

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.

*Financial Schemes not entitled to Privileges.*

3. 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.

*Patents may be granted and extended, when.*

4. 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.

*Petition and Specification to be filed.*

5. 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.

*Declaration to accompany Petition.*

6. 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.

*Consequences of wilfully false Statements.*

7. If any person who shall make a declaration under this Ordinance shall wilfully 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.

*Procureur General's Certificate and interim protection.*

8. 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 *prima 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.

*Opposition how lodged.—Grounds of Objection.*

9. 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.

*Form and Cost of Certificate.*

10. 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.

*Government gives no warranty.—Seal.*

11. 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.

*Printed copies to be filed, and a Book to be kept.*

12. 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.

*Book open to all Persons.*

13. 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.

*Copies to be Evidence.*

14. 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.

*Amended Specification to be filed, when and how.*

15. 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 Articles 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.

*Patents not to be granted, in what cases.*

16. 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 wilfully fraudulent statement.

*Patents, if prejudicial to the Public, to be withdrawn.*

17. 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.

*No Patent when Foreign Patent has expired.*

18. No patent shall be granted for an invention in respect whereof a patent has been granted out of this Colony and has expired.



*Assignments to be registered and transcribed.*

19. 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.

*Patents in joint Names of several Inventors.*

20. When more persons than one have been concerned in making an invention, the patent must be taken out in their joint names.

*Patents, what they may include.*

21. 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.

*No Patent except to actual Inventor for imported Inventions.*

22. 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.

*Foreigners entitled to Patents.*

23. A foreigner, whether resident abroad or not, may obtain a patent under this Ordinance, provided he comply with the provisions of this Ordinance.

*Inventions deemed new Inventions, when.*

24. 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.

*Holders of Letters Patent to take a Patent, when and how.*

25. 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 cancelled, and provided the privilege obtained in Mauritius shall not extend beyond the period assigned to the Letters Patent in the United Kingdom.

*Who can use the Invention nevertheless.*

26. 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.

*Actions for infringement; writ of injunction.*

27. 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.

*Actions ; how they may not be defended.*

28. 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 wilful 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.

*Motion to be made before infringement to cancel Patent.*

29. 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 cancelled 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,

- 1st. That the said invention is of no utility ;
- 2nd. That the said invention was not at the time of filing the petition a new invention within the meaning of this Ordinance.
- 3rd. That the patentee was not the inventor thereof ;
- 4th. 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 ;
- 5th. That the petitioner has in the petition or specification or amended specification made wilful or fraudulent mis-statements ;
- 6th. 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 ;



7th. 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.

*Procureur General may move.*

30. 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.

*Notice ; how served.*

31. 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.

*What the Supreme Court may not take cognizance of.*

32. 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 defence but those specified in the declaration and plea, or of any objections but those specified in the rule to show cause.

*Supreme Court to hear and determine.*

33. 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 cancelled, 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.

*Supreme Court may allow Amendments, when and how.*

34. It shall be lawful for the Court to adjudge that the exclusive privilege shall not be cancelled, 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.

*Short Title.*

35. This Ordinance may be cited as “the Patents Ordinance.”

*Repeal Clause.*

36. 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 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, 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*].

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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 protected (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 advertised according to the Ordinance, and that the petitioner do otherwise comply with the enactments of Ordinance No. 16 of 1875.

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



**MEXICO.**

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*Law of May 7th, 1832.*

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## Art. 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 ownership, 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 whatever may be judged necessary for the explanation of the proposed object all signed by him, 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 address himself directly to the Governor of the state, shall remit to the latter the application with all the documents, and the Governor making note thereof shall in case the applicant does not wish to go himself, forward the application by the first ordinary mail to the Minister of the Interior.

## Art. 4.

The General Government, on receiving a petition to obtain a patent, shall order its publication three times in the newspapers, and a term of two months, counting from the first day of publication, shall be allowed for opposition to be entered by any who claim priority.

## Art. 5.

The General Government, through the Secretary of the Interior, shall issue to the inventor or improver a patent according to form number two.

## Art. 6.

In granting the patent mentioned in the preceding Article, the Government shall not examine whether or not the inventions or improvements are useful, but only if they are contrary to public safety or health, to morality, or to law, or to the orders and regulations, and if it is not so, they cannot refuse the protection to the person applying for it.

## 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 any part of 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 person as his invention or improvement.

## Art. 11.

When the invention or improvement is of such nature that it may be kept secret, and the inventor or improver obtains a privilege on the expiration of its term, it must be made 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, without prejudice to any arrangement the two parties may make.

## Art. 13.

When inventors or improvers desire their privileges to be extended for a longer time than that expressed in Art. 7, they must apply to the Government, which will lay the application with their report before Congress.

## Art. 14.

An inventor or improver shall not use his industry as privileged until he has obtained from the General Government the patent which establishes his title.

## Art. 15.

In case of dispute as to the ownership 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 drawings, plans, and models named in Art. 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 *pesos*.

## Art. 20.

At least one half of the individuals employed in mechanical labour by privileged persons 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 General Congress is of great importance, may obtain an exclusive privilege by applying through the Government to the said 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*] declares to contain all the descriptive documents [*insert the precise object in view*], and for that purpose the packet has been labelled 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 degree establishing his [*or their*] title.

Dated

*Decree of September 28th, 1843.*

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In every patent which is issued a reasonable 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.

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**N A T A L .**

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*Law No. 4, 1870.*

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“ To Provide for the granting in this Colony of Patents for Inventions.”

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*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:

*Interpretation Clause.*

1. 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 authorisations 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.



*Issue of Letters Patent authorised.*

2. It shall be lawful for the Lieutenant Governor to make and issue, in manner herein-after 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.

*Rules and Regulations for carrying out this Law.*

3. 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.

*Application for Letters Patent—Deposit of Provisional Specification—Fee—Term of Protection—Amendment of Specification.*

4. 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 endorsed 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.

*Complete Specification—Requirements of same—Fee—Protection—Insufficient description to invalidate Letters Patent.*

5. 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 (herein-after 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 endorsed 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 shew in what the improvement consists.

*Deposit of Specification in fraud of true Inventor not to invalidate his Letters Patent.*

6. 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.

*Mode of proceeding after deposit of Specification—Notice to Attorney General—Attorney General's appointment—Publication thereof—Filing objections.*

7. 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 neighbourhood 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.

*Hearing of Application and Objections—Costs—Order for Costs.*

8. 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.

*Issue of Warrant for granting Letters Patent.*

9. 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 provisoes 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 hereunto annexed.

*A Writ of Scire Facias shall lie for repeal of Letters Patent—  
Governor may order Attorney General to withhold Warrant.*

10. A writ of the Supreme Courts 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 provisoes in addition to, or in substitution for, any restrictions, conditions, or provisoes 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 cancelled, and thereupon the protection obtained by the deposit of such specification shall cease.

*Form and condition of Letters Patent.*

11. 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 endorse a receipt for the same on the Letters Patent.

*Preparation of Letters Patent—Sealing same.*

12. 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 herein-after 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.



*Accidental delay in sealing—Death of Applicant—Destruction or loss of original Letters Patent.*

13. 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 wilful 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.

*Date of Letters Patent.—After issue thereof Particulars of Appointment not to be enquired into.*

14. 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.

*Extension to this Colony of Letters Patent granted elsewhere.*

15. Where, upon any application made under this law, Letters Patent are granted for or in respect of any invention, first in-



vented 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.

*Letters Patent not to apply to Foreign Ships in Port Natal.*

16. 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.

[NOTE.—See Law No. 5, 1871.—Post, p. 358.]

*Specifications and Drawings, where to be kept.*

17. 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.

*Application for leave to enter Disclaimer—Attorney General's appointment—Publication—Objections—No appointment requisite for Disclaimer of part of Title.*

18. 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 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.

*Hearing Application and Objections—Powers of Attorney General.*

19. 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.



*Entry of Disclaimer—Attorney General's Fiat.*

20. 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 favour 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.

*Copies of Specifications, Drawings, &c., to be open to Public after issue of Letters Patent.*

21. 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.

*Petition to Governor for extension of Term of Letters Patent—May be referred to Supreme Court.*

22. 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 to 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 labour 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.

*Petition to Governor for confirmation or renewal of Letters Patent in certain cases—May likewise be referred to Supreme Court.*

23. 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.

*Petition to be advertised—Entering caveats.*

24. 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 said 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.

*Hearing petition—Court to report to Lieutenant Governor in case of prayer for extension, and Governor to decide thereon—In case of prayer for confirmation or renewal the Court shall decide thereon, whereupon the Governor may comply with Petition.*

25. 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 petitions



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 authorised 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.

*Indices of Specifications, &c.*

26. 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.

*The "Register of Patents" Book.*

27. 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 cancelling 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.

*"Register of Proprietors."*

28. 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 *primâ 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.

*Punishment for making False Entries in the Register or forging entries therefrom.*

29. If any person shall wilfully make, or cause to be made, any false entry in the said register, or shall wilfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in the said book, or shall produce or tender, or cause 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 labour, for any period not exceeding five years.

*Entries made in Registers—how expunged, vacated or varied.*

30. If any person shall deem himself aggrieved by any entry made under colour 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.

*Punishment for imitating a Patentee's Marks or Device.*

31. 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 offence 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.

*Inventor's Action for infringement of Patent.*

32. 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.

*Grounds of Defence to any such Action.*

33. 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 defence, 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.

*Court may in certain cases allow amendment of Specification.*

34. If the Court at the hearing of the cause shall think that 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.

*Actions for infringement of Patent.—Requirements of Pleadings.—  
Proceedings for repeal of Patent.*

35. 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.

*As to Costs in such Action or Proceedings.*

36. 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.

*Payment of Fees specified in Schedule.*

37. 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.

*Letters Patent granted in the United Kingdom after 1st of January, 1871, shall not extend to Natal.*

38. 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.

*Effect from promulgation.*

39. This law shall take effect from the promulgation thereof in the Government Gazette.

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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 performed, are particularly described and ascertained in and by the following statement, that is to say [*describe the invention*]. And I do hereby, for myself, my heirs and executors, covenant with Her Majesty, her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, and that I do not know or believe that any person other than myself is the true and first inventor of the said invention, and that I will not deposit these presents at the office of the 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            .

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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 [Thursday] the            day of next, at            o'clock in the            noon, at my office, to hear and consider the said application and all objections thereto; and I do hereby require all persons having an interest in opposing the grant of such Letters Patent to leave before that day, at my office, in 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.

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### 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.

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### 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.

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### 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            , i. 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 and strictly command all and every person and persons whatsoever, of what estate, quality, degree, name, or condition soever they be, within our said colony, that neither they, nor any of them, at any time during the said term, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said            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 practise their several inventions by them invented and found out, according to the true intent and meaning of the same respective Letters Patent, and of these presents; provided likewise, nevertheless, and these our Letters Patent are upon this express condition, that if the said instrument in writing 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 favourable 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 [Thursday] the day of next, at o'clock in the noon, to hear and consider the said application and all objections to the same. And I do hereby require all persons having an interest in opposing the said application to leave, before that day, at my office in 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

	£	s.	d.
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
Sealing letters patent . . . . .	1	10	0
At or before the expiration of three years . . . . .	5	0	0
At or before the expiration of seven years . . . . .	10	0	0

### *Law No. 5, 1871.*

To amend and extend the provisions of the 16th Section of Law No. 4, 1870, entitled Law "To provide for the granting in this Colony of Patents for Inventions."

#### *Preamble.*

Whereas doubts have arisen as to the meaning of the terms "foreign ship or vessel," occurring in the 16th Section of the said Law No. 4, 1870; and it is expedient to remove such doubts, and to amend the said section by defining and extending the meaning of the said terms for the purposes of said section.

Be it therefore enacted by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

#### *Definition of terms "foreign ship or vessel," in Law 4, 1870, Sec. 16.*

1. In the said recited 16th Section of Law No. 4, 1870, and for the purposes of said section, the terms "foreign ship or vessel" shall be taken and are hereby declared to mean, comprehend, and include all ships and vessels used in navigation not propelled by oars, not being registered in or hailing from this Colony.

#### *Effect from promulgation.*

2. This law shall take effect from the promulgation thereof in the Natal Government Gazette.

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**NEWFOUNDLAND.**

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**TITLE XV., CHAP. 54, SEC. 1, OF THE CONSOLIDATED STATUTES  
ENTITLED "OF PATENTS."**

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*Patents to be granted in certain cases.*

I. Whenever any person shall apply to the Governor, alleging that he hath invented and discovered any new and useful art, machine, manufacture, or composition of matter not theretofore known or used, and shall, by petition to the Governor, signify his desire to obtain an exclusive property in such new invention and discovery, and shall pray that a patent be granted for the same, the Governor in Council may direct Letters Patent, under the Great Seal of this Island, to be issued, which Letters Patent shall recite the allegations and suggestions of the said petition, and shall therein give a short description of the said invention and discovery, and thereupon shall grant to such person, 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; which Letters Patent shall be good and available to the grantee therein named, by force of this chapter, and shall be recorded in the office of the Colonial Secretary in a book to be kept for that purpose, and shall be delivered to the patentee: and the Governor in Council may insert in any such Letters Patent a provision extending the operation thereof for a further term of seven years. Before the Great Seal of this Island shall be affixed to any such Letters Patent, or the same shall be issued and signed as aforesaid, such



Letters Patent shall be delivered to Her Majesty's Attorney-General, who shall examine the same, and shall, if he finds the same conformable to this chapter, certify accordingly, and return the same within fifteen days into the office of the Colonial Secretary, to be issued and signed.

*Improvement on Patented Invention.*

II. Where any such Letters Patent shall be obtained by any person, 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 chapter for the exclusive right of such improvement, the person who shall obtain and procure Letters Patent for any such improvement shall not make, use, or vend the original invention or discovery, nor shall the person who shall have procured Letters Patent for the original invention or discovery 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 chapter.

*Right to copies.*

III. Any person may obtain from the office of the Colonial Secretary a copy of any such Letters Patent, or of the petition whereon the same were issued, or of any paper connected therewith, or any drawing relating to the same, on payment, for such copy, of such fees as are now payable at the office of the Colonial Secretary for copies of other documents.

*Oath required.*

IV. Before any person shall receive any Letters Patent under this chapter, such person shall make oath, in writing, before one of the Justices of the Supreme Court, a Stipendiary Magistrate, or Commissioner of Affidavits, that he doth verily believe that he is the inventor or discoverer of the art, machine, composition of matter, or improvement for which he solicits Letters Patent, and that such invention or discovery hath not, to the best of his knowledge or belief, been known or used in this Island or in any other country, which oath shall be delivered with the petition for such Letters Patent.

*Description, model, and drawing to be filed.*

V. Together with such petition and oath, before any person shall obtain any Letters Patent as aforesaid, such person shall also deliver into the office of the Colonial Secretary a written description of his invention, and of the manner of using or process of compounding the same in such full, clear, and exact terms as to distinguish the same from all other things before known, 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 into the office of the Colonial Secretary, and shall explain the principle and the several modes in which such person hath contemplated the application of that principle or character by which it may be distinguished from other inventions, and shall accompany the whole with drawings and written references, where the nature of the case admits of drawings, or with specimens of the 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, signed by such person, and attested by two witnesses, shall be filed in the office of the Colonial Secretary, and copies thereof, certified under his hand, shall be evidence in all courts where any matter or thing, touching or concerning the said Letters Patent, shall come into question: 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 person from obtaining patents for his useful inventions, the Governor in Council may dispense with the delivery of such model into the office of the Colonial Secretary previous to the granting of any such patent; and, the requisitions of this chapter being in all other respects complied with, such person shall be entitled to such patent as if such model had been so lodged.

*Patentee may assign.*

VI. Any patentee, his executors or administrators, may assign all his right, title, and interest in the said invention and discovery, in the Letters Patent to him granted, to any person; and the assignee thereof, having recorded the said assignment in the office of the Colonial Secretary, shall thereafter stand in the place and stead of the original patentee, as well as to all



right, privilege, and advantage, as also in respect of all liability and 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 in the place and stead of the original patentee or inventor.

*Forfeiture in case of infringement.*

VII. 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 chapter, 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 person so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns, a sum equal to three times the actual damage sustained by such patentee, his executors, administrators, or assigns, from or by reason of such offence, which sum may be recovered, together with costs, by action on the case, founded on this chapter, in the Supreme Court.

*Pleading.*

VIII. The defendant in such action may plead the general issue, and give this chapter, and any special matter in evidence, tending to prove that the specification filed by the plaintiff does not contain the whole truth relative to the invention or discovery therein alleged to have been made by the said plaintiff, or that it contains more than is necessary to produce the described effect (which concealment or addition shall fully appear to have been made for the purpose of deceiving the public), or that the thing, invention, or discovery, thus secured by Letters Patent, as aforesaid, was not originally discovered by the patentee, but had been in use, or had been described in some public work, anterior to the supposed invention or discovery of the said patentee, or that he had surreptitiously obtained Letters Patent as aforesaid, for the invention or discovery of some other person; in either of which cases, upon proof thereof, a verdict shall be returned and a judgment shall be entered for the said defendant with costs, and the said Letters Patent shall thereupon be and shall by the said Court be adjudged void.



*Applicant not deprived of right by having obtained Patent elsewhere.*

IX. No applicant shall be deprived of his right to a patent in this Colony 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 the patent granted in this Colony shall not continue in force after the expiration of the patent granted elsewhere, and 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 patent granted in this Colony shall cease to be in force: and no Letters Patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained elsewhere, and which shall be granted in this Colony, after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

*Letters issuable to Assignee.*

X. Letters Patent may be issued by the Governor in Council 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 in 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.

*Forfeiture for failure to operate.*

XI. Any Letters Patent which may be taken out under or by virtue of this chapter, and which 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 void.

*Notices.*

XII. No Letters Patent shall be granted under or by virtue of this chapter until notice shall have been published in the Royal Gazette 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 for which such Letters Patent shall be desired.

*Remedy where Patentee takes larger Interest than entitled to.*

XIII. If by mistake, accident, or inadvertence, and without any wilful default, or intent to defraud or mislead the public, a patentee 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 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 valid for so much of the invention or discovery 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, 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 the 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 Colonial Secretary a disclaimer, attested by a witness, of that part of the thing patented which was claimed without right; and no person bringing a suit shall be entitled to the benefits of this section, if he shall have unreasonably neglected or delayed to record his disclaimer.

*Disclaimer of Surplus when Specification too broad.*

XIV. If through inadvertence, accident, or mistake, a patentee shall have made his specification too broad by claiming more than that of which he was the original or first inventor (some material and substantial part of the thing patented being justly and truly his own), the disclaimer shall



be in writing, and shall state the extent of interest in the patent held by the party making the same; it shall be attested by a witness, and be recorded in the office of the Colonial Secretary; thereafter, such disclaimer shall be considered as part of the original specification, to the extent of the interest possessed by the party making the same, or by those claiming under him; but no such disclaimer shall affect any action or suit pending at the time of its being recorded, except so far as may relate to the question of unreasonable neglect or delay in recording the same.

*Remedy where Patent becomes invalid through want in the  
Description, &c.*

XV. 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, the Governor in Council, upon the surrender of such patent, and upon petition therefor, may cause a new patent to be issued to the patentee, for the residue of the term mentioned in the first patent in accordance with the patentee's amended description and specification: In case of his death, or the assignment by him of the original patent or any fractional interest therein, the right shall vest in his legal representatives to the extent of their respective interests in such patent; and the patent so re-issued, together with the amended description and specification, shall have the same effect and operation in law as though the same had been originally filed in such amended form before the issuing of the original patent.

*Right of Patentee to Patent Improvements.*

XVI. 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 Colonial 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.



*No Patent granted elsewhere valid in Newfoundland till Specification, &c., filed in Colonial Secretary's Office.*

XVII. No patent for any invention or discovery, granted in England or elsewhere out of the Colony, and extending to the Colonies, shall be of force and effect in this Colony, until copies of the original specification and drawings filed, or duplicates of the models lodged, in England or elsewhere out of the Colony, upon which such patent was there obtained, shall be filed or lodged in the office of the Colonial Secretary, who shall grant a certificate of the lodging or filing of the same.

*Affirmations and Oaths.*

XVIII. All oaths required by this chapter, unless otherwise directed, may be taken in this Colony before a Judge of the Supreme Court, or a Commissioner for taking Affidavits in the same; or in Great Britain or Ireland, before the Mayor of a City or Borough, and shall be certified under the corporate seal; or, in a Foreign Country, before a British Consul or Vice-Consul, and shall be certified under his seal of office.

*Patentee to pay Fees of Office and Twenty-five Dollars.*

XIX. Any person who may take out Letters Patent under this chapter shall pay for the same such fees as are charged on documents issued under the Great Seal of this Island, and shall, in addition, deposit with the Colonial Secretary the sum of twenty-five dollars, to be by him paid to the Receiver General for the use of the Colony.

