of privilege for the term of fourteen years or under, hereafter to be made of the sole working or making of any manner of new manufactures within this realm, to the true and first inventor and inventors of such manufactures, which others, at the time of making such letters patents and grants, shall not use, so as they be not contrary to law, nor mischievous to the State, by raising prices of commodities at home, or hurt of trade, or generally inconvenient; the said fourteen years to be accounted from the date of the first letters patents, or grant of such privilege hereafter to be made, but that the same shall be of such force, as they should be if this act had never been made, and of none other.

From 7 *Stat. at L., Pick.*, 255.

*An Act to amend and consolidate the Law relating to Patents for Inventions, Registration of Designs, and of Trade Marks.** 1 *Stat.* 46 and 47 *Vict.*, c. 57. August 25, 1883.

Be it enacted, &c. . . .

PART I.

PRELIMINARY.

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

2. *Division of Act into parts.* This act is divided into parts, as follows :—

Part I.—PRELIMINARY.

Part II.—PATENTS.

Part III.—DESIGNS.

Part IV.—TRADE MARKS.

Part V.—GENERAL.

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

* Those provisions only of the act are given, which relate to patents for inventions or designs. With it should be compared the Patents, Designs and Trade

Marks Amendments Act, 1885, post, p. 264, which is amendatory of several of the provisions of 1883.

PART II.

PATENTS.

APPLICATION FOR AND GRANT OF PATENT.

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

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

5. *Application and specification.* (1) An application for a patent must be made in the form set forth in the first schedule to this Act, or in such other form as may be from time to time prescribed; and must be left at, or sent by post to, the patent-office in the prescribed manner.

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

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

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

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

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

7. *Power for comptroller to refuse application or require amendment.* (1) If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not or have not been prepared in the prescribed manner, or that the title does not sufficiently indicate

the subject matter of the invention, the comptroller may require that the application, specification or drawings be amended before he proceeds with the application.

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

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

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

(5) If, after an application has been made, but before a patent has been sealed, an application is made, accompanied by a specification bearing the same or a similar title, it shall be the duty of the examiner to report to the comptroller whether the specification appears to him to comprise the same invention ; and, if he reports in the affirmative, the comptroller shall give notice to the applicants that he has so reported.

(6) Where the examiner reports in the affirmative, the comptroller may determine, subject to an appeal to the law officer, whether the invention comprised in both applications is the same, and if so, he may refuse to seal a patent on the application of the second applicant.

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

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

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

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

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

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

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

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

11. *Opposition to grant of patent.* (1) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification give notice at the patent office of opposition to the grant of the patent, on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative; or on the ground that the invention has been patented in this country on an application of prior date; or on the ground of an examiner having reported to the comptroller that the specification appears to him to comprise the same invention as is comprised in a specification bearing the same or a similar title, and accompanying a previous application, but on no other ground.

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

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

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

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

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

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

(a) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct.

(b) If the person making the application dies before the expiration of the fifteen months aforesaid, the patent may be granted to his legal representative and sealed at any time within twelve months after the death of the applicant.

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

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

15. Protection by complete specification. Effect of acceptance of complete specification. After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification: Provided that an applicant shall not be

entitled to institute any proceeding for infringement, unless and until a patent for the invention has been granted to him.

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

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

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

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

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

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

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

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

(2) The request and the nature of such proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the patent-office of opposition to the amendment.

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

(4) The law officer shall, if required, hear the person making the request and the person so giving notice, and being in the opinion of the law officer entitled to be heard in opposition to the request,

and shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

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

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

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

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

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

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

19. *Power to disclaim part of invention during action, &c.*
(1) In an action for infringement of a patent, and in a proceeding for revocation of a patent, the court or a judge may at any time order that the patentee shall, subject to such terms as to costs and otherwise as the court or a judge may impose, be at liberty to apply at the patent-office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

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

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

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

(a) The patent is not being worked in the United Kingdom ; or

(b) The reasonable requirements of the public with respect to the invention cannot be supplied ; or

(c) Any person is prevented from working or using to the best advantage an invention of which he is possessed, the board may order the patentee to grant licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the board, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.

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

(2) The Register of Patents shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein.

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

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

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

25. *Extension of term of patent on petition to Queen in council.* (1) A patentee may, after advertising in manner directed by any rules made under this section, his intention to do so, present a petition to Her Majesty in Council, praying that his patent may be extended for a further term ; but such petition must be pre-

sented at least six months before the time limited for the expiration of the patent.

(2) Any person may enter a caveat, addressed to the registrar of the council at the council office, against the extension.

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

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

(5) If the judicial committee report that the patentee has been inadequately remunerated by his patent, it shall be lawful for Her Majesty in Council to extend the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen years; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the judicial committee may think fit.

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

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

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

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

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

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

(a) The attorney-general in England or Ireland, or the lord advocate in Scotland:

(b) Any person authorized by the attorney-general in England or Ireland, or the Lord Advocate in Scotland :

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

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

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

(5) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and no evidence shall, except by leave of the court or a judge, be admitted in proof of any objection of which particulars are not so delivered.

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

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

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

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

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

LEGAL PROCEEDINGS.

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

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

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

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

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

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

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

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

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

30. *Order for inspection, &c., in action.* In an action for infringement of a patent, the court or a judge may, on the appli-

cation of either party, make such order for an injunction, inspection or account, and impose such terms and give such directions respecting the same, and the proceedings thereon as the court or a judge may see fit.

31. *Certificate of validity questioned and costs thereon.* In an action for infringement of a patent, the court or a judge may certify that the validity of the patent came in question; and if the court or a judge so certifies, then in any subsequent action for infringement, the plaintiff in that action on obtaining a final order or judgment in his favor shall have his full costs, charges and expenses as between solicitor and client, unless the court or judge trying the action certifies that he ought not to have the same.

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

MISCELLANEOUS.

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

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

(2) Every such application must be made within six months of the decease of such person, and must contain a declaration by the

legal representative that he believes such person to be the true and first inventor of the invention.

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

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

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

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

39. *Exhibition at industrial or international exhibition not to prejudice patent rights.* The exhibition of an invention at an industrial or international exhibition, certified as such by the board of trade, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely,—

(a.) The exhibitor must, before exhibiting the invention, give the comptroller the prescribed notice of his intention to do so; and

(b.) The application for a patent must be made before, or within six months from the date of the opening of the exhibition.

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

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

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

41. *Patent Museum.* The control and management of the existing patent museum and its contents shall, from and after the commencement of this Act, be transferred to and vested in the department of science and art, subject to such directions as Her Majesty in Council may see fit to give.

42. *Power to require models on payment.* The department of science and art may at any time require a patentee to furnish them with a model of his invention on payment to the patentee of the cost of the manufacture of the model; the amount to be settled, in case of dispute, by the board of trade.

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

(2) But this section shall not extend to vessels of any foreign state of which the laws 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 vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture or prep-

aration of anything intended to be sold in or exported from the territories of such foreign state.

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

(2) The assignment shall effectually vest the benefit of the invention and patent in the secretary of state for the time being on behalf of Her Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the secretary of state for the time being.

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

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

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

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

(7) On the expiration of the term or extended term of the

patent, such sealed packet shall be delivered to any person authorized by writing under the hand of the secretary of state to receive it.

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

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

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

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

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

EXISTING PATENTS.

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

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

(3) In all other respects (including the amount and time of payment of fees) this Act shall extend to all patents granted before

the commencement of this Act, or on applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.

(4) All instruments relating to patents granted before the commencement of this Act required to be left or filed in the great seal patent-office shall be deemed to be so left or filed if left or filed before or after the commencement of this Act in the patent-office.

DEFINITIONS.

46. In and for the purposes of this Act—

“Patent” means letters patent for an invention :

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

“Invention” means any manner of new manufacture the subject of letters patent and grant of privilege within section six of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chapter three, intituled “An Act concerning Monopolies and dispensations with penal laws and the forfeiture thereof” [*see ante*, p. 3]), and includes an alleged invention.

In Scotland “injunction” means “interdict.”

PART III.

DESIGNS.

REGISTRATION OF DESIGNS.

47. *Application for registration.* (1) The comptroller may, on application by, or on behalf of any person claiming to be the proprietor of any new or original design not previously published in the United Kingdom, register the design under this part of this Act.

(2) The application must be made in the form set forth in the first schedule to this act, or in such other form as may be from time to time prescribed, and must be left at, or sent by post to, the patent-office in the prescribed manner.

(3) The application must contain a statement of the nature of the design, and the class or classes of goods in which the applicant desires that the design be registered.

(4) The same design may be registered in more than one class.

(5) In case of doubt as to the class in which a design ought to be registered, the comptroller may decide the question.

(6) The comptroller may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal therefrom to the board of trade.

(7) The board of trade shall, if required, hear the applicant and the comptroller, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

48. Drawings, &c., to be furnished on application. (1) On application for registration of a design the applicant shall furnish to the comptroller the prescribed number of copies of drawings, photographs or tracings of the design sufficient, in the opinion of the comptroller, for enabling him to identify the design; or the applicant may, instead of such copies, furnish exact representations or specimens of the design.

(2) The comptroller may, if he thinks fit, refuse any drawing, photograph, tracing, representation or specimen which is not, in his opinion, suitable for the official records.

49. Certificate of registration. (1) The comptroller shall grant a certificate of registration to the proprietor of the design when registered.

(2) The comptroller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, grant a copy or copies of the certificate.

COPYRIGHT IN REGISTERED DESIGNS.

50. Copyright on registration. (1) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this act, have copyright in the design during five years from the date of registration.

(2) Before delivery on sale of any articles to which a registered design has been applied, the proprietor must (if exact representations or specimens were not furnished on the application for registration), furnish to the comptroller the prescribed number of exact representations or specimens of the design; and if he fails to do so, the comptroller may erase his name from the register, and thereupon his copyright in the design shall cease.

51. Marking registered designs. Before delivery on sale of any articles to which a registered design has been applied, the proprietor of the design shall cause each such article to be marked with the prescribed mark, or with the prescribed word or words or figures,

denoting that the design is registered ; and if he fails to do so, the copyright in the design shall cease, unless the proprietor shows that he took all proper steps to ensure the markings of the article.

52. *Inspection of registered designs.* (1) During the existence of copyright in a design, the design shall not be open to inspection except by the proprietor, or a person authorized in writing by the proprietor, or a person authorized by the comptroller or by the court, and furnishing such information as may enable the comptroller to identify the design, nor except in the presence of the comptroller, or an officer acting under him, nor except on payment of the prescribed fee ; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof.

(2) When the copyright in a design has ceased the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

53. *Information as to existence of copyright.*—On the request of any person producing a particular design, together with its mark of registration, or producing only its mark of registration, or furnishing such information as may enable the comptroller to identify the design, and on payment of the prescribed fee, it shall be the duty of the comptroller to inform such person whether the registration still exists in respect of such design, and if so, in respect of what class or classes of goods, and stating also the date of registration, and the name and address of the registered proprietor.

54. *Cesser of copyright in certain events.*—If a registered design is used in manufacture in any foreign country and is not used in this country within six months of its registration in this country, the copyright in the design shall cease.

REGISTER OF DESIGNS.

55. *Register to be kept.* (1) There shall be kept at the patent-office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may from time to time be prescribed.

(2) The register of designs shall be *prima facie* evidence of any matters by this act directed or authorized to be entered therein.

FEEES.

56. There shall be paid in respect of applications and registration and other matters under this part of this Act such fees as may

be from time to time, with the sanction of the treasury, prescribed by the board of trade; and such fees shall be levied and paid to the account of Her Majesty's Exchequer in such manner as the treasury shall from time to time direct.

INDUSTRIAL AND INTERNATIONAL EXHIBITIONS.

57. *Exhibition at them not to prevent or invalidate registration.* The exhibition at an industrial or international exhibition, certified as such by the Board of Trade, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof, provided that both the following conditions are complied with: namely,—

(a) The exhibitor must, before exhibiting the design or publishing a description, give the comptroller the prescribed notice of his intention to do so; and

(b) The application for registration must be made before or within six months from the date of the opening of the exhibition.

LEGAL PROCEEDINGS.

58. *Penalty on Piracy of registered design.* During the existence of copyright in any design—

(a) It shall not be lawful for any person without the license or written consent of the registered proprietor to apply such design or any fraudulent or obvious imitation thereof, in the class or classes of goods in which such design is registered, for purposes of sale to any article of manufacture or to any substance, artificial or natural or partly artificial and partly natural; and

(b) It shall not be lawful for any person to publish or expose for sale any article of manufacture or any substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

Any person who acts in contravention of this section shall be liable for every offense to forfeit a sum not exceeding fifty pounds to the registered proprietor of the design, who may recover such sum as a simple contract debt by an action in any court of competent jurisdiction.

59. *Action for damages.* Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the registered proprietor of any design may (if he elects to do so) bring an action for the recovery of any damages arising from the application of any such design, or of any fraudulent or obvious imitation thereof for the purpose of sale, to any article of manufacture or substance, or from the publication, sale or exposure for sale by any person of any article or substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, such person knowing that the proprietor had not given his consent to such application.

DEFINITIONS.

60. "*Design.*" In and for the purposes of this Act—

"Design" means any design applicable to any article of manufacture, or to any substance, artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined, not being a design for a sculpture, or other thing within the protection of the Sculpture Copyright Act of 1814 (fifty-fourth George the Third, chapter fifty-six).

"*Copyright*" means the exclusive right to apply a design to any article of manufacture or to any such substance as aforesaid in the class or classes in which the design is registered.

61. "*Proprietor.*" The author of any new and original design shall be considered the proprietor thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case such person shall be considered the proprietor, and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person, or otherwise, and also every person on whom the property in such design or such right to the application shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise.

PART V.*

GENERAL.

PATENT-OFFICE AND PROCEEDINGS THEREAT.

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

(2) Until a new patent-office is provided, the offices of the commissioners of patents for inventions and for the registration of designs and trade-marks existing at the commencement of this act shall be the patent-office within the meaning of this Act.

(3) The patent-office shall be under the immediate control of an officer called the comptroller-general of patents, designs, and trade-marks, who shall act under the superintendence and direction of the board of trade.

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

83. Officers and clerks. (1) The board of trade may at any time after the passing of this act, and from time to time, subject to the approval of the treasury, appoint the comptroller-general of patents, designs, and trade-marks, and so many examiners and other officers and clerks, with such designations and duties as the board of trade think fit, and may from time to time remove any of those officers and clerks.

(2) The salaries of those officers and clerks shall be appointed by the board of trade, with the concurrence of the treasury, and the same and the other expenses of the execution of this Act shall be paid out of money provided by parliament.

84. Seal of patent-office. There shall be a seal for the patent-office, and impressions thereof shall be judicially noticed and admitted in evidence.

85. Trusts not to be entered in registers. There shall not be entered in any register kept under this Act, or be receivable by the

* Part IV. is omitted because relating to designs and trade-marks, which are to trade-marks only. Sections 87, 91, 92, 101, in Part V. contain clauses relating omitted; but are in general germane to the provisions relative to patents.

comptroller, any notice of any trust expressed, implied or constructive.

86. *Refusal to grant patent in certain cases.* The comptroller may refuse to grant a patent for an invention, design, &c., of which the use would, in his opinion, be contrary to law or morality.

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

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

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

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

(2) The court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for

the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

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

91. *Power for comptroller to correct clerical errors.* The comptroller may, on request in writing accompanied by the prescribed fee,—

(a.) Correct any clerical error in or in connection with an application for a patent ; or

(b.) Correct any clerical error in the name, style, or address of the registered proprietor of a patent.

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

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

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

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

97. (1) *Applications and notices by post.* Any application, notice, or other document authorized or required to be left, made or given at the patent-office or to the comptroller, or to any other person under this Act, may be sent by a prepaid letter through the post ; and if so sent shall be deemed to have been left, made, or

given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

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

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

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

100. *Transmission of certified printed copies of specifications, &c.* Copies of all specifications, drawings and amendments left at the patent-office after the commencement of the Act, printed for and sealed with the seal of the patent-office, shall be transmitted to the Edinburgh Museum of Science and Art, and to the enrollments office of the chancery division in Ireland, and to the rolls office in the Isle of Man, within twenty-one days after the same shall respectively have been accepted or allowed at the patent-office ; and certified copies of or extracts from any such documents shall be given to any person requiring the same on payment of the prescribed fee ; and any such copy or extract shall be admitted in evidence in all courts in Scotland and Ireland, and in the Isle of Man without further proof or production of the originals.

101. *Power for board of trade to make general rules for regulating business of patent-office.* (1) The board of trade may, from time to time, make such general rules and do such things as they think expedient, subject to the provisions of this Act—

(c) For making or requiring duplicates of specifications, amendment, drawings, and other documents :

(d) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the board of trade think fit, of specifications, drawings, amendments, and other documents.

(e) For securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the patent-office ; and providing for the inspection of indexes and abridgments and other documents :

(f) For regulating (with the approval of the treasury) the presentation of copies of patent-office publications to patentees and to public authorities, bodies and institutions at home and abroad :

(g) Generally for regulating the business of the patent-office, and all things by this Act placed under the direction or control of the comptroller, or of the board of trade.

(2) Any of the forms in the first schedule to this Act may be altered or amended by rules made by the board as aforesaid.

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

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

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

102. *Annual reports of comptroller.* The comptroller shall before the first day of June in every year, cause a report respecting

the execution by or under him of this Act to be laid before both houses of Parliament, and therein shall include for the year to which each report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this act.

INTERNATIONAL AND COLONIAL ARRANGEMENTS.

103. *For protection of inventions, &c.* (1) If Her Majesty is pleased to make any arrangement with the government or governments of any foreign State or States for mutual protection of inventions, designs, and trade-marks, or any of them, then any person who has applied for protection for any invention, design or trade-mark, in any such State, shall be entitled to a patent for his invention or to registration of his design or trade-mark (as the case may be) under this Act, in priority to other applicants; and such patent or registration shall have the same date as the date of the protection obtained in such foreign State.

Provided that his application is made in the case of a patent within seven months and in the case of a design or trade-mark within four months, from his applying for protection in the foreign State with which the arrangement is in force.

Provided that nothing in this section contained shall entitle the patentee or proprietor of the design or trade-mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification, or the actual registration of his design or trade-mark in this country, as the case may be.

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

(3) The application for the grant of a patent or the registration of a design or the registration of a trade-mark under this section, must be made in the same manner as an ordinary application under this act. [Proviso as to trade-marks.]

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

104. *Provision for colonies and India.* (1) Where it is made to appear to Her Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions designs and trade-marks patented or registered in this country, it shall be lawful for Her Majesty from time to time, by order in council, to apply the provisions of the last preceding section, with such variations or additions, if any, as to Her Majesty in council may seem fit, to such British possession.

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

OFFENSES.

105. *Penalty on falsely representing articles to be patented.* (1) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, or describes any design or trade-mark applied to any article sold by him as registered which is not so, shall be liable for every offense on summary conviction to a fine not exceeding five pounds.

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

106. *Penalty on unauthorized assumption of royal arms.* Any person who, without the authority of Her Majesty, or any of the royal family, or of any government department, assumes or uses in connection with any trade, business, calling, or profession, the royal arms, or arms so nearly resembling the same as to be calculated to deceive, in such a manner as to be calculated to lead other persons to believe that he is carrying on his trade, business, calling, or profession by or under such authority as aforesaid, shall be

liable on summary conviction to a fine not exceeding twenty pounds.

SCOTLAND, IRELAND, ETC.

107. *Saving for courts in Scotland.* In any action for infringement of a patent in Scotland the provisions of this Act, with respect to calling in the aid of an assessor, shall apply, and the action shall be tried without a jury, unless the court shall otherwise direct, but otherwise nothing shall affect the jurisdiction and forms of process of the courts in Scotland in such an action or in any action or proceeding respecting a patent hitherto competent to those courts.

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

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

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

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

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

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

(2) If any rectification of a register under this Act is required in pursuance of any proceeding in a court in Scotland or Ireland, a copy of the order, decree, or other authority for the rectification, shall be served on the comptroller, and he shall rectify the register accordingly.

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

(1) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man, in proceedings for infringement or in any action or proceeding respecting a patent design or trade-mark competent to those courts ;

[(2) (3) The punishment for offenses under this Act committed in the Isle of Man, prescribed.]

REPEAL; TRANSITIONAL PROVISIONS; SAVINGS.

113. *Repeal, and saving for past operation of repealed enactments, &c.* The enactments described in the third schedule to this act are hereby repealed. But this repeal of enactments shall not—

(a) Affect the past operation of any of those enactments, or any patent, &c., granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act ; or

(b) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed ; or

(c) Take away or abridge any protection or benefit in relation to any such action or proceeding.

114. *Former registers to be deemed continued.* (1) The registers of patents and of proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of patents kept under this Act. (2) [The like as to designs, &c.]

115. *Saving for existing rules.* All general rules made by the Lord Chancellor or by any other authority under any enactment repealed by this Act, and in force at the commencement of this Act, may at any time after the passing of this Act be repealed, altered or amended by the board of trade, as if they had been made by the board under this Act, but so that no such repeal,

alteration or amendment shall take effect before the commencement of this Act ; and subject as aforesaid, such general rules shall, so far as they are consistent with and are not superseded by this Act, continue in force as if they had been made by the board of trade under this Act.

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

GENERAL DEFINITIONS.

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

“ Person ” includes a body corporate ;

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

“ Law officer ” means Her Majesty’s attorney-general or solicitor-General for England ;

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

“ Comptroller ” means the comptroller general of patents, designs, and trade-marks ;

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

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

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

In the application of this Act to Ireland, “ summary conviction ” means a conviction under the summary Jurisdiction Acts, &c.

THE FIRST SCHEDULE.

FORMS OF APPLICATION, &c.

[£1 Stamp.]

FORM A.

Form of Application for Patent.

I [*here insert name, address, and calling of inventor*], do solemnly and sincerely declare that I am in possession of an invention for [*here insert title of invention*]; 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 I humbly pray that a patent may be granted to me for the said invention.

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

Declared at _____, in the County of _____, this _____ day of _____, 18____.

[Signature of inventor.]

Before me,

[Signature and title of the officer before whom the Declaration is made.]

NOTE.—Where the above declaration is made out of the United Kingdom, the words “and by virtue of the Statutory Declarations Act, 1835,” must be omitted; and the declaration must be made before a British consular officer, or where it is not reasonably practicable to make it before such officer, then before a public officer duly authorized in that behalf.

[NOTE.—The following Form A 1 was added by the rules.]

[£1 Stamp.]

FORM A 1.

Application for Patent for Inventions communicated from abroad.

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

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

Declared at _____, in the County of _____, this _____ day of _____, 18____.

[Signature of applicant.]

Before me,

[Signature and title of the officer before whom the declaration is made.]

NOTE.—Where the above declaration is made out of the United Kingdom, the words, “and by virtue of the Statutory Declarations Act, 1835,” must be omitted, and the declaration must be made before a British consular officer, or, where it is not reasonably practicable to make it before such officer, then before a public officer duly authorized in that behalf.

FORM B.

Form of Provisional Specification.

[Here insert title as in declaration.]

I [here insert name, address, and calling of inventor as in declaration], do hereby declare the nature of my invention for [here insert title as in declaration] to be as follows:—[here insert short description of invention.]

Dated this day of , 18 .

[Signature of inventor.]

NOTE.—No stamp is required on this document.

[£3 Stamp.]

FORM C.

Form of Complete Specification.

[Here insert title as in declaration.]

I [here insert name, address, and calling of inventor as in declaration], do hereby declare the nature of my invention for [here insert title as in declaration], and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement:—[here insert full description of invention.]

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

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

Dated this day of , 18 .

[Signature of inventor.]

FORM D.

Form of Patent.

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

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

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

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

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

Know ye, therefore, that we, of our especial grace, certain knowledge, and mere motion, do by these presents, for us, our heirs and successors, give and grant unto the said patentee our especial license, full power, sole privilege and authority, that the said patentee by himself, his agents, or licensees, and no others, may at all times

THE SECOND SCHEDULE.

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

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

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

On certificate of renewal.....	50	0	0
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(c) Further before end of seven years, or in the case of patents granted after the commencement of this Act, before the end of eight years from date of patent.

On certificate.....	100	0	0
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Or in lieu of the above and £100 the following annual fees:—

Befor the expiration of the fourth year from the date of the patent.	10	0	0
“ fifth “ “	10	0	0
“ sixth “ “	10	0	0
“ seventh “ “	10	0	0
“ eighth “ “	15	0	0
“ ninth “ “	15	0	0
“ tenth “ “	20	0	0
“ eleventh “ “	20	0	0
“ twelfth “ “	20	0	0
“ thirteenth “ “	20	0	0

THE THIRD SCHEDULE.

Enactments repealed [omitting trade-marks laws].

