

## § 17.

If the King considers it necessary that a patented invention shall be open to the free use of the public, or appropriated on account of the State, the patent shall be no obstacle, the patentee shall however be entitled to full compensation. If the amount of compensation cannot be agreed upon it shall be fixed by a special jury, appointed by the Court, according to the provisions for expropriation of land or homesteads required for public purposes.

## § 18.

Should a patent have been obtained contrary to the provisions of §§ 1, 2 and 3 any person who considers his rights violated through the patent granted, and also the Public Prosecutor, when the interest of the public demands such proceedings, may contest before the Court the validity of the patent.

## § 19.

Whoever alleges that a patentee through negligence in complying with the regulations prescribed by § 15 has forfeited his patent, may apply to the Court.

## § 20.

The Court before whom it shall be lawful to proceed in cases coming under §§ 17, 18 and 19, shall be the Town Court of Stockholm.

## § 21.

If the validity of a patent has been contested, and the contest has been decided, the decision shall, by the Court, be transmitted to the patent authorities.

## § 22.

Whoever without the permission of the patentee, except in cases coming under §§ 16 and 17, manufactures goods in the country for sale, or for such manufacture and sale employs methods of which he knows another person to be the patentee; or who sells in the country or imports into the country for sale, goods patented here or made according to methods of manufacturing which he knows have been made without the permission of the patentee, shall be liable to a fine varying from twenty to two thousand crowns, and he shall be also liable to

all damages. No one but the patentee has the right to take proceedings for these penalties.

Goods unlawfully manufactured or unlawfully imported into the country shall, when the complainant so demands, be delivered up to him against compensation for the value, or against deduction therefor from the damages due to the complainant. Implements exclusively applicable for the unlawful manufacture may, when the complainant requires it, be destroyed to prevent further mischief.

Persons accused under this section (§ 22) who continue the offence during the proceedings shall, when legally convicted be called to account for each separate time a warrant has been issued and served.

Money fines according to this section go to the crown. Where the fines cannot be fully paid, they shall be changed according to the common penal code.

#### § 23.

Should any one be accused of interfering with a patent, and in the course of the proceedings the patent be found invalid, forfeited, or the claim unfounded, the prosecuted person shall be acquitted.

#### § 24.

When a patent has ceased to be valid, either in consequence of the provisions prescribed by this law, or when the patentee has notified to the patent authorities his intention to give up the patent, it shall be the duty of the patent authorities to cause the same to be cancelled in the register, and also to have notices of the cancellation published in the newspapers.

#### § 25.

With regard to patents granted in any state, where patents granted in this country are treated with corresponding consideration, be it enacted that persons, who within seven months from the day the application was filed in the foreign state, apply for a patent for the same invention in this country, shall with regard to this application in relation to earlier applications for patents, be considered as if the application was filed in this country at the same date as the application was filed in the foreign state.

#### § 26.

More detailed provisions relating to the character of the documents required when an application is lodged, to the

entering of patents, and to the publication of the descriptions of patents, will be issued by the King.

§ 27.

The regulations contained in this law shall take effect from the first day of January, 1885, and applications for patents filed prior to that date shall be proceeded with in accordance with the provisions hitherto observed, also any court, where the validity of a patent has been contested prior to the said date, may, notwithstanding the provisions of § 20, proceed with the case.

If the holder of a patent issued according to prior laws desires the same to be exchanged for another, granted pursuant to this Law, he may lodge an application for that purpose with the patent authorities, when the provisions stated in this law shall be observed relative to the application, questions as to the novelty of the invention being decided with regard to the period when the former patent was granted. If a second patent is granted the period of its validity shall be considered to commence at the same date as that of the patent previously issued, and the annual fees to be paid shall be according to the date of the first patent.

All persons concerned must observe and perform the foregoing:—

For greater surety we have, with our own hand, signed, and, with our own seal, sealed these presents.

The Palace at Stockholm, May 16th, 1884,

OSCAR,

L. S.

E. VON KRUSENSTJERNA.

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**TASMANIA.**


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*Act No. XXII., 5th November, 1858.*

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**AN ACT TO REGULATE THE GRANTING OF LETTERS  
PATENT FOR INVENTIONS.**

[NOTE.—The words “Registrar of Patents” in italics are alterations made by the Amending Act of 1883.]