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**NEW SOUTH WALES.**

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*Act No. XXIV., 6th December, 1852.*

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AN Act to authorise the Governor General, with the advice of the Executive Council, to grant letters of registration for all inventions and improvements in the arts or manufactures, to have the same effect as Letters Patent in England, so far as regards this Colony.

*Preamble.*

Whereas it is expedient that the exclusive benefit of inventions and improvements in the arts or manufactures should be secured for limited periods to the author or authors or designer or designers thereof, or to his or their agents or assignees: And whereas it is doubtful whether the laws of the United Kingdom respecting patents extend to or have effect in the Colony of New South Wales: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, as follows:—

*Governor may grant Letters of Registration for a period of not less than Seven nor more than Fourteen Years for Inventions or Improvements in Arts or Manufactures.*

I. From and after the passing of this Act it shall and may be lawful for his Excellency the Governor of the said Colony, with the advice of his Executive Council, to grant Letters of Registration under his sign manual and the seal of the Colony for the

exclusive enjoyment and advantage, for a period of not less than seven nor more than fourteen years, for all inventions or improvements in the arts or manufactures, to the author or authors, or designer or designers thereof, or to his or their agents or assignees, as soon as such proceedings shall have been taken by such author or authors, or designer or designers respectively as are in that behalf hereinafter mentioned.

[NOTE—Sections II., III., & IV. were repealed by Act No. 3 of 8th July, 1887.—See Supplement.]

*Any such Letter may be repealed for certain causes.*

V. Any Letter of Registration granted by virtue of this Act shall be liable to be repealed by writ of *scire facias* for the same causes and in the same manner as other grants of the Crown are liable to be repealed.

*Commencement of Act.*

VI. That this Act shall come into operation so soon as and not until the same shall have received the royal approbation, and the notification of such approbation shall have been made by order of His Excellency the Governor General in the New South Wales Government Gazette, and that such notification shall be sufficient evidence of such approbation.



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**NEW ZEALAND.**

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*Act of 8th September, 1883. To consolidate the Law relating to Letters Patent for Inventions.*

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*Short Title.*

1. The short title of this Act is "The Patents Act, 1883."  
It shall come into operation on the first day of January One thousand eight hundred and eighty four.

*Division of Act.*

2. This Act is divided into Parts as follows :—  
Part I.—Mode of obtaining Letters Patent.  
Part II.—Disclaimers and Alterations.  
Part III.—Extension of Term and Confirmation of Invalid Patents.  
Part IV.—Miscellaneous Provisions.

*Interpretation.*

3. In this Act—  
"Invention" means and includes any manner of new manufacture the subject of Letters Patent and grants of privilege within the meaning of the fourth section hereof.  
"Patent Office" means the Patent Office appointed under this Act, but does not include any local Patent Office ;  
"Patent Officer" means the person appointed to be Patent Officer under this Act ;  
"Regulations" means regulations made under this Act.

## PART I.

## MODE OF OBTAINING LETTERS PATENT.

## 1.—FOR WHAT PATENT MAY ISSUE.

*Power to grant Patents.—Monopolies forbidden.*

4. It shall be lawful to make and issue, in the manner hereinafter mentioned, Letters Patent and grants of privilege, for any term not exceeding fourteen years from the date thereof, of the sole working or making of any manner of new manufactures within New Zealand, to the true and first inventor of such manufactures, which others, at the time of making such Letters Patent and grants, shall not use, so as also they be not contrary to the law nor mischievous to the State, by raising prices of commodities or hurt of trade, or generally inconvenient.

And all other monopolies, commissions, grants, licenses, charters, and Letters Patent hereafter to be made or granted to any person of or for the sole buying, selling, making, working, or using of anything within New Zealand or of any other monopolies or of power, liberty or faculty to dispense with any others, and all matters and things whatsoever in anywise tending to the instituting, erecting or countenancing of the same or any of them, shall be utterly void and of none effect, and in no wise to be put in execution.

## 2.—REGULATIONS.

*Governor in Council to make Regulations.*

5. The Governor in Council from time to time may make such regulations not inconsistent with the provisions hereof, as may appear to be necessary and expedient for the purposes of this Act, and all such regulations shall be gazetted.

All regulations in force under any Act hereby repealed shall remain in force as if made under this Act until other regulations are made as hereinbefore provided.

*Patent Officer.—Patent Office.*

6. The Governor may from time to time appoint such person as he thinks fit to be Patent Officer, and in like manner may appoint a place to be the "Patent Office."

The person who, at the commencement of this Act, holds the

office of Patent Officer under the Acts hereby repealed, shall be the Patent Officer under this Act, without any further appointment.

The place at the commencement of this Act used as the Patent Office shall be deemed to have been appointed under this Act.

### *Deputy Patent Officer.*

7. The Governor at any time may appoint a fit and proper person to be Deputy Patent Officer, to act in case of the death, illness, or unavoidable absence of the Patent Officer, and such deputy shall, during the time he shall so act, have all the powers and privileges, and shall perform all the duties, and be subject to the responsibilities of the Patent Officer.

Whenever the Patent Officer shall die, the Deputy Patent Officer shall act as such from the day of such death, and, in the case of illness or absence, shall act as such from such day as the Patent Officer shall certify under his hand to the Deputy Patent Officer that he is ill and unable to perform his duties, or that he is about to be absent; and such Deputy Patent Officer shall cease to act as such on the day on which he shall receive from the Patent Officer a certificate under his hand to the effect that he has resumed his duties.

### 3.—PROCEDURE TO OBTAIN PATENT.

#### *Appointment of local Offices and Officers.—Saving of existing appointments.*

8. The Governor may, for all such purposes as he may deem necessary for the public convenience, appoint local patent offices, and patent office agents in the various centres of population throughout the Colony, and from time to time alter or revoke the appointment of such offices and agents respectively.

The local patent offices and the patent office agents appointed under "The Patents Act Amendment Act, 1882," shall be deemed to have been appointed under this Act without further appointment.

Such agents shall not demand or receive from the applicant, or any one on his behalf, any fees or charges whatever other than such as are payable under this Act.



*Mode of Application.—First Schedule.—Receipt for Documents.—  
Second Schedule.*

9. Every application under this Act for the grant of Letters Patent for an invention shall be made as follows, that is to say:—

(1) The applicant shall deposit at the Patent Office, or at any local patent office, a specification, written in a plain legible hand or printed in fair legible type upon parchment or paper, and under his hand and seal, in the form or to the effect in the first schedule hereto, particularly describing and ascertaining the nature and details of the said invention with precision, and in what manner the same is to be performed, and containing a distinct claim for the especial novelty thereof, and accompanied by drawings, if necessary, for the full description and understanding of the said invention, and also a copy of such specification and drawings.

(2) The title of the invention must state distinctly and specifically the nature and object of the invention, and every specification must be limited to one invention.

(3) If such deposit be made at any local office the Patent Office Agent shall give the applicant or his agent a receipt therefor in the form contained in the second schedule hereto, or to the like effect, and shall forthwith transmit the documents and a copy of his receipt to the Patent Officer.

*Protection of Invention.—Third Schedule.*

10. (1) The exact time of the deposit of every specification which, upon examination by the Patent Officer, is found to be in accordance with this Act and the regulations shall be recorded at the Patent Office, and indorsed upon such specification, and a certificate thereof, under the hand of the Patent Officer and in the form contained in the third schedule hereto, shall be given or transmitted to such applicant or his agent.

(2) And thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act for the term of twelve 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 for such invention issued under this Act and duly sealed as of the day of such deposit.

(3) During the continuance of such powers, rights and privi-

leges under this provision, such invention may be used and published without prejudice to any Letters Patent to be granted for the same.

*Patent of true Inventor not to be affected by Specification of pretended Inventor.*

11. In case of the deposit of any such specification as aforesaid in fraud of the true and first inventor, any Letters Patent granted to the true and first inventor of 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.

*Hearing of application.—Fourth Schedule—Particulars of objections may be lodged.*

12. The Patent Officer shall make an appointment for the hearing of every application, in the form contained in the fourth schedule to this Act or to the like effect; and shall publish a notification of the said appointment once in the *Gazette*, not less than sixty clear days prior to the day appointed.

Any person having an interest in opposing the grant of Letters Patent shall be at liberty, not less than fourteen clear days before the day so appointed, to leave particulars in writing of his objections to the said application at the Patent Office.

*Patent Officer to hear applications and objections.*

13. At the place and time named in the said appointment the Patent Officer shall hear and consider the said application, and all objections to the same, if any, mentioned in the said particulars, and may call to his aid such scientific or other person as he may think fit.

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, his witnesses and evidence.

The Patent Officer shall have full power to examine applicant, objectors, and witnesses upon oath, and to administer an oath to any or all of them.

*Hearing may be adjourned.*

14. The Patent Officer may adjourn from time to time the hearing of any application for Letters Patent.



*Patent Officer may award Expenses and Costs.—Fifth Schedule.*

15. The Patent Officer may require that the applicant and the objector shall deposit such sums as the Patent Officer may think fit to meet any costs of or incident to the hearing, and may, by writing under his hand, order to be paid to any person he may call to his aid as aforesaid, some remuneration for his attendance, and may also, in like manner, order that the costs of any hearing upon any objections, or otherwise in relation to the grant of such Letters Patent, or the protection acquired by the applicant under this Act, shall be paid; and, in and by such writing, shall fix the amount of such remuneration or costs, and by or to whom the same respectively shall be paid.

Every such order shall be in the form contained in the fifth schedule, or to the like effect, and may be made a rule of the Supreme Court.

*Patent Officer may issue Warrant for Letters Patent.—Sixth Schedule.*

16. If there shall be no objection to the grant of Letters Patent and he is satisfied that this Act and the regulations have been complied with, the Patent Officer may, on the day appointed, or as soon as may be thereafter, and, when there are objections, after such hearing and consideration, 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 provisoes, as he may deem usual and expedient in such grants, or necessary in pursuance of this Act.

Such warrant shall be the authority for the making and sealing of Letters Patent under this Act, according to the tenor of the said warrant.

Every such warrant shall be in the form set forth in the sixth schedule or to the like effect.

*Amendments.*

17. In case the title of the invention or the specification be too large or insufficient, or clerical errors exist therein, the Patent Officer, on the hearing of the application for the grant of the Letters Patent, may allow or require such specification to be amended, or another and sufficient specification to be deposited in lieu thereof, and every such amended or new specification



shall have the same force, effect, and operation as if it had been originally deposited in its amended or new state.

When an applicant desires to amend his specification or drawings, or to substitute an amended specification, he must deposit particulars of such amendment or such amended specification at the Patent Office at least fifteen days before the day of hearing.

*Letters Patent to be issued on application and during the protection.*

18. (1) The Patent Officer, after the issue by him of the said warrant, and on application in writing by the applicant or his agent, with payment of the fee thereon, shall cause to be prepared Letters Patent for the invention according to the tenor of the said warrant, and the Governor may cause such Letters Patent to be sealed with the public seal of the Colony.

(2) Such Letters Patent shall be made applicable to the Colony and its dependencies, and shall be valid and effectual as to the whole of the same respectively; 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 during the continuance of the protection conferred under this Act, by reason of such deposit as aforesaid.

*Letters Patent may issue after that time in certain cases.*

19. (1.) When 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 wilful default of the applicant, then such Letters Patent may be sealed at such time after the expiration of such protection as the Governor may direct.

(2.) 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 or administrators 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 term of such protection.

*Duplicate Letters Patent may be issued.*

20. In case any Letters Patent shall be lost or destroyed, duplicate Letters Patent of the like tenor and effect, and sealed and dated as of the same day as such lost or destroyed Letters Patent, may be issued upon evidence of such loss or destruction being produced to the satisfaction of the Patent Officer.

*Letters Patent to bear date of deposit of Specification, and to be conclusive as to preliminary steps.*

21. Notwithstanding any enactment to the contrary, all Letters Patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such specification as aforesaid, and shall be of the same force and validity as if they had been sealed on the day as of which they are expressed to be sealed and bear date.

After any Letters Patent shall have been issued in pursuance of this Act, it shall not be necessary or material to inquire whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

## 4.—FORM AND CONDITIONS OF PATENT.

*Conditions for granting Letters Patent.—Seventh Schedule.*

22. All Letters Patent for inventions granted under this Act shall be in the form contained in the Seventh Schedule, or to the like effect, and shall be made subject to the provisions of this Act, and to the conditions and restrictions that may be inserted in such patent by virtue thereof, or that are imposed by this Act, that is to say:—

- (1.) That the powers and privileges thereby granted shall cease and determine at the expiration of five years from the date thereof, unless there be paid within such five years the sum or sums of money required to be paid under this Act, and the Patent Officer shall indorse a receipt for the same on the Letters Patent.
- (2.) No Letters Patent shall extend to entitle the Patentee to use or imitate any invention or work which, before the date of such patent, had been found out or invented by any other person, and publicly used or exercised, or to whom like Letters Patent or privileges have been already granted for the sole use, exercise and benefit thereof within the colony.



- (3.) The Patentee, and all and every other person and persons to whom like Letters Patent or privileges have been granted shall distinctly use and practise their several inventions by them invented and found out according to the true intent and meaning of the same respective Letters Patent.
- (4.) Nothing contained in any Letters Patent shall prevent the Patentee from granting licenses in such manner and for such considerations as they may by law be granted.

*Matters rendering Letters Patent void.*

23. All Letters Patent and all privileges and advantages whatsoever thereby granted shall utterly cease and become void —

- (1.) If the specification does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed.
- (2.) If at any time during the term for which such Letters Patent are granted it appears that the grant is contrary to law or prejudicial or inconvenient to the public good, or that the invention therein mentioned is not a new invention, or that the Patentee is not the true and first inventor thereof within this colony.
- (3.) If the Patentee shall not supply or cause to be supplied for the Government of the Colony all such articles of the said invention as he is required to supply by the persons administering the department of the public service for the use of which the same are required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said persons requiring the same.

*Invention to be brought into actual and public use.*

24. Every invention protected by Letters Patent issued under this Act shall be brought into actual and public use within the colony within the space of two years from the date of such Letters Patent, or in default thereof such Letters Patent shall at the expiration of such period of two years cease and be of no effect.



## 5.—REPEAL OF PATENT.

*Letters Patent may be repealed, or issued with restrictions, or Specification may be cancelled.*

25. (1.) An action shall lie for the repeal of any Letters Patent granted under this Act, and may be commenced in any district of the Supreme Court, in such form as may be authorised by its rules in substitution for the process by writ of *scire facias*; and in case the grantee does not reside in New Zealand, it shall be sufficient to file the writ in the Supreme Court, and to serve notice of such action in writing at the last known place of residence or business of such grantee.

(2.) The Governor in Council, upon the issue of the writ in such action, may order such Patent Officer to withhold such warrant as aforesaid, or that any Letters Patent, for the granting whereof he may have issued a warrant as aforesaid, shall not issue; or may order the insertion, in any such Letters Patent, of any restrictions, conditions, or provisoes in addition to or in substitution for any restrictions, conditions or provisoes which would otherwise be inserted therein under this Act.

(3.) The Governor in Council may also order any specification in respect of the invention described, in which no Letters Patent may have been granted, to be cancelled, and thereupon the protection obtained by the deposit of such specification shall cease.

*Letters Patent not to prevent the use of Inventions in Foreign Ships in New Zealand ports.*

26. No Letters Patent granted for any invention shall extend to prevent the use of any 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 New Zealand, or in any of the waters within the jurisdiction of any of Her Majesty's Courts in New Zealand, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the same.

But this enactment shall not extend to the ships or vessels of any foreign State the laws of which authorize subjects of such foreign State, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British ships or vessels or in or about the navigation of British ships or vessels

while in the ports of such foreign State, or in the waters within the jurisdiction of its Courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from such foreign State.

#### 6.—LETTERS OF REGISTRATION.

*Letters of Registration for Foreign Patents.—Effect of Registration.—Tenth Schedule.—Copy to be filed.*

27. (1.) The Governor in his discretion, on the application of any person being the holder or assignee of any Letters Patent or like protection issued in Great Britain or any other country or colony for an invention or discovery, and upon such proof as the Governor may by regulations require that such person is the *bonâ fide* holder or assignee thereof, and that the same are or is in full force, and upon payment of the sum of ten pounds, may grant Letters of Registration to such applicant.

(2.) Such Letters of Registration shall be in the form contained in the Tenth Schedule or to the like effect, and shall have the same force and effect as Letters Patent granted under this Act, and shall enure to the benefit of the grantee thereof, his executors, administrators, and assigns, during the continuance of the original Letters Patent or other protection in the country or colony where the same was or were granted, and no longer; and all the provisions of this Act shall apply to such Letters of Registration in the same way, *mutatis mutandis*, and as fully as to Letters Patent granted under this Act.

(3.) A copy of all such Letters of Registration shall be filed in the Patent Office.

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## PART II.

### DISCLAIMERS AND ALTERATIONS.

*Notice of application to disclaim or make alterations.—Procedure thereon.—Eighth Schedule.—Opposition.—Power to dispense with appointments, &c.*

28. (1.) Any person who shall obtain Letters Patent under this Act, his executors or administrators, or, in case he or they shall part with the whole or any part of his or their interest by assignment, he or they together with the assignee if part only



has been assigned, or the assignee alone if the whole has been assigned, may apply to the Patent Officer for leave to enter a disclaimer of any part of either the title to the invention, or the specification, or a memorandum of any alterations in the said title or specification, not being such disclaimer as shall extend the exclusive right granted by the said Letters Patent.

(2.) Thereupon the Patent Officer shall deliver to the person or persons applying, or to their agent, or to one of them, or the agent of one of them, an appointment in the form contained in the Eighth Schedule or to the like effect, and the person or persons so applying shall cause such disclaimer (stating the reason for the same), or such memorandum of alteration, to be written at the foot of the said appointment, and shall cause the same respectively to be published forthwith in the Gazette.

(3.) Any person having an interest in opposing the said application, shall be at liberty to leave particulars, in writing, of his objections to the same at the Patent Office within such time not less than fourteen clear days prior to the day so appointed.

(4.) Where such application 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 Patent Officer 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.

*Application for Disclaimer to be heard.*

29. At the time and place named in such appointment the Patent Officer shall hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and all such powers and authority shall and may be exercised upon that occasion by the Patent Officer as, by virtue of the provisions herein contained, can and may be exercised in relation to the hearing and considering an application for Letters Patent and objections to the same, and shall and may be enforced in like manner.

*How disclaimer may be entered and alterations made.—Effect of Disclaimer.*

30. (1.) After such hearing and consideration, or without such hearing or consideration, where the said appointment and publication shall have been dispensed with as aforesaid, the



person or persons applying, or one of them, may by leave of the Patent Officer, to be certified by a *fiat* under his hand, to be written at the foot of the same paper or parchment with the said disclaimer or memorandum, enter such disclaimer (stating the reason for the same), or such memorandum of alteration, and at the time of entering such disclaimer or memorandum of alteration, shall deposit a copy thereof in the office next hereinafter mentioned.

(2.) Such disclaimer or memorandum of alteration, being filed in the Patent Office, 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 whatever, and shall be valid and effectual in favour of any person in whom the rights under the said Letters Patent may then be, or thereafter become, legally vested.

*Actions not to be brought in certain cases.—Proceedings conclusive.*

31. (1.) No action shall be brought upon any Letters Patent in respect of which, or 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 Patent Officer 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 any proceedings for the repeal of Letters Patent) pending at the time when such disclaimer or alteration was filed as aforesaid; but in every such 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.

(2.) When any such *fiat* shall have been granted under this Act, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act, and such filing of any disclaimer or memorandum of alteration, in pursuance of the leave of the Patent Officer, certified as aforesaid, shall (except in cases of fraud) be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Act.

## PART III.

## EXTENSION OF TERM.

*Mode of obtaining extension of term.—What Petition to set forth.*

32. (1.) Any person who has obtained Letters Patent under this Act or any other Act relating to Letters Patent heretofore in force in New Zealand, or the executors or administrators of such person, or (in case such person shall have parted with the whole or any part of his interest in such patent by assignment) he or they together with the assignee when part only has been assigned, or the assignee alone when the whole has been assigned, may, six months before the expiration or other determination of such Letters Patent, present to the Governor a petition for the extension of the term in such Letters Patent mentioned.

(2.) Such petition shall set forth that the petitioner has been unable to obtain a due remuneration for his expense and labour bestowed 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 reimbursement and remuneration, and the Governor may refer the consideration of the said petition to one or more Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Appointment of Commissioners.*

33. For the purpose of considering any such petition, the Governor, if he shall think fit, may issue and direct, in the name of Her Majesty, to one or more persons a Commission reciting such petition, and requiring and authorising such person, or some stated number of such persons, to meet at some time, not being less than two months from the publication of such Commission in the Gazette, and at some place to be respectively fixed in the said Commission, and then and there to consider the said petition, and to report to the Governor (in case such petitioner shall have prayed for an extension of the term in the Letters Patent mentioned) whether any, and if any, what, further extension of the said term should be granted, according to the prayer of the said petition.