21 James I. c. 3. [1623.]	The Statute of Monopolies. In part; namely,— Sections ten, eleven, and twelve.
5 & 6 Will. 4. c. 62. [1835.] In part.	The Statutory Declarations Act, 1835. In part; namely,— Section eleven.
5 & 6 Will. 4. c. 83. [1835]	An Act to amend the law touching letters-patent for inventions.
2 & 3 Vict. c. 67. [1839.]	An Act to amend an Act of the fifth and sixth years of the reign of King William the Fourth, intituled “An Act to amend the law touching letters-patent for inventions.”

- 5 & 6 Vict. c. 100.
[1842.] An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
- 6 & 7 Vict. c. 65.
[1843.] An Act to amend the laws relating to the copyright of designs.
- 7 & 8 Vict. c. 69.
[1844.]
In part. An Act for amending an Act passed in the fourth year of the reign of His late Majesty, intituled: "An Act for the better administration of justice in His Majesty's Privy Council, and to extend its jurisdiction and powers."
In part; namely,—
Sections two to five, both included.
NOTE.—Sections six and seven of this Act are repealed by the Statute Law Revision (No. 2) Act, 1874.
- 13 & 14 Vict. c. 104.
[1850.] An Act to extend and amend the Acts relating to the copyright of designs.
- 15 & 16 Vict. c. 83.
[1852.] The Patent Law Amendment Act, 1852.
- 16 & 17 Vict. c. 5.
[1853.] An Act to substitute stamp duties for fees on passing letters-patent for inventions, and to provide for the purchase for the public use of certain indexes of specifications.
- 16 & 17 Vict. c. 115.
[1853.] An Act to amend certain provisions of the Patent Law Amendment Act, 1852, in respect of the transmission of certified copies of letters patent and specifications to certain offices in Edinburgh and Dublin, and otherwise to amend the said Act.
- 21 & 22 Vict. c. 70.
[1858.] An Act to amend the Act of the fifth and sixth years of Her present Majesty, to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
- 22 Vict. c. 13.
[1859.] An Act to amend the law concerning patents for inventions with respect to inventions for improvements in instruments and munitions of war.
- 24 & 25 Vict. c. 73.
[1861.] An Act to amend the law relating to the copyright of designs.
- 28 & 29 Vict. c. 3.
[1865.] The Industrial Exhibitions Act, 1865.
- 33 & 34 Vict. c. 27.
[1870.] The Protection of Inventions Act, 1870.
- 33 & 34 Vict. c. 97.
[1870.] The Stamp Act, 1870,—
In part; namely,—
Section sixty-five, and in the schedule the words and figures:
"Certificate of the registration of a design.....£5 0 0
And see section 65."

88 & 39 Vict. c. 93. [1875.]	The Copyright of Designs Act, 1875.
43 & 44 Vict. c. 10. [1880.]	The Great Seal Act, 1880. In part; namely, Section five.

From 123 *Pub. Gen. Stat.* 370.

*An Act to amend the Patents, Designs, and Trade-Marks Act, 1883. August 14, 1885, Stat. 48 and 49 Vict. c. 63.**

Be it enacted, &c.

1. This Act shall be construed as one with the Patents, Designs, and Trade-Marks Act, 1883, (in this Act referred to as the principal Act.)

This Act may be cited as the "Patents, Designs, and Trade-Marks (Amendment) Act, 1885," and this Act and the principal Act may be cited together as the "Patents, Designs and Trade-Marks Acts, 1883 and 1885."

2. Whereas, subsection 2 of section 5 of the principal Act requires a declaration to be made by an applicant for a patent to the effect in that subsection mentioned, and doubts have arisen as to the nature of that declaration, and it is expedient to remove such doubts: Be it therefore enacted that the declaration mentioned in subsection 2 of section 5 of the principal Act may be either a statutory declaration under the Statutory Declarations Act, 1835, or not, as may be from time to time prescribed.

3. Whereas, under the principal Act a complete specification is required (by section 8) to be left within nine months, and (by section 9) to be accepted within twelve months from the date of appli-

* Territorial application of the Acts of Parliament of the United Kingdom. The Act of 1883 is, by its terms, extended and made applicable to the Isle of Man; and the Act of 1885, of course, has the same operation. It is understood that the Act of 1883 was not applicable to the Channel Islands nor to the "British possessions," (meaning places within Her Majesty's dominions, but not within the United

Kingdom, the Isle of Man, and the Channel Islands). Most of the colonies have patent-laws of their own, which are given in this work, under their several names. Arrangements for extending the Act to the Channel Islands are said to have been under consideration during 1884, but no final agreement was reached. 2nd Rep. of Compt. Gen. of Pat., in Off. J. Pat. Off. No. 160, July, 1885.

cation, and a patent is required by section 12 to be sealed within fifteen months from the date of application, and it is expedient to empower the comptroller to extend in certain cases the said times : Be it therefore enacted as follows :

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

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

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

6. In subsection 1 of section 103 of the principal Act the words "date of the application" shall be substituted for the words "date of the protection obtained."

From 125 *Pub. Gen. Stat.* 334.

GREECE.

According to a report by Mr. William A. C. Barrington, of the British Legation, published October 7, 1873, 4 *Pat. Off. Gaz.* 371, there was not, at the time of his writing, any special law in Greece affecting patents for inventions. He states that "the practice of the country places all inventors on the same footing as a person seeking a monopoly ; and in either case a special Act is required to secure the individual in the possession of the rights which he claims. A bill for the purpose may be introduced in the chamber by any deputy, and is treated like any other bill ; and, if it passes, it defines, according to the circumstances of the case, the limits both as to time and place within which exclusive privileges are accorded to the party on whose behalf the motion is made."

GUADELOUPE.

See FRANCE.

GUATEMALA.

Decree No. 148 of (May 21), 1886.

The Legislative Assembly of the Republic of Guatemala having considered the necessity of developing the interests of the country in an efficient manner and in harmony with the liberal principles laid down in the twentieth section of the constitution, which, in one of its clauses, secures the full rights to an author or inventor, and at the same time to regulate and define in a clear and precise manner the power, functions and extent of authority which the said section concedes to the executive, do hereby decree, as follows :

SEC. 1. Any discovery or invention in whatsoever branch of industry gives its originator an exclusive right to avail himself of his invention or improvement for the term and under the conditions established by this law.

SEC. 2. Every citizen of Guatemala, or foreigner domiciliated in Guatemala, who invents or improves some machine, instrument or mechanical apparatus, manufacture of whatsoever description, or process of useful application in the arts and sciences, may obtain from the Executive power a "patent for invention," or a "patent for improvement," which secures to him, for a term of from five to fifteen years, the right to his invention or improvement.

SEC. 3. To obtain a patent the interested party shall apply in his own name, or through his representative at the ministry of the interior, setting forth with precision the character of his invention, and soliciting the privilege.

SEC. 4. If the patent is granted, the favored party shall be under the obligation to present within a term of forty days an exact design of the respective machine, mechanical apparatus, or a detailed description of the new process, to which should be added if practicable, a specimen of the manufacture or product, which, if it can be preserved, shall be deposited in the bureau of the legislative chamber, under the responsibility of the officer who has charge of it, for the purpose of serving as evidence in case any controversy should arise respecting the privilege.

SEC. 5. Letters patent can be obtained for an invention that has been patented abroad, when it does not already appear to be a public property, and if there subsists an agreement between the gov-

ernment of the nation from which it proceeds, and the government of Guatemala.

Patents of this character expire at the date indicated in the foreign letters patent. Should however, the term extend beyond fifteen years, the concession granted shall not exceed this period of time.

SEC. 6. The privilege granted shall be recorded in a special book kept in the bureau of the secretary.

SEC. 7. In the letters patent granted shall be inserted the decision relating to the concession, with references to the present law, the nature or character of the invention or improvement, the term of the patent, and the declaration of the right to the privilege. The letters patent shall be stamped with the seal of the ministry of the interior.

SEC. 8. The executive, in granting a patent, shall not declare either that the discovery or invention is the property of the person who appears as the inventor or author; or that it is of any utility, or founded on fact. An interested party is at liberty to prove before the law, the contrary.

SEC. 9. All applications for patents shall be published four times in the course of one month in the official journal; and the patents granted shall be published at the least twice in the same periodical.

SEC. 10. Besides the case referred to in section 4, patents become void under the following circumstances, viz.:

1. When patents have been issued to the prejudice of the rights of a third party (*tercero*), in accordance with the decision of a competent court of justice.

2. When the patentee has allowed one year to elapse without having put into practice the industry or improvement for which the concession was made.

3. When the patentee, after he has brought the industry or improvement into practice, abandons it for more than a year.

4. When the products manufactured are inferior to the specimens presented, in consequence of adulteration or admixture of baser materials.

SEC. 11. Patents shall not be granted in the following cases, viz.:

1. When the invention or improvement is contrary to prior rights, to public health and safety, and to good customs.

2. When the conditions established by this law have not been properly complied with.

SEC. 12. The privilege granted applies only to the *modus operandi* or means of execution and of procedure, and not to products which can be manufactured by another method, and therefore may be freely elaborated and brought upon the market.

SEC. 13. Any person has right to improve the invention of another, but not to make use of the principal invention, without the permission of the inventor; the inventor in his turn can as little avail himself of the improvements made by another person without his consent.

SEC. 14. For each patent granted a duty or tax varying from five to fifty pesos shall be paid annually in advance by the patentee to the national treasury during the term for which the privilege has been granted.

SEC. 15. When the term for a patent expires, the descriptions of the author or inventor shall be published, and copies of the drawings or models may be furnished to persons who apply for them, at their own cost. From that time forward the respective process or method shall be considered as public property.

SEC. 16. Violation of the privileges of the patentee through falsification, imitation, etc., of the articles patented, shall be punished in conformity with the directions contained in the Penal Code.

SEC. 17. The executive has right to make concessions in favor of undertakings (*empresas*) of a useful public character, or of such undertakings as have for object the introduction of new industries or improvements in those which are already practiced.

SEC. 18. These concessions can be of the following description: Exemption from, or reduction in, payment of duty for the introduction of machinery or material; free use of buildings or public land during the term of the concession; exemption from the military service for operatives engaged in industries to which the concession refers; subventions and bounties in money, when the circumstances of the treasury may permit.

In case of immunity from or reduction in the duties, the directors or managers of the favored undertaking, in order to obtain the despatch of the commodities, shall present an application to the respective custom-house containing the following points of facts:

1. That the undertaking belongs to the distinct class for which concessions have been made.

2. That the articles for the despatch of which application is made, do not exceed in quantity the requirements or conditions of the undertaking itself.

3. To state the name of the vessel that carries the commodities, and to indicate the marks and number of the packages.

4. To present a list of the merchandise laid up in their magazines, stating also what has been previously introduced and deposited.

[The residue of section 18 and the whole of section 19 prescribe the methods and proceedings by which such concessions as are mentioned in sections 17 and 18 may be obtained ; but do not affect the law of patents.]

SEC. 20. Special concessions cannot be granted for the introduction of machines for domestic use (*uso domestico*), and other common commercial articles.

SEC. 21. The concession granted in favor of a certain undertaking shall be annulled if it becomes known that commerce is carried on with the raw material introduced.

SEC. 22. In the case provided against in the preceding section the interested party, besides the loss of the concession, shall pay the duty corresponding to all the commodities imported and 40 per cent. on the total amount.

SEC. 23. Concessions become also void in the following cases :

1. When the term has expired within which the directors of the undertaking had bound themselves to establish the proposed industry or improvement and to put it in operation.

2. When, after having been established, an undertaking is abandoned for more than a year.

SEC. 24. Sections 436 and 437 of the chapter 2, title X, of the Fiscal Code, book 1 are abolished.

This law shall be transmitted to the executive for publication and execution.

Done in the Chamber of the Legislative Assembly at Guatemala, May 21, 1886.

Furnished for this work from the collection of Patent Laws, of Mr. W. E. Richards.

HAWAIIAN KINGDOM.

*Civil Code.**

SECTION 255. The minister of the interior may, with the approval of the King, issue a patent to the inventor or improver of any machine, manufacture, or other work of art calculated to promote the interests of science, agriculture, or manufactures, and may therein grant to such inventor or improver the exclusive use and benefit of his invention or improvement for any term of years, not exceeding ten, that may be specified in such patent.

SEC. 256. Every such inventor or improver shall, before receiving a patent, deliver to the minister of the interior a full and clear description in writing of his invention or improvement, together with the mode of using or applying the same to the purpose for which it is intended, and the manner and process of making, constructing, or compounding the same, and in case of any machine he shall also furnish, in addition to the written description, accurate drawings and a complete model thereof.

Act to regulate the Issuing of Patents. August 29, 1884.

Be it enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled :

SECTION 1. All patents shall be issued in the name of his Majesty the King, under the seal of the interior department, and shall be signed by the minister of the interior and countersigned by the commissioner of patents, and they shall be recorded, together with the specifications, in the office of the interior department in books kept for that purpose.

SEC. 2. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns for the

* The exhibit of the Hawaiian Patent Laws given in Carpmaels' Patent Laws of the World, presents only sections 255, 256, and 256a, of the Civil Code, as amended (or added), by subsequent legislation. But section 9 of the act of 1884, given in the text, as will be seen, repeals

the amendatory legislation; the effect of which repeal obviously is, to restore sections 255 and 256 in their original form, so that these sections, with the act of 1884, constituted, after the passage of the latter act, the patent law of the kingdom.

term of ten years, of the exclusive right to make, use, and vend the invention or discovery throughout the Hawaiian Islands, referring to the specification for particulars thereof. A copy of the specifications and drawings shall be annexed to the patent and be a part thereof.

SEC. 3. Any person who has invented or discovered any new and useful art, machine, manufacture, process, or composition of matter, or any new and useful improvement thereof not known or used by others in this country, and not patented (or described in any printed publication) in this or any foreign country before his invention or discovery thereof, may, upon payment of the fees required by law and other due proceedings had, obtain a patent therefor: Provided, however, That any person who has invented or discovered any new and useful art, machine, manufacture, process, or composition of matter, or any new and useful improvement thereof, and has received a patent or patents therefor from any foreign government, may also obtain a patent therefor in this country as provided above, unless the thing patented has been introduced into public use in the Hawaiian Islands for more than one year prior to the application for a patent. But every patent granted for an invention which has been previously patented in a foreign country shall be so limited that it shall not continue longer than the time of the expiration of such foreign patent, or if there are several foreign patents it shall not continue longer than the time of the expiration of the one with the shortest unexpired term, and in no case shall it be in force more than ten years.

SEC. 4. Before any inventor or discoverer shall receive a patent for his invention or discovery he shall apply therefor in writing to the minister of the interior, and shall file in the office of the interior department a written description of the same and of the manner and process of making, compounding, and using it, in clear, concise, and exact terms, and in case of a machine he shall explain the principle thereof and of the manner in which he has applied that principle so as to distinguish it from other inventions, and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery. When the nature of the case admits of drawings, the applicant shall furnish them, as set forth in section 2. When the invention or discovery is of composition of matter, the applicant shall furnish a specimen of ingredients and of the composition, sufficient in quantity for the purpose of experiment. In all cases which admit of

representation by model the applicant shall, if required, furnish a model of convenient size to exhibit advantageously the several parts of his invention.

SEC. 5. The applicant shall make oath that he believes himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent, and that he does not know or believe that the same was ever before known or used, and shall state of what country he is a citizen.

SEC. 6. On filing of any such application and the payment of the fees required by law, the commissioner of patents shall examine the alleged new invention or discovery, and if upon such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, he shall report accordingly to the minister of the interior, who shall cause a patent to be issued therefor.

SEC. 7. Any person who makes any new invention or discovery and desires further time to mature the same, may on payment of the fee required by law file in the interior department a caveat setting forth the design thereof and its distinguishing characteristics, and praying protection of his right until he shall have matured the invention. Such caveat shall be preserved in secrecy and shall be operative for the term of one year from the filing thereof.

SEC. 8. The commissioner of patents shall be appointed by the minister of the interior, and shall examine and report on all applications for patents, and shall receive for such services a fee of twenty dollars for each application examined and reported by him, which fee shall be paid by the applicant in advance. In addition to this fee the following fees shall be charged all applicants for patents; upon filing each original application for a patent, five dollars; and upon issuing a patent, five dollars; and five dollars shall be charged for the filing of a caveat.

SEC. 9. This Act shall take effect and become a law from and after its publication, and "An Act to amend sections 255 and 256 of the Civil Code, and add a new section to the Civil Code to be numbered Section 256 A," approved the 22d day of June, A. D. 1868, is hereby repealed.

Approved this 29th day of August, A. D. 1884.

KALAKAUA REX.

From 32 *Pat. Off. Gaz.* 771.

HAYTI.

According to a report of Mr. St. John, of the British Legation, published October 7, 1873, in 4 *Pat. Off. Gaz.* 373, the Republic of Hayti had not, at the time of his writing, any law or practice in regard to granting patents for inventions.

HERZEGOVINA.

See AUSTRIA-HUNGARY.

HOLLAND.

See NETHERLANDS.

HONGKONG.

Ordinance No. 14 of 1862.

Title. An ordinance for granting patents for inventions within this colony.

Preamble. Whereas patents for inventions granted in England are not usually extended to the colonies, and it is expedient that power should be vested in his Excellency the Governor, with the advice of the Executive Council to grant letters patent for the exclusive use of inventions within this colony, for which letters patent have already been granted in England. Be it therefore enacted by his Excellency the Governor of Hongkong, with the advice of the Legislative Council thereof, as follows :—

I. *Authority to owners of inventions to petition for letters patent.* It shall be lawful for the inventor, or for the owner by assignment or otherwise, from any inventor of any invention or of the exclusive right thereto within this colony, to petition His Excellency the Governor for letters patent for any invention for which letters patent have already been granted in England ; and such petition may be in the form set forth in schedule A, hereto. Every such petition shall be accompanied by a specification of the said invention, identical as far as practicable with the specification filed on the petition for letters patent for the said invention in England, and by a declaration which may be in the form set forth in schedule B, or in such other form not being less specific as to the governor shall appear proper.

II. *Petition, specification and declaration to be filed in office of colonial secretary, and to be advertised.* Such petition, specification and declaration shall be filed in the office of the colonial secretary, and notice thereof, and of any intention to apply for such letters patent, and of the time of the sitting of the Executive Council before which the matter of the petition will come for decision, together with such other particulars as the governor shall require, shall be inserted twice in the Hongkong Government Gazette, and shall be otherwise advertised as the governor shall direct.

III. *Governor in council to grant letters patent.* His Excellency the Governor, with the advice of the said Executive Council,

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

IV. *Effect of such grant.* Letters patent to be granted under this ordinance shall confer all the rights and privileges, and shall subject the grantees thereof to all the provisions affecting letters patent in England, as fully as if the same had been granted with an extension thereof to this colony by Her Majesty, under the provisions of the statutes now in force in England, or as near thereto as the circumstances of this colony will admit of.

V. *When and how letters patent may be granted for an extended period.* In case Her Majesty shall, by the advice of the judicial committee of Her Majesty's Privy Council, extend the privileges of any letters patent in England for any invention for any period, it shall be lawful for His Excellency the Governor, with the advice of the Executive Council, to extend in like manner such letters patent, if already granted for this colony, or otherwise to grant original letters patent for a like extended period for the same invention.

SCHEDULE A.

FORM OF PETITION.

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

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

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

That the following is the description of the said invention [*here state the particu-*

ars shortly in accordance with the specification on which the letters patent in England were granted.]

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

And your petitioner will ever pray, &c.

SCHEDULE B.

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

Dated the day of , 18 .

(Signed)

From *Carp. Pat. L. of World*, p. 264.

HUNGARY.

See AUSTRIA-HUNGARY.

INDIA.

Act No. 15 of (May 17,) 1859.

It is enacted, &c.

I. *Inventor may petition for leave to file specification. Form, &c., of petition.* The inventor of any new manufacture may petition the Governor General of India in council, 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 India), by an authorized agent, and shall state the name, addition, and place of residence of the petitioner, and the nature of the invention.

1a. *For the purposes of this act, a new manufacture shall be deemed to include any new and original pattern or design, or application of such pattern or design to any substance or article of manufacture.*

[NOTE.*—This clause was introduced by Act No. 13 of 1872.]

II. *Order to file specification.* Upon such petition the Governor General of India in council may make an order authorizing the petitioner to file a specification of the invention.

III. *Power to refer petition for inquiry and report.* Before making such order, the Governor General of India in council, may 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 such fee, in case of dispute, to be settled by a judge of one of Her Majesty's courts of judicature in a summary manner.

IV. *Petitioner entitled to exclusive privilege for fourteen years from filing specification.—Extension of term.* If, within the space of six calendar months from the date of such order the petitioner cause a specification of his invention to be filed in manner hereinafter mentioned, the petitioner, his executors, administrators, or assigns, shall be entitled to the sole and exclusive privilege of making, selling, and using the said invention in India, and of 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)

* The notes thus printed are from Carpmaels' edition.

not exceeding fourteen years from the expiration of the first fourteen years, as the Governor General of India in 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 calendar months, before the expiration of the exclusive privilege hereby granted.

4a. Provided that in the case of patterns and designs, or the application thereof to any substances or articles of manufacture, such privilege shall be granted for the term of three years and no more.

[NOTE.—This clause was introduced by Act No. 13 of 1872.]

V. Order to file specification may be conditional. An order authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to any such conditions and restrictions as the Governor General of India in council may think expedient.

VI. Specification to be in writing and to describe the intention. Every specification of an invention filed under this Act shall be in writing, and shall be signed by the petitioner, and shall particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed.

VII. Petition and specification to be left with secretary.—To be accompanied by declaration.—Date of delivery to be indorsed. Every petition for leave to file a specification and every specification filed under this act shall be left with the secretary to the government of India in the home department, and every petition and specification 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 India, 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, or to the effect mentioned in the said schedule. The date of the delivery of every such petition and specification shall be indorsed on the same respectively, and shall also be recorded at the office of the said secretary.

VIII. False statement in declaration, punishable as perjury. If any person who shall make a declaration under this act shall willfully and corruptly make any false statement therein, he shall be

deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

IX. *Specification not to be filed before payment of fees.* No specification shall be filed until the petitioner shall have paid all fees payable under this Act, including the fees (if any) of the person or persons to whom the petition shall have been referred for inquiry and report.

X. *Copies of specification to be delivered and distributed.—To be open to inspection.* At the time of delivering the specification for the purpose of being filed, the petitioner shall cause to be delivered to the said secretary five copies thereof, of which,—

One shall be sent to and filed by one of the secretaries to the government of Bengal;

One shall be sent to and filed by one of the secretaries to the government of Fort St. George;

One shall be sent to and filed by one of the secretaries to the government of Bombay; and

One shall be sent to and filed by one of the secretaries to the government of the North-Western Provinces.

A copy of such specification shall be open at all reasonable times at the office of each of the said secretaries to public inspection upon payment of a fee of one rupee.

XI. *Book for the registry of petitions, specifications, &c.* A book shall be kept in the office of the said secretary to the government of India, wherein shall be entered and recorded every such petition and specification, and every order made upon such petition or relating to the invention therein mentioned. Every specification 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, and to every petition, memorandum, or amended specification, which shall be filed under the provisions of section 14.

XII. *Inspection of registry book.—Certified copy of entry to be given.* Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person upon payment of one rupee; and the said 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.

XIII. [*Repealed by Act No. 12 of 1876.*]

XIV. *In what cases petitioner may apply to file amended specifications.—Effect.* If after the filing of the specification the

petitioner shall have reason to believe that, through mistake or inadvertence he has erroneously made any mis-statement in his petition or specification, or included therein something which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient he may petition the Governor General in Council for leave to file a memorandum, pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or in case of any defect or insufficiency of the specification for leave to file an amended specification. The petition shall state how the error, defect or insufficiency occurred, and that it was not fraudulently intended, and shall be accompanied by a declaration in writing signed by the petitioner, and if he be absent from India, by his agent, stating that the contents of such petition are true, to the best of his knowledge and belief. Upon such petition the Governor General in Council may make an order allowing such memorandum or amended specification to be filed. All the provisions of sections X., XI., XII., and XIII., applicable to the specifications, shall be applicable to the petitions, orders, and memoranda or amended specifications referred to in this section. An amended specification filed under the provisions of this Act shall, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such amended specification, have the same effect as if it had been the specification first filed; provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

XV. *No person entitled to exclusive privilege, when.*—No person shall be entitled to any exclusive privilege under the provisions of this Act—

If the invention is of no utility, or

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention, or within the meaning of this Act, or

If the petitioner is not the inventor thereof, or

If the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed, or

If the original or any subsequent petition relating to the invention or the original or any amended specification contain a willful or fraudulent mis-statement.

XVI. *Exclusive privilege to cease if government declare that it is*

mischievous, &c., or (upon breach of condition) that it shall cease. Every exclusive privilege under this Act shall cease if the Governor General of India in Council shall declare 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 be authorized to file a specification, or upon which the term of the exclusive privilege shall be extended, shall be proved to the satisfaction of any of Her Majesty's courts of judicature, and if the Governor General of India in Council shall thereupon declare that such exclusive privilege shall cease.

XVII. *Importer not inventor.* The importer into India of a new invention shall not be deemed an inventor within the meaning of this Act, unless he be the actual inventor.

XVIII. *Foreign inventor.* A foreigner, whether resident abroad or not, may petition for leave to file a specification under this Act.

XIX. *An invention not publicly used or known deemed a new invention.—Knowledge of invention fraudulently acquired.—Proviso.—Public use by actual inventor.* An invention shall be deemed a new invention within the meaning of this Act, if it shall not, before the time of applying for leave to file the specification, have been publicly used in India or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in any part of India or of the United Kingdom by means of a publication, either printed or written, or partly printed and partly written. The public use or knowledge of an invention, prior to the application for leave to file a specification, shall not be deemed a public use or knowledge within the meaning of this section, if the knowledge 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 calendar months after the commencement of such public use, apply for leave to file his 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, for a period not exceeding one year prior to the date of his petition, shall not be deemed a public use thereof within the meaning of this Act.

XX. *Inventor having obtained English letters patent to petition within twelve months.—Invention, not publicly known, or used to be deemed new.—What to be stated in such petition.—Duration of exclusive privilege.* If an inventor who, prior to the time of

applying for leave to file a specification of an invention under this Act, shall have obtained Her Majesty's letters patent for the exclusive use of such invention in the United Kingdom, or any part thereof, shall, within twelve calendar months from the passing of this Act, or within twelve calendar months from the date of such letters patent, petition the Governor General of India in Council for leave to file specification of such invention (which petition shall be in writing, in the form or to the effect mentioned in the schedule), the invention shall be deemed a new invention within the meaning of this Act, if it was not publicly known or used in India at or before the date of the petition for such letters patent, notwithstanding it may have been publicly known or used in some part of the United Kingdom or in India before the time of his petitioning, under this Act, for leave to file the specification: 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: Provided also, that an exclusive privilege obtained under the provisions of this Act by an inventor who has obtained Her Majesty's letters patent for the exclusive use of such invention, shall cease to have effect, if such letters patent be revoked or canceled; and that no such exclusive privilege shall extend beyond the term granted by such letters patent unless the same shall be renewed, in which case the exclusive privilege may be renewed under this Act for the extended term or any part thereof.

XXI. *Saving of rights, before 1855.* No exclusive privilege obtained under this Act shall entitle the owner of such privilege to exclude any person from using the invention, who, prior to the 7th day of July, 1855, used the same in India.

XXII. *Action for infringement.* An action may be maintained by an inventor against any person who, during the continuance of an exclusive privilege granted by this Act, shall, without the license of the said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same. Provided that no such action shall be maintained in any court other than the principal court of original jurisdiction in civil cases within the local limits of whose jurisdiction the cause of action shall accrue or the defendant shall reside as a fixed inhabitant.

XXIII. *Defect in specification or petition, or want of novelty in invention, &c., no defense to action for infringement.—Actual use of before petition, a defense.* No such action shall be defended

upon the ground of any defect or insufficiency of the specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a willful or fraudulent mis-statement; nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor, or has obtained a right from him to use the invention either wholly or in part. Any such action may be defended upon the ground that the invention was not new if the person making the defense, or some person through whom he claims shall before the date of the petition for leave to file the specification, have publicly or actually used in India or in some part of the United Kingdom, the invention, or that part of it of which the infringement shall be proved, but not otherwise.

XXIV. *Application to courts to annul exclusive privilege because invention of no utility; or not new; or petitioner not the inventor; or invention not described in specification; or fraud, &c., in petition or specification; or insufficient description of part of invention in specification.* It shall be lawful for any person to apply by motion to any of Her Majesty's courts of judicature 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 Act by reason of all or any of the objections following (to be specified in the rule); that is to say:—

That the said invention is of no utility, or,

That the said invention was not, at the time of presenting the petition for leave to file the specification a new invention within the meaning of this Act, or,

That the petitioner was not the inventor thereof, or,

That the specification filed, or the amended specification (if any) does not particularly describe and ascertain the nature of the invention, or in what manner the same is to be performed, or,

That the petitioner has knowingly or fraudulently included in the petition or specification, or amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or,

That the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a willful or fraudulent mis-statement, or,

That some part of the invention, or the manner in which that part is to be performed, as described in the specification filed, or the amended specification, is not thereby sufficiently described and ascertained, and that such defect or insufficiency was fraudulent and is injurious to the public.

XXV. *Like application as to part of an invention.* Any person may, in like manner, apply to any of Her Majesty's courts of judicature for a rule to show cause why the court should not declare that an exclusive privilege has not been acquired under the provisions of this Act in respect of 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 is wholly distinct from the other part thereof, and is of no utility, or

That such part of the invention was not, at the date of the petition for leave to file the specification, a new invention within the meaning of this act, or

That the petitioner was not the inventor of that part of the invention, or

That that part of the invention, and the manner in which it is to be performed, is not sufficiently described and ascertained in the specification filed or the amended specification, and that such defect or insufficiency is injurious to the public.

XXVI. *Application by advocate general on breach of special condition.* It shall be lawful for the advocate general at any of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, or any other person, by order of the Governor General in council, to apply to any of the said courts of judicature 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 General in council under the power hereinbefore reserved may, in the judgment of the said Governor General in council, 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 General in council; the costs of such trial, and also the costs of any proceedings in any of the said courts of judicature

under the provisions of this Act, shall be in the discretion of the court.

XXVII. *Service of proceedings on all persons interested.* Notice of any rule obtained or proceeding taken under either of the last three preceding sections shall be served on all persons appearing to be proprietors or to have shares or interests in the exclusive privilege under the provisions of section XXXV. of this act, and it shall not be necessary to serve such notice on any other persons.

XXVIII. *Supreme court may direct issue for trial to other courts.—New trial.* Any of the said courts of judicature, if it think fit, may direct an issue for the trial, before the same court or any other court of judicature, or any principal court of original jurisdiction in civil cases of any question of fact arising upon an application under sections XXIV., XXV., or XXVI., of this act, and such issue shall be tried accordingly in a summary manner, and if the issue be directed to another court, the finding shall be certified by the court before which the same was tried, to the court directing the issue. If the issue be directed to any courts of judicature, the court by which the issue is tried may, before the finding is certified, direct a new trial of such issue according to the usual course and practice of such court. If the issue be directed to any court other than a court of judicature, the finding shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the judge, shall be transmitted, together with any remarks he may think fit to make thereon, to the court by which the issue was directed; and such court may either act upon the decision of the court which tried the issue, or direct a new trial if it should appear necessary.

XXIX. *Judgment.—Costs.* If it shall appear to any of the said courts of judicature at the hearing of any application under the provisions of sections XXIV. or XXV. of this act 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 executors, administrators, and assigns shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

XXX. *Amendment of specification by court.—Proviso.* 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, or amended specification (if any) 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 court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to 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, they 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 executors, administrators, or assigns, shall, within the time limited by the said court for the purpose, file a specification amended according to such order: Provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

XXXI. *Mis-statement in the petition, if not fraudulent, not to defeat the privilege.* An exclusive privilege shall not be defeated upon the ground that the petition contains a mis-statement, unless such mis-statement was willful or fraudulent.

XXXII. *Entry in Registry Book, of judgment, &c., declaring privilege not to have been acquired.* Whenever it shall be adjudged by any of the said courts or judicature that an exclusive privilege as to the whole or any part of an invention has not been acquired, the said secretary to the government of India 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.

XXXIII. *In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.* If, upon proceedings instituted within two years from the date of a petition to file a specification the actual inventor shall prove to the satisfaction of the principal court having jurisdiction in civil cases, within the local limits of whose jurisdiction the defendant shall reside as a fixed inhabitant, that the petitioner was not the actual 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 actual inventor, or by means of a communication made in confidence by the actual inven-

tor to him, or to any person through whom he derived such knowledge, the court may compel the petitioner to assign to the actual inventor any exclusive privilege obtained under this Act, and to account for and pay over the profits thereof.

XXXIV. Particulars to be delivered. In any action for the infringement of such exclusive privilege the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action; and the defendant shall deliver a written statement of the 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 any of the said courts of judicature under sections XXIV., XXV., or XXVI. of this Act, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any such action 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 any court in which the action 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 such terms as shall seem fit.

XXXV. Service of proceedings. A book shall be kept in the office of the secretary to the government of India in the home department (such book to be open to inspection without fee) wherein every person filing a specification under this Act, or any person to whom the exclusive privilege may be assigned, shall cause to be stated some place in India where service of any rule or proceedings for the purpose of cancelling or revoking his exclusive privilege may be made, and shall cause a reference to such entry to be made in the margin of the entry of the specification; and may from time to time cause any other place in India to be substituted by similar entry and reference. All such rules and proceedings as aforesaid shall be deemed sufficiently served 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, at such place; and if any such person shall neglect to make or cause to be made such entry, then service of such rule or proceeding may be affected by affixing a copy thereof to some conspicuous part of the court house, or in such other manner as the court may direct.

XXXVI. *What effect Act VI. of 1856 to have.* Act VI. of 1856 shall be of the same force and effect in respect to every petition and specification filed under the provisions thereof before the Act was repealed, and in regard to all proceedings consequent thereon or in relation thereto, and for the purpose of everything done under that Act while it continued in force, as if previously to the passing of the said Act the sanction of Her Majesty to the passing thereof had been obtained and signified in pursuance of the statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India," and as if the said Act had not been repealed, and the term of every exclusive privilege obtained under the said Act is hereby extended, and shall continue until the expiration of fourteen years from the time of the passing of this Act. No exclusive privilege obtained under the said Act by an importer, not being the actual inventor, shall cease to have effect by virtue of the provisions of section XVI. of the said Act, if the invention be put in practice in India within the period of two years from the time of the passing of this Act.

XXXVII. *Stamp on petition.* Every petition for leave to file a specification under the provisions of this Act, or for the extension of the term of an exclusive privilege, shall be written or printed on stamped paper of the value of one hundred rupees.

37a. *Whenever by any law for the time being in force in the United Kingdom, any person shall be entitled in the United Kingdom to an exclusive right in any pattern or design or the application of such pattern or design to any substance or article of manufacture, such person shall be entitled in British India to the sole and exclusive right in such pattern or design or in such application thereof, and shall be entitled in British India to the same civil remedies in respect of infringement thereof in British India as those to which he would be entitled in the United Kingdom in respect of the infringement thereof in the United Kingdom.*

[NOTE.—This clause was introduced by Act No. 13 of 1872.]

XXXVIII. *Interpretation.* In the construction of this Act,

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 construction. *Number.* Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. *Gender.* Words importing the masculine gender shall include females. "*Invention.*" The word "invention" shall include an improvement. "*Manufacture.*" 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. "*Printed.*" The word "printed" shall include "lithographed." "*Inventor*" and "*Actual inventor.*" The words "inventor" and "actual inventor" shall include the executors, administrators, or assigns of an inventor or actual inventor, as the case may be. "*Assigns.*" The word "assigns" shall include grantees of the sole use or benefit in India of an invention, or of the sole use of an exclusive privilege for a limited time. "*India.*" The word "India" shall mean the territories which are or may become vested in Her Majesty by the statute 21 and 22 Vict. c. 106, entitled "An Act for the better Government of India." "*Governor General in Council.*" The words "Governor General in Council" shall include the "President in Council." "*Secretary to the Government of India.*" The words "Secretary to the Government of India" shall include any under-secretary to the said Government. "*Her Majesty's Courts of Judicature.*" "*Courts of Judicature.*" The expressions "Her Majesty's Courts of Judicature" and "Courts of Judicature" shall mean the courts established by Royal Charter.

SCHEDULE OF FORMS.

FORM OF PETITION.

(See Section 1.)

To the Governor General of India in Council.

The petition of [*here insert name, addition, and place of residence*] for leave to file a specification under Act No.

Sheweth,

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 thereof [*or, as the case may be, the assignee or executor or administrator of the*

inventor]; and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland, to the best of his knowledge and belief.

The following is a description of the invention [*here describe it*].

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No.

And your petitioner, &c.

The day of

(Signed)

FORM OF DECLARATION TO ACCOMPANY PETITION.

(See Section 7.)

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 thereof [*or, as the case may be, the assignee or executor or administrator of the inventor*]; and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland 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.

The day of

(Signed)

FORM OF DECLARATION TO ACCOMPANY SPECIFICATION.

(See Section 7.)

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 nature of the invention*], which invention I believe will be of public utility; that I am the inventor thereof [*or, as the case may be, the assignee or executor or administrator of the inventor*]; and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland, 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 ascertains the nature of the said invention and in what manner the same is to be performed.

The day of

(Signed)

FORM OF DECLARATION BY AGENT, WHERE AN INVENTOR IS ABSENT FROM INDIA.

(See Section 7.)

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.

The day of

(Signed)

FORM OF PETITION.

(See Section 20.)

That your petitioner [*or, as the case may be, that A. B., of whom your petitioner is the assignee or executor or administrator*] has obtained Her Majesty's letters patent dated the day of , for [*state the title of the invention*], and that such letters patent are to continue in force for years, that your petitioner believes that the said invention is not now and has not hitherto been publicly known or used in India.

The following is a description of the invention [*here describe it*].

Your petitioner therefore prays for leave to file a specification of the said invention, pursuant to the provisions of Act No.

And your petitioner, &c.

The day of

(Signed)

From *Carpm. Pat. L. of World*, 267.

INTERNATIONAL CONVENTION.

See close of Vol. II.

IRELAND.

See GREAT BRITAIN AND IRELAND.

ISLE OF MAN.

See GREAT BRITAIN AND IRELAND.

ITALY.

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

PART I.

RIGHTS DERIVED FROM INVENTIONS OR INDUSTRIAL DISCOVERIES,
AND TITLE THERETO.

CHAPTER I.

Rights of Inventors.

ART. 1. The author of a new invention or discovery in industry has the exclusive right of working the same for his own profit during the time, within the limits, and under the condition, prescribed by the present decree.

This exclusive right constitutes a patent privilege.

ART. 2. An invention or discovery is said to belong to industry whenever the immediate object is,—

1. A product or result relating to industrial pursuits;
2. An instrument, machine, tool, engine, or any mechanical arrangement;
3. A process or method of manufacture;
4. A motor, or the application of any known power to industrial purposes;
5. Finally, the technical application of a scientific principle, provided immediate results in industry are obtained thereby.

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

ART. 3. An invention or discovery in industry shall be considered as new when not before known; or even when a general notion of it existed, without the particulars necessary for putting it into practice.

* Notes thus printed are from Carpmael's edition.

ART. 4. A new invention or discovery in industry already patented abroad, although it may have been published pursuant to the provisions of foreign legislation, confers on its author, or on his assigns, the right of obtaining a patent in the kingdom, provided such patent be applied for before the expiration of the term of the foreign patent, and before other parties have freely imported and worked the same invention or discovery in the kingdom.

ART. 5. Any modification of a patented invention or discovery gives the right to a further patent, but without prejudice to the patent which already exists for the original invention.

ART. 6. The following are not patentable:—

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

CHAPTER II.

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

ART. 7. The legal title to the exclusive use of an invention is contained in a certificate [patent] delivered by the government.

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

ART. 8. Patents granted for new articles comprise the exclusive right of manufacturing and selling such articles.

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

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

ART. 9. The patentee, and those interested through him, may

obtain a certificate of addition for any modification made by them in the original discovery or invention. Such certificate extends the effect of the patent to the modification for the whole term of the patent.

ART. 10. Patents take effect with respect to third parties from the date and in the order of application.

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

ART. 11. The duration of a patent for an invention or discovery already patented abroad shall not exceed that of the foreign patent having the longest term, nor in any case shall the duration exceed fifteen years.

ART. 12. Patents granted for less than fifteen years may be prolonged for one or more years; the duration, however, of the prolongation added to the duration of the original patent shall in no case exceed fifteen years.

ART. 13. The prolongation of a patent includes the certificates of addition.

ART. 14. Patents granted in respect of applications made after the publication of the present decree, shall take effect in the whole territory of the kingdom, and be subject to a proportional tax, payable at the time of the application, and to an annual tax.

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

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

ART. 15. The first annuity and the proportional tax are to be paid at the time of the application for a patent.

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

ART. 16. The delivery of a certificate of addition shall be subject only to the payment in advance of twenty lire.

ART. 17. Certificates of prolongation shall be subject to the payment of 40 lire, besides the proportional tax and annuities. The

annuity corresponding to the first year of the prolongation shall be paid at the time of application, and the subsequent annuities shall be paid in advance, conformably to article 15.

ART. 18. In cases of patents of importation, whose term ends with that of the foreign patent, every fraction of a year is to be considered as an entire year with respect to the payment of the tax.

PART II.

CONDITIONS AND FORMALITIES ATTENDANT ON APPLICATIONS FOR PATENTS.

CHAPTER I.

The Application and its Conditions.

ART. 19. All matters concerning patents are placed under the direction of the minister of agriculture, industry and commerce.

ART. 20. All applications for patents must be made to the minister of agriculture, industry and commerce, through the local prefecture or subprefecture.

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

1. The name and christian name, as well as the birth-place and residence of the applicant, and of his attorney, if there be one ;

2. A statement of the discovery or invention in the form of a title which expresses shortly, but with precision, its characteristics and scope.

3. A statement of the duration which the applicant desires to be assigned to his patent within the limits fixed by law.

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

ART. 21. Every application must be accompanied by,—

1. The description of the invention or discovery ;

2. The drawings, if any can be made, as well as the models, which the inventor may deem useful for the comprehension of his invention or discovery ;

3. The receipt for the payment into the public treasury of the fees due for the required patent ;

4. In cases of patents of importation, the original foreign patent, or a legalized copy of the same ;

5. If there be an attorney, the power in public or private form; provided that in the latter case the signature of the principal is certified by a public notary, or by the syndic of his place of residence;

6. A memorandum of the documents and objects delivered.

ART. 22. The description mentioned in the foregoing article is to be written in the Italian or French language, and must contain a clear and complete account of the details necessary for enabling a competent person to put the invention or discovery into operation.

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

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

ART. 23. During the first six months of the duration of a patent, reckoning from the last day of the March, June, September, or December next after the date of application, proprietors of patents may require the same to be reduced to part of the invention forming the subject of the description annexed to the original application, distinctly pointing out those parts they intend to disclaim.

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

ART. 24. Applications for disclaimers must be accompanied by—

1. The receipt for the payment of 40 lire;

The description in triplicate to be substituted for that previously filed;

3. The drawings in triplicate which it may be necessary to substitute for those previously filed.

ART. 25. The certificate delivered on such applications shall be called certificates of reduction [disclaimers], and their duration shall be that of the original patent.

ART. 26. During the six months mentioned in article 23, a patent for a modification shall only be granted to the author of the patented invention or discovery, or to those interested through him. The applications of other persons for such certificates and the accompanying documents are to be delivered under sealed covers, and deposited as hereinafter stated.

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

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

ART. 27. An application for a certificate of addition shall not mention any term for its duration.

In other respects the provisions of the twentieth and following articles shall be observed.

ART. 28. Applications for prolongations must be accompanied by—

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

2. The receipt for the payment of the fees mentioned in article 17.

3. The power of attorney and memorandum mentioned in paragraphs 5 and 6 of article 21.

CHAPTER II.

Delivery of the Application and accompanying Documents.

ART. 29. Applications of all sorts, with the documents and objects which may or ought to accompany the same, must be delivered, in Turin, at the office appointed by the minister, elsewhere at the prefecture.

ART. 30. The public officer appointed to receive the application shall draw up a report, stating the day and hour of the delivery, and the object of the application.

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

ART. 31. With regard to the applications mentioned in article 26, the official report must contain the statement of the applicant, that he wishes to obtain in due time a patent for a modification in an original invention or discovery, as described in the specification

under sealed cover, the title of which original invention shall be mentioned in the official report.

ART. 32. Each such official report shall be recorded in a special register and be signed by the applicant or his attorney.

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

ART. 33. Within the five days following, the documents and objects left at the provincial offices, shall be transmitted to the ministry of agriculture, industry and commerce, at the same time there shall be sent an unstamped copy of the official report.

ART. 34. All official reports from the provinces shall be copied into the registers of the Ministry.

ART. 35. If the legal formalities have been fulfilled, the applications shall be registered with the date of presentation, and the patents shall be granted.

ART. 36. Each patent shall be recorded in the register and signed by the chief of the office.

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

ART. 37. With regard to inventions and discoveries relating to all kinds of beverages or eatables, the said office shall transmit the description and other related documents to the superior board of health, to obtain its advice before delivering a patent.

ART. 38. If the board of health advise that the invention or discovery is injurious to health, or if there be the least doubt about it, the application for a patent shall be rejected.

If the advice be favorable, the following clause shall be inserted in the patent: "The superior board of health having been consulted."

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

ART. 39. Patents shall be refused:—

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

2. If there is no written application, or if, in the application, the title of the invention or discovery is wanting;

3. If there be no description ;

4. If a single patent is demanded for different inventions or discoveries, or if several patents of the same nature or of different kinds are demanded in the same application ;

5. If the fees paid do not correspond with the kind of patent applied for.

ART. 40. The grant of the patent shall be suspended in default of the fulfillment of any of the other conditions prescribed by the present decree, or when the description does not present the required features.

ART. 41. The refusal or suspension, and the reasons which have determined the same, shall be communicated to the applicant or his attorney, through one of the government officers, and by a notice left at his elected or real domicile, mentioned in the official report of the deposit.

ART. 42. Within fifteen days after such notice, the applicant or his attorney, may supply the deficiencies or appeal against the refusal or suspension.

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

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

ART. 43. The minister shall submit these appeals to a commission composed of fifteen members, three of whom shall be magistrates for life, or members of the faculty of law at the Royal University of Turin, and the remaining twelve chosen from:—

1. The members of the section of physical and mathematical sciences at the Royal Academy of Sciences ;

2. The professors and doctors of the faculty of said sciences at the Royal University ;

3. The professors at the Polytechnic schools.

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

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

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

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

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

ART. 44. Appeals shall be considered as null and void unless they be accompanied by the deposit of 50 lire.

ART. 45. If the verdict mentioned in article 43 is in favor of the applicant, the appointed officer shall deliver the patent and return the deposit mentioned in the foregoing article.

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

PART III.

ASSIGNMENTS OF PATENTS.

ART. 46. Assignments of patents must be registered at the ministry, and published in the Official Gazette of the kingdom at the expense of the applicant.

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

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

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

ART. 48. Such deliveries may be made either at a provincial office or at the chief office.

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

At the provincial office, where delivery takes place, there shall

be transcribed in a special register, the contents of the memoranda mentioned in the preceding article and one memorandum shall be returned and the other shall be transmitted immediately to the chief office.

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

ART. 49. The total assignment of patent rights to a single person obliges the latter to pay the fees; if the assignment is made to several persons collectively, they are conjointly bound to make that payment. In case of a partial assignment to several distinct persons, or a partial alienation of the rights, the deed relating thereto cannot be registered unless it be accompanied by a receipt, proving the payment of the annuities due for the whole duration of the patent.

PART IV.

PRESERVATION AND PUBLICATION OF DOCUMENTS RELATING TO PATENTS.

ART. 50. The registers for recording patents, their progressive stages, annulments, disclaimers, forfeitures, and expirations; and the registers in which are inscribed assignments of patent rights, are public registers.

ART. 51. Whoever requires extracts therefrom must make an application on stamped paper; and the extracts shall be written on stamped paper at the expense of the applicant.

ART. 52. A copy of the specification and drawings shall be deposited at the chief office, but no person shall be allowed to inspect the same before the expiration of three months from the delivery of the patent.

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

ART. 53. Every three months a list of the patents delivered during the preceding quarter shall be published in the Official Gazette.

ART. 54. Every six months the specifications and drawings

relating to inventions and discoveries patented during the preceding half-year shall be published in full.

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

ART. 55. A copy of the subject-matter, indexes, descriptions and drawings published, shall be transmitted to each provincial office and chamber of commerce for public inspection.

PART V.

NULLITY AND ANNULMENT OF PATENTS.

CHAPTER I.

Causes of Nullity and Annulment.

ART. 56. The preliminary examination and adjudication does not guarantee validity.

ART. 57. Patents are null and void,—

1. If they refer to inventions or discoveries mentioned in article 6.

2. If they relate to one of the inventions or discoveries mentioned in article 37, and the patent has by mistake been delivered against the advice of the sanitary authority. If granted in error without consulting the aforesaid authority, the patent will become void when the advice on being taken is adverse.

3. If by the fraud of the applicant the title of the invention or discovery indicates other than its real object.

4. If the description annexed to the application is insufficient, or conceals some of the means necessary for working the patent invention or discovery.

5. If the invention or discovery is not new, or does not relate to industrial pursuits.

6. If a patent is granted to a third party for a modification in an invention within the six months allowed to the original inventor, and persons interested through him.

7. A certificate of addition is also null and void whenever the modification is not connected with the original invention.

8. A prolongation is likewise null and void whenever it has been

applied for after the expiration of the patent, or after its absolute annulment has been pronounced.