*Notice of Commission to be published.—Ninth Schedule.—Caveat may be entered.*

34. (1.) Two months at least before the time fixed in the said Commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published, in the same manner as is hereinbefore required with respect to the first-mentioned appointment, an advertisement of the contents of the said Commission in the form contained in the Ninth Schedule, or to the like effect.

(2.) Any person having an interest in opposing the said petition shall be at liberty to enter a *caveat* against the same at the Patent Office, at any time not less than one week before the time named in the said Commission for the consideration thereof.

*Commissioners to hear all Parties, and Report.*

35. (1.) At the time and place fixed in the said Commission the Commissioners, or some of them not less than the said stated number, shall proceed to consider such petition, and the petitioner shall be heard by his counsel and witnesses, to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this Act, and the persons entering *caveats* shall likewise be heard by their counsel and witnesses, and all such witnesses shall be examined upon oath, which oaths such Commissioners are hereby authorised to administer.

(2.) Thereupon, and on hearing and inquiry of the whole matter (in case such petitioner shall have prayed for an extension as aforesaid), the said Commissioners may report whether any, and, if any, what, further extension of the said term should be granted, and the Governor is hereby authorised and empowered, if he shall think fit, to grant to the petitioner new Letters Patent for the said invention, not exceeding three years after the expiration of the first term, anything herein contained to the contrary notwithstanding.

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.

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## PART IV.

## MISCELLANEOUS PROVISIONS.

## 1.—RECORDS OF OFFICE.

*Specification, &c., of Invention to be kept in Patent Office, and be open to inspection.*

36. Every specification deposited at the Patent Office, and the drawings and models accompanying the same, if any, and all other documents so deposited, shall be kept in the Patent Office, and shall be open to the inspection of the public at all reasonable times, as well before as after the grant of Letters Patent, and whether such Letters Patent be granted or not, but subject to regulations.

*Indices to Specifications, Disclaimers, &c.*

37. Indices to all specifications, disclaimers and memoranda of alterations, heretofore or to be hereafter enrolled or deposited as aforesaid, shall be prepared, and shall be open to the inspection of the public at the Patent Office, subject to regulations.

*Register of Patents to be kept.*

38. There shall be kept at the Patent Office a book, to be called "The Register of Patents," wherein shall be entered and recorded in chronological order—

All Letters Patent and Letters of Registration granted under this Act or "The Patents Act, 1870."

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 cancelling of such Letters Patent, with the dates thereof respectively; and

All other matters and things affecting the validity of such Letters Patent as the Governor may direct.

Such register or a copy thereof shall be open at all convenient times to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

*Register of Proprietors to be kept, and of Assignments of Letters, and of Licenses thereunder.*

39. There shall be kept at the Patent Office a book, entitled "The Register of Proprietors," wherein shall be entered—

The assignment of any Letters Patent or Letters of Registration, or of any share or interest therein.

Any license under Letters Patent or Letters of Registration, and the district to which such license relates, with the name of any person having any share or interest in such Letters Patent or Letters of Registration or license.

The date of his acquiring such Letters Patent or Letters of Registration, share or interest; and

Any other matter or thing relating to or affecting the proprietorship in such Letters Patent or Letters of Registration, or license.

2.—ASSIGNMENTS.

*Conditions for registering Assignment.*

40. Before any assignment or license shall be registered, the assignee or licensee shall furnish—

(1.) A statutory declaration by one of the attesting witnesses to the said assignment or license of the due execution of the said assignment or license:

Provided that, if it be proved to the satisfaction of the said Patent Officer that the attesting witness to any such assignment or license is dead or cannot be found, the execution of the said assignment or license may be proved by a statutory declaration of any other person capable of declaring to the same:

(2.) A certified copy or copies of the assignment or license, and other instruments or documents of title.

*Every assignment or License to be made by separate Deed.*

41. No assignment or license of two or more Letters Patent or Letters of Registration included in one deed or instrument shall be registered, and no certificate of assignment or license shall be granted, unless a fee for such registration or certificate be paid in respect of each such Letters Patent or Letters of

registration in respect of which such registration or certificate is desired.

*Register of Proprietors to be open to Public Inspection, and Copies of Extracts may be made.*

42. (1.) A copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be *prima facie* proof of the assignment of such Letters Patent or letters of registration, or share or interest therein, or of the license or proprietorship as therein expressed.

(2.) Until such entry shall have been made, the grantee of the Letters Patent or letters of registration shall be deemed to be the sole and exclusive proprietor thereof, and of all the licenses and privileges thereby given.

(3.) Such register, or a copy, shall be open to public inspection subject to regulations.

3.—SEAL.

*Seal to be made and noticed judicially.—Certified Copies to be Evidence.*

43. (1.) The Governor may cause a seal to be made for the purposes hereinafter mentioned, and all Courts, Judges, and other persons whosoever shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the seal of the Supreme Court are received in evidence.

(2.) All copies or extracts, certified by the Patent Officer and sealed with such seal, of Letters Patent, letters of registration, specifications, disclaimers, memoranda of alterations, and all other documents or books recorded, filed, and kept in pursuance of this Act, shall be received in evidence in all proceedings relating to Letters Patent for Inventions and letters of registration in all Courts, and by all Judges and other persons whomsoever.

4.—OFFENCES.

*Falsification or Forgery of Entries.*

44. If any person shall wilfully make or cause to be made any false entry in any such register, or shall wilfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry therein, or shall produce



or tender, or cause or suffer to be produced or tendered, any such writing, knowing the same to be false, he shall be guilty of a misdemeanour, and shall be liable, on conviction, to be kept in penal servitude for any term not exceeding five years, or to be imprisoned and kept to hard labour for any term not exceeding two years.

*Entries may be expunged.*

45. If any person shall deem himself aggrieved by any entry made under colour of this Act in any such register, such person may apply by motion to the Supreme Court, or by summons to a Judge of such Court, for an order that such entry may be expunged, vacated, or varied; and upon any such application such Court or Judge may make such order for expunging, vacating, or varying such entry, and as to the costs of such application, as to such Court or Judge may seem fit; and the Patent Officer, on the production to him of any such order, shall expunge, vacate, or vary the said entry according to such order.

*Penalty for unauthorized use of the word "Patent."*

46. (1.) 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 has not or shall not have obtained Letters Patent, the name or any imitation of the name of any other person who has 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

Shall upon any such thing, not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having 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 offence forfeit and pay the sum of one hundred pounds, one half to Her Majesty, and the other half,

with full costs of suit, to any person who shall sue for the said penalty.

(2.) If any person shall upon any such thing for which no Letters Patent or like protection shall have been obtained 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 Letters Patent," or any words of the like kind, meaning, or import, or by advertisement, or in any other way imply or give reasonable cause to believe that Letters Patent or like protection have been granted for such thing, he shall, for every such offence, be liable to a penalty not exceeding fifty pounds, one half of which shall be paid to any person who shall sue for the said penalty.

(3.) But nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "Patent" upon anything for the sole making or vending of which Letters Patent before obtained shall have expired or otherwise determined.

#### 5.—PROCEDURE IN ACTIONS FOR INFRINGEMENT.

*In Actions for Infringement Particulars of Breaches and Objections to be delivered.—What shall be stated in Particulars.—Order of Proceedings.*

47. (1.) In any action for the infringement of Letters Patent the plaintiff shall deliver with his statement of claim particulars of the breaches complained of in the said action, and the defendant, on pleading thereto, shall deliver with his statement of defence, and the prosecutor in any proceedings by action to repeal Letters Patent shall deliver with his statement of claim, particulars of any objections on which he means to rely at the trial in support of the said action, or of the suggestions of the statement last mentioned respectively. At the trial of any such action 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.

(2.) 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, and any Judge at chambers may 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.

(3.) At the trial of any proceeding 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.

*Particulars to be regarded in taxing Costs.—Effect of Record and Certificate.*

48. (1.) 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 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 the Judge before whom any such action shall be tried may certify on the record that the validity of Letters Patent in the statement mentioned came in question.

(2.) The record, with such certificate, being given in evidence in any action for infringing the said Letters Patent, or in any proceeding in an action to repeal the Letters Patent, shall entitle the plaintiff in any such action, or the defendant in such proceeding, on obtaining a decree, order, or final judgment, to his full costs, charges, and expenses, to be taxed as between solicitor 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.

6.—FEES.

*Fees to be paid.—Eleventh Schedule.—Governor may reduce Fees.*

49. There shall be paid, in respect of the several matters and things respectively mentioned in the Eleventh Schedule, such fees as are therein enumerated, and all such fees shall be paid into the public account and form part of the Consolidated Fund.

The Governor may reduce any of such fees respectively from time to time by notification in the *Gazette*.



## 7.—REPEALS.

*Repeal.—Twelfth Schedule.—Saving.*

50. (1.) The Acts enumerated in the Twelfth Schedule are hereby repealed.

(2.) But such repeal shall not affect any proceedings or things lawfully taken or commenced, or any Letters Patent, or Letters of Registration granted, or any protection or right conferred under the said repealed Acts before the commencement of this Act; and all such proceedings and things shall be as valid, and all such Letters Patent, Letters of Registration, protections, and rights shall have the same force and efficacy as if this Act had not passed.

## SCHEDULES.

## FIRST SCHEDULE.

*Specification for Patent.*

Whereas I, \_\_\_\_\_, of \_\_\_\_\_, in the \_\_\_\_\_ [Engineer] am desirous of obtaining Letters Patent for securing unto me Her Majesty's Special License that I and such others as I should at any time agree with, should, from time to time during the term of fourteen years (to be computed from the day on which this instrument shall be left at the Patent Office) make, use, and vend within the Colony of New Zealand, and its dependencies an invention for [insert the title of the specification], and in order to obtain the said Letters Patent I must by an instrument in writing under my hand and seal particularly describe the nature of the said invention, and in what manner the same is to be performed, and make a distinct claim for the especial novelty thereof; Now therefore, the nature and details of the said invention, and the manner in which the same is to be performed are particularly described in the following statement [describe the invention and the especial novelty thereof either in instrument or in attached Schedule]. And I do hereby for myself, my heirs, executors, and administrators, 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, that I do not know or believe that any other person than myself is the true and first inventor of the said invention, that I will not deposit these presents at the Patent Office with any such knowledge or belief as last aforesaid.

In witness whereof, I have hereunto set my hand and seal this day of \_\_\_\_\_ 18 \_\_\_\_\_.

Witness to signature.

## SECOND SCHEDULE.

*Receipt for Specification.*

Received from A.B., specification for an invention for [*insert the title*] for transmission to the Patent Officer, Wellington, at the hour of [*insert the time*] on this day of 18 .

Local Patent Office.

O. A., Patent Office Agent.

## THIRD SCHEDULE.

*Deposit of Specification.*

No.

I hereby certify that being the applicant for the grant to of Letters Patent for an invention the name whereof is ha this day under the provisions in that behalf contained in the Patents Act, 1883, deposited at this office an instrument in writing under hand and seal particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed; and also a copy of such instrument, and of the drawings accompanying the same, and the day of the deposit of such Specification has been recorded in this office and indorsed on such Specification.

Dated this day of 18 .

Patent Office, Wellington,  
New Zealand.

P. O., Patent Officer.

## FOURTH SCHEDULE.

*Hearing Application.*

Patent Office, Wellington, 18 .

Patent for [*insert title of Specification*] A.B., of , has deposited at this office a specification of the said invention, and I have appointed the day of next at o'clock in the forenoon, at this office, to hear the said application and all objections thereto; and I require all persons having an interest in opposing the grant of such Letters Patent to leave on or before the day of next, at this office, particulars in writing of their objections to the said application; otherwise they will be precluded from urging the same.

P. O., Patent Officer.

## FIFTH SCHEDULE.

*Order for Expenses.*

Upon hearing the objection of A.B. to the grant to C.D. 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 C.D. 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 .

P. O., Patent Officer.





## EIGHTH SCHEDULE.

*Disclaimer.*

Patent for [*insert the title*]. This is to notify to all whom it may concern that C.D. of, &c., has applied to me for leave to enter a disclaimer of part [*or, memorandum of alteration, as the case may be*] of the said invention, the particulars whereof are stated below. I do therefore appoint [*Thursday*] the            day of            next at            o'clock in the noon, to hear and consider the said application, and all objections to the same. And I do hereby require all persons having an interest in opposing the said application, to leave on or before the            day of            at my office in            particulars in writing of their objections to the same; otherwise they will be precluded from urging such objections.

Given under my hand this            day of            18 .

P. O., Patent Officer.

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.*]

## NINTH SCHEDULE.

*Extension of Patent.*

Patent for [*insert the title*]. Notice is hereby given that I have presented a Petition to His Excellency, the Governor, praying for the confirmation of [*or, extension of the term in*] the said patent, and that a Royal Commission has issued authorizing and requiring certain Commissioners therein named to consider and report upon the subject to Her Majesty, which said Commissioners will meet for that purpose on the            day of            next at            o'clock in the            noon at            All persons objecting to the said confirmation [*or extension*] must enter a caveat against the same at the office of the Patent Officer in Wellington, otherwise they will be precluded from objecting to it.

Dated this            day of            18 .

A. B.

## TENTH SCHEDULE.

*Form of Letters of Registration.*

Know all men by these presents that :

Whereas by an Act of the General Assembly of New Zealand, intituled "the Patents Act, 1883," it is enacted that the Governor in his discretion, on the application of any person being the holder or assignee

of any Letters Patent or like protection, and upon such proof as the Governor may by regulations require that such person is the *bonâ fide* holder or assignee thereof, and that the same are or is in full force, may grant letters of registration to such applicant; and that such letters of registration shall have the same force and effect as Letters Patent granted under the said Act, and shall enure to the benefit of the grantee thereof, his executors, administrators, and assigns, during the continuance of the original Letters Patent or other protection in the country or colony where the same was, or were, granted, and no longer; and all the provisions of the said Act shall apply to such letters of registration in the same way, *mutatis mutandis*, and as fully as to Letters Patent granted under this Act; And whereas A.B. has represented to me, the Governor of the Colony of New Zealand, that letters sealed and dated as of the            day of            one thousand eight hundred and            have been issued in the            to            for an invention or discovery for            And whereas the said A.B. has applied to me, the Governor, as aforesaid, for the grant to him of letters of registration of the said invention or discovery in pursuance of the said recited power, and has proved to my satisfaction that he the said A.B. is the *bonâ fide* holder (or assignee) of the said letters            and that the same are in full force in the said            Now know ye that I, the Governor as aforesaid of the said Colony of New Zealand, in pursuance of the said recited power and authority conferred upon me by the said "Patents Act, 1883," do hereby grant unto the said A.B., his executors, administrators, and assigns, letters of registration of the said letters            with all the rights, powers, and privileges thereto belonging.

Given under my hand at the            at            and issued under the seal of the said Colony this            day of            in the year of our Lord one thousand eight hundred and

Governor of New Zealand.

#### ELEVENTH SCHEDULE.

##### *Fees.*

	£	s.	d.
On depositing Specification . . . . .	0	10	0
On depositing amended Specification, or application for amendment to Specification . . . . .	0	10	0
On obtaining Letters Patent, or any duplicate thereof . . . . .	2	0	0
At or before the expiration of the fifth year . . . . .	7	0	0
On lodging particulars of objections . . . . .	2	0	0
On presenting petition for extension . . . . .	2	0	0
Search and inspection. For each book or Specification . . . . .	0	1	0
Entry of assignment or license . . . . .	0	10	0
Certificate of assignment or license . . . . .	0	10	0

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	£	s.	d.
Filing of memorandum of alteration or disclaimer . . . . .	2	10	0
Entering any caveat . . . . .	2	10	0
Copy or extract of any writing per common law folio . . . . .	0	0	6
On obtaining letters of registration . . . . .	10	0	0

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TWELFTH SCHEDULE.

*Acts repealed.*

1870.—No. 89. The Patents Act, 1870.

1881.—No. 22. The Patents Act Amendment Act, 1881

1882.—No. 18. The Patents Act Amendment Act, 1882.



**PORTUGAL.**

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**CIVIL CODE.****CHAPTER III.****PROPERTY IN INVENTIONS.****SECTION 1.***General Provisions.***Article 613.**

Any one who invents any manufacture, product, or article of commerce, who perfects and improves any known product or manufacture of the same nature, or discovers any easier and less expensive means of obtaining it, shall enjoy the property in his invention or discovery for a period of fifteen years, on the terms set forth in this chapter.

1. An inventor who has obtained a privilege in a foreign country can only obtain one in the kingdom on the conditions of this Code, and for the term which has still to run in that country before the invention falls into the public domain.

**Article 614.**

The property in the invention gives the exclusive right of producing or manufacturing the articles which constitute or embody the said invention.

**Article 615.**

Inventions or discoveries relating to unlawful industries or articles cannot be patented.

## Article 616.

The duration of the exclusive property in inventions commences from the date of the grant of the privilege.

## Article 617.

The exclusive property is limited to the article specified, and can never be interpreted as extending to others, under pretext of intimate relation or connection.

## Article 618.

The appropriation of inventions can only be decreed by law, in cases wherein it may be necessary for the public good.

## SECTION II.

*Additions to Inventions.*

## Article 619.

The patentee or his representatives may, during the existence of the privilege, add to the invention any improvements and modifications which they may wish.

## Article 620.

The person making the addition enjoys, so far as concerns the additional improvements, the same rights as those conferred by the principal privilege; but only for the time that this may last.

## Article 621.

The person making the addition may, however, apply for a new privilege for the improvements, providing he submits himself to the provisions regulating principal privilege.

## Article 622.

The grant of a privilege for an improvement cannot be made during the first year of the privilege granted for the principal invention, save to the person who obtained that privilege.

## Article 623.

Third parties who solicit such a privilege may, before the end of the year, deliver their petition closed and sealed, to the proper department, and thereupon note shall be taken of such delivery.

1. The deposit mentioned in this article serves to confer on the depositor priority over all others who may subsequently present themselves, not being the patentee, who has in every case the preference, provided he applies within the year.

Article 624.

Third parties who apply for a patent of improvement are deemed, for the issue of their titles, to be principal inventors.

Article 625.

The exclusive property in inventions is authenticated and secured by the laws and administrative regulations.

SECTION III.

*Transmission of Property in Inventions.*

Article 626.

Property in inventions is governed by the general laws which regulate movable property, except as is hereinafter provided.

Article 627.

The transfer of a privilege, whether gratuitously, or for a consideration, can only be effected by public deed.

Article 628.

Licenses under a principal privilege shall enjoy additions granted to the inventor or his representatives, and reciprocally if the case arises, unless there exists an agreement to the contrary.

SECTION IV.

*The Publication of Inventions.*

Article 629.

The descriptions, designs, models and specifications required for the grant of a patent shall be shewn gratuitously to all persons who may apply for them, and copies thereof shall be supplied on payment of the cost.

It pertains to the Government to make the necessary regulations respecting this matter.



## Article 630.

On the expiration of the second year of the privilege the designs and descriptions shall be published in full or by extract.

## Article 631.

It is the duty of the Government to announce officially those inventions which have become public property.

## SECTION V.

*The nullity and loss of Privileges.*

## Article 632.

Privileges granted in the following cases are null:—

1. If the inventions or discoveries were known to the public, practically or theoretically, through any technical description divulged in home or foreign documents, or by any other means.

2. If a patent had already previously been granted for the same object: [Art. 635.]

3. If the invention or discovery should be found prejudicial to public security or health, or contrary to the laws:

4. If the title given to the invention fraudulently comprises a different object:

5. If the description lodged of the invention does not indicate everything which is necessary for working the invention or the real means of the inventor:

6. If the privilege was obtained contrary to the formalities prescribed by law.

7. If a privilege for a modification or improvement does not relate to something which facilitates the working, or increases the utility of the invention, but merely to a change of form or of proportions, or to mere ornament.

## Article 633.

Any one who fails to carry out his invention within two years counted from the date of the signature of the privilege, or who ceases to use it for two consecutive years, without proving a legitimate impediment, shall forfeit the said privilege.

## SECTION VI.

*Actions for nullity and withdrawal of the Privilege.*

## Article 634.

Either the Public Prosecutor or persons having a direct interest in the withdrawal of the privilege, may bring suitable actions. If the action is brought by the Public Prosecutor, the interested party shall be allowed to intervene therein as assistant, but the Public Prosecutor must always intervene in actions brought by interested parties. [Civil Code. Art. 329.]

## Article 635.

The right of action for nullity, in the case of No. 2 of Article 632, lapses on the expiration of a year without opposition by the parties interested: in other cases it shall exist as long as the exclusive privilege of invention lasts.

## SECTION VII.

*The Liability of Infringers.*

## Article 636.

Whosoever, during the exclusive privilege of invention, injures the patentee in the exercise of his rights by reproducing, without his authorization, the object of the said invention, or by selling, concealing, or introducing with deliberate intent, any similar article manufactured out of the kingdom, is responsible for the reparation of the damage caused, besides being subject to the penalties of the penal code.

## Article 637.

Patentees or their representatives may require, in case of suspected infringement, and on their first giving security, the seizure of the infringing articles, or of implements that can only serve for their manufacture. [Civil Code. Art. 363.]

1. In this case, however, if the party seizing should not commence his action within fifteen days, the seizure becomes void at law, and the holder may sue the party making the seizure for losses and damages.

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**Article 638.**

If the action for infringement is brought to final judgment at criminal or civil law, the articles seized shall be awarded to the complainant, on account of the compensation due to him; but if the matter is tried by a criminal suit, the plaintiff can only sue by civil action for anything that may be wanting for his complete indemnification.

**Article 639.**

The party injured by the infringement may proceed either by criminal action, or merely by civil action for losses and damages; in either case the Public Prosecutor shall be heard.

**Article 640.**

The tribunal which tries criminally the infringement shall pronounce on the objections the defendant may raise as to the nullity of the privilege or the loss of the rights of the plaintiff.

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The decree of the 18th of November, 1869 (which came into force on the 1st of July, 1870), extended the Civil Code to the Colonies.



**R U S S I A.**

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VOL. XI., PART II., OF CODE OF LAWS OF THE RUSSIAN EMPIRE.—  
STATUTE OF MANUFACTURING INDUSTRY, SECTION 3RD.

*Patents for New Inventions and Discoveries.*

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CHAPTER I.

*Nature of Patents for Inventions and Discoveries.*

Art. 73.

Every discovery or invention of any new and useful art, machine, manufacture, or composition of matter, and every improvement on any art, machine, manufacture, or composition of matter, is the property of the person or persons by whom such discovery, or invention, or improvement has been made, and that person, in order to secure his rights to such property, may make application to the Government for an exclusive privilege or patent for it.

Art. 74.

A patent is therefore a document granted by the Government to certify that the individual or individuals specified therein has or have laid the description of the discovery, invention, or improvement before the Government, and conveys to the aforesaid individual or individuals the sole right to make, use, or dispose of the new invention, discovery, or improvement described, for a certain specified period.

## Art. 75.

In granting such patent, the Government neither guarantees that the discovery, invention, or improvement described actually belongs to the individual or individuals specified therein, nor answers for the utility of the said discovery, invention, or improvement, but merely certifies that such discovery, invention, or improvement has actually been laid before the Government, stating the time and the name or names of the individual or individuals applying for the patent.

## Art. 76.

Consequently a patent granted by the Government does not deprive any person or persons of the right of proving, by legal process, that the discovery, invention, or improvement belongs to him or them, or has been in use prior to the grant of the patent.

## Art. 77.

Until it shall have been proved, however, before a court of law that the person to whom the patent has been granted was not the inventor and has no right to it, he enjoys the following privileges :—

1. He has the sole right during the time specified to take the benefits of the discovery, invention, or improvement as property belonging exclusively to him, to make, use, sell, dispose of, bequeath, or make over by any other lawful means, the object for which the patent was granted, as well as the patent itself, or to allow any other person to make use of it, during the whole term for which it was granted, or for a shorter period.
2. To prosecute by law all infringements, and to seek for redress for the losses he may have sustained by such.

## Art. 78.

An exact imitation of all the essential parts of the discovery, invention, or improvement for which the patent was granted, notwithstanding there may be some slight alterations in it, not affecting its individuality, or even should there be improvements on it, but in which the essential parts remain, is considered an infringement.

## Art. 79.

Patents may be taken out for discoveries, inventions, or improvements made in foreign countries, and for which the term of the patent granted in those countries has not expired; in such case, however, the term of the patent granted in Russia cannot extend beyond the term for which the patent was taken out by the inventor abroad. A patent for the introduction of an invention previously known and in use in foreign countries, and for which no patent has been taken out in those countries, can only be granted by way of exception and by special favour of the Government, with a view to the advantages and utility to be derived from such introduction. Patents granted for foreign inventions have the same force and effect as patents taken out for inventions made in Russia.

## Art. 80.

Patents cannot be granted for fundamental or elementary principles, as, for instance, distilling brandy by steam, or boiling sugar by means of steam in a vacuum, unless their application or combination produces some new result in the arts, presenting a special and new apparatus.

## Art. 81.

Patents shall not be granted for trifling or unimportant discoveries, inventions, or improvements indicative only of inventive genius, without offering any real advantage or utility, nor for such inventions as may become dangerous to society, or detrimental to the Government revenues.

## Art. 82.

No patents shall be granted for inventions and improvements relating to implements of war and the defence of the state, such as cannons, shells, fuses, and other appurtenances of ordnance, armour for ships, torpedoes, powder magazines, revolving turrets, &c., the exclusive use of which belongs to the Government. But patents shall be granted for inventions and improvements the objects of which, though applicable to military purposes, are useful also to private persons, such as small fire-arms, metallic cartridges, bullets, and other appurtenances of hand weapons. Patents for these inventions shall, however, be granted solely on the condition that the same shall not hinder the army and navy administrations in the



trial and use of such inventions and improvements for military purposes.

Art. 83.

Patents are granted to aliens, who are allowed to construct manufactories, mills, &c., without turning Russian subjects, as well as to Russian subjects.

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CHAPTER II.

*Order of Grant of Patents.*

Art. 84.

The application for a patent for any new discovery, invention, or improvement in the arts, manufactures, and trades, must be made by petition to the Department of Manufactures and Home Trade, praying for the exclusive right to the invention, discovery, or improvement, specifying the term for which the patent is solicited, and there shall be annexed the necessary drawings and plans, together with a written description of the invention or discovery, and of the manner and process of making, constructing, using, 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, compound, and use the same, without having recourse to conjecture, or filling up omissions in the defective specification.

In this description the applicant must particularly specify and point out the part, improvement, or combination which he claims as his own invention or discovery. The description must be written in Russian, and in the event of its having been translated from a foreign language, the original must be annexed for the purpose of verification. The description of the discovery, invention, or improvement in a foreign language may be presented without a Russian translation, in order to obtain an official certificate of the applicant's right of property in the invention, but not for the purpose of taking out a patent; the grant of a patent can only be obtained by supplying a description, or translation of it, in the Russian language. In the event of non-fulfilment of the above by the petitioner, or his agent,

within three months from the date on which the description in a foreign language was presented, the petition will be null and void. The applicant shall deliver a model of his invention, discovery, or improvement, when the same admits of a model, and should it be necessary for the better understanding of it. On presenting the petition, drawings, and description, the applicant shall pay into the treasury of the department the amount of duties according to the following scale:—

(1.) For discoveries, inventions, or improvements of the discoverers, inventors, and improvers themselves:

	S. Rs.
For 3 years . . . . .	90
„ 5 „ . . . . .	150
„ 10 „ . . . . .	450

(2.) For the introductions of inventions, discoveries, or improvements already existing and known abroad:

	S. Rs.
For 1 year . . . . .	60
„ 2 „ . . . . .	120
„ 3 „ . . . . .	180
„ 4 „ . . . . .	300
„ 6 „ . . . . .	360

#### Art. 85.

On the filing of such an application (consisting of petition, specification, model, or drawings), and on payment of the duty, the Department of Trade and Manufactures will, on the same day, hand the applicant a receipt for the same, signed by the Director of the Department, with the Government seal affixed. To persons living in other towns, the Department may send such receipt by post. This certificate, or receipt, shall specify the year, month, day, and hour when the application was received by the Department.

#### Art. 86.

Petitions for the grant of patents for any discovery, invention, or improvement in arts, manufactures, and crafts, shall be examined by the Council of Trade and Manufactures, at the session of which the Director of the Department of the Ministry to whose province the application pertains shall be invited to attend. The examination is only made with a view of ascer-

taining whether a patent has already been granted to another for the same invention or discovery, and whether the description delivered by the applicant is sufficiently exact, clear, and full; and finally, whether the invention or discovery for which the patent is solicited offers any advantage or utility. Special attention shall be paid by the Council of Trade and Manufactures to the investigation of the invention, discovery, or improvement, with a view of ascertaining whether it contains anything unhealthy, or likely to endanger the lives of people. When necessary, and in order to decide with the more certainty on this latter question, the Council of Trade and Manufactures may confer with the Medical Board.

Art. 87.

Should the Council of Trade and Manufactures, on examination of such application, decide that the invention, discovery, or improvement for which a patent has been solicited has been described with sufficient accuracy, clearness, and fulness; that no patent has been granted for such to any other person prior to the alleged invention or discovery thereof by the applicant; and that it does not contain anything unhealthy or likely to endanger the lives of people, or be in any way detrimental to the Government revenues; they shall then, having first fixed the term of the patent according to the condition of the branch of industry to which it belongs, recommend to the Minister of Finance that a patent be granted, and one shall then be issued under the hand of the Minister. If, on the contrary, it be known to the Council of Trade and Manufactures that the invention for which a patent is solicited has already been described, or has been made use of anywhere, they shall refuse the patent: moreover, should the applicant's alleged invention or improvement be considered dangerous to the health and lives of people, he shall be bound by an undertaking signed by him not to put it into action, under penalty of the rigour of the law. The Council shall publish the reasons for the refusal of a patent in the Official Gazette, in the newspapers of both capitals, and in the Warsaw Gazette.

Art. 88.

An applicant who has been refused the grant of a patent by reason of or on account of defective or insufficient description or drawings, may again make application by presenting an amended specification containing the necessary explanations



and amplifications; and should such be found satisfactory the issue of patent will be effected according to the rules herein contained.

Art. 89.

Should there be more than one applicant for the same invention or discovery, pending the examination, the patent shall not be granted at all; an exception to this rule is made, however, in the event of one of the applicants proving by legal process that the other has appropriated his invention.

Art. 90.

In case of the refusal of a patent, the money paid in by the applicant will be repaid to him without delay.

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CHAPTER III.

*Term of Patents.*

Art. 91.

Patents for discoveries, inventions, and improvements are granted to the discoverer, inventor, and improver himself, as he may wish, and according to the discrimination of the Government, for three, five, or ten years, but not for longer. The term of patents for the introduction of inventions already known in foreign countries shall not exceed six years, or as is provided for in Art. 79.

Art. 92.

No extension of a patent can be granted after the expiration of the term for which it was originally issued.

Art. 93.

The term of a patent commences from the day on which it is signed, but the power of taking legal proceedings for infringement of a patent dates from the day of issue of the certificate of filing the application for the patent. A publication of each certificate delivered is made in the newspapers of both capitals and in the Warsaw Gazette.

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## CHAPTER IV.

*Form of Patents and their Public Notification.*

## Art. 94.

A patent must always be headed by the words "By order of His Imperial Majesty."

The patent contains:—

1. The name of the applicant.
2. The day on which the application was made.
3. A full and detailed description of the discovery, invention, improvement, or introduction.
4. The term of the patent.
5. The amount of duty paid for the same into the treasury.
6. A certificate, to the effect that no privilege has been granted for the same discovery, invention, or improvement, to any other than the person who holds it.
7. A notice that the Government does not guarantee that the discovery, invention, or improvement for which the applicant has solicited a patent actually belongs to him, or that it is a success.
8. The signature of the Minister to whose province the granting the patent belongs.
9. The countersignature of the Director of the Department.

## Art. 95.

Patents shall be written on parchment.

## Art. 96.

A full and detailed account of the discovery, invention, or improvement, shall be published immediately on delivery, in the publications of the Ministry to which it appertains, in the Senate Gazette, in the newspapers of both capitals, and in the Warsaw Gazette. Independently of the above, the departments that have granted the patent are bound to show the register of new inventions for which patents have been granted to any one who may wish to see it.

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## CHAPTER V.

*The Rights and Duties of Patentees.*

## Art. 97.

The holder of a patent is bound to put into complete practice or execution, during the first quarter of the term specified, the discovery, invention, or improvement for which the patent was granted, and before the expiration of the six months after this to present to the department from which the patent was issued a certificate from the local authorities, to the effect that it has actually been put into execution, *i.e.* that the patented invention or improvement has been put into practical use.

## Art. 98.

Should the patentee wish to transfer the patent to another person, or to enter into partnership in respect to such patent, such matters must be effected through the proper Courts, and according to the laws. On making such transfer, or on entering into partnership, the original patentee must communicate the same to the Department, and the latter shall publish it in the newspapers.

## Art. 99.

A patentee has not the right of forming a joint stock company for the purpose for which the patent was taken out, nor of transferring his patent to such a company without special permission from the Government.

## Art. 100.

Should a patentee make any new improvement on his invention or discovery, or introduce any important alteration in it, readjusting and simplifying his process, he is at liberty to take out a patent for it, but in any case he is bound to give notice of such improvement or alteration to the Department, together with a detailed and accurate description of the said improvement or alteration.

## Art. 101.

Should any other person than the original patentee make an improvement on the patentee's invention or discovery, the former cannot take out a patent for it unless he can prove



that he has entered into an agreement with the original patentee, by which the latter has consented to his making use of his improvement. At the expiration of the term of the first patent, however, he may take out a patent for his improvement on the first patentee's invention.

Art. 102.

In the cases provided for in the preceding Articles (100 and 101), the following rules must be observed:—

1. In applications for patents for improvements made by the inventor himself, the term specified for the patent must be shorter than that of the patent for the original invention.
2. That the effects of such patent is entirely independent of the patent granted for the principal invention, so that the term of the latter cannot be extended, though the term of the patent granted for the improvement may not have expired.
3. That the term of a patent taken out for an improvement made by any other person on the original patentee's invention shall not be more than half the term granted to the original patentee.

Art. 103.

Patents shall cease:—

1. At the expiration of the term for which they are issued.
2. When it shall be proved before a Court of Law that the same discovery, invention, or improvement for which the patent was granted, was, before the patentee presented his petition, already introduced in the Russian empire, or was known by descriptions or specifications, by which the same apparatus or process in essential respects could be produced or carried out without the new description or specification.
3. When it shall be proved before a Court of Law that the discovery, invention, or improvement for which a patent has been granted was already in use somewhere without being patented, with the exception, however, of the introduction of inventions, discoveries, and improvements from foreign countries admitted by special favour, as provided for in Art. 79.

4. When it shall be proved by judgment of a Court of Justice that the person to whom a patent has been granted appropriated the discovery, invention, or improvement of another person, and the real inventor petitions for the repeal of such patent.
5. When it shall be proved that the description or specification is not complete, that the details of some of the essential parts or properties of the discovery or invention, without which the expected results could not possibly be obtained, have been left out or kept back; or that essential alterations and improvements have been made, without which it is impossible to obtain the desired result, or generally that the specification does not disclose the real mode of procedure.
6. Should the patentee not present, within the time specified, to the Department to which it pertains, the certificate from the local authorities, as provided for in Art. 97.

Art. 104.

In any and all of the cases referred to in Art 103, the Department from which the patent was issued shall publish an advertisement in the newspapers of both capitals, and in the Warsaw Gazette, that the patent no longer exists, and after such publication every one has the right to make use of the discovery, invention, or improvement for which the patent was granted.

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**ST. HELENA.**

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*Ordinance No. 3 of 1872.*

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## AN ORDINANCE

Made by the Governor of St. Helena for the extension to this Island of Letters Patent granted under the Great Seal of the United Kingdom of Great Britain and Ireland.

*Preamble.*

Whereas it is expedient that Letters Patent granted under the Great Seal of the United Kingdom of Great Britain and Ireland should have the same force and effect within the Island of St. Helena as such Letters have in the said United Kingdom; be it enacted as follows :

*Privileges granted by Letters Patent in the United Kingdom extended to St. Helena.*

1. The grantee of any such Letters Patent and the executors, administrators and assigns of the said grantee shall be entitled to the sole and exclusive privileges of making, selling and using in the Island of St. Helena, the invention patented by such Letters, and of authorising others so to do, for and during the unexpired residue of the term granted in and by such Letters, and if the said Letters Patent shall by competent authority be renewed in and for the United Kingdom, the term of the privileges granted in respect of the inventions comprised in such Letters which may be so renewed, shall *ipso facto* thereupon be



also prolonged in and for the Island of St. Helena for and during such renewed term subject to the following conditions and provisions:

*Grantee to file Copy of such Letters in the Supreme Court.*

2. The grantee or grantees of such Letters Patent shall file in the Registry of the Supreme Court a copy of such Letters Patent and specification, or in case of a renewal a copy of the renewal thereof, such copy of the Letters Patent and specification or of the renewal thereof, to be signed and certified as a true copy by one of the officers to whose custody the original is entrusted, and if such filing be not so effected, the privileges granted by this ordinance in respect of the inventions comprised in such Letters shall cease to have effect.

*Letters to be open to Inspection.*

3. Every such copy so filed shall, if purporting to be so signed and certified, be *primâ facie* evidence of the document of which it purports to be a copy, and shall be open at all reasonable times at the office of the Registrar of the Supreme Court for the inspection of any person; and the said Registrar shall permit to be made by any person a copy of the whole or any part of such copy of the said Letters Patent and specification, and shall on application certify the same to be a true copy.

*Fees payable to the Registrar.*

4. The following fees shall be payable to and accounted for by the Registrar of the Supreme Court, viz.:

	£	s.	d.
1. For filing copy of Letters Patent and Specification . . . . .	1	1	0
2. For inspection and permission to copy the same . . . . .	0	2	6
3. For Registrar's certificates to copy . . . . .	0	5	0

*All Cases of Doubt to be settled by Law of England.*

5. In all cases of doubt or difficulty not provided for by this ordinance, or by the local laws of this Island, the same shall be guided and governed, so far as practicable, by the law in force in England.

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**SOUTH AUSTRALIA.**

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*Act No. 78 of 21st December, 1877.*

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An Act to consolidate and amend the laws relating to patents for inventions.

*Preamble.*

WHEREAS it is expedient to amend the law relating to the grant of patents for inventions in the province of South Australia: Be it therefore enacted by the Governor of the province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

*Repeal.*

1. From and after the passing hereof "The Patent Act, 1859," being Act No. 18 of 1859, and "The Provisional Registration of Patents Act, 1875," being Act No. 3 of 1875, are hereby repealed; but this repeal shall not affect the validity of any letters of registration or any provisional registration granted, made, or entered under the said repealed Acts or either of them, nor the rights, remedies, or liabilities of any parties or persons in respect of any such letters of registration, or of such provisional registration, nor affect or prevent the grant of any letters of registration under "The Patent Act, 1859," pursuant

to any application therefor made before the passing of this Act, but such application shall be proceeded with and granted, and the letters of registration when granted shall have the same effect as if this Act had not passed, provided that the applicant may at any time before the granting of letters of registration to him, in pursuance of such application, apply for and obtain a patent under this Act in place of such letters of registration, without any further payment than he shall have made under "The Patent Act, 1859."

*Short Title.*

2. This Act may be cited for all purposes as "The Patent Act, 1877."

*Division of Act.*

3. This Act is divided into seven parts, relating to the following subject-matters:—

Part I.—Patent Office, sections 4 to 8 :

Part II.—Who may obtain patents, sections 9 to 13 :

Part III.—How patents obtained, sections 14 to 29 :

Part IV.—Effect, conditions, and extension of patents, sections 30 to 37 :

Part V.—New patents, disclaimers, alterations, and confirmations, sections 38 to 45 :

Part VI.—Caveats; and revocation and assignment of patents, sections 46 to 52 :

Part VII.—Miscellaneous provisions, section 53 to 72.

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PART I.

PATENT OFFICE.

*Establishment of Patent Office.*

4. There shall be attached to the Department of the *Attorney General*, or to a branch of such Department, an office to be called the Patent Office, and the Commissioner of Patents under this Act shall receive and have the custody of all applications, papers, documents, models, machines, books, and records relating to patents, and shall receive all fees, and perform all acts and things incidental to the grant, issue, or renewal of patents under this Act.

[NOTE.—The words in italics were substituted by the Act No. 101 of 1878.]



*Seal of Patent Office to be received in Evidence.*

5. The Commissioner of Patents shall have a seal, to be called "the Seal of the Patent Office," and such seal and any impression thereof shall be taken judicial notice of by all courts, judges, and magistrates, tribunals, and persons authorised to receive evidence in the said province, who shall receive in evidence any document bearing an impression of the said seal, and purporting to be a copy of or extract from any document or book deposited or kept in the said Patent Office under the the provisions hereof, without the production of the original.

*Commissioner.*

6. The *Secretary to the Attorney General* for the time being shall be Commissioner of Patents.

[NOTE.—The words in italics were substituted by the Act No. 101 of 1878.]

*Governor may make Rules and prescribe Forms.*

7. The Governor may from time to time, by proclamation in the Government Gazette, make, prescribe, repeal, and alter such regulations and forms as he shall deem necessary or expedient for the purposes of this Act.

*Governor may appoint Clerks and Officers.*

8. The Governor may from time to time appoint and remove such clerks and officers as he may deem expedient for carrying out the purposes of this Act, and no Commissioner of Patents, nor any clerk or officer appointed as aforesaid shall, unless he shall be the original inventor or the legatee of the rights of the original inventor, buy, sell, acquire, or otherwise deal in any patent or right to a patent, and every purchase, sale, acquisition, or other dealing contrary to the provisions of this section, shall be null and void.