ART. 58. A patent ceases to be valid,—

1. If in a single instance the annual tax is not paid within the term of three months from the date of expiration.

2. If in the case of a patent granted for five years or less, the invention or discovery has not been worked within the first year of the grant, or has ceased to be worked during a whole year.

3. If in the case of a patent granted for more than five years, it has not been worked before the expiration of the second year, or if the working has been discontinued for two years.

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

CHAPTER II.

Actions for Nullity and Annulment.

ART. 59. The action to obtain a declaration of nullity or to annul a patent is brought before the provincial tribunal.

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

The documents are to be communicated to the public prosecutor.

ART. 60. If at the instance of interested parties the partial nullity or annulment of a patent has been twice pronounced, the public prosecutor of the place, or one of the places where the invention or discovery is worked, may demand, *ex officio*, the absolute and peremptory annulment of the patent.

The same power belongs to him without any civil action having been brought in all cases coming under the provisions of paragraphs 1, 2, 3, and 8 of articles 57 and 58.

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

ART. 61. In each of the two cases mentioned all persons are to be summoned who have a legal interest in the patent, and who are entered in the register of the chief office.

ART. 62. Except the case mentioned in paragraph 8 of article

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

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

ART. 63. The public prosecutor is to transmit to the minister of agriculture, industry, and commerce, through the minister of justice, an extract on unstamped paper of judgments declaring nullity or pronouncing absolute annulment. The operative part of these judgments shall be entered in a special register, and be published in the Official Gazette.

PART VI.

Infringement of Patent Rights and Actions relating thereto.

ART. 64. Whoever fraudulently and in contravention to a patent right, manufactures products, uses a machine or any other industrial means, trades in, sells, exposes for sale, or imports into the kingdom infringing articles, commits an offense, which offense shall be punished with a fine not exceeding 500 lire.

ART. 65. Besides in cases where a civil action is carried on conjointly with a penal action, or where it is carried on separately, all machines and other industrial objects used contrary to the patent right, all infringing objects, and the instruments for producing them, shall be seized, to the loss of the infringing party, and given over to the patentee.

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

ART. 66. The injured party shall, besides, be entitled to claim damages.

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

ART. 67. Civil action shall be carried on in the form prescribed for summary process.

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

ART. 68. The president of the provincial tribunal may, on the demand of the patentee, order the seizure or inventory of the

objects supposed to be infringements, or used contrary to the patent right, provided they be not destined for mere personal use.

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

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

ART. 69. The plaintiff may, if authorized by the president of tribunal, be present at the seizure or at the drawing up of the inventory. In all cases he may convert the seizure into the taking of an inventory, on condition that he expresses his wish to that effect, either in the official report of the seizure, or in a separate document, notified through a public officer both to the adverse party, and to the executive officer.

ART. 70. A copy of the order of the president, of the deed proving the deposit of the security and of the official report of the seizure or inventory, shall be left with the holder of the objects seized or inventoried.

ART. 71. In default of the plaintiff pursuing his action within a week the seizure or inventory shall be null and void, and the party against whom the proceeding was brought shall be entitled to damages.

From *Carp. Pat. L. of World*, 286.

See also INTERNATIONAL CONVENTION.

JAMAICA.

An Act for amending the Law for granting Patents for Inventions. 1857. Stat. 21 Vict. c. xxx.

Preamble. Whereas it is expedient to amend the law concerning letters patent for inventions :

Be it enacted by the Governor, Legislative Council and Assembly of this Island, &c.

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

First. Patents for invention may be granted by the Governor on Petition.—Proviso. From and after the publication of this Act, whenever any person whosoever shall, by himself, or if he be an absentee, by his attorney, apply to the Governor, by way of petition, to be lodged at the office of the Executive Committee, and alleging that he hath invented or discovered some new and useful art, machine, manufacture, or composition of matter, not theretofore known or used within this island, or some improvement in any such invention or discovery, and praying to obtain an exclusive property in such new invention and discovery or improvement, and that letters patent be granted for the same, it shall be lawful for the Governor, in the name, and on behalf, of Her Majesty, her heirs and successors, by and with the advice and consent of the Executive Committee, to direct letters patent, under the broad seal of this island, to be issued, which letters patent shall recite the allegations and suggestions of the said petition, so to be referred as aforesaid, and shall therein give a short description of the said invention or discovery or improvement, and thereupon shall grant to such person so applying for the same, his executors, administrators or assigns, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing and using, and vending to others to be used, the said new invention or discovery or improvement; and such letters patent shall be signed by the Governor, and shall be good and available to the grantee therein named by force of this Act ; provided that it shall be lawful for the Governor in Executive Committee, if they should deem it expedient,

to insert in any such letters patent a provision extending the operation thereof for a further term of seven years.

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

Third. *Petitioner to make declaration that he is the true inventor, &c.* Before any person shall obtain or receive any letters patent under this Act, such person, or if he be an absentee, his attorney, shall make solemn declaration, in writing, before a justice of the peace in this island, that he doth verily believe that he is the true inventor or discoverer of the art, machine, composition of matter, or improvement for which he solicits letters patent, and that such invention or discovery, or improvement hath not, to the best of his knowledge or belief, been known or used in this island, which declaration shall be delivered, together with the petition for such letters patent.

Fourth. *And deliver specification of invention, &c.—Proviso.* Before any person shall receive or obtain any letters patent as aforesaid, such person, or his attorney, shall also deliver, together with such petition and declaration as aforesaid, a written description or specification of his invention, and of the manner of using, or process, or compounding the same, in such full, clear, and exact terms as to distinguish the same from all other things before known or used in this island, and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected, to make, compound, and use the same, and in case of any machine shall deliver a model thereof, and shall explain the prin-

ciple and the several modes in which such person hath contemplated the application of that principle, or character, by which it may be distinguished from other inventions, and shall accompany the whole with drawings and written references where the nature of the case admits of drawings, or with specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter, which description or specification shall be signed by such person, or his attorney, as aforesaid, so applying for such letters patent, and attested by two witnesses: Provided that, where from the complicated nature of any machinery the cost of a model thereof may be so great as to prevent any ingenious but poor persons from obtaining patents for their useful inventions, it shall and may be lawful for the Governor, by and with the advice and consent of the Executive Committee, if they shall see fit and proper under all the circumstances so to do, to dispense with the delivery of such model previous to the granting any such patent; and in such case, the requisitions of this Act being in all other respects complied with, the person applying for any patent shall be entitled thereto in the same manner as if such model had been so lodged as aforesaid.

Fifth. *Five pounds to be deposited by petitioner.* That together with the said petition, the applicant for such letters patent shall pay and deposit a sum of five pounds, to be paid by way of fee to the attorney-general, on such reference of such petition as aforesaid.

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

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

Seventh.—*Patent must be brought into operation within two years.* If any letters patent, which may be taken out under or by virtue of this Act, shall not have been brought into operation within two years next ensuing from and after the date thereof, such

letters patent shall, at the expiration of the said period of two years, be deemed to be forfeited, and shall thence be and become void and of no effect.

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

Eighth. *Patents to be sealed and dated as of the day of application.* It shall be lawful to cause any letters patent to be issued, under this Act, to be sealed, and bear date, as of the day of the application for the same, or where the attorney-general, or the governor in executive committee may think fit, any such letters patent as aforesaid may be sealed and bear date as of the day of the sealing thereof, or of any other day, between the day of such application and the day of such sealing.

Ninth. *And be of legal force.* 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.

Tenth. *They must be applied for within three months after filing of petition.* Provided that no letters patent, save in the case of letters patent destroyed or lost, shall issue, unless the same shall be applied for within three months after the date of the filing of the applicant's petition.

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

Twelfth. *Patents lost or mislaid may be renewed.* Provided that in case any letters patent to be issued under this Act shall be destroyed or lost, other letters patent, of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the governor in executive committee may direct to be issued, under the authority of the grant in pursuance of which the original letters patent were issued.

Thirteenth. *Patents obtained by fraud not to invalidate that of true inventor.* In case of any letters patent for any invention being

obtained in fraud of the true and first inventor, any letters patent granted to the true and first inventor of such invention shall not be invalidated by reason of such other letters patent as aforesaid, or of any use or publication of the invention, subsequent to the granting of such other letters patent as last mentioned.

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

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

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

Fifteenth. *Applicant may receive a patent in this island although he may possess a patent elsewhere.—Proviso.* No applicant shall be deprived of his right to a patent in this colony, upon the like proceedings being had in all respects as in case of an original application for his invention, by reason of his having previously taken out letters patent therefor in any other country: Provided that such invention shall not have been introduced into public and common use in this colony prior to the application for a patent therein, and that the patent granted in this colony shall not continue in force after the expiration of the patent granted elsewhere, and that where more than one such patent or like privilege is obtained abroad, then,

immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges, the patents granted in this colony shall cease to be in force: Provided further, that no letters patent for or in any respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained elsewhere, and which shall be granted in this colony after the expiration of the term for which such patent or privilege was granted, or was in force, shall be of any validity.

VI. POWER OF ASSIGNMENT.

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

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

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

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

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

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

Nineteenth. *Patents void by defective description, arising from error, may be renewed.* If any patent shall become inoperative or invalid by reason of a defective or insufficient description, or specification, or by reason of the patentee claiming in his specification as his own invention more than he had a right to claim; and the error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the

Governor in Executive Committee, upon the surrender of such patent, and upon petition therefor, cause a new patent to be issued to the patentee for the residue of the term mentioned in the first patent, in accordance with the patentee's amended description and specification; in case of his death, or the assignment by him of the original patent, or any fractional interest therein, the right shall vest in his legal representatives to the extent of their respective interests in such patent; and the patent so reissued, together with the amended description and specification, shall have the same effect and operation in law as though the same had been originally filed in such amended form before the the issuing of the original patent.

IX. AS TO MODE OF ENTERING DISCLAIMERS AND ALTERATIONS OR ADDING TO SPECIFICATIONS.

Twentieth. *Disclaimers of any part of patents may be recorded.*—*Proviso.* Every patentee under this Act, or his legal representative or assignee, whether holding the whole or any particular interest, may conjointly or separately, as the case may require, enter and record at the island secretary's office, having first obtained the leave of Her Majesty's attorney's general, certified by his fiat and signature, a disclaimer of any part of either the title of the invention or improvement, or of the specification, stating the reason for such disclaimer, or may, with such leave as aforesaid, enter and record at the said office a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said letters patent; and such disclaimer or memorandum of alteration being recorded by the said island secretary, shall be deemed and taken to be part of such letters patent or such specification in all courts whatever: Provided, that any person may enter a caveat at the said office of the island secretary against such disclaimer or alteration, which caveat being so entered, and a copy thereof being left with the attorney-general, shall give the party entering the same right to have notice of the application being heard by the attorney-general: Provided also, that no such disclaimer or alteration shall be receivable in evidence in any action or suit (save and except in any proceeding by scire facias) pending at the time when such disclaimer or alteration was entered; but in every such action or suit the original title and specification alone shall be given in evidence, and deemed and taken to be the title and specification of

the invention for which the letters patent have been or shall have been granted: Provided also that it shall be lawful for the attorney-general, before granting such fiat, to require the party applying for the same to advertise his disclaimer or alteration in such manner as to such attorney-general shall seem right, and shall, if he so require such advertisement, certify in his fiat that the same has been duly made.

Twenty-first. *How costs on alteration or disclaimer to be paid.* It shall be lawful for the attorney-general, if he see fit, by certificate under his hand, to order by or to whom the costs of any hearing or inquiry for any such alteration or disclaimer shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid, be not paid within four days after the amount thereof shall be so ascertained, it shall be lawful for the attorney-general to make an order for the payment of the same, and every such order may be made a rule of the supreme court of this island.

Twenty-second. *Additions may be made to specification.* If an original patentee shall be desirous of adding a description and specification of an improvement upon his original invention or discovery, made or discovered by him subsequent to the date of his patent, he may upon the like proceedings being had in all respects [as] in the case of an original application, have the same annexed to his original description and specification; and the island secretary shall certify, upon such annexed description and specification, the time of its being annexed and recorded, and thereafter it shall have the same effect in law as if it had been embraced in the original description and specification, and had been recorded therewith.

X. AS TO FILING AND RECORDING PROCEEDINGS, OFFICE COPIES, DRAWINGS, &c.

Twenty-third. *How petitions, to be presented and filed.--Proceedings thereon to be recorded.* Every petition for the grant of letters patent under this Act, and the declaration and specification required to accompany such petition, and every certificate or warrant thereon, shall be left at the office of the Executive Committee, and the day of the delivery of every such petition, declaration, and specification, certificate, or warrant, and the date of every reference,

shall be indorsed or written thereon respectively by the secretary of the Executive Committee, and an acknowledgment of receipt therefor, either separately or together, as the same may be delivered, shall be given to the petitioner or person delivering the same respectively, or his agent ; and all such petitions, declarations, and specifications, references, certificates, or warrants, when letters patent shall be granted, and all letters patent, disclaimer, and memoranda of alteration and assignments, shall be lodged, filed, and preserved in the office of the secretary of this island, and shall be there recorded in or in continuation of the books of records of patents hitherto kept at such office, and a receipt therefor shall be given by the island secretary, and a registry of such petitions, declarations, specifications, references, certificates, warrants, letters patent, disclaimers, and memoranda of alteration, and of all proceedings thereon, shall be kept at such office ; and for recording every such petition, declaration, specification, reference, certificate, or warrant, letters patent, disclaimer, and memorandum of alteration, and for every receipt granted therefor, as aforesaid, there shall be paid to the island secretary, by the person lodging the same, the like respective fee, or at the like rate, as is payable in the case of every deed recorded in the said office, and as is payable for every receipt granted by the island secretary for every deed there recorded.

Twenty-fourth. *Office copies may be obtained from island secretary.* It shall and may be lawful for any person to obtain and receive from the office of the island secretary, any copy or copies, certified by him, of any such letters patent, or of the petition, declaration, specification, reference, certificate, or warrant, wherever the same were granted or issued, or of any disclaimer, memorandum, document, or paper connected therewith, or any drawing relating to the same, on payment for such copy or copies of the like fees as are now payable at the office of the island secretary for copies of other documents, and every such certified copy shall be evidence in all courts.

Twenty-fifth. *Drawings connected with specifications to be furnished and bound up.* In case reference is made to drawings in any specification deposited or filed under this Act, an extra copy of such drawings shall be left with such specification, and the same shall be bound up in a suitable book, to be kept for such purpose, and plain, accurate, and sufficient notes of reference to the specification wherewith such drawing shall have been deposited shall be made on or annexed to such drawings, and bound up with the

same, in such manner as that such reference may be easily seen and understood.

Twenty-sixth. *Island secretary to supply indexes to the records of patents, &c.* The island secretary shall cause indexes to all petitions, declarations, specifications, letters patent, disclaimers, and memoranda of alterations enrolled or recorded as aforesaid, to be prepared in the form of the indexes now used in the said office; and such indexes and the books of record of such documents respectively shall be open to the inspection of the public at the usual times, and on payment of the usual fees, in cases of searches or reference to other records at the said island secretary's office.

XI. AS TO PLEADINGS AND COSTS IN ACTIONS.

Twenty-seventh. *In action for infringement, particulars of breaches to be delivered.—Particulars of objections on scire facias to repeal.—Proviso.* In any action for the infringement of letters patent, the plaintiff shall deliver with his declaration, concise particulars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his plea, and the prosecutor in any proceedings by scire facias to repeal letters patent, shall deliver with his declaration, concise particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration in the proceedings by scire facias, and at the trial of such action or proceeding by scire facias, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such letters patent, which shall not be contained in the particulars delivered as aforesaid: Provided that the place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars: Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff, or defendant, or prosecutor respectively to amend the particulars delivered as aforesaid upon such terms as to such judge shall seem fit; Provided also, that at the trial of any proceeding by scire facias to repeal letters patent, the defendant shall be entitled to begin and to give evidence in support of such letters patent; and in case evidence shall be adduced on the part of the prosecutor, impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

Twenty-eighth. *General issue to be pleaded.—Proviso.* In any action for the infringement of letters patent, the defendant shall not plead any other plea than the general issue, which shall put the plaintiff to such proof in support of his action, and let in such evidence for the defendant, as in any action under such plea the defendant may, or the plaintiff at present is required to adduce; nevertheless the defendant shall be at liberty, along with such plea, to give notice by indorsement thereon or annexed to such plea of any special defense which he might by the present practice offer under a special plea, and for which he would be required to plead specially: Provided, that the defendant shall at the trial be bound by such notice, and not be at liberty to go into evidence of any other defense which by the present rules of pleading he would be restricted from giving, except under some plea for that purpose specially pleaded; and if the plaintiff would under the present rules of pleading be entitled to set up one of two answers to such special defense, he shall be required to indorse upon his similitur to the defendant's plea the nature of such answer, and shall at the trial be precluded from entering into evidence in support of any other answer: Provided further, that nothing herein contained shall be construed to prevent any party to an action or suit from filing a general or a special demurrer.

Twenty-ninth. *The court or a judge in chambers may grant injunctions, &c.* In any action in any of Her Majesty's courts of record in this island for the infringement of letters patent, it shall be lawful for the court in which such action is pending, if the court be then sitting, or if the court be not sitting, then for a judge of such court, on the application of the plaintiff or defendant respectively to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such court or judge may seem fit.

Thirtieth. *As to costs in actions for infringement of patent rights.* In taxing the costs in any action, in any of Her Majesty's courts of record in this island, commenced after the passing of this Act, for infringing letters patent, regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particulars, unless certified by the judge before whom the trial was had, to have been proved by such plaintiff or defendant respectively without regard to the general costs of the cause; and it shall be

lawful for the judge before whom any such action shall be tried, to certify on the record that the validity of the letters patent in the declaration mentioned came in question, and the record with such certificate being given in evidence in any suit or action for infringing the said letters patent, or in any proceeding by scire facias to repeal the letters patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by scire facias, on obtaining a decree, decretal order, or final judgment, to his full costs, charges and expenses, taxed as between attorney and client, unless the judge, making such decree or order, or the judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

XII. PENALTY FOR USER OR FOR IMITATION OR COUNTERFEIT WITHOUT CONSENT.

Thirty-first. *Treble damages to be paid to patentee for the unlawful use of his patented invention.* Whenever in any case any letters patent shall be, or shall or may have been granted to any person under and by virtue of this Act, and any person without the consent of the patentee, his executors, administrators, or assigns, first had and obtained in writing, shall make, devise, use, or sell the thing, invention, or discovery whereof the exclusive right is secured to the said patentee by such letters patent, such persons so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns, a sum equal to three times the actual damage sustained by such patentee, his executors, administrators, or assigns, from or by reason of such offense, which sum shall and may be recoverable, together with costs of suit, by action on the case founded on this Act in the Supreme Court of this island.

Thirty-second. *Using the name of a patentee for the sale of an unpatented invention, declared subject to a penalty.* If any person shall write, paint, or print, or mould, cast, or carve, or engrave or stamp upon any thing made, used, or sold by him, for the sole making or selling of which he hath not or shall not have obtained letters patent, the name, or any imitation of the name, of any other person who hath or shall have obtained letters patent for the sole making and vending of such thing, without leave in writing of such patentee, or his assigns; or if any person shall, upon such thing not having been purchased from the patentee, or some person who pur-

chased 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 words "patent," the words "Letters Patent," or the words "By the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee or shall in any other manner imitate or counterfeit the stamp, or mark, or other device of the patentee, he shall for every such offense be liable to a penalty of fifty pounds, to be recovered by action of debt, bill, plaint, process or information in Her Majesty's Supreme Court of this island, one half to Her Majesty, her heirs and successors, and the other to any person who shall sue for the same ; provided that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping, or in any way marking, the words "Patent" upon any thing made for the sole making or vending of which a patent before obtained shall have expired.

XIII. AS TO FORMS AND STAMPS.

Thirty-third. The forms of this Act may be varied. The several forms in the schedule to this Act may be used for and in respect of the several matters therein mentioned, and the same may be varied as occasion may require.

Thirty-fourth. Stamps stated in schedule to be impressed. The respective stamp duties set forth in the schedule hereunto annexed, shall be charged on letters patent, and the other instruments therein stated under this Act respectively, and no other stamp duties shall be chargeable thereon respectively.

XIV. AS TO THE WRIT OF SCIRE FACIAS.

Thirty-fifth. *Scire facias for the repeal of patents.* Provided that the writ of 'scire facias shall lie for the repeal of any letters patent issued under this Act, in the like cases as the same would lie for the repeal of letters patent which may now be issued under the Great Seal in England.

XV. CONSTRUCTION OF ACT.

Thirty-sixth. *Doubts as to construction to be construed by analogy.* If any doubt should arise in the construction of this Act, the same may be construed by analogy to the laws now or hereafter to be in force in England relating to the granting of letters patent for inventions, so far as the provisions of such laws shall be applicable

XVI. COMMISSIONERS TO BE ASSOCIATED.

Thirty-seventh. *The governor to appoint commissioners under this Act.* It shall be lawful for the Governor from time to time, by warrant under his sign manual, which shall be free from stamp duty, to appoint such persons as he may think fit to be commissioners under this Act; and every person so appointed shall continue such commissioner during the Governor's pleasure, and may be summoned to attend any meeting, and take part in any proceedings of the Governor in executive committee in any matter or proceeding arising under this Act.

XVII. MISCELLANEOUS CLAUSES.

Thirty-eighth. *Interpretation of words.* In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context; that is to say, "the expression, invention, discovery, and improvement" respectively, shall mean any manner of new manufacture or new mode of manufacture, the subject of letters patent and grant of privilege within the meaning of the Act of the twenty-first year of the reign of King James the First, chapter three; the expressions "petition," "declaration," "reference," "certificate," or "warrant," and "letters patent" respectively, shall mean instruments in the form and to the effect in the schedule hereto annexed, subject to such alterations as may from time to time be made therein, under the powers and provisions of this Act.

Thirty-ninth. *Short title of Act.* In citing this Act in other Acts, instruments, and proceedings, it shall be sufficient to use the expressions "The Patent Law Amendment Act, 1857."

Fortieth. *16th Viet. cap. 12, repealed.* A certain Act of the

legislature of this island, made and passed in the sixteenth year of the reign of Her present Majesty, for ascertaining and declaring the law with regard to patents, of exclusive privileges in trade, manufacture, and inventions in connection therewith, is hereby repealed.

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

SCHEDULE OF STAMP DUTIES.

	£	s.	d.
Letters patent.....	5	0	0
Petition.....	0	1	6
Declaration.....	0	1	6
Specification.....	0	5	0
Reference.....	0	0	0
Certificate or warrant of attorney-general.....	0	0	0
Disclaimer or memorandum of alteration.....	0	1	6
Assignment.....	0	10	0

FORMS.

Petition.

To his Excellency, &c., &c. [*here insert name and title of Governor.*]

The humble petition of [*here insert name and address of petitioner*], for, &c.

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, in the name and on behalf of Her Majesty the Queen, to grant unto him, his executors, administrators, and assigns, Her Majesty's letters patent for this island, for the term of fourteen years, pursuant to the statute in that case made and provided.

And your petitioner will ever pray, &c.

Declaration.

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

A. B.

Declared at , this day of , A. D., before me, ,
Justice of the Peace.

Specification.

To all to whom these presents shall come, I , of , send greeting:—
Know ye, that I, the said , do hereby declare the nature of my invention for [*insert title as in petition*], and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement; (that is to say)—

[*Here describe the invention.*]

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

We attest:—

C. D., of , &c.

E. F., of , &c.

Reference.

(To be indorsed on the petition.)

His Excellency is pleased to refer this petition to Her Majesty's Attorney-General, to consider what may be properly done therein.

Secretary to the Executive Committee.

Warrant.

In obedience to his Excellency's command, referring to me the petition of , of , to consider what may be properly done therein, I do hereby certify as follows, that the said petition sets forth that the petitioner,

[*Allegations of the petition.*]

And the petitioner most humbly prays

[*Prayer of the petition.*]

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

[*Allegations of the declaration.*]

That there has also been laid before me a specification signed , and attested by two witnesses, and also a certificate of the filing thereof.

That it appears that the said application was duly advertised. Upon consideration of all the matters aforesaid, and as it is entirely at the hazard of the said petitioner whether the said invention is new, or will have the desired success, and as it may be reasonable for his Excellency to encourage all arts and inventions which may be for the public good, I am of opinion that his Excellency may grant letters patent

unto the petitioner, his executors, administrators, and assigns, for his said invention within this island, for the term of fourteen years, according to the statute in that case made and provided, if his Excellency shall be graciously pleased so to do, to the tenor and effect following :—

(See Forms, Letters Patent.)

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

Attorney-General, Jamaica.

Letters Patent.