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 PART II.

## WHO MAY OBTAIN PATENTS.

*Power to Issue Patents.*

9. The true and first inventor of any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement on any art, machine, manufacture, or

composition of matter, not publicly used or offered for sale within the said province prior to the date of the patent for the same, may, on petition to the Commissioner, and on complying with the requirements of this Act, obtain a patent under the hand of the Commissioner and the seal of the Patent Office for the sole making, using, exercising, and vending of any such art, machine, manufacture, or composition of matter, or improvement within the said province.

*Inventions in respect of which Foreign Patents have been obtained.*

10. An inventor shall not be entitled to a patent for his invention if a patent or other similar privilege therefor shall have been in existence in any country other than the said province, and shall have expired before a patent shall be granted to him under this Act; and whenever a patent or other similar privilege in any other country than the said province in respect of any invention is in existence, at the time when a patent is granted for the same invention under this Act, such last-named patent shall not confer any rights for any period beyond the earliest date at which the patent or other similar privilege in such other country shall expire.

*Inventor's Representatives may obtain Patent.*

11. A patent may be granted by the Commissioner to any person to whom any inventor, entitled to obtain a patent, has assigned or bequeathed the right of obtaining it, or in default of such assignment or bequest, to the executor or administrator of any deceased inventor.

*Patent for Improvement on Patented Invention.*

12. A patent may be granted under this Act in respect of any improvement on or modification of any previously patented or registered invention, but shall not be deemed to confer any right to make, use, exercise, or vend such last named invention.

*Patents to several Persons jointly.*

13. Where several persons shall make a joint application for a patent it shall be granted to them jointly, and any assignment from one or more of them to the other or others, or to any other person, shall be registered like any other assignment of a patent.

## PART III.

## HOW PATENTS OBTAINED.

*Petition for Patent.*

14. *Repealed.* See Sections 3 and 7 of Act of 1881.

*Petition for Patent to be accompanied by Specification.*

15. The petition shall contain the name or title of the invention, and shall state an address within the city of Adelaide, to which notices in respect of such petition may be sent, and shall be accompanied by a specification in duplicate of the invention for which the patent is sought. The petition and specification shall be filed in the Patent Office, and the day of such filing shall be recorded at the said office, and endorsed on the petition, and a certificate thereof, under the Seal of the Patent Office, given to the applicant, or his agent, and thereupon, except in case of application for a patent by any person to whom the Commissioner shall have already refused to grant a patent for an invention substantially the same as that for which such application for a patent is made, and subject to the provisions hereinafter contained, the invention shall be protected under this Act for the term of six months next after such filing, and the applicant shall during such term have the like powers, rights, and privileges as would have been conferred upon him by a patent for such invention issued under this Act, and duly sealed, as of the day of such filing: Provided that in case the specification be too large or insufficient, the Commissioner may, during the said term of six months, and before the grant of the patent, allow or require the specification to be amended, or another and sufficient specification to be filed in lieu thereof, and every such amended or new specification shall have the same force and effect as if it had been filed in its amended or new form on the day of the filing of the original specification.

*Requisites of Specification.*

16. Every such specification shall correctly and fully describe and ascertain the nature and principle of the invention, and in what manner it is to be made, used, worked, or performed, and shall be signed by the inventor if he be alive, and if not by the applicant, which signature shall be attested by two witnesses, who shall specify when and where the same was



signed; and in any case where the invention admits of a model or drawing, illustration or explanation by means of drawings, the specification shall contain or be accompanied by a model or by drawings in duplicate, showing clearly all parts of the invention, which drawings, if not comprised in the specification, shall be signed and attested in the same manner as the specification: Provided that in any case the Commissioner may in his discretion dispense with any such drawings.

[NOTE.—See section 4 of Act of 1881.]

*Commissioner to publish Notice in Gazette.*

17. The Commissioner shall cause to be published in the Government Gazette a notice that the applicant has applied for a patent in respect of the specified invention, giving the name or title thereof, and stating that the specification thereof may be inspected at the Patent Office; and that any person may within one month, or within such longer period not exceeding three months to be specified in such notice as the Commissioner may determine, object to the grant of the patent by lodging at the Patent Office notice in writing, stating his name and address and the nature and grounds of his objection, and also an address within the city of Adelaide, to which notices in respect of such objection or of the application for the patent may be sent.

*Applicant to publish Notice.*

18. The applicant shall, within one week after the filing of his petition, cause notice to be given by advertisement to be inserted three times in at least two of the daily newspapers published in Adelaide, stating that he has applied for a patent for the invention, giving its title or name, and stating that the specification may be inspected at the Patent Office.

*If no Objections lodged, Commissioner to grant Patent.*

19. If there shall be no objection lodged within the period limited for that purpose by the notice in the Government Gazette, the Commissioner shall, on the expiration of such period, determine upon the application for the patent, and no person shall be entitled to object to such application.

*If Objections lodged Commissioner to give Notice.*

20. If during the period limited as aforesaid any objection to the grant of the patent shall have been duly lodged in the

Patent Office under the provisions of this Act, the Commissioner shall, immediately on the expiration of such period, send through the General Post Office, or otherwise, to the applicant and to every objector at the respective addresses given as hereinbefore prescribed for that purpose, a notice in writing that he will, at a time and place to be specified in the notice, such time to be not less than ten nor more than thirty days from the time of posting or otherwise sending such notice, attend to hear and determine upon the application and the objections.

*Commissioner may summon Witnesses.*

21. The Commissioner shall, at the request of the applicant or of any objector, issue summonses under the seal of the Patent Office for the attendance of witnesses, and every witness so summoned shall be bound to attend at the time and place mentioned in such summons on being paid his expenses according to the scale for the time being allowed to witnesses on trials in local courts, and to continue in attendance until the matter shall be disposed of, and to produce any documents which he shall by any such summons be required to produce, if they are in his possession, power, custody, or control.

*Penalty for Non-Attendance of Witness.*

22. Any witness neglecting to attend, or to continue to attend, or to produce any documents in accordance with such summons, shall be liable to a penalty of twenty pounds, in addition to the costs of service of the summons upon him, and the amount paid him for expenses, which penalty, costs, and amount may be recovered by the person on whose behalf such summons shall be issued by information before any two justices of the peace in a summary way, together with the costs of, and incidental to, and resulting from such information.

*Commissioner to determine Application.*

23. At the time and place appointed the Commissioner shall attend and hear the applicant and the objectors either personally or by their respective solicitors or agents, and any evidence adduced either by declaration or *vivá voce* in support of the application and objections respectively, and may adjourn or postpone any such hearing, and shall at such hearing or some adjournment or postponement thereof either grant or in his discretion refuse the application for the patent.



*Cost of Application or Objection.*

24. The Commissioner may, by writing under his hand, order the applicant or any objector to pay to any objector or to the applicant such costs of and attending the application or objection as the Commissioner shall think fit, and every such order may be made a rule of the Supreme Court.

*Commissioner may refer to Examiners.*

25. The Commissioner may at any time, if he shall think fit, refer any petition for a patent, whether opposed or not, to one or more competent person or persons to be appointed by him to examine and consider the matters stated in such petition, and to report thereon to the Commissioner for his information; and the applicant for such patent shall, prior to such reference, pay to the Commissioner such sum not exceeding *three pounds three shillings*, as the Commissioner shall in each case direct, such sum to be paid by the Commissioner to the person or persons so appointed as aforesaid as a recompense for his or their trouble.

[NOTE.—The words in italics were substituted by the Act of 1887. See Supplement.]

*Determination of Commissioner final.*

26. The determination of the Commissioner upon any such application shall be final, but any applicant whose application has been refused may, on giving not less than four weeks' previous notice in the Government Gazette of his intention so to do, make one or more fresh applications for a patent in respect of the same invention.

*When Patent to issue.*

27. When the Commissioner has determined to grant a patent, he shall, upon payment of the proper fee, cause the same to be sealed and issued accordingly; but except as hereinafter mentioned no patent shall be sealed after the expiration of the six months' term of protection conferred under this Act by reason of the filing of the petition and specification, nor unless the applicant shall pay the fee for the sealing of the patent within ten days after the Commissioner has sent to the applicant notice of his intention to grant the same: Provided that where the sealing of any patent shall have been delayed by reason of opposition to the grant thereof, such patent may be sealed at such time as the Commissioner shall direct.



*Patent may issue after prescribed Time in certain Cases.*

28. When the sealing of the patent has been delayed from accident and not from the neglect or wilful default of the applicant, then the patent may be sealed at such time not being more than one month after the expiration of the six months' term of protection herein-before referred to as the Governor shall direct; and where the applicant for the patent dies during the continuance of such protection, the patent may be granted to his executors or administrators during the continuance of such protection, or at any time within three months after the death of the applicant, notwithstanding the expiration of the term of such protection, and the patent so granted shall be of the like force and effect as if it had been granted to the applicant during the continuance of such protection.

*Patent to relate back to filing of Petition.*

29. Every patent to be issued in pursuance of this Act shall be signed and sealed and bear date as of the day of the filing of the petition and specification as aforesaid, and shall be of the same force and validity as if it had been signed and sealed on the day of which it is expressed to be signed and sealed and bear date; and after any patent shall have been signed and sealed, it shall not be necessary or material to inquire or ascertain whether any advertisement or notice directed by this Act shall have been published, given, or sent as herein directed.

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PART IV.

EFFECT, CONDITIONS, AND EXTENSION OF PATENTS.

*Rights conferred by Patent.*

30. Every patent granted under this Act shall be in duplicate, and shall contain the title or name of the invention, with a reference to the specification, and shall be in the form in the Schedule A. hereto, or as near thereto as the circumstances will permit, and shall, subject to the provisions of this Act and to all such restrictions, conditions, and provisoes as the Commissioner shall deem necessary or expedient, and shall insert in such patent, confer upon the patentee, his executors, administrators, and assigns, for the term of fourteen years, and for such

further term, not exceeding seven years, as the Governor may grant under section 37 of this Act, the sole right of making, using, exercising, and vending such invention: Provided that no patent shall be construed to prohibit the subsequent use or sale of any article once lawfully obtained.

*Duplicate Patent to be filed.*

31. One duplicate part of every patent issued under this Act shall be delivered to the patentee or his agent, and the other duplicate part shall be filed in the Patent Office.

*Prerogative of Crown preserved.*

32. Nothing herein contained shall extend to abridge or affect the prerogative of the Crown in relation to granting or withholding the grant of any patent or Letters Patent; and it shall be lawful for the Governor to direct the Commissioner to grant or withhold the grant of any patent or Letters Patent as aforesaid, or to direct the insertion in any patent issued under this Act of any restrictions, conditions, or provisoes which the Governor may think fit, in addition to or in substitution for any restrictions, conditions, or provisoes which would otherwise be inserted therein under this Act; and it shall also be lawful for the Governor to direct any specification filed under this Act, and in respect of the invention described in which no patent shall at the time of such direction have been granted, to be cancelled, and thereupon the protection obtained by the filing of such specification shall cease.

*Conditions of Patent.*

33. All patents granted under this Act shall be made subject to the conditions that the same shall be void if at any time during the term thereby granted it shall appear that the grant of the patent was contrary to law or prejudicial or inconvenient to the general public, or that the said invention was not a new and useful art, machine, manufacture, or composition of matter, or a new and useful improvement on any art, machine, manufacture, or composition of matter, or that the said invention had been publicly used or offered for sale within the said province prior to the date of such patent, or that the patentee was not the true and first inventor of the patented invention; or if the patent shall have been granted to him as assignee, legatee, executor, or administrator, then that he was not the assignee,



legatee, executor, or administrator, as the case may be, of the true and first inventor of the patented invention, or if the specification does not correctly and fully describe and ascertain the nature and principle of the invention, and in what manner it is to be made, used, worked or performed.

*Patent to cease on Nonpayment of Fees.*

34. All patents under this Act shall also be made subject to the condition that the same shall be void, and that the rights and privileges thereby granted shall cease and determine at the expiration of three years from the date thereof, unless the patentee, his executors, administrators, or assigns, shall pay at the Patent Office the sum of five pounds before the expiration of such three years from the date thereof, and at the expiration of seven years from the date thereof, unless the patentee, his executors, administrators, or assigns, shall pay at the Patent Office the sum of five pounds before the expiration of such seven years.

*Patented Invention may be used in Foreign Vessels.*

35. No 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 South Australia or its dependencies, or in any of the waters within the jurisdiction of any of the Courts of the said province, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the said province or its dependencies: Provided that this enactment shall not extend to the ships or vessels of any foreign state of which the laws authorise subjects of such foreign state having patents or the like privileges for the exclusive use or exercise of inventions within its territories to prevent or interfere with the use of such inventions in British ships or vessels, or in or about the navigation of British ships or vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its Courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from the territories of such foreign state.

*Government may use Patented Invention.*

36. The Government may use any invention patented under this Act, paying to the patentee such sum for the use thereof as shall be



agreed upon between the Government and the patentee, or, in case of dispute, such sum as may be fixed by two arbitrators, one of whom shall be appointed by the Government, and one by the patentee: or, in case of disagreement between the arbitrators, by an umpire to be named by them before entering upon the consideration of the matter referred to them.

*Government may extend Term of Patent.*

37. The Governor, on petition by any patentee, or his executors, administrators, or assigns, presented at least six months before the expiration of any patent, and on being satisfied that the patentee, his executors, administrators, or assigns, have been unable to obtain due remuneration for the expense and labour of perfecting the invention, the subject of the patent may, by order under his hand, to be filed in the Patent Office, grant an extension of the term of such patent for any term not exceeding seven years from the expiration of the term for which the patent was originally granted: Provided that the Governor may require such petition to be advertised in such manner as he shall think fit, and may hear any person desirous of opposing such extension.

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PART V.

NEW PATENTS, DISCLAIMERS, ALTERATIONS, AND CONFIRMATIONS.

*In certain Cases of Error, &c., Commissioner may grant new Patent.*

38. Whenever any patent shall be deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee having claimed as new more than he had a right to claim, the Commissioner may, upon petition by the patentee, and upon being satisfied that the error arose from inadvertence, accident, or mistake, without any fraudulent intention, and upon the surrender of such patent and payment of the fee for that purpose specified in the Schedule B. hereto, and the filing of an amended description and specification, to be filed in the like manner as hereinbefore provided with respect to applications for patents, grant to the patentee, his executors, administrators, or assigns, a new patent for the same invention, for any part or the whole of the then unexpired term for which the original patent was granted.

*Disclaimer or Memorandum of Alteration may be filed.*

39. Any patentee, his executors, administrators, or assigns, may, on payment of the fee for that purpose specified in the Schedule B. to this Act, and on obtaining the leave of the Commissioner, file in the Patent Office a disclaimer of any part, either of the title or the specification of the invention in respect of which he is the patentee, or the executor, administrator, or assignee of the patentee, stating the reasons for such disclaimer, or a memorandum of any alteration in such title or specification, not being such disclaimer or alteration as shall extend the exclusive right granted by the patent. Such disclaimer or memorandum of alteration shall be attached to the patent or specification filed in the Patent Office, and a memorandum thereof shall be entered upon the patent in the possession of the patentee, his executors, administrators, or assigns, and thereupon such disclaimer or memorandum of alteration shall be deemed and taken to be part of the patent or specification in all Courts in the said province: Provided that no such disclaimer or alteration shall, except in proceedings by *scire facias*, be receivable in evidence to support any patent in any action or suit pending at the time that such disclaimer or alteration was filed, or brought in respect of any infringement of any patent committed prior to the filing of such disclaimer or memorandum of alteration; but in every such action or suit, except as aforesaid, the original title and specification alone shall be given in evidence, and deemed to be the title and specification of the invention for which the patent shall have been granted.

*Commissioner may require Notices to be given.*

40. The Commissioner may require any patentee, his executors, administrators, or assigns, applying for a new patent, or for leave to file a disclaimer or memorandum of alteration, to give such notices by advertisement or otherwise of his application as the Commissioner shall think fit, and may hear any person in opposition to such application. The filing of any disclaimer or memorandum of alteration in pursuance of the leave of the Commissioner obtained under the last preceding section shall, except in cases of fraud, be conclusive as to the right of the party to file such disclaimer or memorandum of alteration under this Act, and no objection shall be made in any proceeding upon or touching such patent, specification, disclaimer, or



memorandum of alteration on the ground that the party filing such disclaimer or memorandum of alteration had not sufficient authority in that behalf.

*Mode of obtaining Confirmation of Invalid Patent.*

41. If in any suit or action it shall be proved, or specially found by the verdict of a jury, that any person who shall have obtained a 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 the same, or some part thereof, before the date of such patent, or if such patentee, his executors, administrators, or assigns, shall discover that some other person had unknown to such patentee invented the same, or some part thereof, before the date of such patent, such patentee, his executors, administrators, or assigns, may petition the Governor to confirm the said patent, or to grant a new patent in respect of such invention; and it shall be lawful for the Governor to refer the consideration of the said petition to Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Appointment of Commissioners.*

42. The Governor may issue to three or more persons, of whom one shall be a judge of the Supreme Court, a commission reciting such petition, and requiring and authorising such persons, or any three of them, of whom the said judge shall be one, to meet at some time, not being less than two months from the publication of the said commission in the Government Gazette, and at some place to be respectively fixed in the said commission, and then and there to consider the said petition, and to report to the Governor whether such confirmation should or should not be made.

*Notice of Commission to be Published.—Caveat may be entered.*

43. Six weeks at least before the time named in the said commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published twice in the Government Gazette, and three times in some daily newspaper published in Adelaide, an advertisement of the contents of the said commission; 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 Commissioner of Patents at any time



not being less than one week before the time named in the said commission for the execution thereof.

*Commissioners to hear all Parties and report.*

44. At the time and place fixed in the said commission for that purpose, the Commissioners shall meet and proceed to consider such petition, and the petitioner shall be heard in person, or by his solicitor or agent, and may call witnesses to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this Act; and the persons entering caveats shall likewise be heard in person, or by their solicitors or agents, and may also call witnesses; and all witnesses shall be examined upon oath or affirmation (which oath or affirmation such Commissioners as aforesaid are hereby authorised and required to administer); and thereupon, and upon hearing and inquiry of the whole matter, such Commissioners, upon being satisfied that such patentee as aforesaid believed himself to be the first and original inventor, and being satisfied that the invention, or part thereof, has not been publicly and generally used, or offered for sale within the said province prior to the date of such patent, may report to the Governor their opinion that the prayer of such petition ought to be complied with; whereupon the Governor may, if he shall think fit, grant such prayer; and the confirmed or new patent (as the case may be) shall thereupon be available at law and in equity to give to such petitioner the sole right of making, using, exercising, and vending such invention as against all persons whomsoever, anything hereinbefore contained to the contrary notwithstanding: Provided that any person party to any former suit or action touching the first patent shall be entitled to have notice in writing of the time and place fixed as aforesaid for the first meeting of the said Commissioners to consider the said petition; and after any such report shall have been made it shall not be material or necessary 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 herein-before directed.

*Where Patent only partly assigned.*

45. When a patentee, his executors, administrators, or assigns, shall have assigned a part only of his or their interest in any patent, no petition or application under any of the preceding

sections numbered respectively 37, 38, 39, and 41, shall be allowed unless joined in by all persons having any legal interest in the patent.

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PART VI.

CAVEATS AND REVOCATION AND ASSIGNMENT OF PATENTS.

*Caveat may be filed.*

46. Any intending applicant for a patent may file in the Patent Office, on payment of the fee specified for that purpose in the Schedule B. hereto, a document to be signed by him and containing a description of any invention claimed by him as his own (with or without plans at his option), and giving an address within the city of Adelaide to which any notice by the next following clause required to be sent to him may be addressed; such document, which shall be called a caveat, may be amended by the caveator, at any time within one year from the filing thereof, and shall, until the expiration of such year, be preserved in secrecy in the Patent Office, the Commissioner being at liberty, however, to furnish copies of the same to the caveator on payment of the proper charges for such copies.

*In certain Cases Commissioner to send Notice.*

47. If at any time before the expiration of one year from the filing of any caveat an application shall be made by any person other than the caveator for a patent for any invention, and the Commissioner shall consider that the granting of such application may interfere with or affect the right of the caveator to obtain a patent for the invention described in the caveat, the Commissioner shall forthwith send notice thereof through the General Post Office to the caveator at the address given by him for that purpose.

*Patent may be revoked by Governor.*

48. Every patent shall be liable to be revoked by the Governor upon the application of any person after the expiration of three years from the granting thereof, if it shall be made to appear to the Governor that neither the patentee nor his assignee or licensee has, before the time of such application, used the patented invention to a reasonable extent for the public benefit:



Provided that the Governor may in his absolute discretion refuse any such application upon such terms and conditions as he may see fit.

*Proceedings to revoke Patent.*

49. The Supreme Court of the said province shall have jurisdiction to revoke and cancel any patent issued under this Act, upon a writ of *scire facias*, issued out of the said Court; and in case any person having an interest in such patent shall not reside in the said province at the time of the issue of such writ, it shall be sufficient as against such person to file such writ in the office of the Supreme Court, and serve notice of such filing at his last known place of business or residence within the said province (if any), and if no such place can be found, then to give notice of such filing by advertisement, or otherwise, as the said Court may in each case direct.

*Patent may be filed in the Supreme Court.*

50. Any person desiring to impeach a patent issued under this Act may obtain from the Patent Office a copy of the patent, and of the petition, declaration, specification, and drawings thereunto relating, certified under the seal of the Patent Office and the hand of the Commissioner, and may file the same in the office of the said Supreme Court to be held of record therein.

*Certificate of Judgment to be filed.*

51. A certificate of the judgment voiding any patent shall be filed in the Patent Office by the prosecutor on the suit of *scire facias*, and shall be noted on the duplicate patent in the Patent Office, and thereupon the patent shall be and be held to have been void and of no effect from the time of the grant thereof.

*Assignment of Patent.*

52. Every patent shall be assignable either as to the whole interest of the patentee, his executors, administrators, or assigns, or as to any part of such interest by instrument in writing under the hand of the assignor or his agent thereunto authorised in writing; and every such assignment shall be in duplicate, and shall be registered by deposit of one duplicate part in the Patent Office. Every assignment shall be deemed null and void against any subsequent assignment for valuable consideration, unless such prior assignment shall be registered before the registration of the subsequent assignment.



## PART VII.

## MISCELLANEOUS PROVISIONS.

*Patents, &c., to be open to Public Inspection.*

53. All patents, specifications, drawings, models, disclaimers, and other papers, except caveats, filed in the Patent Office, shall be open to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

*Fees.*

54. The fees mentioned in Schedule B. to this Act shall be paid in respect of the several matters and things therein respectively referred to. Such fees shall form part of the general revenue of the said province, and be paid, applied, and disposed of accordingly.

*Commissioner may correct clerical Errors.*

55. No patent or other instrument under this Act shall be invalidated by any clerical error in the framing or copying thereof, but any such error may be corrected by or under the authority of the Commissioner.

*Lost Patent.*

56. In case any patent be lost or destroyed, any person entitled to such patent may obtain from the Patent Office, on payment of the proper fee, a copy of such lost or destroyed patent, to be certified under the seal of the Patent Office.

*Declarations, before whom to be made.*

57. Every declaration under this Act may be made before the Commissioner or any justice of the peace or notary public in South Australia; or if the declaration shall be made out of the said province, then before any person who, in the country in which the declaration is made, shall be authorised to administer an oath.

*Licensed Patent Agents.*

58. It shall be lawful for the Commissioner, with the sanction of the Governor, to license fit and proper persons to be patent agents for transacting business under the provisions of this Act, and upon proof to his satisfaction of the malfeasance or incapacity of any such licensed patent agent, or on nonpayment of any annual fee for any such license, as prescribed by Schedule B. hereto, and with such sanction as aforesaid, to revoke any such license. Before granting any such license the Commissioner shall receive bond from the person to be licensed in the sum of

five hundred pounds, with two sureties each in the sum of two hundred and fifty pounds, conditioned that such person shall duly and faithfully act in the capacity of a licensed patent agent, in accordance with the provisions of this Act, and shall also administer to such person the oath following:—

I, A. B., do solemnly swear that I will faithfully and to the best of my ability execute and perform all such business or duties as may be entrusted to or imposed upon me as a licensed patent agent. So help me God.

*Certificate of Correctness. — Penalty for False and Negligent Certificate.*

59. The Commissioner shall not receive any petition, disclaimer, memorandum of alteration, caveat, assignment, or other instrument under this Act, unless there shall be endorsed thereon a certificate that the same is correct for the purposes of this Act, signed by the applicant or the principal party filing such instrument, or by his solicitor, or by a patent agent licensed under this Act, or by a land broker licensed under the provisions of the "Real Property Act of 1861," or any Act substituted therefor; and any person who shall falsely and negligently certify to the correctness of any such instrument shall incur a penalty therefor not exceeding fifty pounds, to be recovered by any person before two or more justices of the peace in a summary manner.

*In Actions for Infringement, Particulars of Breaches and Objections to be delivered.*

60. In any action for the infringement of a 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 by *scire facias* to revoke and cancel any 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 in the proceedings by *scire facias* respectively; and at the trial of such action or proceeding by *scire facias* no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such 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



offered for sale in the said province prior to the date of the 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 proceedings by *scire facias* to revoke and cancel a patent the defendant shall be entitled to begin and to give evidence in support of such patent; and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such patent the defendant shall be entitled to the reply.

*Particulars to be regarded in taxing Costs.*

61. In taxing the costs in any action commenced after the passing of this Act for infringing any patent, regard shall be had to the part of such case which has been proved at the trial, which shall be certified by the judge before whom the case shall be tried, and the costs of each part of the case shall be given according as either party has succeeded or failed therein, regard being had to the particulars of objections and breaches as well as the counts in the declaration, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular 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 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 patent, or in any proceeding by *scire facias* to revoke and cancel the patent, shall entitle the plaintiff in any such suit or action, or the defendant in any such proceeding by *scire facias*, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, to be 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.

*Register of Patents.*

62. There shall be kept at the Patent Office a book or books to be called the "Register of Patents," wherein shall be entered and recorded, in chronological order, all patents granted under



this Act, the deposit and filing of specifications, disclaimers, and memoranda of alterations filed in respect of patents, all amendments in specifications and patents, all assignments, confirmations, and extensions of patents, the expiry, determination, vacating, revoking, or cancelling of patents, with the dates thereof respectively, and all other matters and things affecting the validity of patents as the Governor may direct; and such register or a copy thereof shall be open at all convenient times to the inspection of the public, subject to such regulations as the Governor may make in that behalf.

*Register of Proprietors to be kept.*

63. There shall also be kept at the Patent Office a book or books entitled "The Register of Proprietors," wherein shall be entered every assignment of a patent, or of any share or interest therein, every license under a patent, and the place or district to which such license relates, with the name or names of every person having by assignment any patent, or any share or interest in any patent, or, having any license, the date of his or their acquiring such patent, share, interest, or license, and any other matter or thing relating to or affecting the proprietorship in such patent or license; and a copy of any entry in such book, certified under the seal of the Patent Office, shall be given to any person requiring the same, and shall be *prima facie* evidence of the proprietorship or assignment of such patent, or share or interest therein, or license as therein expressed: Provided always, that until such entry shall have been made the grantee or grantees of the patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such patent, and of all the licenses and privileges thereby given and granted, and such register, or a copy thereof, shall be open to public inspection, subject to such regulations as the Governor may make.

*Expungement, &c., of Entries in Register.*

64. If any person shall deem himself aggrieved by any entry made under colour of this Act in any such register as aforesaid, he may apply to the Supreme Court, or any judge thereof, for an order that such entry may be expunged, vacated, or varied, and such Court or judge may thereupon make such order as to the expunging, vacating, or varying of such entry, and as to the costs of such application, as to such Court or judge shall

seem fit; and the officer having the custody of such register shall, on the production of any such order, expunge, vacate, or vary such entry in accordance with the order.

*Falsification or Forgery of Entry.*

65. If any person shall wilfully make or cause to be made any false entry in any such register, or shall wilfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in any such register, or shall produce or tender, or cause to be produced or tendered in evidence, any such writing or any such false entry, knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall be liable to be imprisoned for any term not exceeding five years.

*Punishment on false Oath or Declaration.*

66. Every person who shall make any false oath or declaration under this Act shall be guilty of a misdemeanor, and shall on conviction be liable to imprisonment, with or without hard labour, for any period not exceeding five years.

*Penalty for unauthorised use of Name of Patentee, &c.*

67. If any person shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark upon anything made, used, or sold by him, for which he has not or shall not have obtained a patent, the name or any imitation of the name of any other person who has or shall have obtained a patent for such thing without leave in writing of such patentee, his executors, administrators, or assigns, or if any person shall, upon such thing not having been purchased from the patentee, his executors, administrators, or assigns, or some person who purchased it from or under such patentee, his executors, administrators, or assigns, or not having had the license or consent in writing of such patentee, his executors, administrators or 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, his executors, administrators, or assigns, or shall in any other manner imitate or counterfeit the stamp, mark, or other device of the patentee, his executors, administrators, or



assigns, he shall for every such offence forfeit and pay the sum of one hundred pounds, one half to Her Majesty, her heirs and successors, and the other half with full costs of suit to any person who shall sue for the said penalty by action of debt, or in a summary manner before any two justices of the peace of the said province: Provided always, that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "Patent" upon anything in respect of which the patent before obtained shall have expired or otherwise determined.

#### *Proceedings before Justices.*

68. The proceedings before justices shall be conducted as appointed by and shall be regulated under the Ordinance No. 6 of 1850, intituled "An Ordinance to facilitate the performance of the duties of Justices of the Peace out of Sessions with respect to summary convictions and orders."

#### *Nonpayment of Penalty.*

69. In every case of the adjudication of a fine or pecuniary penalty or amends under this Act, and of the nonpayment of such fine or pecuniary penalty or amends, any justice of the peace may commit the offender or person making default in payment to any gaol in the said province for any time not exceeding three calendar months, the imprisonment to cease on payment of the sum and costs due; but this section shall not affect any remedy for the recovery of any fine or pecuniary penalty or amounts under the said Ordinance No. 6 of 1850, or any other Ordinance or Act.

#### *Appeal.*

70. There shall be an appeal from any order of justices of the peace made under the provisions herein-before contained, or from any order of justices of the peace dismissing any information laid under this Act, or from any conviction by justices for any offence against this Act, which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only, and the proceedings in such appeal shall be conducted in manner appointed by the said Ordinance No. 6 of 1850 for Appeals to Local Courts, but the Local Court of Adelaide aforesaid may make such order as to payment of costs of appeal as such Court shall think fit, although such costs may exceed ten pounds.



*Local Court of Adelaide may state a Case for Opinion of Supreme Court.*

71. It shall be lawful for the Local Court of Adelaide, upon the hearing of any appeal under the last preceding section, to state one or more special case or cases for the opinion of the Supreme Court, and the Supreme Court shall hear and decide such special case or cases according to the practice of the Supreme Court on special cases; and the Supreme Court shall make such order as to the costs of any such special case as to the said Court shall appear just; and any two or more justices, or the Local Court of Adelaide, shall make an order in respect of the matters referred to the Supreme Court, in conformity with the certificate of the said Supreme Court, or of any judge thereof, which order of the justices of the peace or Local Court shall be enforced in manner provided by this Act for the enforcement of orders of justices of the peace; and, save as herein provided, no order or proceeding of justices or of any Local Court made under the authority of this Act shall be appealed against or removed by *certiorari* or otherwise into the Supreme Court of the said province.

*Definition Clause.*

72. In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meaning shall be repugnant to or inconsistent with the context: "patent" shall mean Letters Patent granted under this Act; "patentee" shall mean a person to whom a patent shall have been granted under this Act; "Commissioner" shall mean the Commissioner of Patents.

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SCHEDULE A.

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

Whereas \_\_\_\_\_, of \_\_\_\_\_, hath, by his petition, represented unto us that he is [or \_\_\_\_\_, of \_\_\_\_\_, is or was] the true and first inventor of a certain invention for \_\_\_\_\_, and that the same has not been publicly used

or offered for sale within the province of South Australia more than twelve months prior to the date of the said petition [and that the said is the assignee, legatee, executor, or administrator, *as the case may be*, of the said ], and hath, therefore, humbly prayed for letters patent for the sole making, using, exercising, and vending of the said invention within our said province for the term of fourteen years, pursuant to "The Patent Act, 1877:" And whereas the said hath correctly and fully described and ascertained the nature and principle of the said invention, and in what manner the same is to be made, used, worked, or performed, by a specification in writing under his hand, and has caused the same to be duly filed in the Patent Office of our said province on the day of , 18 : 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 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 province, 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 herein-before granted or mentioned to be granted to 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. , 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 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 province, 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, exercise, or vend 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 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 devisers thereof, without the consent, license, or agreement of the said \_\_\_\_\_, his executors, administrators, or assigns, in writing under his or their hands or 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, sheriffs, bailiffs, constables, and all other officers and ministers 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, and 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 appear that this our grant is contrary to law, or prejudicial or inconvenient to the general public, or that the said invention is not a new and useful art, machine, manufacture, or composition of matter, or a new and useful improvement on any art, machine, manufacture, or composition of matter, or that the said invention has been publicly used or offered for sale within our said province prior to the date of these our Letters Patent, or that the said petitioner is not the true and first inventor thereof [or the assignee, legatee, executor, or administrator, *as the case may be*, of the true and first inventor thereof], or if the said specification, filed as aforesaid, does not correctly and fully describe and ascertain the nature and principle of the said invention, and in what manner the same is to be made, used, worked, or performed, or 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 or upon such reasonable prices and terms as shall be settled for that purpose by the said officers or commissioners requiring the same, then and in any of the said cases these our Letters Patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything herein-before contained to the contrary thereof in anywise notwithstanding: Provided also, that these our Letters Patent or anything herein contained, shall not extend or be construed to extend to give privilege unto the said \_\_\_\_\_, his executors, administrators, and assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like Letters Patent or privileges have been



already granted for the sole use, exercise, and benefit thereof, it being our will and pleasure that the said \_\_\_\_\_, his executors, administrators, and assigns, and all and every other person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and practise their several inventions by them invented and found out according to the true intent and meaning of the same respective Letters Patent, and of these presents: Provided likewise, and these our Letters Patent are upon this express condition, that the same shall be void, and that the rights and privileges hereby granted shall cease and determine at the expiration of three years from the date hereof, unless the said \_\_\_\_\_, his executors, administrators, or assigns, shall pay at the said Patent Office the sum of five pounds before the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 18\_\_\_\_, and further upon condition that the same Letters Patent shall be void, and the said rights and privileges cease and determine at the expiration of seven years from the date hereof, unless the said \_\_\_\_\_, his executors, administrators, or assigns, shall pay at the said Patent Office the sum of five pounds before the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 18\_\_\_\_: Provided that nothing herein contained shall prevent the granting of licenses in the manner and for the considerations in and for which they may by law be granted; and lastly we do by these presents for us, our heirs and successors, grant unto the said \_\_\_\_\_, his executors, administrators, and assigns, that these our Letters Patent or the filing thereof shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favourable and beneficial sense, for the best advantage of the said \_\_\_\_\_, his executors, administrators, and assigns, as well in all our Courts of Record as elsewhere, and by all and singular the officers and ministers whatsoever of us, our heirs and successors, in this our said province, and amongst all and every the subjects of us, our heirs and successors, whatsoever and wheresoever. In witness whereof we have caused these our Letters Patent to be made patent this \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_, and to be sealed with the seal of the said Patent Office, and bear date as of the said \_\_\_\_\_ day of \_\_\_\_\_, A.D., in the \_\_\_\_\_ year of our reign.

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### SCHEDULE B.

[NOTE.—This schedule was repealed and another substituted by the Acts of 1881 and 1887. See Supplement.]

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*Act No. 201, 1881.*

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## An Act to amend "The Patent Act, 1877."

*Preamble.*

WHEREAS it is desirable to amend "The Patent Act, 1877," by affording greater facilities for the obtaining of patents—Be it therefore enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows :

*Short Title.*

1. This Act may be for all purposes cited as "The Patent Act Amendment Act, 1881."

*Incorporation.*

2. This Act and "The Patent Act, 1877," except so far as the same is altered by this Act, shall be incorporated and read and construed together.

*Petition for Patent.*

3. Every petition for a patent shall be addressed to the Commissioner, and shall be accompanied by a declaration by the applicant, or his duly authorised attorney or agent, that the several allegations contained in the petition are true, and stating that the person making the declaration verily believes that the inventor mentioned in the petition is the true and first inventor of the invention for which the patent is sought.

*Requisites of Specifications.*

4. For the purposes of Section 16 of the said Act, it shall be sufficient, whether the inventor be alive or not, if the specification therein mentioned be signed by the applicant, or his duly authorised attorney or agent, and if such signature be attested as provided in the said section.

*Exhibiting Patent not to be deemed Ground for Refusing Patent.*

5. The mere fact of any inventor having exhibited or tested his invention, either publicly or privately, shall not in itself be deemed any ground for refusing him a patent, or justify any other person in using such invention, provided that such exhibiting must have been within six months of the date of the inventor filing his petition for a patent.

*Schedule of Fees.*

6. The fees mentioned in the Schedule of this Act shall be paid in respect to the several matters and things therein respectively referred to, in lieu of the fees mentioned in Schedule B of the Patent Act, 1877. Such fees shall form part of the general revenue of the said province, and be paid, applied, and disposed of accordingly.

[NOTE.—This schedule was repealed by the Act of 1887. See Supplement.]

*Repeal.*

7. Section 14 of the said Act is hereby repealed.



**SPAIN.**

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*Law of 30th July, 1878.*

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**SECTION I.***General Provisions.***Art. 1.**

Every Spaniard or foreigner who wishes to establish or has established in the Spanish dominions an industry new in the same, shall have the exclusive right to work his industry during a certain number of years, subject to the rules and conditions laid down by this law.

**Art. 2.**

The right referred to in the preceding article shall be acquired by obtaining from the Government a patent of invention.

**Art. 3.**

The following objects shall be patentable:—

Machines, apparatus, instruments, processes, or mechanical or chemical operations, being wholly or partly an original (i.e. *the applicant's own*) invention, and new, or which, without fulfilling these conditions, has not been established or worked in the same manner or form in the Spanish dominions.

New industrial products or results obtained by new or known means, provided their working tends to establish a branch of industry in the country.

## Art. 4.

Patents having for their objects products or results mentioned in the second paragraph of the preceding article shall not prevent other patentees of objects mentioned in the first paragraph from obtaining the same products or results.

## Art. 5.

That which is not known, nor has been established, or worked in the Spanish dominions or abroad, shall be considered as new according to Art. 3 of this law.

## Art. 6.

The right which is conferred by the Patent of Invention, or as the case may be, the right derived from an incomplete application, can be transferred wholly or partly by the various ways established by our laws relating to private property.

## Art. 7.

A patent of invention can be granted to one person or to several, or to a society, whether they be natives or foreigners.

## Art. 8.

All patents shall be considered as granted, not only for the Peninsula and adjacent islands, but also for the provinces beyond the sea.

## Art. 9.

The following shall not be the objects of patents:—

1. The result or product of the machines, apparatus, instruments, processes or operations mentioned in the first paragraph of Art. 3, unless they are contained in the second paragraph of the same article.
2. The use of natural products.
3. Scientific principles or discoveries, so far as they are of a mere speculative nature, and are not likely to be applicable to machinery, apparatus, instruments, processes, or mechanical or chemical operations of a practical industrial nature.
4. Pharmaceutical or medical preparations of all sorts.
5. Schemes or combinations of credit or finance.

## Art. 10.

No patent shall be delivered for more than a single industrial object.

## Art. 11.

Patents of invention shall be delivered without previous examination as to novelty or utility, and must not therefore be considered in any case as a declaration or certificate of the novelty or utility of the object to which they refer. Qualifications of this nature concern the person interested, who must act on his own responsibility, and will be subject to the consequences resulting from the provisions of this law.

## SECTION II.

*The Duration of Patents and the Government Fees.*

## Art. 12.

The duration of Patents of Invention shall be twenty years without prolongation, if they have for their object new and original inventions. The duration of patents for all objects that are not original inventions, or being so, are not new, shall only be five years without prolongation.

Nevertheless, patents shall be granted for ten years for all objects of original invention, even when the inventor has obtained a patent for the same object in one or more foreign countries, provided he applies therefor in Spain before the expiration of two years from the obtaining of the first foreign patent.

## Art. 13.

For working a patent there must be paid in Government paper an annual and progressive tax, as follows:—

10 pesetas for the first year.

20 pesetas for the second year.

30 pesetas for the third year.

and so on to the fifth, tenth, or twentieth year, when the tax will be respectively 50, 100, and 200 pesetas.

## Art. 14.

The annual taxes mentioned in the preceding article shall be paid in advance, and they will in no case be dispensed with.



## SECTION III.

*Formalities for the Grant of Patents.*

## Art. 15.

Every person who desires to obtain a patent of invention shall deliver at the office of the Secretary of the Civil Government of the province in which he is domiciled, or at that of any other province where he elects domicile for this purpose :—

1. A petition to the Minister of Commerce, in which he indicates the single object for the patent, stating whether or not the said object is an original and new invention, and the domicile of the applicant, or his attorney. In the latter case the power must be annexed to the petition. The petition must contain neither conditions, restrictions, nor reservations.
2. A specification in duplicate, in which shall be described the machine, apparatus, instrument, process, or mechanical or chemical operation forming the object of the patent, all with the greatest clearness, so that there can at no time be doubt as to the object or the particular represented to be new and of original invention, or as to its not having been practised or established in the same mode or form in the country. At the foot of the specification there must be a note expressing clearly, distinctly, and particularly which part, piece, movement, mechanism, operation, process, or matter is claimed as the object of the patent. The patent will depend entirely on the contents of the said note.