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

Whereas hath, by his petition, humbly represented unto Our Captain-General and Governor-in-Chief of our Island of Jamaica that he is in possession of an invention for [*insert title of invention*], which the petitioner conceives will be of great public utility ; that he is the true and first inventor thereof ; and that the same is not in use by any other person or persons to the best of his knowledge and belief. The petitioner, therefore, most humbly prayed that We would be graciously pleased to grant unto him, his executors, administrators, and assigns, Our Royal letters patent for the sole use, benefit, and advantage of his said invention within Our said Island of Jamaica for the term of fourteen years, pursuant to the statute in that case made and provided :

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

And We, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the request :

Know ye, therefore, that We, of Our special grace, certain knowledge, and mere motion, have given and granted, and by these presents, for Us, Our heirs and successors, do give and grant unto the said , his executors, administrators, and assigns, Our especial 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, and assigns, shall at any time agree with, and no others, from time to time and at all times hereafter during the term of years herein expressed, shall and lawfully may make, use, exercise, and vend his said invention within Our said island of Jamaica, in such manner as to him, the said , his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet, and that he, the said , his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, and enjoy from time to time coming, growing, accruing, and arising by reason of the said invention, for and during the term of years herein mentioned, to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages herein-before granted or mentioned to be granted unto the said , his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years from the day of , A. D. next and immediately ensuing, and according to the statute in such case made and provided, and to the end that he, the said , his executors, administrators and assigns, and every of

them, may have and enjoy the full benefit, and the sole use and exercise of the said invention, according to our gracious intention herein-before declared, We do by these presents, for Us, Our heirs and successors require and strictly command all and every person and persons, bodies politic and corporate, and all other Our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within Our said island of Jamaica, that neither they nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said _____, as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the consent, 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 or may be justly inflicted on such offenders for their contempt of this Our Royal command; and further, to be answerable to the said _____, his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned; and moreover, we do by these presents, for Us, Our heirs and successors, will and command all and singular the justices of the peace, constables, and all other officers and ministers whatsoever, Our heirs and successors for the the time being, that they, or any of them, do not nor shall at any time during the said term hereby granted, in anywise molest, trouble, or hinder the said _____, his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always, and these Our letters patent are, and shall be upon this condition, that if, at any time during the said term hereby granted, it shall be made appear to Us, Our heirs or successors, or any six or more of Our, or their, Privy Council of Our said island of Jamaica, that this Our grant is contrary to law, or prejudicial or inconvenient to Our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said _____ is not the true and first inventor thereof within this island as aforesaid, these Our letters patent shall forthwith cease, determine, and be utterly void, to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided also, that these Our letters patent, or anything herein contained, shall not extend, or be construed to extend, to give privilege unto the said _____, his executors, administrators, 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 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 instrument in writing, filed as aforesaid, does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and also, if the said _____, his executors, administrators, or assigns, shall not supply, or cause to be supplied, for Our

service, all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of Our service for the use of which the same shall be required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same, that then, and in any of the said cases, these Our letters patent, and all liberties and advantages hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted; and lastly, We do, by these presents, for Us, Our heirs and successors, grant unto the said _____, his executors, administrators, and assigns, that these Our letters patent, on the filing thereof, shall be, in 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 as in all Our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of Us, Our heirs and successors, in Our said island of Jamaica, and amongst all and every the subjects of Us, Our heirs and successors, within Our said island of Jamaica, notwithstanding the not full and certain describing the nature and quality of the said invention, or of the materials thereunto conducing and belonging: Provided further, that if the said _____, his heirs, administrators, or assigns, shall, upon petition, presented to Our Captain-General and Governor-in-Chief, or officer administering the government of Our said island, before the expiration of the term of years hereby granted, show that he or they has or hath been unable to obtain a due remuneration for his or their expense or labor in perfecting the aforesaid invention, and Our Captain-General and Governor-in-Chief, or officer administering the government as aforesaid, in Executive Committee, shall be of opinion that an extension of the term of years aforesaid should be granted, it shall be lawful for Our Captain-General and Governor-in-chief, or officer administering the government as aforesaid, to extend the term of years aforesaid for any further period not exceeding seven years, and to sign and issue in the name and on the behalf of Us, Our heirs or successors, new letters patent, in the form or of the tenor or effect aforesaid, unto the said _____, his executors, administrators, or assigns, for the aforesaid invention for any such further period not exceeding seven years as aforesaid accordingly; and to the end aforesaid, We have caused these, Our letters patent to be sealed with the broad seal of Our said island of Jamaica.

(Seal.) Witness, his Excellency, &c., &c., &c., Captain-General and Governor-in-Chief [*or administering the government*] of Our said island of Jamaica, and the territories thereon depending, Chancellor and Vice-Admiral of the same, at Saint Jago de la Vega, this _____ day of _____ annoque domini, and in the _____ year of Our reign.

From *Carp. Pat. L. of World*, 304.

JAPAN.

Imperial Proclamation No. 7 of (April 18,) 1884; and Appendix.

It is hereby notified that the following regulations as to patents have been published and will be enforced on and after July 1, 1885.

N. B.—The rules respecting patents published on April 7, 1871, and Imperial Proclamation No. 105, published in March, 1872, have been repealed.

By order of H. I. M. the MIKADO.

Prince SANJO SANEYOSHI,

Prime Minister of State.

Count MATSUKATA MASAYOSHI,

Minister of Agriculture and Commerce.

April 18, 1885.

ARTICLE 1. Inventors of useful articles desirous of having the exclusive sale of the same shall apply to the minister of agriculture and commerce, and obtain his special permission. The minister of agriculture and commerce shall, if advisable, deliver certificates of special permission for their exclusive sale.

ART. 2. In applying for a patent a detailed statement of the invention and the necessary diagrams will be affixed to the written application. The invented article or a specimen, shall, if necessary, be ordered to be submitted.

ART. 3. The terms of a patent right may not exceed fifteen years, reckoning from the date of its certificate.

ART. 4. Patents cannot be applied for in the case of articles of the nature specified below:

(1.) Articles that have previously been invented by others.

N. B.—This provision does not extend to patents that have been transferred by their owners.

(2.) Articles that have been publicly used or known before the patents have been applied for.

(3.) Articles that tend to disturb social tranquillity or demoralize customs and fashions, or are injurious to health.

(4.) Medicines.

ART. 5. For inventions deemed necessary for war purposes or those the general use of which is deemed important, the minister of

agriculture and commerce will not grant patents, and in the case of those for which patents have previously been granted he may cancel the same. In the case of inventions described above, the minister of agriculture and commerce will grant appropriate sums of money to the inventors by way of compensation.

ART. 6. Privileges by securing patents, as well as the patents, may be hereditary. When a successor has inherited a patent he shall report the fact to the minister of agriculture and commerce within three months.

ART. 7. Persons desirous of transferring to or acquiring from another person, patents, must apply for the permission of the minister of agriculture and commerce.

ART. 8. When a patentee effects improvements upon his invention he may apply for a fresh patent.

N. B.—The effect of additional patents may not exceed that of the original patents.

ART. 9. Persons desirous of obtaining patents for articles that are improvements upon other patented inventions must secure the consent of the original patentees. If the original patentee should refuse his consent and the minister of agriculture and commerce deem the refusal obstructive to the improvement of the invention, he may grant the improver special permission to use the original invention together with the improved part. In such cases as have been mentioned above the minister of agriculture and commerce shall cause the improvers to give appropriate sums of money to the original inventors by way of compensation.

ART. 10. Patentees must indicate on their inventions the date and term of the patents. In the case of articles, the nature of which precludes such indication, the date and term must be marked on the cover or otherwise.

ART. 11. The register of patentees, with other details, shall be submitted for public inspection by the minister of agriculture and commerce.

ART. 12. When patentees change the places of their registration or their residences or names, they must report the fact to the department of agriculture and commerce within three months.

ART. 13. When certificates of patents have been lost or damaged, the patentees must apply to the minister of agriculture and commerce for the delivery of fresh certificates.

ART. 14. In cases mentioned below, patents shall be declared void and the return of the certificates of the patents shall be ordered:

(1.) When any contravention of the provisions of article 4 has been discovered.

(2.) When any misrepresentation of facts has been discovered in the written applications and details of the inventions.

ART. 15. Patents will become void in the following cases :

(1.) When the inventions have not been practically publicly applied within two years after the date of the certificates of the patents, or when their execution has been suspended for two years without any representation of the circumstances of the case to the authorities.

(2.) When patented inventions have been imported from abroad and sold.

ART. 16. When certificates of patents are granted or canceled, or when any loss of patent right has occurred, the department of agriculture and commerce will publicly notify the fact.

ART. 17. Persons applying for patents shall pay the undermentioned fees.

N. B.—Should the written applications be dismissed, the fees shall be returned.

(1.) For persons applying for patents lasting for five years, 10 yen.

(2.) For persons applying for patents lasting for ten years, 15 yen.

(3.) For persons applying for patents lasting for fifteen years, 20 yen.

(4.) For persons applying for the transfer of patents, 5 yen.

(5.) For persons applying for additional patents, 5 yen.

(6.) For persons applying for fresh certificates of patents, 1 yen.

ART. 18. Officials concerned in the granting of patents may not apply for patents.

ART. 19. If the marks described in article 10 are not made, no appeal for any claim of damage may be made.

ART. 20. Persons who have counterfeited patented inventions, or imported them from abroad, or clandestinely used any patent, shall be liable to imprisonment with labor for a period not less than one month and not exceeding one year and a fine of not less than 4 yen and not exceeding 40 yen.

ART. 21. Persons who have applied to articles of the same kind as others manufactured under patents, marks that bear a close resemblance to those used by the owners of such patents, shall be liable to imprisonment with labor for a period of not less than fifteen days

and not exceeding six months, and a fine not less than 2 yen and not exceeding 20 yen.

ART. 22. Persons who have sold articles in contravention of articles 20 and 21, with previous knowledge of the fact, shall be liable to a fine not less than 4 yen and not exceeding 40 yen.

ART. 23. In the cases mentioned in articles 20, 21 and 22, the infringing articles and the apparatus used for the perpetration of the offenses shall be confiscated and handed over to the patentees, and in the case of articles previously sold, their price shall be exacted from the offender and also given to the patentees.

ART. 24. Persons who have obtained rights by fraudulent means or sham patents shall be liable to imprisonment for a period not less than fifteen days and not exceeding six months, and a penalty of not less than 2 yen and not exceeding 20 yen.

ART. 25. Persons who have failed to make the reports mentioned in the second clause of article 6 and article 12 within the prescribed periods shall be liable to a penalty of not less than 1 yen and not exceeding 1.95 yen.

ART. 26. To contraventions of these regulations the provisions in the criminal code for the simultaneous commission of several crimes shall not be applied.

ART. 27. The offenses mentioned in articles 20, 21, and 22 shall be dealt with at the instance of the patentees.

ART. 28. When patentees have made appeals, judges may temporarily suspend the sale of the articles to which such appeals relate.

Appendix.

Persons desirous of obtaining the exclusive sale of articles invented after the publication of the patent rules of April 7, 1871, and before the publication of these regulations, and which were reported to the authorities according to the additional provisions of notification No. 105, published in March, 1872, may apply to the minister of agriculture and commerce for their patents within six months after the date of the enforcement of these regulations, even though they be such as are generally used or known.

Persons who have made use of the inventions described above before the publication of these regulations may apply to the minister of agriculture and commerce for special permission for their use within one year after the date of the enforcement of these regula-

tions. In such cases they shall pay fees to the same amount as those for the granting of patents mentioned in article 17.

From 31 *Pat. Off. Gaz.* 1445.

Notification No. 5 Council of State.

It is hereby notified, that, the Patent Regulations having been published, the following Regulations are issued as to the mode of procedure to obtain patents.

Prince SANJO SANEYOSHI,

Prime Minister.

Count MATSUKATA MASAYOSHI,

Acting Minister of the Agricultural and Commercial Department.

April 18, 1885.

ARTICLE 1. Applications and reports in connection with patents shall be sent to the agricultural and commercial department through the prefectural authorities.

ART. 2. When application is made for a patent, there must be two letters of application and three statements of details and diagrams sent in, together with the patent fee. When more than one person is connected with the invention, they shall all sign the documents sent to the department.

ART. 3. Written statements, details, and diagrams are to be sent to the prefectural authorities in a sealed form, and in that form they will be forwarded to the minister of the agricultural and commercial department.

ART. 4. The following must be stated in all applications for patents:

- (1.) The name of the invention.
- (2.) The duration of the patent applied for.
- (3.) A declaration that it is not contravening the regulations.
- (4.) A declaration that there are no misrepresentations of facts made in the written application and statement.

ART. 5. In the details the following must appear:

- (1.) The object of the invention and explanation of its nature.
- (2.) An explanation of the diagrams, when such are submitted.
- (3.) A detailed description of the manufacture, structure, composition and the way of employing the invention.
- (4.) The uses to which the invention may be applied.
- (5.) The social rank, name and address of the inventor.

ART. 6. The diagram must be numbered, and their respective

parts shall be marked with letters or numerical figures to correspond with the explanations.

ART. 7. Any one applying for the transfer of the whole or part of the patent, in accordance with the 7th article of the regulations, must send in two letters of application, a copy of the agreement between the parties, and the certificate of patent, together with the fee.

ART. 8. Any person applying for additional patent rights should do so as provided in articles 2 and 3.

ART. 9. Any person desirous of obtaining the special permission stated in the second part of article 9 of the regulations, shall send in two applications, stating the circumstances of the case.

ART. 10. When it is reported, as stated in articles 6 and 12 of the regulations, that the name of the patentee is altered, the minister of the agricultural and commercial department shall indorse the fact on the certificate of patent.

ART. 11. When any one applies for a fresh certificate, a detailed account of the circumstances of the case must be sent in.

ART. 12. In a case where a patentee has discovered omissions or mis-statements in the letters of applications and diagrams, he shall send in two applications with a detailed account of the circumstances of the case. But when by addition to or alteration of some important part the invention is completely changed, no application will be received.

ART. 13. When patentees allow others by mutual consent to use the invention, the fact should be reported and the document signed by both parties.

ART. 14. When, after a patent has been declared void through a contravention of the provisions of the first part of article 4 of the regulations, and the original inventor applies again for the patent, its term shall not exceed that granted to the original patent.

ART. 15. Any person who desires to obtain permission to use articles, as provided for in the second clause of the regulations, shall send in two applications containing a detailed account of their previous employment.

From 31 *Pat. Off. Gaz.* 1445.

LEEWARD ISLANDS.

An Act for amending the Law for granting Patents for Inventions. No. 12 of 1876.

Whereas it is expedient to amend the law concerning letters patent for inventions,

Be it enacted by the Governor and General Legislative Council of the Leeward Islands, as follows :

[*Section 1, relating to commissioners of patents, has been repealed. See, sections 1 & 5 of Act No. 16, 1878, post.*]

2. Seal of the commissioners. It shall be lawful for the commissioners to cause a seal to be made for the purposes of this Act, and from time to time to vary such seal, and to cause to be sealed therewith all the warrants for letters patent under this Act, and all instruments and copies proceeding from the office of the commissioners, and all courts, judges and other persons whomsoever, shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the Great Seal of the Colony are received in evidence, and shall also take notice of and receive in evidence, without further proof or production of the originals, all copies or extracts certified under the seal of the said office, of or from documents deposited in such office.

3. Power of commissioners to make rules and regulations to be approved by governor in council. It shall be lawful for the commissioners from time to time to make such rules and regulations (not inconsistent with the provisions of this Act) respecting the business of their office, and all matters and things which under the provisions herein contained are to be under their control and direction, as may appear to them necessary and expedient for the purposes of this Act, and all such rules when approved by the Governor in Council shall have the force and effect of law.

4. Office of the commissioners. It shall be lawful for the Governor to provide and appoint from time to time a proper place for an office for the purposes of this Act.

5. Commissioners, with consent of Governor, to appoint clerk. It shall be lawful for the commissioners, with the consent and approval of the Governor, from time to time to appoint a clerk for the purposes of this Act, and it shall be lawful for the commission-

ers from time to time, with the approval of the Governor, to remove such clerk so appointed.

6. *Petition, &c. to be accompanied by a provisional 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 commissioners; and there shall be left there, with it, a statement in writing, hereinafter called the provisional specification, signed by or on behalf of the applicant for letters patent, describing the nature of the said invention; and the day of the delivery of every such petition, declaration, and provisional specification shall be recorded at the said office, and 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 commissioners.

7. *Every application to be referred to attorney-general.* Every applicant for letters patent made under this Act shall be referred by the commissioners according to such regulations as they may think fit to make, to the attorney-general.

8. *Provisional specification to be referred to attorney-general, who may give certificate of allowance.* The provisional specification shall be referred to the attorney-general, who shall be at liberty to call to his aid such scientific, or other person as he may think fit, and to cause to be paid to such person by the applicant, such remuneration as the attorney-general shall appoint; and if the attorney-general be satisfied that the provisional specification describes the nature of the invention, he shall allow the same, and give a certificate of his allowance, and such certificate shall be filed in the office of the commissioners, and thereupon the invention therein referred to may, during the term of six months from the date of the application for letters patent for the said invention be used and published without prejudice to any letters patent to be granted for the same, and such protection from the consequences of use and publication is hereinafter referred to as provisional protection. Provided always that in case the title of the invention or the provisional specification be too large or insufficient, it shall be lawful for the attorney-general to allow or require the same to be amended.

9. *Inventor may deposit a complete specification, to confer for a limited time the like rights as letters patent.* The applicant for letters patent for an invention instead of leaving with the petition

and declaration a provisional specification as aforesaid, may, if he think fit, file with the said petition and declaration an instrument in writing under his hand and seal (hereinafter called a complete specification) particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, which complete specification shall be mentioned in such declaration, and the day of the delivery of every such petition, declaration and complete specification shall be recorded at the office of the commissioners, and 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.

10. *Letters patent granted to first inventor 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.

11. *Commissioners to cause protection 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.

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

13. *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 complete specification (as the case may be), and particulars of objection (if any) shall be referred to the attorney-general.

14. *Power to attorney-general to order costs paid.* It shall be lawful for the attorney-general, if he see fit, by certificate under his hand, to order by or to whom the cost of any hearing or inquiry upon any objection or otherwise, in relation to the grant of such letters patent, or in relation to provisional (or other) protection acquired by the applicant under this Act shall be paid, and in what manner, and by whom such costs are to be ascertained, and if any costs so ordered to be paid be not paid within four days after the amount thereof shall be so ascertained, it shall be lawful for the attorney-general to make an order for the payment of the same, and every such order may be made a rule of the supreme court to the effect that execution may pass thereupon in common form.

15. *Attorney-general to cause warrant for sealing letters patent.* It shall be lawful for the attorney-general after such hearing, if any, as he may think fit, to cause a warrant to be made for the sealing of letters patent for the said invention, and such warrant

shall be sealed with the seal of the commissioners, and shall set forth the tenor and effect of the letters patent thereby authorized to be granted, and the attorney-general shall direct the insertion in such letters patent of all such restrictions, conditions, and 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 making and sealing of letters patent under this Act according to the tenor of said warrant.

16. *Nothing to affect the prerogative of the Crown.* Provided always that nothing herein contained shall extend to abridge or affect the prerogative of the Crown in relation to the granting or withholding the grant of any letters patent, and it shall be lawful for the Governor by warrant under his hand, to direct the attorney-general to withhold such warrant as aforesaid, or that any letters patent for the issuing whereof he may have issued a warrant as aforesaid shall not issue, or to direct the insertion in any letters patent to be issued in manner herein provided of any restrictions, conditions, or provisos, which he may think fit, 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 by like warrant to direct any complete specification, which may have been filed under the provision hereinbefore contained, and in respect of the invention described, in which no letters patent may have been granted, to be canceled, and thereupon the protection obtained by the filing of such complete specification shall cease.

17. *Letters patent to be for 14 years, subject to conditions.* All letters patent for inventions granted under the provisions hereinbefore contained shall be for fourteen years, and shall be made subject to the condition, that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid before the expiration of the said three and seven years respectively, the sum or sums of money in the schedule to this Act annexed; and the payment of the said sums of money shall be indorsed on the warrant for the said letters patent, and the clerks of the commissioners shall issue under the seal of the commissioners a certificate of such payment, and shall indorse a receipt for the same on any letters patent issued under the authority of the said warrant; and such certificate duly stamped, shall be evidence of the payment of the several sums respectively.

18. *Letters patent to be sealed with the Great Seal of the Colony.* The commissioners so soon after the sealing of the said warrant as required by the applicant for the letters patent, shall cause to be prepared letters patent for the invention according to the tenor of the said warrant, and it shall be lawful for the Governor to cause such letters patent to be sealed with the Great Seal of the Colony.

19. *No letters after three months from 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 to seal such letters patent within three months after the date of the said warrant.

20. *No letters (except, &c.,) to be issued after expiration of protection.* 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, nor then unless such letters patent be granted during the continuance of the protection conferred under this Act by reason of such deposit; save that where the application to seal such letters patent has been made during the continuance of such provisional or other protection as aforesaid, and the sealing of such letters patent has been delayed by reason of a caveat or an application to the Governor against or in relation to the sealing of such letters patent, then such letters patent may be sealed at such time as the Governor shall direct.

21. *Letters patent may be granted to personal representatives.* Provided also that where the applicant for such letters patent dies during the continuance of the provisional protection, or the protection by reason of the deposit of a complete specification (as the case may be), such letters patent may be granted to the executors or administrators of such applicant during the continuance of such provisional or other protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such provisional or other protection, and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such provisional or other protection.

22. *If letters be destroyed or lost, others 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.

23. *Letters patent may be dated as of the day of the 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 day of the application for the same, or where the attorney-general or the Governor thinks fit and directs, any such letters patent as aforesaid may be sealed and bear date as of the day of the sealing of such letters patent or of any other day between the day of such application for provisional registration and the day of such sealing.

24. *Letters patent antedated to be of the same validity.* 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.

25. *Letters for foreign inventions not in force after expiration of foreign patent.* Where upon any application made after the passing of this Act, letters patent are granted in this colony for or in respect of any invention first invented in any foreign country, or by the subject of any foreign power or State, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any foreign country is there obtained before the grant of such letters patent in this colony, all rights and privileges under such letters patent shall (notwithstanding any term in such letters patent limited) cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such foreign country shall continue in force, or where more than one such patent or like privilege is obtained abroad immediately upon the expiration or other determination of the term which shall first expire or be determined of such several patents or like privileges, provided always that no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained in any

foreign country, and which shall be granted in this colony after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

26. *Use of inventions in foreign ships, &c.* No letters patent for any invention (granted after the passing of this Act) shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel, which may be in any port of this colony, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from this colony, provided always that this enactment shall not extend to the ships or vessels of any foreign State of which the laws 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 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.

27. *Requirement that specifications be filed.* All letters patent to be granted under this Act (save only letters patent granted after the filing of a complete specification) shall require the specification thereunder to be filed in the office of the commissioners.

28. *Filing.* Every specification to be filed in pursuance of the condition of any letters patent shall be filed in the office of the commissioners.

29. *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 all provisional specifications after the term of the provisional protection of the invention has expired, to be open to the inspection of the public at the office of the commissioners at all reasonable times, subject to such regulations as the commissioners may direct.

30. *Specification and other documents to be printed, &c.* The commissioners shall cause to be printed, published, and sold at such prices and in such manner as they may think fit, all specifications, disclaimers and memoranda of alterations deposited or filed under this Act, and such specifications (not being provisional specifications), disclaimers and memoranda respectively shall be so printed and published as soon as conveniently may be after the filing thereof

respectively, and all such provisional specifications shall be so printed and published as soon as conveniently may be after the expiration of the provisional protection obtained in respect thereof, and it shall be lawful for the commissioners to present copies of all such publications to such public libraries and museums as they may think fit, and to allow the person depositing or filing any such specification, disclaimer or memoranda of alteration to have such number, not exceeding twenty-five, of the copies thereof so printed and published, without any payment for the same, as they may think fit.

31. *Copies of specifications, &c., to be evidence.* Printed copies, certified by the commissioners or one of them, of specifications, disclaimers, and memoranda of alterations shall be admissible in evidence and deemed and taken to be *prima facie* evidence of the existence and contents of the documents to which they purport to relate, in all courts and in all proceedings relating to letters patent.

32. *Register of patents to be kept.* There shall be kept at the office of the commissioners under this Act a book or books to be called "The Register of Patents," wherein shall be entered and recorded in chronological order all letters patent granted under this Act, the deposit of 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 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.

33. *Registers of proprietors to be kept.* There shall be kept at the office of the commissioners a book or books entitled "The Register of Proprietors," wherein shall be entered in such manner as the commissioners shall direct the assignment of any letters patent, or of any share or interest therein, any license under letters patent, and the district to which such license relates, with the name or names of any person having any share or interest in such letters patent or license, the date of his or their acquiring such letters patent, share and interest, and any other matter or thing relating to or affecting the proprietorship in such letters patent or license, and a copy of any entry in such book, certified under the seal of the commissioners, shall be given to any person requiring the same on pay-

ment 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 or interest therein or of the license of the proprietorship, as therein expressed, provided always that until such entry shall have been made the grantee or grantees of the letters patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such letters patent and of all the licenses and privileges thereby given and granted, and any writ of scire facias to repeal such letters patent may be issued to the provost marshal of the presidency in which the grantee or grantees resided at the time when the said letters patent were granted, and in case such grantee or grantees do not reside in the Leeward Islands, it shall be sufficient to file such writ in the usual manner in which writs are filed, and serve notice thereof in writing at the last known residence or place of business of such grantee or grantees, and such register or a copy shall be open to the inspection of the public at the office of the commissioners, subject to such regulations as the commissioners may make.