The specification must be written in Spanish, without abbreviations, corrections, or erasures of any kind, on sheets numbered with consecutive numbers. References to weights and measures must be given according to the metrical decimal system.

The specification must not contain conditions, restrictions, or reservations.

3. The drawings, samples, or models which the interested party thinks necessary for the comprehension of the descriptive specification, all in duplicate.

The drawings must be made on cloth-paper in ink, and according to the metrical decimal scale.

4. The receipt for the payment to the state of the first annual tax.
5. A signed list of all the documents and objects presented, which latter must also be signed by the applicant or his attorney.

Art. 16.

The Secretary of the Civil Government upon receiving the documents and objects mentioned in the preceding article, shall enter, in a special register, the day, the hour, and the minute of the presentation ; sign at the foot of the list with the interested party or his representative, and deliver a proper receipt. The same secretary shall close and seal the box or packet containing the two copies of the specification, and of the drawings, samples, or models, and write underneath the inscription on the box or packet "Presented on such a day of such a month, at such an hour, and so many minutes," signing the same, and affixing the official seal.

The entry in the register of presentation indicating the day, hour, and minute of presentation shall establish the right of priority of the applicant.

Art. 17.

Within a term not exceeding five days from the date of the presentation of the application, and of the aforesaid documents and objects, the civil governor shall remit to the Director of the Conservatory of Arts at Madrid the application, together with the documents and objects, and a certificate of the Secretary, countersigned by the Governor, of the entry in the register, and the contents of the box or packet. The cost of remittance shall be borne by the interested party.

Art. 18.

The Secretary of the Conservatory of Arts shall examine the contents of the box or packet, and shall sign and seal, at the foot of the certificate mentioned in the preceding article, a statement as to their completeness or defects.

Art. 19.

The Secretary of the Conservatory shall at once compare the two copies of the specification and drawings or models for the sole purpose of satisfying himself of their identity, and having found them consistent and that the specification has written at

the end the note mentioned in the second paragraph of Art. 16 (*query* 15), he shall sign and seal both copies, in proof of the compliance with this formality.

If he discovers defects in the documents, he shall point them out in his dispatch, and they must be corrected by the interested parties themselves, or their representatives; for which purpose they shall be allowed a term of two months, counting from the day of the presentation of the petition to the Government of the province, if it is in the Peninsula or the adjacent islands, and of four months if in the Canaries or Antilles, and of eight months for the Philippine Islands.

These terms cannot be prolonged, and when once expired without the defects pointed out having been amended, such application shall not proceed, and the petition for the patent shall be considered as of no effect.

#### Art. 20.

When the requirements mentioned in the two preceding articles have been observed, the Director of the Conservatory of Arts, bearing in mind the provisions of Art. 11 of this law, shall send the petition to the Minister of Commerce, together with a report stating—

1. Whether the form of the petition is in conformity with the provisions of Art. 15.
2. Whether the specification and the above-mentioned drawings, samples and models, all in duplicate, and the receipt for the Government tax for the first year, have been delivered.
3. Whether there is perfect conformity between the two copies of the specification, drawings, samples or models.
4. Whether the object of the patent is comprised among one of the cases of Art. 9.
5. Whether, in view of all circumstances, it is advisable to grant or refuse the petition.

#### Art. 21.

If the application results favourably, the Minister of Commerce shall inform the Director of the Conservatory of Arts thereof, who shall publish this decision by means of the Madrid Gazette; and within a term, which cannot be prolonged, of one month from the date of publication, the interested party or his



representative shall appear at the Conservatory of Arts to pay in Government paper the value of the stamp, which must be put on the patent. Should this not be done within the prescribed term, the proceedings shall be stayed and the petition for the patent shall be considered as of no effect.

#### Art. 22.

When the payment mentioned in the preceding article has been made, the Director of the Conservatory of Arts shall inform the Minister of Commerce thereof, who shall immediately issue the patent of invention, and send it to the Conservatory of Arts, whose Director shall communicate it to the governor of the province where the application was originally made, for the purpose of having it duly entered in the register mentioned in Art. 16, and of having it copied by the Secretary of the Conservatory in a special register, after which it shall be delivered by him to the interested party or his representative, against a receipt which shall be attached to the documents.

#### Art. 23.

At the head of the patent there shall be printed in letters of a larger type than the largest employed in the body of the same the following words :—

“Patent of invention without guarantee of the Government as to the novelty, fitness, or utility of the object for which it is granted.”

#### Art. 24.

The Secretary of the Conservatory of Arts shall likewise deliver to the interested party or his representative, against a receipt, at the same time as the patent, one of the copies of the specification and of the drawings, samples and models accompanying it, and the whole shall be considered as an integral part of the patent and so designated therein.

#### Art. 25.

The special register of patents at the office of the Secretary of the Conservatory of Arts shall be open to the public during the hours fixed by the director. The dates in this register shall be considered as evidence in the courts.

## SECTION IV.

*The Publication of Patents and the Publicity of Specifications, Drawings, Samples, or Models.*

## Art. 26.

The Director of the Conservatory of Arts shall deliver to the Madrid Gazette, within the second half of the months of January, April, July, and October, for immediate publication in the said official periodical, a report of all patents granted during the preceding quarter, clearly expressing their objects.

The Provincial Governors shall have these reports reproduced in the official bulletins in the same form as in the Gazette.

## Art. 27.

The specifications, drawings, samples, and models relating to patents shall be open to the public at the office of the Secretary of the Conservatory of Arts during the hours fixed by the Director of the same.

Anyone wishing to make copies thereof may do so at his own expense, after previous consent of the Director of the Conservatory, who in giving it will fix the place, days, and hours at which they can be made.

## Art. 28.

After the expiration of the term of the grant of patents, the specifications, drawings, samples, and models shall remain at the Conservatory of Arts, in the museum of which shall be placed those which appear worthy of being exhibited there.

## SECTION V.

*Certificates of Addition.*

## Art. 29.

The owner of a patent of invention, or those entitled through him, shall during the term of the grant have the right of making any alterations, modifications, or additions to the object of the patent, they may think proper in preference to all others applying at the same time for a patent for an object similar to the alteration, modification, or addition.

Such alterations, modifications, or additions shall be established by certificates of addition, delivered in the same way and with the same formalities as the original patent, and after application and proceedings as prescribed by Art. 15.

Art. 30.

The applicant for a certificate of addition shall pay a single tax of 25 pesetas in Government paper.

Art. 31.

The certificate of addition is an accessory of the original patent, and has from the respective dates of application and grant, the same effect. The time for working a certificate of addition terminates at the same time as that for the original patent.

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SECTION VI.

*Cession and Transfer of the Rights conferred by Patents.*

Art. 32.

Any total or partial cession of the rights conferred by a patent of invention or a certificate of addition, whether gratuitously or for a consideration, and every other act involving a modification of the original right must indispensably be made by public deed on which there shall be a certificate of the Secretary of the Conservatory of Arts, signed by the Director, in which it shall be stated that the taxes prescribed by this law have been paid up to date, and that the assignor is the real owner of the patent or certificate of addition according to the entries in the register of proprietors.

Art. 33.

No deed of cession or any other deed involving a modification of the right can prejudice a third party, unless it has been registered at the office of the Secretary of the Civil Government of the province where the original deposit took place.

Art. 34.

The registration of cessions and of all deeds involving a modification in the right shall be effected by the presentation



and delivery at the office of the Secretary of the Provincial Government of an attested copy of the deed or contract of cession or modification.

On this copy the secretary shall mark the day and the page of the register.

Art. 35.

The civil governor of the province where the assignment or any other deed or contract involving a modification in the right is registered, shall, within five days after it has been entered in the register, transmit to the Director of the Conservatory of Arts a copy, certified by the Secretary and countersigned by the Governor, both of the deed or contract of cession or modification, and of the entry which appears on the register in the office of the secretary.

Art. 36.

The Secretary of the Conservatory of Arts shall note in the special register of proprietors of patents all modifications occurring in the right of each of them, after having taken cognizance of the certified copy of the deed or contract of cession annexed to the report.

Art. 37.

The Director of the Conservatory of Arts shall transmit to the Madrid Gazette at the same time the report mentioned in Art. 26 all modifications of rights that have taken place in patents.

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SECTION VII.

*Conditions of the Enjoyment of Privileges.*

Art. 38.

The owner of a patent of invention or a certificate of addition shall be required to prove before the Director of the Conservatory of Arts, within a term of two years counting from the date of the patent or of the certificate, that he has put it in practice on Spanish territory, establishing a new industry in the country.

The term of two years within which the working has to be proved can only be prolonged by a law on equitable ground, and for a term not exceeding six months.

## Art. 39.

The Director of the Conservatory of Arts shall ascertain the fact, either by himself or through a practical engineer, or competent person appointed for that purpose, by means of steps the least onerous he considers necessary, and for this end he may demand the assistance of all authorities or corporations, who are bound to aid him in the most efficacious manner with their influence and all means they can employ for that purpose.

## Art. 40.

When the Director of the Conservatory of Arts thinks that the report concerning the working of the patent is sufficiently proved, he shall transmit the same, together with his remarks, to the Minister of Commerce for final decision.

## Art. 41.

The costs caused by the enquiries necessary to prove that the object of the patent or certificate of addition has been worked establishing a new industry in the country, shall be borne by the interested party, who need only pay them when approved by the Director of the Conservatory of Arts.

## Art. 42.

The Director of the Conservatory of Arts shall cause the Secretary of the same to make note on the register of proprietors of patents of the decisions come to upon reports as to the working, and communicate the said decision to the governors of the proper provinces.

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SECTION VIII.*Nullity and lapse of Patents.*

## Art. 43.

Patents of invention are null:—

1. Whenever it is proved, with respect to the object of the patent, that the circumstances; of originality and novelty; of not having been established or practised in essentially the same mode and form within the dominions; or any other circumstance, alleged as fundamental in the application; are not borne out.

2. Whenever it is found that the object of the patent is contrary to public order, or safety; to morals, or to the laws of the country.
3. Whenever the object for which the patent was applied for is different from that which is worked in virtue of it.
4. Whenever it is shown that the specification does not contain all that is required for the complete understanding and working of the object of the patent, or when it does not indicate in a complete manner the real means of manufacturing or working.

## Art. 44.

Actions for annulment of a patent can only be brought at the instance of an interested party.

The public prosecutor, however, may demand the annulment when the patent comes under the second paragraph of Art. 43.

## Art. 45.

Where the provisions mentioned in Art. 43 apply, all certificates which embrace alterations, modifications, or additions to the original patent shall equally be null and of no effect.

## Art. 46.

Patents of invention shall lapse :—

1. When the time set out in the grant has run out.
2. When the owner does not pay the proper annual tax before the beginning of each year of its duration.
3. When the object of the patent has not been put in practice in the Spanish dominions within the time mentioned in Art. 38.
4. When the owner has ceased to work for one year and one day, unless he proves it was caused by *force majeure*.

## Art. 47.

The declaration of lapsing of patents coming under the first, second, and third paragraphs of Art. 46, belongs to the Minister of Commerce, on the previous advice of the Director of the Conservatory of Arts. Against the final decision of the Minister there may be lodged an appeal to the Judicial Committee of the the Council of State within the term of 30 days. The declaration of lapsing of a patent coming under the fourth paragraph of the said Art. 46, belongs to the courts of justice at the instance of the interested party.



## Art. 48.

The Director of the Conservatory of Arts, after having caused the proper entries to be made in the special register of proprietors of patents, shall transmit to the Madrid Gazette, at the same time as the report mentioned in Art. 26, a further list of the patents to have lapsed by the Minister of Commerce.

The civil governors shall cause such lists to be published in the official bulletins of their provinces, and for this purpose have proper entries made in the registers of patents at the offices of their Secretaries.

## SECTION IX.

*Infringements and Falsification of Patents, and the Penalties incurred by Infringers and Falsifiers.*

## Art. 49.

Infringers of patents are those who knowing of the existence of the privilege encroach on the rights of the legal owner by manufacturing or executing the object of the patent by the same means.

Accomplices are those who knowingly assist in the manufacture, execution, and sale or expedition of the products obtained by the object of the patent infringed.

## Art. 50.

Infringement of a patent shall be punished by a fine of from 200 to 2000 pesetas.

In case of a second offence the fine shall be from 2001 to 4000 pesetas.

It is a second offence when the offender has been convicted of the same offence within the five preceding years.

Complicity in infringement shall be punished by a fine of from 50 to 200 pesetas. A second offence by a fine of from 201 to 2000 pesetas.

All products obtained by infringement of a patent shall be delivered to the patentee, besides damages for the loss and injury he may have sustained. Insolvents shall suffer, in both cases, imprisonment, as prescribed by Art. 50 of the Criminal Code.

## Art. 51.

Falsifiers of patents of invention shall suffer the penalties

mentioned in the first section of chapter 4, book ii., of the Criminal Code.

Art. 52.

Actions for the offence of infringement provided for and punishable by the present section can only be entered by the public prosecutor on the complaint of the party aggrieved.

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SECTION X.

*Jurisdiction in Patent Matters.*

Art. 53.

Civil and criminal actions concerning patents of invention shall be instituted before industrial juries. Until the organization of the industrial juries, such actions shall be brought before the ordinary courts.

Art. 54.

Whenever the claim is brought at the same time against the grantee of the patent and against one or more licensees, the competent tribunal shall be that of the domicile of the grantee.

Art. 55.

Civil actions shall be governed by the rules prescribed for them by the laws relating to ordinary justice. Criminal actions by those laid down by the law of criminal procedure.

Art. 56.

The public prosecutor shall be a party to all actions having for their object the declaration of the nullity or lapsing of a patent of invention.

Art. 57.

In the case of the preceding article, all parties entitled through the patentee, according to the register of the Conservatory of Arts, shall be summoned before the Court.

Art. 58.

As soon as a patent of invention has been judicially declared null or lapsed, the tribunal shall communicate its judgment to the Conservatory of Arts for entry, and the nullity or lapsing

shall be published in the Madrid Gazette in the same manner and at the time prescribed by this law for the publication of patents.

The civil governors shall republish such annulments or lapsings in the official bulletins of their provinces, and make in the registers of patents at the offices of their Secretaries the corresponding entries.

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## SECTION XI.

### *Transitory Provisions.*

#### Art. 59.

From the day the present law comes into force, all anterior enactments relating to patents of invention, of importation, and of improvement shall be abrogated.

#### Art. 60.

Patents of invention, importation, and improvement actually in force, which have been obtained under old laws, shall continue to be in force during the term for which they were granted.

#### Art. 61.

Uncompleted applications made before the publication of the present law shall be completed in accordance with the old laws; the applicants, however, may choose the terms and mode of payment of the present law.

#### Art. 62.

All actions for infringement, falsification, annulment, or lapsing of patents, which were not begun before the commencement of the present law, shall be pursued according to the provisions of the same.



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**STRAITS SETTLEMENTS.**

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*Ordinance No. XII. of 1871.*

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An Ordinance for Granting Exclusive Privileges to Inventors.

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**PART I.****PRELIMINARY RULES.***Short Title.*

1. This Ordinance may be cited as the Inventions Ordinance, 1871.

*Interpretation Clause.*

2. In the construction of this Ordinance, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction :

The word "invention" shall include an improvement.

The word "manufacture" shall include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture.

The word "inventor," when not used in conjunction with the word "actual," shall include the importer of an invention not publicly known or used in the colony.

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 the colony of an invention, or of the sole use of any exclusive privilege for a limited time.

*Invention.*

3. An invention shall be deemed a new invention within the meaning of this Ordinance, if it shall not, before the time of applying for leave to file the specification, have been publicly used in the United Kingdom, in this colony, or in any British Possession. The public use of an invention prior to the application for leave to file a specification shall not be deemed a public use within the meaning of this section, if the knowledge thereof shall have been obtained surreptitiously, or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor, or in breach of confidence. Provided that the inventor shall, within six 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, shall not be deemed a public use thereof, within the meaning of this Ordinance.

*When Exclusive Privilege does not Attach.*

4. No person shall be entitled to any exclusive privilege under the provisions of this Ordinance;

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 within the meaning of this Ordinance; 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 carried out, with the particulars required by Section 11 of this Ordinance; or,

If the original or any subsequent petition relating to the invention, or the original or any amended specification, contain a wilful or fraudulent misstatement.

*Prerogative in respect of Letters Patent saved.*

5. Nothing in this Ordinance contained shall abridge or affect the prerogative of the Crown, in relation to the granting or

withholding the grant of any Letters Patent for inventions, or otherwise, or affect or interfere with any Letters Patent for an invention heretofore granted, or hereafter to be granted, by the Crown.

## PART II.

### ACQUISITION OF EXCLUSIVE PRIVILEGES.

*Inventor may petition for Leave to File Specification.—  
Form, &c., of Petition.*

6. The inventor of any new manufacture may petition the Governor 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 A, and shall be signed by the petitioner, or in case the petitioner shall be absent from the colony, by an authorised agent, and shall state the name, condition, and place of residence of the petitioner, and the nature of the invention.

*An Alien ami may petition.*

7. An *alien ami*, whether resident in the colony or not, may petition for leave to file a specification under this Ordinance.

*Order for Filing Specification.—Power to refer Petition for Inquiry and Report.—Fee for Report.—Governor in Council may refuse Order.*

8. Upon such petition the Governor in Council may make an order authorising the petitioner to file a specification of the invention. Provided always, that at any time before such order is made, the Governor may, if he think fit, refer the petition to any person or persons for inquiry and report, and such person or persons shall be entitled to a reasonable fee for such inquiry and report, to be paid by the petitioner, the amount of fee, in case of dispute, to be settled by a Judge of the Supreme Court in a summary manner.

And provided further, that it shall be lawful for the Governor in Council to refuse to make any order under this section in any case in which it may appear to him that the granting of exclusive privileges under this Ordinance would be prejudicial to the public interests, or of doubtful public utility.



*Petition and Specification to be left with the Colonial Secretary, and to be accompanied by Declaration by Petitioner, or if absent, by Agent.—To be recorded.*

9. Every petition for leave to file a specification, and every specification filed under this Ordinance, shall be left with the Colonial Secretary, and shall be accompanied by a declaration in writing, signed by the petitioner, in the form in the Schedules B and C respectively; and if the inventor be absent from the Colony, the petition and specification shall also be accompanied by a declaration in the form in the Schedule D, 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. The date of the delivery of every such petition and specification shall be endorsed on the same respectively, and shall also be recorded in the office of the Colonial Secretary.

*Order to file Specification may be made subject to Conditions.*

10. An order, authorising the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made, subject to such conditions and restrictions as the Governor in Council may think expedient.

*Specification to describe Invention and Manner of Working, &c.—Plans and Further Particulars.*

11. Every specification of an invention filed under this Ordinance shall be in writing, and shall be signed by the petitioner, and shall clearly and minutely describe and define the nature and purpose of the invention, and how and in what manner it is to be worked and carried into practical operation, and shall be accompanied by such explanatory plans, and shall contain such further or other particulars and information as the Governor in Council may require.

*Petitioner to be entitled to Exclusive Privilege for 14 Years.—Extension of Term.*

12. If, within the space of six months from the date of such order, the petitioner cause a specification of his invention to be filed in manner required by this Ordinance, the Governor in

Council may, in the form E in the Schedule, under the Public Seal of the Colony, grant to the petitioner, his heirs, executors, administrators, and assigns, the sole and exclusive privilege of making, selling, and using the said invention in the Colony, and authorising others so to do, for the term of fourteen years from the time of filing such specification; and for such further term, if any, not exceeding fourteen years from the expiration of the first fourteen years, as the Governor 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 months, before the expiration of the exclusive privilege hereby granted.

*Petitions for Disclaimer.—Petitions how drawn.—Order of Governor in Council.—Provisions of Part III. to be applicable.—Petitions to be published.—Notice to be given.—Person opposing.—Memorandum to form part of Specification.—Proviso.*

13. If, after the filing of the specification, the inventor or his assignees shall have reason to believe that through mistake or inadvertence he has erroneously made any misstatement 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 Council for leave to file a memorandum, pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or for leave to file an amended specification, in case of any defect or insufficiency of the 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, if he be absent from the colony, 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 in Council may make an order, allowing such memorandum or amended specification to be filed.

All the provisions of the 3rd part of this Ordinance applicable to petitions and to specifications shall be applicable to the petitions, orders, and memoranda, or amended specifications, referred to in this section, but the stamp fee chargeable on the petition shall be five dollars, in lieu of fifty dollars.

Every petition under this section shall be published in the



Government Gazette of the Colony, and at the same time notice shall be given in the said Gazette of the time when the petition will be taken into consideration by the Governor in Council, and any person interested in opposing the prayer of the petition may serve on the Colonial Secretary a notice, on a stamp paper of the value of one dollar, of his intention to oppose, and every person so serving a notice may be heard by the Governor in Council, in opposition to the prayer of the said petition.