34. *Falsification or forgery of entries a misdemeanor.* 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 misdemeanor, and shall be punished by fine and imprisonment accordingly.

35. *Entries may be expunged.* 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 any judge thereof for an order that such entry may be expunged, vacated or varied, and upon any such application the said court or judge may make such order for expunging, vacating or varying such entry, and as to the costs of such application as to the said court or judge may seem fit, and the officer having the care and custody of such register, on the production to him of any such order for expunging, vacating or varying any such entry, shall expunge, vacate or vary the same, according to the requisitions of such order.

36. *Provisions of 5 & 6 W. 4, c. 83, and of 7 & 8 Vict. c. 69,*

as to disclaimers and memoranda of alterations, to apply.—*Application for disclaimers and caveats.* All the provisions of the Imperial Acts of the session holden in the fifth and sixth years of King William the Fourth, chapter eighty-three, and of the session holden in the seventh and eighth years of Her Majesty, chapter sixty-nine, respectively relating to disclaimers and memoranda of alterations in letters patent and specifications, except as hereinafter provided, shall be applicable and apply to any letters patent granted and to any specification filed under the provisions of this Act, provided always that all applications for leave to enter a disclaimer or memorandum of alteration shall be made, and all caveats relating thereto, shall be lodged at the office of the commissioners, and shall be referred to the attorney-general, provided that every such disclaimer or memorandum of alteration shall be filed in the office of the commissioners with the specifications to which the same relates, provided also that such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the law officer in the first recited Act mentioned certified as therein mentioned shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under the Acts aforesaid and this Act, and no objection shall be allowed to be made in any proceeding upon or touching such letters patent, specification, disclaimer or memorandum of alteration, on the ground that the party entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf, provided also that no action shall be brought upon any letters patent in which or on the specification of which any disclaimer or memorandum of alteration shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the attorney-general shall certify in his fiat that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration.

37. *Provisions of 5 & 6 W. 4, c. 83, 2 & 3 Vict. c. 67, and 7 & 8 Vict. c. 69, as to confirmation and prolongation, to apply.* All the provisions of the said Act of the fifth and sixth years of King William the Fourth for the confirmation of any letters patent and the grant of new letters patent, and all the provisions of the said Act, and of the Acts of the session holden in the second and third years of Her Majesty, chapter sixty-seven, and of the session holden in the seventh and eighth years of Her Majesty, chapter sixty-nine, respectively relating to the prolongation of the term of

letters patent and to the grant of new letters patent for a further term, shall extend and apply to any letters patent granted under the provisions of this Act, and it shall be lawful to grant new letters patent as in the said Acts mentioned, provided always that such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the original letters patent which may first expire.

38. *Actions for infringement to be regulated by "Code of Civil Procedure."* All actions for the infringement of letters patent granted under the authority of this Act shall be regulated by the provisions of "The Code of Civil Procedure."

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

40. *Fees on letters patent to be as in schedule.* There shall be paid to the clerk of the commissioners in respect of letters patent applied for or issued, as herein mentioned, the filing of specifications and disclaimers, certificates, entries and searches, and all other matters and things mentioned in the schedule to this Act, such fees as are mentioned in the said schedule, and such fees shall be payable into the public treasury of the presidency where such letters patent shall be applied for or issued, save and except such portions thereof as may be allotted under section 42 of this Act.

41. *Fees to attorney-general, in cases of opposition, &c.* In cases of opposition to the granting of letters patent, and in case of disclaimers and memoranda of alterations, such fees shall be paid to the attorney-general as may be appointed by the commissioners as the fee to be paid on the hearing of such oppositions, and in the case of disclaimers and memoranda of alterations respectively, and such reasonable sums for office or other copies of documents in the office of the commissioners, as the commissioners may from time to time appoint to be paid for such copies, and the commissioners are hereby authorized and empowered to appoint the fees to be so paid in respect of such oppositions, disclaimers and memoranda of alterations respectively, and for such office and other copies.

42. *Fees of clerk.* It shall be lawful for the commissioners to

allot to the clerk such portions of the fees received by them as they may deem right.

43. *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 where they think fit vary such forms as occasion may require, and cause to be printed and circulated such other forms as they may think fit to be used for the purposes of this Act.

44. *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. That is to say:—The expression “Governor” shall mean the officer administering the general government of the colony; the expression “the commissioners” shall mean the commissioners for the time being acting in execution of this Act; the expression “invention” shall mean any manner of new manufacture, the subject of letters patent and grant of privilege within the meaning of the existing law of England governing this subject; the expressions “petition,” “declaration,” “provisional specification,” “warrant,” and “letters patent,” respectively, shall mean instruments in the form and to the effect in the schedule hereto annexed, subject to such alterations as may from time to time be made therein under the powers and provisions of this Act.

45. *Short title.* This Act may be cited as the “Patent Law Act, 1876.”

46. *Commencement of Act.* This Act shall commence and take effect on such day as shall hereafter be fixed by proclamation under the hand of the Governor, to be published in the Gazette.

THE SCHEDULE TO WHICH THIS ACT REFERS.

<i>Fees to be paid.</i>	£	s.	d.
On leaving petition for grant of letters patent.	2	10	0
On notice of intention to proceed with the application.	2	10	0
On sealing of letters patent.	5	0	0
On filing specification.	5	0	0
At or before the expiration of the third year.	10	0	0
At or before the expiration of the seventh year.	20	0	0

	£	s.	d.
On leaving notice of objections.....	2	0	0
Every search and inspection.....	0	1	0
Entry of assignment or license.....	0	5	0
Certificate of assignment or license.....	0	5	0
Filing application for disclaimer.....	3	0	0
Caveat against disclaimer.....	1	0	0
The following fees shall be paid to the attorney-general:—			
On every application for letters patent referred to attorney-general under section 7.....	3	0	0
Examining provisional specification under section 8.....	5	0	0
“ amended “ “ “	1	0	0
“ complete specification under sections 9 and 13.....	5	0	0
Perusing particulars of objections under section 13.....	2	0	0
Certificate of allowance.....	3	0	0
Every certificate under section 14.....	1	0	0
“ order for costs “	1	0	0
“ warrant for the sealing of letters patent under section 15.....	5	0	0
Considering application for disclaimer or memorandum of alteration under section 36.....	2	0	0
Every certificate or fiat that action may be brought under section 36.....	3	0	0

FORMS.

Petition.

No. .

To

The humble petition of [*here insert name and address of petitioner*] for, &c.

SHOWETH,

That your petitioner is in possession of an invention for [*title of the invention*], which invention he believes will be of great public utility; that he is the true and first inventor thereof, and that the same is not in use by any other person or persons, to the best of his knowledge and belief.

Your petitioner therefore humbly prays that will be pleased to grant unto him, his executors, administrators, and assigns, letters patent for the Leeward Islands for the term of fourteen years, pursuant to the statute in that case made and provided.

And your petitioner will ever pray, &c.

Declaration.

No.

I of , do solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as in petition*] which invention I believe will be of great public utility; that I am the true and first inventor thereof; and that the same is not in use by any other person or persons, to the best of my knowledge and belief [*where a complete specification is to be filed with the petition and declaration, insert these words: “and that the instrument in writing under my hand and seal hereunto annexed, par-*

particularly describes and ascertains the nature of the said invention, and the manner in which the same is to be performed"], and I make this declaration, conscientiously believing the same to be true.

A. B.

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

Provisional specification.

No.

I do hereby declare the nature of the said invention for [insert title as in petition] to be as follows [here insert description].

Dated this day of A. D.

[To be signed by applicant or his agent.]

Reference.

(To be indorsed on the petition.)

The governor is pleased to refer this petition to the attorney-general, to consider what may be properly done therein.

Clerk of the commissioners.

Warrant.

In humble obedience to command referring to me the petition of of , to consider what may be properly done therein; I do hereby certify as follows: that the said petition sets forth that the petitioner [allegations of the petition] And the petitioner most humbly prays [prayer of the petition].

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

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

That it appears that the said application was duly advertised:

Upon consideration of all the matters aforesaid, and as it is entirely at the hazard of the said petitioner whether the said invention is new, or will have the desired success, and as it may be reasonable for Her Majesty to encourage all arts and inventions which may be for the public good, I am of opinion that the Governor may grant letters patent unto the petitioner, his executors, administrators and assigns, for his said invention within the Leeward Islands, for the term of fourteen years, according to the statute in that case made and provided, if his Excellency shall be graciously pleased so to do, to the tenor and effect following [see next form].

Given under my hand and seal this day of A. D.

[Seal of the commissioners.]

Letters patent.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith;

To all to whom these presents shall come, greeting:

Whereas hatn, by his petition, humbly represented to Us that he is in possession of an invention for

which the petitioner conceives will be of great public utility ; that he is the true and first inventor thereof ; and that the same is not in use by any other person or persons, to the best of his knowledge and belief ; the petitioner therefore most humbly prayed that We would be graciously pleased to grant unto him, his executors, administrators, and assigns, Our royal letters patent for the sole use, benefit, and advantage of his said invention within Our Leeward Islands, for the term of fourteen years, pursuant to the statutes in that case made and provided :

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

And We, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to condescend to the petitioner's request : Know ye, therefore, that We, of Our especial grace, certain knowledge, and mere motion, have given and granted and by these presents, for Us, Our heirs and successors, do give and grant unto the said his executors, administrators, and assigns, Our especial 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 Leeward Islands, in such manner as to him the said his executors, administrators, and assigns, or any of them, shall in his or their discretion seem meet, and that he the said his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity and advantage from time to time coming, growing, accruing, and arising, by reason of the said invention for and during the term of years herein mentioned ; to have, hold, exercise, and enjoy the said 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 other Our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within Our said Leeward Islands, that neither they nor any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly to make, use, or put in practice the said invention, or any part of the same so attained unto by the said as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the consent, 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 or may be

justly inflicted on such offenders, for their contempt of this Our Royal command, and further to be answerable to the said his executors, administrators and assigns, according to law for his and their damages thereby occasioned: and, moreover, We do by these presents for Us, Our heirs and successors, will and command all and singular the magistrates, justices of the peace, and all other officers and ministers whatsoever of Us, Our heirs, and successors, for the time being, that they or any of them do not nor shall at any time during the said term hereby granted, in anywise molest, trouble, or hinder the said his executors, administrators, or assigns, or any of them, or his or their deputies, servants, or agents, in or about the due and lawful use or exercise of the aforesaid invention, or anything relating thereto: Provided always and these Our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted, it shall be made to appear to Our governor of Our said Leeward Islands in council that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said is not the true and first inventor thereof within the Leeward Islands as aforesaid, these Our letters patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein contained to the contrary thereof in anywise notwithstanding; Provided also that these our letters patent, or anything herein contained, shall not extend, or be construed to extend, to give privilege unto the said his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of Our subjects whatsoever and publicly used or exercised unto whom Our like letters patent or privileges have been already granted for the sole use, exercise and benefit thereof: It being Our will and pleasure that the said his executors, administrators, and assigns, and all and every other person and persons to whom the like letters patent and privileges have been already granted as aforesaid, shall distinctly use and practice their several inventions, by them invented and found out, according to the true intent and meaning of the same respective letters patent, and of these presents, provided likewise nevertheless, and these our letters patent are upon this express condition, that if the said shall not particularly describe and ascertain the nature of his said invention, and in what manner the same is to be performed by an instrument in writing under his hand and seal, and cause the same to be filed in within calendar months next and immediately after the date of these Our letters patent [*and also of the said instrument in writing filed as aforesaid does not particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed*], and also if the said his executors, administrators, or assigns, shall not pay, or cause to be paid, at the office of Our commissioners of patents for inventions the sums following, that is to say, the sum of pounds on or before the day of A. D. , and the sum of pounds on or before the day of A. D.; and also if the said his executors, administrators, or assigns, shall not supply, or cause to be supplied for Our service, all such articles of the said invention as he or they shall be required to supply by the officers or commissioners administering the department of Our service for the use of which the same shall be required in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same; that then and in any of the said cases these Our letters patent and all liberties and advantages whatsoever

hereby granted shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof notwithstanding, Provided that nothing herein contained shall prevent the granting of licenses in such manner and for all such considerations as they may by law be granted; and lastly, We do by these presents for Us, Our heirs and successors, grant unto the said his executors, administrators, and assigns, that these Our letters patent on the filing thereof shall be in and by all things good, firm, valid, sufficient, and effectual in the law according to the true intent and meaning thereof; and shall be taken, construed, and adjudged in the most 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 Leeward Islands, and amongst all and every the subjects of Us, Our heirs and successors whatsoever and wheresoever, notwithstanding, the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging.

In witness whereof We have caused these Our letters to be made patent this
 day of A. D. , and to be sealed and bear date as of the said
 day of A. D. in the year of Our reign.

—

Specification.

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

Whereas His Excellency , Governor of the Leeward Islands, by letters patent bearing date the day of A. D. in the year of Her Majesty's reign, did for Her Majesty, her heirs and successors, give and grant unto me, the said , his special license that I the said my executors, administrators, and assigns, or such others as I the said my executors, administrators, and assigns, should at any time agree with and no others, from time to time, and at all times thereafter during the term therein expressed, should, and lawfully might make, use, exercise and vend, within the colony of the Leeward Islands, an invention for [*insert title as in letters patent*] upon the condition (amongst others) that I the said by an instrument in writing under my hand and seal, should particularly describe and ascertain the nature of the said invention, and in what manner the same was to be performed, and cause the same to be filed in within calendar months next, and immediately after the date of the said letters patent: Now know ye that I, the said , do hereby declare the nature of my said invention, and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement (that is to say) [*describe the invention*].

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

From *Carp. Pat. L. of World*, 330; condensing some lengthy section captions.

An Act to amend the Act No. 12 of 1876, entitled "An Act for Amending the Law for Granting Patents for Inventions." No. 16 of 1878.

Whereas it is expedient to amend the law concerning letters patent for inventions.

Be it enacted by the Governor and General Legislative Council of the Colony of the Leeward Islands as follows:—

1. *Certain persons constituted commissioners of patents for inventions, three of whom may act, the attorney-general being one.* Her Majesty's attorney-general, the auditor-general, and the treasurer of the presidency of Antigua for the time being respectively, together with such other person or persons as may be from time to time appointed by the Governor, shall be commissioners of patents for inventions, and every person so appointed shall continue to hold office during Her Majesty's pleasure; and all the powers vested in the commissioners by the Act No. 12 of 1876 may be executed by any three or more of them, of whom the attorney-general shall be one.

2. *Applications for letters patent, &c., to be advertised.* Every provisional protection, every protection on deposit of a complete specification, and every application for letters patent, shall be advertised in the Royal Gazette and in one of the public newspapers in each presidency of the Colony, or where there shall be no such newspaper, then by being attached to the door of the court-house in the principal town of the presidency.

3. *Copies of specifications, &c., to be enrolled in each presidency.* In addition to the copies prescribed by the above recited Act to be kept at the office of the commissioners, true copies of all specifications (other than provisional specifications), disclaimers, and memoranda of alterations filed in pursuance of the said Act, and of all provisional specifications after the expiration of the term of protection, shall be enrolled in the registrar's office in every presidency of the Colony (Antigua excepted), and shall be open to the inspection of the public at all reasonable times, subject to such regulations as the commissioners may think necessary.

4. *Registers of patents and proprietors to be kept in each presidency.* A true copy of the "Register of Patents" and of the "Register of Proprietors" prescribed by sections 32 and 33 of the above recited Act, shall be kept at the registrar's office in each

presidency of the Colony, and shall be open to the inspection of the public at all reasonable times, subject to such regulations as the commissioners may think necessary.

5. *Section 1 of Act 12, 1876, repealed.* The first section of the Act No. 12 of 1876 is hereby repealed.

From *Carpmaels' Pat. L. of World*, 351.

The act for the federation and general Government of the Leeward Islands, 21 August, 1871, Stat. 34 & 35 Vict. c. 107, recites that the several legislative bodies of these islands have, by certain resolutions, signified their desire for a union of the islands under one Government; and it enacts that they shall form one colony consisting of six presidencies, namely: the several islands of Antigua, Montserrat, Saint Christopher, Nevis and

Dominica, with their respective dependencies, and the Virgin Islands. The Act authorizes the Governor, with the consent of the General Legislative Council (subject to provisions making the Royal assent necessary to the validity of such laws), to make laws for the Leeward Islands or any part thereof, upon many subjects specified, among which are: "16. Copyrights and Patents."

LIBERIA.

An Act to Promote the Progress of the Arts, Manufactures, Agriculture, and Commerce, December 23, 1864.

It is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled :

SECTION 1. That there shall be established an office to be termed the patent-office, which shall be under the control of the secretary of state, whose duty it shall be to superintend, execute, and perform all such acts and things touching and respecting the granting and issuing of letters patent for new and useful discoveries, inventions, and improvements, as are hereby provided for, or shall hereafter be by law directed to be done and performed, and shall have charge and authority of all books, records, papers, and all other things belonging to the said office.

SEC. 2. It is further enacted that all patents, issuing from the said office shall be issued in the name and under the seal of the Republic of Liberia, and be signed by the President of the Republic, and countersigned by the secretary of state, and shall be recorded, together with descriptions, specifications, and drawings in the said office, in books to be kept for that purpose. Every such patent shall contain a short title of the invention or discovery, correctly indicating its nature and design, and its terms, grant to the applicant or applicants, his or their heirs, administrators, executors, or assigns, for a term not exceeding twenty years, the full and exclusive right and liberty of making, using, and vending to others to be used, the said invention or discovery, referring to the specifications for the particulars thereof, a copy of which specifications with the illustrative drawings shall be annexed to the patent specifying what the patentee claims as his invention or discovery.

SEC. 3. It is further enacted that any citizen or citizens having discovered or invented any new and useful art, machine, manufacture, process, composition of matter, or any new and useful improvement in any art, machine, manufacture, process or composition of matter, or having invented or discovered a new and useful application of any known substance or matter, or composition of matter, or any new and useful application of any known article of manufacture, device, or apparatus, to any art, manufacture

machine, process, or composition of matter, such invention or discovery, or such application not being known or used by others within the limits of this republic, and not being described in any book or other publication in this country, before his or their discovery thereof, may make application in writing to the secretary of state, expressing such desire, and the secretary of state may on due proceedings had, grant a patent therefor; but before any inventor shall receive a patent for any such invention, discovery or new application, he shall deliver a written description thereof, and of the manner and process of making, constructing, using, applying, and compounding the same, in such full, clear, and exact terms as to enable any person skilled in the art or science to which it appertains or with which it is most nearly connected to make, construct, apply, compound, and use the same, and shall particularly specify and point out the part, improvement, or combination which he claims as his own invention or discovery. He shall furthermore accompany the whole with a drawing or drawings and written references, where the nature of the case admits of drawings. The applicant shall furthermore make oath or affirmation that he does verily believe that he is the original and first inventor or discoverer of the art, machine, composition, application, or improvement for which he solicits a patent, and that the same was not known or used within the limits of the Republic of Liberia prior to his said invention, and that he is a citizen of this republic, the said oath or affirmation to be taken before any person authorized by law to administer oaths.

SEC. 4. It is further enacted that on filing such application, description, and specifications, and the payment of the fees hereinafter provided, the secretary of state shall make or cause to be made an examination of the alleged new invention or discovery, and if it should appear to the secretary of state that the same had not been invented or discovered, or known by any other person in this country, and had not been described in any book or other publication in this country prior to the discovery thereof of the applicant, then it shall be the duty of the secretary of state to issue a patent therefor; but whenever it shall appear to the secretary of state that the applicant was not the first inventor or discoverer thereof, or that what is claimed as new had been known to others in this country, or had been described in some publication in this country prior to the time of the alleged invention or discovery of

the applicant, then it shall be the duty of the secretary of state to refuse the grant of letters patent to the applicant therefor.

SEC. 5. It is further enacted that if any alien or aliens shall have invented or discovered any new art, machine, manufacture, process, or composition of matter, or any new and useful improvement of any art, machine, manufacture, process, or composition of matter, or has invented or discovered a new and useful application of any known substance or machine or composition of matter, or any new and useful application of any known article of manufacture, device, or apparatus to any art, manufacture, machine, process, or composition of matter, such invention or discovery, or such application, not having been known or used by others within the limits of this republic, or if any alien or aliens shall be the legal owner or owners of such invention or discovery, on application, and shall express a desire to introduce the same and put it into active operation in this country, then it shall be the duty of the secretary of state, on due proceedings held, as provided for in third section of this act, to issue letters patent therefor ; but before letters patent can be granted to such applicant he shall deliver, with the description of the invention or discovery claimed, a certificate signed and sealed by the mayor or governor of the city or state in which he resides, or by a duly authorized notary public, which certificate shall set forth that the applicant is the original and first discoverer of the thing claimed, or that he has purchased the right, title, and interest in this country to the said invention or discovery.

SEC. 6. It is further enacted that when any alien or aliens shall have obtained letters patent for any invention or discovery it shall be his or their duty to put the same in active operation in this republic within three years from the date of the said patent, and any refusal or neglect on the part of the patentee to do this shall be considered as an abandonment by him of his patent to the public.

SEC. 7. It is further enacted that before any application for a patent shall be considered by the secretary of state, the applicant shall pay into the treasury or into the office of the secretary of state, to the credit of the treasury, if he be a citizen of this republic, the sum of twenty-five dollars ; if he be an alien, the sum of fifty dollars ; and the moneys received under this act shall constitute a fund for the payment of salaries of such assistants as the

secretary of state may deem necessary for carrying this act into effect.

SEC. 8. It is further enacted that every patent shall be assignable in law, either as to the whole interest or any individual part thereof, by any instrument of writing, which assignment, and also every grant and conveyance of the exclusive right under any patent to make and use, and to grant to others to make and use the thing patented, within and throughout the whole or any specified portion of the Republic of Liberia, shall be recorded in the office of the secretary of state within one year from the execution thereof.

SEC. 9. It is further enacted that all actions for damages for infringement, using, or selling the thing whereof the exclusive right is granted by any patent, and all suits, controversies, and cases arising under this act shall be cognizable, as well in equity as at law, by the Supreme Court of the Republic of Liberia.

SEC. 10. It is further enacted that it shall be the duty of the secretary of state to make, or cause to be made, exact copies of all patents issued, and also of all drawings appertaining to the said patents, which copies shall be properly classified and shall be retained as permanent records in the office of the secretary of state, and the said copies shall be open for inspection at reasonable hours to all who may desire to peruse the same. And it shall furthermore be the duty of the secretary of state to furnish, on reasonable terms, certified copies of any patents or documents relating thereto.

From 31 *Pat. Off. Gaz.* 1446.

LICHTENSTEIN.

See AUSTRIA-HUNGARY.

LOYALTY ISLANDS.

See FRANCE.

LUXEMBURG.

*Law of June 30, 1881.**

We, William the 3d, by the grace of God, King of the Low Countries, Prince of Orange, Nassau, Grand Duke of Luxemburg, &c.

Our Council of State heard, &c., &c., have ordered and do order :

CHAPTER I.

GENERAL DISPOSITIONS.

ARTICLE 1. Patents for new inventions susceptible of being worked industrially shall be granted, with the following exceptions: First. Inventions the working of which would be contrary to the law or good morals. Second. Those inventions which have for their object food or other objects of consumption, pharmaceutical products, or substances obtained by chemical means. Nevertheless this exception does not apply to any special process for manufacturing these objects.

ART. 2. An invention is not considered new when at the moment the declaration is made under the present law (date of application for a patent) it is found to be already so clearly described in any printed matter open to the public, or so openly worked in either the Grand Duchy or any of the States of the German custom-house union, as to render it possible for execution by other persons expert in the trade to which it refers.

ART. 3. The right of obtaining a patent appertains to the one who first declares to the invention in accordance with the present law, subject, however, to what is enacted herein, article 16, No. 2.

ART. 4. The effect of a patent shall be that without the authority of the patentee or owner no one shall be allowed industrially to make, put into commerce, or expose for sale the object of the invention. If the object of the invention be a process, a machine, or any industrial engine, a tool or other instrument of labor, the effect of the patent will be, further, that without authorization of the patentee

* A slightly differing translation of the same law may be found in *Carp. Pat. L. of World*, 341.

or owner no one can industrially apply the process or make use of the object of the invention.

ART. 5. The effect of the patent does not apply to any one who at the moment when the applicant made his declaration had already worked the invention in the Grand Duchy, or who had already made the necessary arrangements to this end. The effect of the patent does not extend to locomotive rolling-stock which only enter to pass through the Grand Duchy. A patent will cease to be effective as soon as a royal Grand Ducal decree, upon the advice of the Council of State, shall have declared that it is to the public interest that the patent shall be worked. In this case the patentee has a right, at the expense of the state, to an indemnity which, in default of agreement, shall be fixed judicially.