Every memorandum of alteration filed under the provisions of this section shall be added to and form part of the original specification, and, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such memorandum of alteration, or of the filing of an amended specification, the memorandum of alteration, or the amended specification, shall have the same effect as if it had formed part of or had been the specification first filed; provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

*Inventor having obtained Patent in England may petition for Extension here.—Proviso.*

14. If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Ordinance, shall have obtained Her Majesty's Letters Patent for the exclusive use of such invention in any part of the United Kingdom, or shall have obtained a grant of exclusive privileges in any British Possession, but not extending to this Colony, shall petition the Governor in Council for leave to file a specification of such invention, it shall be competent to the Governor in Council to make an order authorising the petitioner to file a specification of the invention and exemplification of the Letters Patent or grant of exclusive privileges granted to him. On this being done, the petitioner shall be entitled to the sole and exclusive privilege of making, using, and selling the said invention in this Colony, during the remainder of the term for which the said Letters Patent or grant of exclusive privileges or any renewal of the same may be in force, or for the term or terms mentioned in Section 12. Provided that the petition for leave to file the specification shall state that such Letters Patent or grant of exclusive privileges have been granted, and shall also state the date thereof, and the term during which the same are to continue in force.



*Rule for Indian Patents before 1st April 1867.—Stamp Fee.*

15. Every person who, before the 1st day of April, 1867, shall have obtained from the Governor General of India in Council a grant of exclusive privileges under the Indian Act No. 15 of 1859 for India, as defined in the said Act, shall be entitled to use and exercise in the Colony after the 1st day of April, 1867, all the rights and privileges conferred by such grant on registering at the office of the Colonial Secretary a certified copy of such grant, and of the specification filed in India on which such grant was made.

For every such register a fee of 5 dollars shall be paid, by a stamp or stamps impressed on the said copy.

*Disclaimers or Memorandum of Alterations made elsewhere, and Amendments under Section 3, how to be filed.—Proviso.*

16. Whenever it shall be made to appear to the Governor in Council that a disclaimer or memorandum of alterations relating to any invention as to which privileges have been obtained in the Colony under section 14 of this Ordinance, or under the provisions of the Electric Telegraph Exclusive Privileges Ordinance, 1870, has been entered according to the law of England, or the law of the British Possession in which the exclusive privilege may have been granted, and whenever any amendments are made under section 35 of this Ordinance, it shall be lawful for the Governor in Council to order that a copy of such disclaimer or memorandum of alteration or amendment shall be filed in the office of the Colonial Secretary, with and as part of the specification of the invention and exemplification of the Letters Patent, or of grant of exclusive privileges to which the same relates; whereupon the said specification of invention and exemplification of Letters Patent, or of grant of exclusive privileges, shall be read as if such disclaimer or memorandum of alterations or amendment had formed a part thereof when filed in the office of the Colonial Secretary. Provided that no such disclaimer, memorandum of alteration, or amendment shall be held to extend the exclusive rights granted by such Letters Patent, or grant of exclusive privileges.

## PART III.

## GENERAL RULES.

*Stamp on Petition.*

17. Every petition for leave to file a specification under the provisions of this Ordinance, or for the extension of the term of an exclusive privilege, shall be written or printed on a stamped paper of the value of fifty dollars.

*All Fees to be paid before filing.*

18. No specification shall be filed until the petitioner shall have paid all fees and stamp duties payable under this Ordinance.

*Specification to be open to inspection.—Fee for inspection.*

19. The specification, or a copy thereof, shall be open at all reasonable times at the Office of the Colonial Secretary to public inspection, upon payment of a fee of one dollar.

*Register for the registry of Petitions, Specifications, &c.*

20. A register shall be kept in the office of the Colonial Secretary, wherein shall be entered every such petition and specification, and every order made upon such petition, or relating to the invention therein mentioned, and every grant of exclusive privilege. Every specification and every grant as aforesaid shall be numbered according to the order in which they are 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.

*Inspection of Register.—Fee.—Certified Copy of Entry to be given.*

21. Such register, or a copy thereof, shall be open at all convenient times for the inspection of any person, upon payment of a fee of one dollar, and the Colonial Secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

*Certified Copy to be primâ facie Evidence.*

22. Every copy of a document filed in the office of the Colonial Secretary under the provisions of this Ordinance, purporting to be certified as a true copy under the hand of the Colonial Secretary, shall be *primâ facie* evidence of the document of which it purports to be a copy.

*Book of Specifications.—Place for service of Notices, &c.—Names and Addresses of Proprietors.—Sufficient Service.—Substituted Service.*

23. A book shall be kept in the office of the Colonial Secretary (such book to be open to inspection without fee), wherein every person filing a specification under this Ordinance shall cause to be stated, under a number corresponding with the number of the specification, some place in the Settlement where service of any rules or proceedings for the purpose of cancelling or revoking his exclusive privilege, or of any other process may be made. Any person, partnership, or company, from time to time, being proprietors of, or having shares or interests in, such exclusive privilege, shall cause to be entered in such book, under such numbers as aforesaid, their names, together with the name of some place for the service of such proceedings and process as aforesaid. All such rules, proceedings, and process shall be deemed sufficiently served on any such person, partnership, or company, if a copy thereof be left at the place entered in such book, or (if any other place be substituted for the same by entry in 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, and if such person, partnership, or company shall neglect to make or cause to be made such entry, then service of such rule, proceeding, or process may be effected by affixing a copy thereof to a conspicuous part of the Supreme Court House, or in such other manner as the Court may direct.

*Governor may determine exclusive Privilege.*

24. Every exclusive privilege under this Ordinance shall cease if the Governor in Council shall declare by notification in the Government Gazette, that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition,



on which the petitioner shall have been authorized to file a specification, or upon which the term of the exclusive privilege shall have been extended, shall be proved to the satisfaction of the Supreme Court, and if the Governor in Council shall thereupon declare that such exclusive privilege shall cease.

## PART IV.

### LEGAL PROCEEDINGS.

#### *Actions for Infringements.*

25. An action may be maintained in the Supreme Court by an inventor against any person who, during the continuance of any exclusive privilege granted by this Ordinance, 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.

*Particulars to be delivered by Plaintiff.—Ditto by Defendant.—  
Evidence at Trial.—Court may amend particulars.*

26. In any such action 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 the Supreme Court under sections 30 and 31 of this Ordinance, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any 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 the Court to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

*Action for Infringement not to be defended for defect in Specification or Petition, or for want of novelty in Invention.*

27. 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 misdescription, 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, the defendant, is the actual inventor, or has obtained a right from the actual inventor to use the invention, either wholly or in part.

*The actual use of an Invention in the Colony, or the United Kingdom, or British Possession before date of Petition, a defence to such Action.*

28. Any such action may be defended upon the ground that the invention was not new if the person making the defence, 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 the Colony or in some part of the United Kingdom, or in any British possession, the invention or that part of it of which the infringement shall be proved, but not otherwise.

*In what case actual Inventor entitled to assignment of an exclusive Privilege fraudulently obtained.*

29. If, upon proceedings instituted by a person claiming to be the inventor, within two years from the date of a petition to file a specification, he shall prove to the satisfaction of the Supreme Court that the petitioner was not the inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived such knowledge, the Court may compel the petitioner to assign to the inventor any exclusive privilege obtained under this Ordinance, and to account for and pay over the profits thereof.



*Application by Attorney-General on breach of special Conditions.—*  
*Costs.*

30. It shall be lawful for the Attorney-General or Solicitor-General to apply to the Supreme Court, calling upon any petitioner under this Ordinance, 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 in Council, under the power reserved in section 24, may, in the judgment of the said Governor 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 shall certify the result of such trial to the Governor in Council. The costs of such trial, and also the costs of such proceedings, shall be in the discretion of the said Court.

*Application to Supreme Court to declare exclusive Privilege not to*  
*have been acquired.*

31. It shall 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 of an invention or part of an invention has not been acquired under the provisions of this Ordinance, by reason of all or any of the objections following (to be specified in the rule); that is to say:—

That the said invention or part of invention was not at the time of presenting the petition for leave to file the specification a new invention; or,

That the petitioner was not the inventor thereof, and, in addition thereto, either that the applicant was the inventor, or that the inventor has dedicated or made known the invention or part of invention to the public, or has acquiesced in the public use thereof; or,

That the specification filed does not particularly describe and define the nature of the invention or part of invention, or in what manner the same is to be carried out; or,

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



That the petitioner has wilfully made a false statement in his petition or specification; or,

That some part of the invention, or the manner in which that part is to be carried out as described in the said specification, is not thereby sufficiently described and defined, and that such defect or insufficiency was fraudulent, and is injurious to the public.

*Service of Proceedings on all Persons interested.*

32. 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 23 of this Ordinance, and it shall not be necessary to serve such notice on any other persons.

*Court may direct Issue for Trial.*

33. The Supreme Court may, if it think fit, direct an issue for trial of any question of fact arising upon an application under sections 30 or 31 of this Ordinance, and such issue shall be tried in the usual manner for trying issues of fact in the said Court.

*Judgment.—Costs.*

34. If it shall appear to the Supreme Court, at the hearing of any application under the provisions of sections 30 or 31 of this Ordinance, that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention, or in any part thereof, has not been acquired, the Court shall give judgment accordingly, and shall make such order as to the costs of, and consequent upon, the application, as it may think just; and thereupon the petitioner, his heirs, executors, administrators, and assigns, shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

*Amendment of Specification by Court.—Proviso.*

35. If the Court, at the hearing of any application under this Ordinance, shall think that the petitioner has, in the description of the invention given in his petition or specification, included something which at the date of the petition was not new, or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect,

or insufficiency was not fraudulently intended, the said Court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency; or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, it may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his heirs, executors, administrators, or assigns, shall, within the time limited by the Court for the purpose, file a specification amended according to such order.

Provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

*Misdescription in the Petition, if not fraudulent, not to defeat the Privilege.*

36. An exclusive privilege shall not be defeated upon the ground that there is any misdescription of the invention in the petition, unless such misdescription was fraudulent.

*Entry in Registry Book of Judgment declaring Privilege not to have been acquired.*

37. Whenever it shall be adjudged by the said Court that an exclusive privilege as to the whole or any part of an invention has not been acquired, the Colonial Secretary shall, upon the production of a certified copy of the judgment or order of the Court, cause an entry thereof to be made in the register hereinbefore in section 20 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 register.

*Appeal to Privy Council.*

38. Nothing in this Ordinance contained shall be held to affect the right of appeal to Her Majesty in Her Privy Council. Every such appeal may be had, and proceedings therein shall be subject to the Rules, Orders, and Regulations in force, or to be in force, in the Colony for appeals to Her Majesty in Her Privy Council from decisions of the Supreme Court of the Colony.

## SCHEDULE.

## A.

*Form of Petition.*

To His Excellency the Governor of the Colony of the Straits Settlements in Council:—

The Petition of [*here insert name, addition, and place of residence*], for leave to file a specification under the Inventions Ordinance, 1871, 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 or owner of the said invention [*or, as the case may be, the assignee, or the executor, or administrator, or heir of the inventor or owner of the said invention*]; and that the same is not publicly known or used in the Colony, to the best of his knowledge and belief [*or, as the case may be, that he is the first importer into the Colony of the said invention, and that the same is not publicly known or used in the Colony*].

N.B.—*If Letters Patent have been obtained for the invention, state according to the requirements of Section 14.*

The following is a description of the invention [*here describe it as required by Section 11*].

Your Petitioner therefore prays for leave to file a specification of the said invention, pursuant to the provisions of the Inventions Ordinance, 1871. And your Petitioner, &c.

(Signed)

The            day of

## B.

*Declaration to accompany a Petition.*

I [*here insert name, addition, and place of residence*], do solemnly and sincerely declare that I am in possession of an invention for [*state the title of the invention as in the petition*]; that I believe the said invention will be of public utility; that I am the inventor [*or owner*] of the said invention [*or, as the case may be, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention, or that I am the first importer of the said invention into this Colony*], and that the same is not publicly known or used in the Colony to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said



invention is truly described in my Petition for leave to file a specification thereof.

(Signed)

The day of

—

C.

*Declaration to accompany a Specification.*

I [*here insert name, addition, and place of residence*], do solemnly and sincerely declare that I am in possession of an invention for [*state the title of the invention*], which invention I believe will be of public utility; that I am the inventor or owner of the said invention [*or, as the case may be, the assignee, or executor, or administrator, or heir of the inventor or owner of the said invention, or that I am the first importer of the said invention into this Colony*], and the same is not publicly known or used in this Colony to the best of my knowledge and belief; and that, to the best of my belief, the instrument in writing under my hand, hereunto annexed, particularly describes and defines the nature of the said invention, and in what manner the same is to be carried out.

(Signed)

The day of

—

D.

*Declaration by Agent.*

I , of , do solemnly and sincerely declare that I have been appointed by the said , his agent for the purpose of , and I verily believe that the declaration purporting to be the declaration of the said , marked ( ), was signed by him, and that the contents thereof are true.

(Signed)

The day of

—

E.

*Form of Grant.*

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, &c.

(Signed) [*Signature of Governor.*]

To all to whom these presents shall come,  
Greeting :

Whereas *A. B.*, of *C. D.*, has presented to [*insert name of Governor*], Governor of the Colony of the Straits Settlements, a petition (numbered

in the book of petitions for exclusive privileges in inventions in the Office of the Colonial Secretary) praying for leave to file a specification of a certain invention intituled [*here insert the title of invention*], and an order in Council, dated the        day of       , 18       , was made thereon, authorising the said *A. B.* to file a specification of the said invention: And whereas the said *A. B.* did on the        day of       , 18       , file a specification in accordance with the said order, and the same is entered in the Book of Specifications of the Colonial Secretary, and bears the number        therein: And whereas all things have been done to entitle him to exclusive privilege in the invention in the said petition and specification instituted, mentioned, and described for the term of        years: It is hereby ordered that the said *A. B.*, his heirs, executors, administrators, and assigns, shall have the exclusive privilege of making, selling, and using (as the case may be) the said invention in the said specification described in the Colony of the Straits Settlements for the term of        years, in terms of and subject to the provisions of the Inventions Ordinance, 1871 [*here insert any condition under which the grant is made*].

(Signed)

*Colonial Secretary.*

**S W E D E N.**

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His Royal Majesty's gracious Statute with regard to Patents,  
Palace of Stockholm, 16th May, 1884.

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We, Oscar, by God's grace King of Sweden and Norway, the Goths and Vandals, make known that since we, in accordance with a proposition of 25th January last, have learned the resolution of Parliament on the subject of a proposal for a new statute regarding patents, and that Parliament have on their part accepted the proposals with a few minor modifications: We have thought fit--whilst cancelling our gracious statute with regard to patents of the 19th August, 1856—to decree as follows:—

**§ 1.**

Patents may, under the conditions hereinafter prescribed, be granted for inventions of industrial productions or of special methods of manufacturing such productions.

Inventors only, Swedish or foreign, or the legal representatives of inventors, are entitled to obtain patents.

**§ 2.**

Patents shall not be granted for inventions the working of which would be contrary to law or morals. With regard to inventions relating to provisions or medicines, patents shall not be granted for the commodity itself, only for special methods for its manufacture.

**§ 3.**

An invention shall not be considered as new, if it has, prior to filing the application for a patent with the patent authorities,



been described in any printed publication to which the public has access, or is so openly worked that any person conversant with the subject may, guided by the information thus gained, work the invention, or if the object of the invention does not essentially differ from products or methods of manufacture which have before become known in such a way.

The publication of an invention in print by foreign patent authorities or the exhibition of the same in any international exhibition shall not be an obstacle to the granting of a patent, provided the application is filed within six months from the date of publication or the day the exhibition commenced.

#### § 4.

1. Whoever wishes to obtain a patent shall lodge a written application with the patent authorities or send it by prepaid letter. The application must be accompanied by a duplicate description of the invention and the drawings in duplicate which are required to explain the description; and when necessary, also by models, samples or the like.

The application shall contain the name, profession and postal address of the applicant, likewise the title of the invention.

The description must be given in so explicit and complete a manner that any person conversant with the subject may, thus guided, work the invention.

The description must also state what the inventor considers to be novel in the invention.

When the applicant does not reside in the country he must also deposit a power of attorney to an agent, residing in the country, authorising him to represent the inventor in everything pertaining to the patent.

If patents are applied for for several inventions, separate applications must be lodged for each.

2. If the applicant names another person as the inventor he shall produce a document proving that he is the legal representative.

3. The applicant is also required to pay a fee amounting to fifty crowns according to § 11.

#### § 5.

If the patent authorities find that the applicant has not fulfilled the provisions of § 4 (1.) a written notice to that effect will be kept at the office for him; or, if a full postal address is

furnished, the notice will be sent to him by post. Should the applicant not supply the deficiency within the date fixed by the patent authorities the application will be considered abandoned.

#### § 6.

If the nature of the invention is not of such a character that a patent may be granted, or the invention is evidently not new, or if the applicant upon stating that another person is the inventor has not proved himself to be his legal representative, or if the applicant has failed to pay the fee prescribed by § 4 (3); the patent authorities shall immediately reject the application.

Notice of such a decision together with the reasons for rejection will be communicated to the inventor in writing in accordance with § 5.

#### § 7.

If the application documents are complete, and there is no cause for immediate rejection of the application as provided in § 6, the patent authorities shall give notice of the application in the newspapers stating the main features thereof, likewise it shall be the duty of the said authorities to keep the application documents accessible to every person desiring to obtain knowledge of the same.

During two months after the announcement, it is open to every one to hand in, or send in a paid letter, a written protest against the application.

At the end of that period the patent authorities will proceed to a decision.

If there is nothing to hinder the granting of the application the patent may be granted and Letters Patent be issued, saving however the right of contest provided for in § 18. It shall be the duty of the patent authorities to enter the grant in a register kept for that purpose and to make it public by notices in the newspapers and to have the description, with the necessary supplements in their essential parts, printed and published in a suitable way.

If the application is rejected the decision shall be communicated to the applicant as stated in § 6.

#### § 8.

In cases where an application for a patent has been rejected in pursuance of §§ 6 and 7, and the applicant is dissatisfied with

the decision, he may appeal to the King before twelve o'clock upon the sixtieth day after the date of the decision or the privilege of appeal shall be lost.

§ 9.

When several persons desire to obtain a patent for the same or a similar invention, preference will be given to him who first lodged with the patent authorities complete application documents.

§ 10.

Letters Patent shall, except in the case hereinafter stated, be issued for a period of fifteen years from the day the application was lodged.

If any one without seeking to obtain a new patent wishes to obtain a patent of addition for an improvement on an invention patented on his account, such may, subject to the already stated conditions, be granted, but not for a longer period than that for which the prior patent continues valid.

§ 11.

On each application for a patent a fee amounting to fifty crowns shall be paid to the patent authorities as provided in § 4. Should the application be rejected or fall through half that sum will be returned to the applicant.

Upon each patent granted, with the exception of patents of addition, the patentee shall pay to the patent authorities an annual fee amounting for the second, third, fourth and fifth years of the patent to twenty-five crowns, each year, and for each of the following five years fifty crowns, and for each of the remaining five years seventy-five crowns. The fee may be sent prepaid by post, and shall for each year of the patent be paid before the commencement of that year, under penalty of the fee for that year being increased by one fifth. Should the payment of the increased fee be afterwards neglected, then at the end of the first ninety days of the new year of the patent, the patent shall be considered as forfeited. The patentee has not to pay, over and above the fees here prescribed, the expenses of publishing the patent or the description.

§ 12.

If the patent is assigned to another person, notice of such proceeding, together with the documents proving the assignment



shall be presented to the patent authorities. Unless such notice is given, the patentee latest entered in the records shall be considered by the patent authorities as patentee.

§ 13.

In case a patentee is about to reside abroad, or the patent has been assigned to a person who does not live within the country, it shall be the duty of the patentee to deposit with the patent authorities a power of attorney to a legal representative as provided under § 4 (1). If the attorney of the patentee goes abroad, or if his power ceases, the patentee must deposit a power for another attorney. If these provisions are not observed, the judge of the Court shall upon being duly notified of the matter appoint an attorney for the patentee.

§ 14.

With regard to fees paid and proceedings completed as provided by §§ 12 and 13, the patent authorities shall enter the same in the register mentioned in § 7.

§ 15.

It shall be the duty of the patentee within three years from the date at which the patent was granted to have the invention worked within the country to an adequate extent. But the patent authorities may allow at the time the patent is granted, or afterwards, should it be requested, and having regard to the character and extent of the invention, a prolongation of the period up to four years. They may also determine in exceptional cases what measures, taken by the patentee, shall be considered to have complied with the conditions of working the invention.

If the patentee has within the period prescribed failed to comply with the conditions required for working the invention, or if the working of the invention is subsequently abandoned and not afterwards resumed within a year, the patent shall be forfeited.

§ 16.

Patents shall not be valid against any person who at the time the application for the patent was lodged had worked within the country the patented invention or made extensive preparations for such working.