ART. 6. The right of obtaining a patent like the rights to the patent itself, shall extend to the heirs or legal representatives of the person having such right. These rights can be transferred in whole or in part by deed or by will. The act of transmission by will is free of all duty. Deeds of assignment are registered at a fixed tax of 1 franc 70 centimes.

ART. 7. The duration of the patent is fifteen years. This period runs from the morrow of the day on which the invention has been declared, conformably to article 10 of the present law. If the invention consists in an improvement on another invention, for which latter the applicant has already protection in the Grand Duchy, he can apply for the grant of a certificate of addition which expires with the principal patent. The certificates of addition taken by one of the persons interested in the principal patent profit all the others.* It will be open to the patentee to take a principal patent for the changes or improvements in his invention. The third party who shall have taken a principal patent for an invention or an application relating to the object of another patent, shall not have the right to exploit the invention already patented; and, on the other hand, the patentee or owner of the primary patent shall not work the invention, the object of the new patent, except by their mutual consent.

ART. 8. An annual and progressive tax, as follows, shall be paid for each patent: First year, 10 francs; second year, 20 francs; third year, 30 francs; and so on till the fifteenth year, for which the

* This has been held to mean that all those interested in the principal patent have an exactly corresponding interest in the patent of improvement.

tax will be 150 francs. The tax will be paid in advance to the receiver at the registry. It will not in any case be reimbursed.* For certificates of addition one tax only of 10 francs will be required.

ART. 9. No one can obtain a patent or exercise the rights of the patent if he have not chosen a domicile in the Grand Duchy. If he be a foreigner, he must choose as his domicile the house of a proxy, who will represent him, and to whom all communications will legally be made. Whatever domicile be chosen will be subject to jurisdiction, and will be a valid one as long as it is not replaced by a new election of domicile, according to article 13.

CHAPTER II.

ON THE DELIVERY OF PATENTS.

ART. 10. Whoever would secure a patent must file his declaration in writing with the functionary, who will be appointed for this purpose by the government. A special declaration is required for each invention. The declaration must contain the full name, address, calling, and chosen domicile of the declarant, and also of his representative, if the case requires such. It must give a title containing a summary and precise description of the object of the invention. The declaration must be accompanied by, first, a description, in the French or German language, of the object invented; second, drawings, models, or samples that may be necessary for the comprehension of the description. The description and the drawings must be in duplicate. The description should be written without alteration or addition; words struck out or erased must be counted and certified, the pages and the references initialed. It should describe the invention in a clear and complete manner, and end with a precise statement of its characteristics. The drawings must be traced with ink to a metrical scale. All the papers must be signed by the declarant, or by his representative, whose power of attorney must be annexed to the declaration.

ART. 11. An application will only be received on the production of the receipt of the payment of the first annual tax. An official statement made without charge, on a register for this purpose, and signed by the declarant, shall authenticate the application while stating the day and the hour of filing of the papers. A

* In the case of two owners of one patent each paying the tax, both payments are retained.

duplicate of the official statement will be transmitted without charge to the deponent.

ART. 12. The patents whose application shall have been in regular form will be delivered, without preliminary examination, at the risk and peril of the applicants, and without guarantee either of the reality of the novelty, or of the meritoriousness of the invention, or of the fidelity or exactness of the description. A certificate of the government official who has charge of the department of commerce and industry certifying the regularity of the application will be delivered without charge to the applicant, and will constitute the patent of invention. To this notice will be added the certified duplicate of the description and of the drawings mentioned in article 10. The same certificate will be inserted in abstract form in the memorial. The refusal of the government to deliver a patent may be appealed against to the litigation committee of the State Council, who will decide on the matter.

ART. 13. Any changes that occur in the ownership of the patent or in the representative or chosen domicile of the patentee, as well as any partial assignment of the patent, should be brought in an authentic form to the notice of the government official who has charge of the department of commerce and of industry, and will be published in the memorial. As long as these formalities are not fulfilled, the person who has been previously designated as the patentee or his representative remains invested with the rights and subservient to the obligations of the present law, and all notifications and announcements will be validly sent to the previously-chosen domicile.

ART. 14. The public will be allowed to inspect in the government bureaus descriptions of granted patents, and copies may be obtained on payment of fees.

CHAPTER III.

EXPIRATION OF PATENTS, NULLITY, AND FORFEITURE.

ART. 15. The patent becomes extinct, first, by the expiration of the time for which it has been allowed; second, by the renunciation of the titular owner; third, by a single failure of payment of the annual tax within the three months from when it becomes due; fourth, if a patent for the same object be not applied for within the space of three months after the application in Luxemburg in the States with which the Grand Duchy may be allied by a custom-house

union, or if, being applied for within this space, the patent be refused, or if, having been allowed, it be revoked, annulled or becomes extinct in any other manner. Nevertheless, in the case where the forfeiture of the patent may be decreed in a country in this union by reason of the patent not being worked, it will be lawful for the government to maintain the patent in the Grand Duchy.

ART. 16. The patent will be null and of no effect if it be proved, first, that according to the terms of articles 1 and 2 the invention was not susceptible of being patented; second, that the essential contents of the declaration were derived from the descriptions, designs, models, instruments, tools, or processes of another party without his consent; third, if the title under which the patent is applied for indicates fraudulently an object other than the veritable object of the invention; fourth, if the description annexed to the patent be not sufficient for the carrying out of the invention, or if it does not show in a loyal and complete manner the true means employed by the inventor.

ART. 17. An action for annulment may be instituted by any interested person. This action, as well as all litigations relative to the property of the patent, will be heard before the civil tribunal of the arrondissement. If the action be directed simultaneously against the titular owner of the patent and against one or more partial assignees, it will be heard before the tribunal for the domicile chosen by the titular owner of the patent. Patent cases will be heard and judged in accordance with the form prescribed for summary proceedings by the article 405 *et seq.* of the Code of Civil Procedure. Notice of the case is to be given to the public minister. The public minister can interfere in the action and take steps to effect a complete declaration of nullity of the patent. He himself may for the same purposes institute an action. In the cases provided for by the two preceding paragraphs all those having a pecuniary interest in the patent whose titles have been registered at the government in conformity with article 13 should be sued. The charges for the interference of the public minister and the proceedings of the office will be taxed, discharged, and collected as in the case of fines. When the absolute nullity of a patent shall have been pronounced by a judicial decree or sentence, notice thereof shall be given to the government, in view of the publication prescribed by article 19.

ART. 18. The patent can be revoked after three years by a royal Grand Ducal decree, subject to an appeal to the litigation commit-

tee of the Council of State, if the patentee neglect to put his invention into operation in the Grand Duchy to a suitable extent, or at least to do everything necessary to insure this working. Likewise, after three years a royal Grand Ducal decree may declare, on the advice of the Council of State, that the public interest requires that the right to work a patented invention may also be conceded to one or several others who have made application therefor. In this case the indemnity and the guarantees due to the patentee by the new claimants will be, in case of non-accord, settled by judicial decision.

ART. 19. The expiration of patents, their annulments, or revocation will be brought to the knowledge of the public by an insertion in the Memorial.

CHAPTER IV.

INFRINGEMENT, PROSECUTION, AND PENALTIES.

ART. 20. Whosoever shall have knowingly made use of an invention contrary to the provisions of the articles 4 and 5 shall be punished by a fine of one hundred francs to two thousand francs without prejudice to the damages that may be obtainable by a civil action. In the case of the repetition of the offense an imprisonment, in addition to the fine, of one month to six months shall be pronounced. A repetition of the offense exists when a first condemnation for the same offense has been given within the five previous years against the defendant. The prosecution shall only be entered on the plaint of the injured party. The tribunal can order the publication of the judgment at the cost of the condemned. The judgment shall direct the mode and the length of time of the publication. The sentence can direct either the destruction or the confiscation, for the profit of the State or for the profit of the injured party, on assessment of damages, of the objects which have been used in, or were destined for, the committal of the offense, and objects which have been produced thereby.

ART. 21. The court for the trial of misdemeanors, before which the action is brought, shall refer the parties to the proper civil judge to decide upon the pleas that shall be advanced by the defendant, either concerning the expiration, the nullity, or the forfeiture of the patent, or concerning any questions relative to the ownership of the patent.

ART. 22. Any person, without having a valid patent, who shall have applied to objects or their packing a notification to the pur-

port that these objects have been patented in conformance with the present law, or who shall have made use of a similar notification in announcements, placards, advertisements, prospectus or signs shall be punished with a fine of from twenty-six francs to two hundred francs.

ART. 23. The penalties established by the present law shall not be cumulative. The highest penalty will only be pronounced for the entire set of infringements made prior to the action.

ART. 24. The provisions in vigor relative to extenuating circumstances can be applied to offenses coming within the preceding provisions.

ART. 25. Civil actions on account of the violation of the patent rights must be commenced within three years from the date of the infringements on which the actions are founded.

CHAPTER. V.

TRANSITORY PROVISIONS.

ART. 26. The law of January 25, 1817, and all provisions anterior to the present law relative to patents of invention, of importation, and of improvements are abrogated. Nevertheless, the patents actually in force will continue to be governed by the provisions in vigor at the moment of their delivery, unless their holders conform to the provisions that follow.

ART. 27. The holders of patents actually in force shall be allowed to convert them into patents governed by the present law, if they, within three months from the publication of the present law, make their declaration to this effect in conformance with what is prescribed by article 10, saving that it will suffice for them to join thereto the original patent and its annexes. The term of fifteen years, fixed by article 7, shall run from the date of the original patent. The annual taxes will be counted as due on the same date, on which date also the annual expirations (in default of payment) will be regulated. The tax paid for the original patent shall be placed to the account of the annuities already due or to become due. If it be not sufficient to cover the annuities already due, the difference must be paid before the deposit of the declaration.

ART. 28. The applications for patents filed previous to the present law, and about which we have not yet decided, must be changed by their inventors within three months from the publication of the present law into applications, according to the provisions of the

foregoing chapter II., under pain of forfeiture of the original application. The patents whose delivery is to take place shall be governed by the present law, still the time elapsed since the original application will be deducted from the term of fifteen years fixed by article 7.

ARR. 29. The publication of descriptions and the open working mentioned in article 2 can only be urged against those to whom patents have been delivered in accordance with the preceding articles 27 and 28, if the publication of such descriptions or such working was anterior to the date of the original patent, and if at the date of the deposit of the (renewed) application the matter had not previously been adjudicated upon.

ART. 30. A Royal Grand Ducal decree, issued in due order by the administration, will fix the provisions that the execution of the present law will render necessary.

Commanded and ordained that the present law be inserted in the "Memorial," to enable it to be carried out and observed by all those whom it may concern.

Signed at Loo, June 30, 1881.*

WILLIAM.

F. DE BLOCHAUSEN,

The Minister of State, President of the Government.

PAUL EYSCHEN,

The Director-General of Justice.

From 34 *Pat. Off. Gaz.* 341.

MANITOBA.

See CANADA.

MARQUESAS ISLAND.

See FRANCE.

MARTINIQUE.

See FRANCE.

* Messrs. Carpmael give the date of this law as June 30, 1880.

MAURITIUS.

Ordinance No. 16 of 1875.

Whereas it is expedient that certain privileges be granted to inventors, and that the same be regulated and protected: Be it enacted by his Excellency the Governor [of Mauritius and its Dependencies] with the advice and consent of the Council of Government, as follows:

1. *Privilege granted to inventors.* Every inventor of any manufacture shall be entitled, under the conditions and restrictions hereinafter enacted, to the sole exclusive right of and in such new invention.

2. *Definitions of words.* Within the meaning of the word "invention" are included discoveries, and also the invention of new chemical products; also every new mode of application of known processes or forces whereby a new product or preparation is obtained or made; and also every new process or force whereby an old product or preparation is obtained or made.

Improvements are also included within the word "invention."

The word "manufacture" shall be deemed to include any art, process, or manner of producing, preparing, or making an article; and also any article prepared or produced by manufacture.

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 Mauritius of an invention, or of the sole use of an exclusive privilege for a limited period.

3. *Financial schemes not entitled to privileges.* Financial schemes and operations of credit, whether commercial or industrial, shall not entitle the inventors or promoters thereof, or parties interested therein, to obtain any exclusive right or privilege.

4. *Patents may be granted, and extended, when.* The right and privilege granted to inventors shall be conferred by a patent under the seal of the colony, whereby the inventor shall be entitled to the sole and exclusive privilege of making, selling, and using his said invention in the Colony of Mauritius, and of authorizing others so to do, for the term of fourteen years from the date of the patent,

and for such further term, if any, not exceeding fourteen years from the expiration of the first fourteen years, as the Governor in 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 calendar months before the expiration of the exclusive privilege first granted.

5. *Petition and specification to be filed.* Every inventor desirous of obtaining a patent as aforesaid shall file in the office of the colonial secretary a petition signed by him, or, if he be absent from this Colony, by an authorized agent; such petition shall state the names, additions, place of abode of the petitioner, and the nature of the invention. To the petition shall be annexed a specification in writing; such specification shall be signed by the petitioner or authorized agent as aforesaid, and shall particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed. With the specification shall be filed all diagrams, plans, and drawings whereby the nature of and the mode of working the invention can be best described and ascertained.

6. *Declaration to accompany petition.* Every petition or specification shall be accompanied by a declaration in writing, signed by the petitioner or authorized agent as aforesaid, in the form and to the effect mentioned in schedule A. hereunto annexed.

7. *Consequences of willfully false statements.* If any person who shall make a declaration under this ordinance shall willfully and corruptly make any false statement, he shall be deemed guilty of perjury, and upon conviction be liable to imprisonment not exceeding two years, without prejudice to any action or suit which the injured party or parties may bring against him.

8. *Procureur general's certificate and interim protection.* When any applicant has filed his petition and specification with the view of obtaining a patent, the same shall be referred to the procureur general, and if he approve of them as *primâ facie* entitled to protection, he shall issue his certificate to that effect, and the inventor shall be provisionally protected.

Provided that, should the procureur general refuse to issue his certificate, the party aggrieved may apply to the Governor in Executive Council, who shall have the power to decree that the certificate do issue; and it shall then be issued by the secretary of the Executive Council.

It shall then be the duty of the applicant to cause, within two months of the certificate, the application to be advertised in the

government Gazette, with a view of giving persons who have an opposite interest the opportunity of objecting to the patent being granted. If no opposition be made within one calendar month of the advertisement, the patent shall issue; if there be opposition made, the matter will be referred to the procureur general, who, if the applicant and opposing party or parties are satisfied that his decision shall guide them, shall decide finally; but who shall otherwise refer the matter to the Supreme Court for decision.

The Supreme Court may hear and determine the case upon a motion to show cause why the patent applied for should not issue.

Upon the fiat of the procureur general, or, as the case may be, the rule of the Supreme Court, the patent shall issue, or the interim protection cease and determine.

9. *Opposition how lodged; grounds of objection.* Any party or parties intending to oppose the issuing of the patent shall be bound within the above mentioned delay to notify his or their opposition to the colonial secretary. The opposition shall contain the grounds of objection, and no other objections than those specified in the opposition shall be taken notice of either by the procureur general or the Supreme Court, as the case may be.

10. *Form and cost of certificate.* The certificate of the procureur general to entitle the applicant to interim protection shall be in the form in schedule B. hereunto annexed. When from any cause prevented from acting, the procureur general may delegate the substitute procureur general to act in his stead.

Every certificate shall issue upon payment of a fee of ten pounds sterling to be paid to the receiver general.

11. *Government gives no warranty; seal.* Every patent shall as heretofore be granted without any warranty of any kind or nature whatsoever on the part of the government; and every person entitled to a patent shall, before his patent is sealed, pay the sum of two pounds sterling to the receiver general.

12. *Printed copies to be filed, and a book to be kept.* Before the patent is sealed, the person entitled to the patent shall deposit in the office of the colonial secretary a printed copy of every such petition and specification.

A book shall also be kept in the office of the said colonial secretary wherein shall be filed and recorded every such original petition and specification, and every order made upon such petition or relating to the invention therein related. Every specification 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 such specification, to every order relating to the invention, and to every petition, memorandum, or amended specification which shall be filed under the provisions of article 15.

13. *Book open to all persons.* Such book or printed copy as aforesaid shall be open at all convenient times for the inspection of any person, upon payment of a fee of four shillings, and the said colonial secretary shall cause a copy of any entry therein, certified under his hand, or the hand of the assistant colonial secretary, to be an examined copy, to be given to any person requiring the same, on payment of the expense of copying, at the rate of fourpence sterling per folio of ninety words.

14. *Copies to be evidence.* Printed or manuscript copies, certified to be examined copies by the colonial secretary or assistant colonial secretary, of letters patent, specifications, disclaimers, *memoranda* of alterations, and all other documents filed in the colonial secretary's office, shall be received in evidence, in all proceedings relating to letters patent, in all courts whatever in the colony of Mauritius, without further proof or production of the originals.

15. *Amended specification to be filed, when and how.* If after the filing of the specification the petitioner shall have reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his petition or specification, or included therein something which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor in Executive Council for leave to file a memorandum pointing out such error, defect or insufficiency, or disclaiming any part of the alleged invention ; or, in case of any defect or insufficiency in the specification, for leave to file an amended specification. The petition shall state how the error, defect, or insufficiency occurred, and that it was not fraudulently intended, and shall be accompanied by a declaration in writing, signed by the petitioner or authorized agent as aforesaid, stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition the Governor in Executive Council may make an order allowing such memorandum or amended specification to be filed. All the provisions of article 7, 8, 12, 13, and 14, shall be applicable to petitions, memoranda, amended specifications, or orders referred to in this article. An amended specification under the provisions of this

ordinance shall, except as to suits and proceedings relative to the exclusive privilege which shall be pending at the time of such amended specification, have the same effect as if it had been the specification first filed ; provided that nothing in an amended specification shall extend or enlarge any exclusive privilege before acquired.

16. *Patents not to be granted, in what cases.* No person shall be entitled to a patent under this ordinance,—

(a) If the invention is of no utility ;

(b) If the invention at the time of presenting the petition was not a new invention within the meaning of this ordinance ;

(c) If the petitioner is not the inventor thereof ;

(d) If the specification filed, or the amended specification if any, does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed ;

(e) If the original or any subsequent petition relating to the invention, or the original or amended specification, contain a willfully fraudulent statement.

17. *Patents, if prejudicial to the public, to be withdrawn.* Every patent for an exclusive privilege under this ordinance shall be invalid and of no effect if it be proved to the satisfaction of the Governor in Executive Council that the same or the mode in which it is exercised is mischievous to the Colony or generally prejudicial to the public ; or if the patentee shall to the satisfaction of the Governor in Executive Council be proved guilty of the breach of any special condition under which the patent originally issued or was extended. Notice of the withdrawal of the patent, and the cause thereof, shall be inserted in the government Gazette.

18. *No patent when foreign patent has expired.* No patent shall be granted for an invention in respect whereof a patent has been granted out of this Colony and has expired.

19. *Assignments to be registered and transcribed.* No patent shall be held as to third parties to have been duly assigned unless the assignment be registered and transcribed at the mortgage office.

20. *Patents in joint names of several inventors.* When more persons than one have been concerned in making an invention the patent must be taken out in their joint names.

21. *Patents, what they may include.* No 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 one patent.

22. *No patent except to actual inventor for imported inventions.* The importer into Mauritius of a new invention shall not be deemed an inventor within the meaning of this ordinance, unless he be the actual inventor.

23. *Foreigners entitled to patents.* A foreigner, whether resident abroad or not, may obtain a patent under this ordinance, provided he comply with the provisions of this ordinance.

24. *Inventions deemed new inventions, when.* An invention shall be deemed a new invention within the meaning of this ordinance, if it shall not, before the time of filing the petition as aforesaid, have been publicly used in Mauritius or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in Mauritius or the United Kingdom by means of a publication either printed or written, or partly printed and partly written.

The public use or knowledge of an invention prior to the filing of the petition as aforesaid shall not be deemed a public use or knowledge within the meaning of this article if the knowledge 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 calendar months after the commencement of such public use, file his petition for a patent, 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 with his license in writing, for a period not exceeding one year prior to the date of the petition, shall not be deemed a public use thereof within the meaning of this ordinance.

25. *Holder of letters patent to take a patent, when and how.* If an inventor has obtained Her Majesty's letters patent for the exclusive use of an invention in the United Kingdom, he may obtain a patent in Mauritius under this ordinance for such invention, provided the application be made within twelve calendar months from the passing of this ordinance, or within twelve calendar months from the date of the letters patent, although previous to the time of his petitioning, such invention may have been publicly known or used in Mauritius; provided such invention was not publicly known or used in Mauritius before the date of the letters

patent, and provided the patent obtained in Mauritius shall cease to have effect if the letters patent are revoked or canceled, and provided the privilege obtained in Mauritius shall not extend beyond the period assigned to the letters patent in the United Kingdom.

26. *Who can use the invention nevertheless.* No privilege obtained under this ordinance shall entitle the owner of such privilege to exclude any person from using the invention who prior to the passing of this ordinance used the same in this Colony.

27. *Actions for infringement ; writ of injunction.* An action may be maintained by an inventor against any person who, during the continuance of any exclusive privilege granted under this ordinance, shall without the license of such inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same ; provided such action be brought before the Supreme Court, and provided the said Supreme Court or a judge in chambers shall have the right, before action brought or pending the action, to issue a writ of injunction restraining the defendant from making use of, selling or putting in practice, the said invention, for such time and under such conditions as to the said court or judge shall seem fit.

28. *Actions ; how they may not be defended.* No such action shall be defended upon the ground of any defect or insufficiency of the invention ; nor upon the ground that the original petition, or any subsequent petition relating to the invention, or the original or any amended specification, contains willful mis-statements ; nor upon the ground that the invention is not useful ; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor, or has obtained the right from him to use the said invention wholly or in part.

But any such action may be defended upon the ground that the invention was not new.

29. *Motion to be made before infringement to cancel patent.* It shall, however, be lawful for any person to apply by motion to the Supreme Court for a rule to show cause why the court should not declare that an exclusive privilege in respect to an invention shall be canceled or revoked under the provisions of this article, by reason of all or any of the objections following, to be specified in the rule ; that is to say,

1. That the said invention is of no utility ;

(2.) That the said invention was not, at the time of filing the petition, a new invention within the meaning of this ordinance ;

(3.) That the patentee was not the inventor thereof ;

(4.) That the patentee did not, in his petition and specification, particularly describe and ascertain the nature of the invention, or in what manner the same is to be performed ;

(5.) That the petitioner has in the petition or specification or amended specification made willful or fraudulent mis-statements ;

(6.) That some part of the invention, or the manner in which that part is to be performed, as described in the specification filed or the amended specification, is not thereby sufficiently described or ascertained, and that such defect or insufficiency was fraudulent or is injurious to the public ;

(7.) That some part of the invention is wholly distinct from the other part, and is of no utility or is not new as aforesaid, or that the petitioner was not the inventor of such part.

30. *Procureur-general may move.* It shall be lawful for the procureur-general to make or direct to be made the application in article 29 mentioned, whenever he shall think it necessary on behalf of the public.

31. *Notice, how served.* Notice of any rule obtained or proceeding taken under articles 29 and 30 shall be served on the patentee ; or, if the patent have been assigned, upon all persons appearing to be proprietors or to have shares or interests in the exclusive privilege conferred by the patent ; and it shall not be necessary to serve such notice on any other person.

32. *What the Supreme Court may not take cognizance of.* It shall not be lawful for the Supreme Court to take cognizance, either in actions for infringement or in motions made to cancel and revoke a patent, of any breaches or grounds of defense but those specified in the declaration and plea, or of any objections but those specified in the rule to show cause.

33. *Supreme Court to hear and determine.* If it shall appear to the Supreme Court that by any of the objections in article 29 mentioned the said exclusive privilege in the invention, or any part thereof, ought to be canceled, the court shall make the rule absolute, with such order as to costs of and consequent upon the application as it may think just ; and thereupon the patentee, his heirs, executors, administrators, or assigns, shall, so long as the judgment continues in force, cease to be entitled to the said exclusive privilege. A copy of the rule certified by the registrar of the Supreme Court

shall be forwarded to the colonial secretary, and annexed to the original petition and specification.

34. *Supreme Court may allow amendments, when and how.* It shall be lawful for the court to adjudge that the exclusive privilege shall not be canceled, save as to the part thereof affected by error, defect, or insufficiency; and also if satisfied that no fraudulent practices were intended, and that the error, defect, or insufficiency can be amended without injury to the public, to order, upon such terms as to the court may appear reasonable, the specification or amended specification to be amended in any particular; and the patentee, his heirs, executors, administrators, or assigns, shall, within the time limited by the said court for the purpose, file a specification amended according to such order; provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

35. *Short title.* This ordinance may be cited as "the Patents Ordinance."

36. *Repeal clause.* Ordinance No. 11 of 1835 is hereby repealed.

SCHEDULE A.

I of in the district of do solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as in petition*], which invention I believe will be of great public utility; that I am 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, hereunto annexed, particularly describes and ascertains the nature of the said invention and the manner in which the same is to be performed."*]

SCHEDULE B.

In humble obedience to his Excellency's commands referring to me the petition of of , to consider what may be properly done therein, I do hereby certify as follows: That the said petition sets forth that the petitioner [*state briefly the allegations of the petition*].

And the petitioner most humbly prays [*state briefly the 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 [*state briefly the allegations of the declaration*].

That there has also been laid before me (a provisional specification signed and also a certificate), or (a complete specification, and a certificate of the filing thereof), whereby it appears that the said invention may be provisionally pro-

tected (*or* protected) from the day of A. D. in pursuance of
the ordinance:

I hereby certify that the petitioner is entitled to interim protection on account of his said invention, provided the said application for letters patent be duly advertized according to the ordinance, and that the petitioner do otherwise comply with the enactments of ordinance No. 18 of 1875.

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

From *Carpn. Pat. L. of World*, 364.

MEXICO.

Law of May 7, 1832.

ARTICLE 1. To protect the right of property of inventors or improvers of any branch of industry, an exclusive right shall be given them, to use the invention or improvement in all the states of the federation for the time and under the conditions that are expressed in this law.

ART. 2. The inventor or improver of any industry in the Mexican Republic who wishes the government to secure to him the possession thereof, shall present to it or to the city council of the place in which he desires to establish his project, or to that of his residence, or to the governor of the state or territory, to which that place pertains, an exact description,* accompanied by drawings, models, and as much more as is judged necessary for the explanation of the proposed object, and the above named authorities shall give him a legal instrument according to form number one.

ART. 3. The local authority, in case the applicant does not present himself directly to the governor of the state, shall remit to the latter the papers in the case with all the documents, and the governor shall decide; and in case the applicant has not done so himself, shall forward the application by the first regular mail to the minister of the interior.

ART. 4. The government, on receiving a petition to obtain a patent, shall publish it three times in the newspapers, and a term of two months (counting from the day of publication) shall be allowed for opposition to be entered by any who claim priority.

ART. 5. The government, through the secretary of the interior, shall issue to the improver or inventor a patent according to form number two.

ART. 6. In granting the patent mentioned in the previous article, the government is not to examine whether or not the inventions or improvements are useful, but only if they are contrary to public safety or health, to good morals, or to law, or to the orders and regulations, and if it is not so, they cannot refuse the protection solicited.

* The documents must be in Spanish. Pat. Off. Gaz. April 10, 1883, p. 1448.

ART. 7. Patents of invention shall remain in force for ten years, and those of improvement for six, counting from the date when the privileged project is established in the Republic.

ART. 8. A project of invention or improvement is understood to be established from the day the patent is issued.

ART. 9. When an inventor or improver desires that his privilege should be limited to one State only, he must apply for the concession to the authorities of that State.

ART. 10. When any one has obtained a privilege for an invention or improvement already established without patent by another, the privilege shall be void, even if it be not claimed by that party as his invention or improvement.

ART. 11. When the invention or improvement is of such nature that it may be worked in secret, and the inventor or improver obtains a patent, when the term of the patent has expired, he must make the invention or improvement public.

ART. 12. A patent having been issued for an invention, if a privilege for an improvement is solicited, the privilege granted to the improver shall not affect the rights of the original inventor.

ART. 13. When the inventor or improver desires the privilege for a longer time than that expressed in article 7, he must apply to the government, which shall report to Congress.

ART. 14. An inventor or improver shall not use his industry as patented until he has obtained from the government the patent which establishes his title.

ART. 15. In case of dispute as to the possession of an invention or improvement, it shall be decided by the common laws.

ART. 16. When it is proved that a privilege has been obtained by fraud, the applicant representing as an invention or improvement that which is no more than an introduction, the patent which has been obtained shall be void.

ART. 17. The government shall publish in the Gazette the grant of each patent immediately it is issued, and shall designate a convenient place where the designs, plans, and models named in article 2 may be open to public inspection.

ART. 18. When the invention or improvement is to remain secret, the designs, plans, &c., shall not be published until the expiration of the term of privilege.

ART. 19. The fees for a patent will be from 10 to 300 dollars (*pesos*).

ART. 20. At least one half of the persons employed in mechani-

cal labor by the workers of a patent, must if possible be actually natives of the United Mexican States.

ART. 21. The introducer of any branch of industry that in the judgment of the government is of great importance, may obtain an exclusive privilege by applying through the government to the General Congress.

FORM No. I.

Certificate delivered by the Local Authority or Governor of a Province.

I, N., mayor or governor of _____, certify herewith that this day, month, and year, N. N. has [or have] delivered to me a closed and sealed packet, which he [or they] declare to contain all the descriptive documents [*insert the precise object in view*], and for that purpose the packet has been labeled with the number of the inventor or improver, and the day and hour of its delivery. Having declared that he [or they] is [or are] the inventor [or inventors], improver [or improvers], he has [or they have] signed the present in duplicate with me, keeping one for himself [or themselves], and leaving the other at this office.

[Certificates may also be delivered by the secretaries of governors, if the latter should find it convenient.]

FORM No. II.

Letters Patent.

The President of the United States of Mexico informs all those present that having found N. [or N. N.] to be an inventor [or inventors], or an improver [or improvers], according to the documents, plans, drawings, descriptions, or models delivered, he by these presents secures his [or their] right of property of his [or their] invention [or improvement], according to the terms and for the time prescribed by law, the present decree establishing his [or their] title.

Dated

From *Carp. Pat. L. of World*, 375.

Decree of September 28, 1843.

In every patent which is issued, a prudent term shall be fixed, within which the use of the privileged object shall be commenced, and if not accomplished in said time, the privilege will be held to have expired, and free action granted to any other individual to apply for it again.

From *Carp. Pat. L. of World*, 380.

*Regulation of July 12, 1852, for the Better Observance of
the Law of May 7, 1832.*

ARTICLE 1. The inventor or perfecter of any industry, to make use of the right given by article 2 of the law of May 7, 1832, shall present to any of the authorities named by the said article his petition (*solicitud*), accompanied by duplicates of his designs (or models), and what is judged necessary for explanation of what is proposed.

ART. 2. Every petition made according to the previous article shall pass immediately after its first publication for the information of the directing committee of industry, which shall extend that which it may deem proper within the term specified by article 4 of said law.

ART. 3. The directory shall give information upon those points which are comprehended under article 6 of said law.

ART. 4. If before the term specified in article 4 of said law expires there shall be any opposition, the directing committee shall hear verbally the interested parties, and consult with experts on doubtful points according to right, and shall obtain an agreement between the parties, provided that it does not prejudice the public interests nor conflict with the laws. If the parties should agree, an act shall be made, signed by the president and secretary of the committee, showing the agreement made. The directive committee shall send it to the government with the proper information.

ART. 5. If no agreement be arrived at, the directive committee shall send the papers in the case to the government, giving its opinion upon the controverted point.

ART. 6. Providing that the opposer shall found his objection upon an alleged better right to the privilege which is asked, because personally it may have been conceded to him and guaranteed by the issue of the respective patent, the government shall examine the opposition, and within thirty days grant or deny the patent which is solicited, the rights of the party who considers himself injured remaining in full force in order that he may use them before the competent federal courts, according to law.

ART. 7. Should the dispute turn upon the possession or ownership of the privilege, or this should be impugned for the reasons expressed in the 16th article of said law, the judicial notice shall be

passed to the competent federal tribunal in order that, the parties being heard according to law, it may decide the contest. The party gaining the case shall present testimony of the sentence given, that it may, passing to the directing committee of industry, inform it with reference to the concession of the decision, if the judicial decision shall have been favorable to him who asks it.

ART. 8. If the opposition should be founded in that the privilege cannot be conceded according to what is provided in article 6, or that the innovation or perfection is not a matter of privilege on account of being comprehended in article 10 of said law, the government shall decide upon the concession, and from the decision made there shall be no opportunity for judicial recourse, provided that the opposition is founded upon the mentioned article 6; but if it should turn upon the application of article 10, and the government decision should concede the patent, there will remain in force the judicial recourse to him who may consider himself prejudiced.

ART. 9. The competent federal tribunals, upon the petition of the attorney-general, in default of a party who should make the decision, shall declare the nullity of the privileges comprehended in articles 10 and 16 of the Law of May 7, 1832. The attorney-general cannot take this public action unless directed by the government.

ART. 10. The government, upon issuing the patent mentioned in article 5 of said law, shall return one exemplar of the designs, models, and descriptions, which, according to article 1 of this law, must accompany the petition in duplicate. This exemplar, if it be design or description, will go signed by the chief clerk of the ministry of relations. If it be a model which cannot be written upon, there shall be placed a suitable mark or sign, making written note of this fact on the patent, as also of the return of the duplicates. In the cases comprehended in the article 18 of the law of May 7, 1832, the signatures and signs shall be placed on the cover of the box that contains the designs, plans, &c.

ART. 11. The patent of which the previous article of the said law speaks forms the title of privilege, and, when produced to establish or define a right, there shall be exhibited therewith the designs, descriptions, or models authorized in the form provided in the preceding article.

ART. 12. The concession of a patent does not guarantee the

utility of the invention or perfection nor prejudice (*prejuzga*) the questions relating to it which may arise.

ART. 13. A copy of this law shall accompany every patent issued hereafter, under seal of the ministry of relations stamped over wafer.

From 23 *Pat. Off. Gaz.* 1447

MICQUELON.

See FRANCE.

MONTSERRAT.

See LEEWARD ISLANDS.

NATAL.

An Act "to provide for the granting in this Colony, of Patents for Inventions." No. 4 of 1870.

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 therefore enacted, by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows :

1. *Interpretation clause.* In the interpretation of this law 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, c. 83, entitled "An Act for Amending the Law for Granting Patents for Inventions;" and the term "letters patent" shall mean authorizations granted by the Lieutenant Governor, under the public seal of the colony; and the term "proceedings in the nature of a *scire facias*," shall mean and have a like signification with, or as nearly as may be, what the same term would mean if used in an Act of the Imperial Parliament.

2. *Issue of letters patent authorized.* It shall be lawful for the Lieutenant Governor, to make and issue, in 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.

3. *Rules and regulations for carrying out this law.* It shall be lawful for the Lieutenant Governor, with the advice of his 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 law; and all such rules and regulations shall be laid before the Legislative Council within fourteen days after the making thereof, if the Legislative Council be sitting, and if the Legislative Council be not sitting, then within fourteen days after the next meeting thereof.

4. *Application; deposit of provisional specification; fee; term of protection; amendment.* All applications under this law, for the grant of letters patent, shall be made, as near as may be, as

follows, that is to say : The applicant shall deposit in the office of the attorney-general, an instrument in writing, under his signature, describing the nature of his invention ; 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, who shall thereupon deposit and pay a fee as per schedule 8 hereunto annexed ; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this law 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 upon him by letters patent issued under this law, and duly sealed as of the day of the date of such deposit ; and during the continuance of such powers, rights, and privileges, such invention may be used and published, without prejudice to any letters patent to be granted for the same ; and the contents of such specifications shall not be inspected by any person but the attorney-general, or such person as he may appoint in that behalf, and its contents shall not be published until after the expiration of the said six months: Provided that in case the title of the invention or the said specification be too large or insufficient, it shall be lawful for the attorney-general, during the said term, and before the grant of letters patent, to allow or require such specification to be amended. Such amended specification shall be considered a complete specification, and shall be liable to the conditions imposed upon complete specification by this law.

5. *Complete specification ; fee ; protection ; insufficient description.* The applicant for an invention, instead of depositing a "provisional specification," as aforesaid, may, if he think fit, deposit an instrument in writing under his hand and seal (hereinafter called a complete specification), particularly describing and ascertaining the nature of the said invention, in what manner the same is to be performed, and also such drawings as may be required to explain the same, and the day of the deposit of every such specification shall be recorded at the aforesaid office and indorsed upon such specification, and a certificate thereof given to such applicant, or his agent, who shall thereupon deposit and pay a fee as provided in schedule 8 of this law ; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this law 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 ; 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 shall be conditioned to become void if such specification does not sufficiently describe and ascertain the nature of the said invention and in what manner the same is to be performed, and in case the invention is an improvement on any existing invention, if such specification does not sufficiently show in what the improvement consists.

6. *Deposit of specification in fraud of true inventor, not to invalidate.* In case of the depositing 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.

7. *Mode of proceeding ; notice to attorney-general ; appointment ; publication ; filing objections.* The applicant, as soon as he shall think fit after the deposit of such specification as aforesaid, and of the drawings accompanying 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 attorney-general, and at the time of giving such notice shall produce the said certificate of deposit and receipt for the said fee or fees, 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 law, 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 Pietermaritzburg, and twice in some newspaper published in the town or place at or near 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 exercise or use the same) where he resides ; and any person having an interest in opposing the grant of letters patent for the said invention, shall be at liberty, upon payment therefor of a fee as provided by schedule

8, to leave particulars in writing of the objections to the said application at the office of the attorney-general within such time, not less than one month, as the attorney-general by such appointment may direct.

8. *Hearing of application and objections ; 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 may call to his aid scientific or other person or persons, as he may think fit, and the Lieutenant Governor therefor appoint, and may, by writing, under his hand, order to be paid to such person or persons, by the said applicant or objector, 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 law, 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 law, or to the like effect, and may be made a rule of the Supreme Court ; provided 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.

9. *Issue of warrant for granting letters patent.* The attorney-general, if no objections have been made, or after such hearing and consideration as the case may be, 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 law, and the said warrant shall be the warrant for the making and sealing of letters patent under this law, according to the tenor of the said warrant, and every such warrant shall be in the form contained in the fourth schedule to this law, or to the like effect, and for the granting thereof the applicant shall pay to the colonial treasurer, and produce his receipt therefor, a fee as in schedule No. 8 hereto annexed.

10. *Scire facias for repeal of patent ; Governor may order to withhold warrant.* A writ of the Supreme Court of the nature of

a writ of scire facias in England shall lie for the repeal of any letters patent granted under this law, and it shall be lawful for the Lieutenant 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 law; and it shall also be lawful for the Lieutenant Governor, with the advice 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.

11. *Form and condition of letters patent.* All letters patent granted under this law shall be in the form contained in the fifth schedule to this law, 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 to the colonial treasurer 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 treasurer shall issue under his hand a certificate of such payment, and shall indorse a receipt for the same on the letters patent.

12. *Preparation of letters patent; sealing same.* The attorney-general, so soon after the issue by him of the warrant aforesaid as required by the applicant, shall cause to be prepared letters patent of the invention, according to the tenor of the said warrant; and it shall be lawful for the Lieutenant 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 law by reason of such deposit as aforesaid.

13. *Delay in sealing; death of applicant; destruction or loss of patent.* 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 Lieutenant 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 Lieutenant 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.

14. *Date of patent; after issue appointment not to be questioned.* All letters patent to be issued in pursuance of this law, shall be sealed and bear date as of the day of the deposit of any 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 law, 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.

15. *Extension to colony of patent granted elsewhere.* Where, upon any application made under this law, letters patent are granted for or in respect of any invention, first invented in parts out of this colony, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any parts out of this colony is obtained before the grant of such letters patent in this colony, all rights and privileges under such letters patent shall, notwithstanding any term in such letters patent limited, cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such part out of such colony 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 this colony 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.

16. *Patent not to apply to foreign ships.* No letters patent for any invention, granted after the passing of this law, 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 Natal, 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.

17. *Specifications and drawings, where to be kept.* Every specification deposited at the office of the attorney general, as aforesaid, and the drawings 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 Lieutenant Governor with the advice aforesaid, shall from time to time appoint for that purpose.

18. *Disclaimer.—Appointment; publication; objections.* Any person who shall obtain letters patent under this law, or in case such person shall part with the whole or any part of his interest by assignment, such person, together with the assignee (if part only hath 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 to 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 law, or to the like effect, and such patentee or assignee shall thereupon

* By Law No. 5 of 1871, Carpm. Pat. L. of World, 404, the terms "foreign ship or vessel" in section 16 in the text are declared to "include all ships and vessels

used in navigation not propelled by oars, not being registered in or hailing from this Colony."

cause such disclaimer (stating the reason for the same), or such memorandum or 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 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.

19. *Hearing application and objections.* 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 any application for letters patent, and objections to the same, and shall and may be enforced in the same manner.

20. *Entry of disclaimer; attorney-general's fiat.* 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 hereinbefore mentioned; and such disclaimer or memorandum of alteration being filed in such office as the Lieutenant 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 courts of this Colony, 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 law, 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 law: 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 law.

21. *Specifications, drawings, &c.; public after issue of patent.* The copies of all specifications, and the drawings accompanying the same, if any, and of all disclaimers and memoranda of alterations, respectively deposited under or in pursuance of this law, 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 Lieutenant Governor, with the advice aforesaid, may make in that behalf.

22. *Petition to Governor for extension of patent.* If any person having obtained letters patent under this law, or in case such person shall have parted 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 Lieutenant 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 Lieutenant Governor, with the advice aforesaid, to refer the consideration of the said petition to the Supreme Court.

23. *Petition for confirmation or renewal of patent.* If in any suit or action it shall be proved or specially found by the verdict of a jury or by the court, 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 Lieutenant Governor to confirm the said letters patent, or to grant new letters patent, and it shall be lawful for the Lieutenant Governor, with the advice aforesaid, to refer the consideration of the said petition to the Supreme Court.

24. *Petition to be advertised; entering caveat.* Two months at least before the time named 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 first-mentioned appointment, an advertisement of the contents of the said petition in the form contained in the seventh schedule to this law, 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 attorney-general, at any time, not being less than one week before the time named for the consideration of the said petition.

25. *Hearing petition ; court to report to Lieutenant Governor on prayer for extension ; on prayer for confirmation or renewal, to decide.* 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 law ; 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, 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 court may report whether any, and, if any, what further extension of the said term should be granted ; and the Lieutenant 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 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, the court, 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, shall decide whether the prayer of such petition ought to be complied with, whereupon the Lieutenant 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 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 from the petitioner or his attorney of the time and place fixed for the hearing of the said petition ; and after any such decision and order 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. The expenses of such hearing and all costs connected therewith, shall be paid as the court may direct.

26. *Indices of specifications, &c.* The Lieutenant Governor, with the advice aforesaid, may cause indices to all specifications, disclaimers and memoranda of alterations heretofore or to be hereafter enrolled or deposited as aforesaid, to be prepared in any such form as may be thought fit, and such indices shall be open to the inspection of the public at such places as the Lieutenant Governor with the advice aforesaid, shall appoint, and subject to the regulations to be made as hereinbefore provided.

27. *The Register of Patents.* 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 law, 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 Lieutenant 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 Lieutenant Governor, with the advice aforesaid, may make in that behalf.

28. *Register of Proprietors.* 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 Lieutenant 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 on payment of the fee provided in schedule 8, 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 Lieutenant Governor, with the advice aforesaid, may make.

29. *Punishment for making false or forged entries.* If any person shall willfully make, or cause to be made, any false entry in the said register, 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 law, and shall upon conviction be liable to imprisonment, with or without hard labor, for any period not exceeding five years.

30. *Entries in registers—how expunged, vacated or varied.* If any person shall deem himself aggrieved by any entry made under color of this law 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 register, on the production to him of any such order, shall expunge, vacate or vary the said entry according to such order.

31. *Punishment for imitating a patentee's marks or device.* 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 heirs or 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 fifty pounds, one half to the colonial government, and the other half, with full costs of suit, to any person who shall sue for the said penalty by action of debt.

32. *Inventor's action for infringement of patent.* An action may be maintained in the Supreme Court by an inventor against any person who, during the continuance of the letters patent granted under this law, shall, without the license of said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same.

33. *Grounds of defense to any such action.* No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor shall any such action be defended upon the ground of a misdescription of the invention in the petition, nor upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor or derives title from him. Any such action may be defended upon the ground that the invention was not new, if the person making the defense, or some person through whom he claims, shall, before the date of the petition for leave to file any such specification, have publicly or actually used in Natal the invention or that part of it, of which the infringement shall be proved, but not otherwise.

34. *Court may allow amendment of specification.* If the court at the hearing of the cause shall think the patentee has in the description of his invention in the petition or specifications included something which at the date of the petition was not new, or whereof he was not the inventor, or that the complete specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the court may adjudge the said exclusive privilege to have been acquired and the letters patent 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, they may adjudge the exclusive privilege and letters patent 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 adjudge and make such further order as to costs or otherwise as may be necessary and expedient, and thereupon the patentee, his executors, administrators, or assigns, shall, within the time limited by said

court for the purpose, file a specification amended according to such order.

35. *Action for infringement; pleadings; proceedings for repeal.* 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.

36. *Costs in such action or proceedings.* 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 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.

37. *Payment of fees specified in schedule.* 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, searches, and other matters and things respectively mentioned in the eighth schedule to this law, such fees as are enumerated in such schedule, and such of the said fees as are thereby made payable shall be payable to the persons and in the manner provided in such schedule, and shall form part of the colonial revenue.

38. *Patent granted in United Kingdom after 1870, not to extend to Natal.* All letters patent which shall be granted in the United Kingdom of Great Britain and Ireland, after the first day of January, in the year of our Lord one thousand eight hundred and seventy-one, for any invention shall, so far as the same relate to this colony, be utterly void and of none effect, and in no wise be put in execution, but all such letters patent granted in the said United Kingdom on or before that day, and which, if this law had not been passed, would have been valid in this colony, shall be deemed and taken to have been granted under this law, and may be dealt with accordingly.

39. *Effect from promulgation.* This law shall take effect from the promulgation thereof in the Government Gazette.

SCHEDULE 1.

To all to whom these presents shall come, I, _____ of _____ [*engineer, &c., as the case may be*], 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 attorney-general), make, use, exercise, and vend, within the colony of Natal, 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 hereinafter contained: Now know ye, that the nature of the said invention, and the manner in which the same is to be per-

formed, 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 attorney-general with any such knowledge or belief as last aforesaid.

In witness whereof, I have hereunto set my hand at _____, this _____ day of
18 .

SCHEDULE 2.

Patent for [*insert the title as in the specification*].

This is to notify that _____, of &c., did, on the _____ day of _____ instant [*or last*], deposit at the office of the attorney-general, Pietermaritzburg, 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 months thence next ensuing. And I do further notify that the said _____ 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 _____ day 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 Pietermaritzburg, 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 _____ 18 .
Attorney-General.

SCHEDULE 3.

Upon hearing the objection of A. B. to the grant to _____, 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 _____, 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 _____ 18 .
Attorney-General.

SCHEDULE 4.

I have heard and considered the application of _____, 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 of the patent law, with the following additional clauses, that is to say [*here set them out, if any*].

Given under my hand, this day of 18 .

Attorney-General.

SCHEDULE 5.

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 , of , in the county of [engineer, &c., as the case may be], hath represented that he is desirous of obtaining our royal letters patents, 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 Natal, an invention for [*insert the title of the invention*], and by an instrument in writing under his hand, deposited in the office of the attorney-general, the said 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 the privileges hereinafter 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 , his executors, 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 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 of, 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 , 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 und 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 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 , 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 , 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 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 and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding ; provided also, that these our letters patent or anything herein contained, shall not extend, or be construed to extend, to give privilege unto the said , his executors 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 , 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 , his executors or assigns, shall not pay at the office of the colonial treasurer 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, 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 may by law be granted : And, lastly, we do by these presents, for us, our heirs and successors, grant unto the said , his executors and assigns, that these our letters patent 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 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 18 .

SCHEDULE 6.

Patent for [here insert the title].

This is to notify to all whom it may concern, that 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 day 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 Pietermaritzburg, 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 18 .

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.*]

SCHEDULE 7.

Patent for [insert the title].

Notice is hereby given that I have presented a petition to his Excellency the Lieutenant Governor, praying for the confirmation of [*or extension of the term in*] the said patent, and that the said petition has been referred to the supreme court for consideration and decision; and that on the day of next, at o'clock in the noon, or so soon thereafter as counsel can be heard, the said court will be moved thereon. All persons objecting to the said confirmation [*or extension*] must enter a caveat against the same at the office of the attorney-general in Pietermaritzburg, otherwise they will be precluded from objecting to it.

Dated this day of 18 .

SCHEDULE 8.

Fees to be paid to Treasurer on account of general revenue.

	£	s.	d.
On depositing provisional specification.....	1	1	0
Notice to proceed.....	0	5	0
Alteration of specification.....	0	10	6
For any appointment.....	1	1	0
Fee for warrant (in terms of clause 9).....	1	1	0
Complete specification.....	1	1	0
Particulars of objection.....	1	1	0
On presenting petition for extension of confirmation.....	1	1	0
Every search and inspection.....	0	1	0
Entry of assignment or license.....	0	5	0
Certificate of assignment or license.....	0	5	0
Filing memorandum of alteration or disclaimer.....	1	1	0
Entering caveat.....	1	1	0
Copy, or extract of any writing, per common law folio.....	0	1	0