*Preamble.*

WHEREAS it is expedient to promote and encourage the discovery and use of new manufactures, and to afford greater facilities for obtaining for a limited period the exclusive enjoyment thereof by means of Letters Patent: Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

*Interpretation.*

1. In the construction of this Act the following expressions shall have the meanings hereby assigned to them, unless such meanings are repugnant to or inconsistent with the context:

“Law Officer” shall mean Her Majesty’s Attorney-General or Solicitor-General for the time being of the Colony of Tasmania:

“Invention” shall mean any manner of new manufacture the subject of Letters Patent and Grant of Privilege within the meaning of this Act:

“Petition,” “Declaration,” “Specification,” “Appointment to hear Application,” “Warrant,” and “Letters Patent,” respectively, shall mean instruments in the form and to the effect in the Schedule, subject to such alterations as may, from time to time, be made therein under the powers and provisions of this Act.

*Power to grant Letters Patent for Inventions.*

2. It shall be lawful for the Governor, with the advice of the Executive Council, in the name and on behalf of Her Majesty the Queen, 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 this Colony to the true and first Inventor of such manufactures, which others at the time of making such Letters Patent and Grants do not use, so as also they be not contrary to law nor mischievous to the community by raising prices of commodities, or hurt of trade, or generally inconvenient.

*Governor to make Rules for executing Act.*

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

*Mode of applying for Letters Patent for Inventions.*

4. Every application for the Grant in this Colony, under this Act, of Letters Patent for inventions, shall be made by petition to the Governor, the allegations of which petition shall be supported by a declaration, to be made and subscribed by the applicant, that he is the true and first Inventor, and that the article has not to his knowledge or belief been before made or used in this Colony; and such petitions and declarations shall be lodged at the office of the *Registrar of Patents*, and shall be in the form in the Schedule, or to the like effect.

*On application for Letters Patent Inventor to deposit Specification.—  
Specification may be amended before Patent issues.*

5. The applicant for Letters Patent for an invention shall, at the time of lodging such petition and declaration as aforesaid, deposit at the said office of the *Registrar of Patents* an instrument in writing under his hand and seal, hereinafter called a specification, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, which specification shall be mentioned in and annexed to the declaration; and shall also then deposit at the said office a copy of such instrument, and of the drawings accompanying the same, if any; and the day of the deposit of every such specification shall be recorded at the said office and endorsed on such specification, and a certificate thereof given to such applicant or his agent; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act for the term of six months from the day of such 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; and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any Letters Patent to be granted for the same; and where Letters Patent are granted in respect of such invention, such Letters Patent shall be conditioned to become void if such specification does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed: Provided always, that in case the title of the invention or the said specification is too large or insufficient, it shall be lawful for the law officer during the said term of six months, and before the grant of the Letters Patent, to allow or require the same to be amended, or another and sufficient specification to be deposited in lieu of such specification as aforesaid; 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.

*Forms and size of Specification and Copy.*

6. Every such specification shall be in the form in the Schedule, or to the like effect, and shall be written upon parch-

ment upon both sides, and every page thereof shall be of the exact size of twenty inches in length by fifteen inches in breadth, leaving a margin of at least one inch and a-half on each side of every such page in order and to the intent that the same may be bound into books for safe custody, but the drawings accompanying such specification, if any, may be made upon larger sheets of parchment, leaving a margin of the size and for the purpose aforesaid; and every copy of any such specification as aforesaid, and of the drawings accompanying the same, if any, shall in like manner be written upon paper of the size and with the margins aforesaid.

*Petition of true Inventor not to be affected by protection obtained in fraud of true Inventor.*

7. In case of any application for Letters Patent for an invention, and the obtaining of protection for the same by reason 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 application or of such protection as aforesaid, or of any use or publication of the invention subsequent to such application and before the expiration of the said term of protection.

*Mode of Proceeding after deposit of Specification.*

8. The applicant, so soon as he thinks fit after the deposit of such specification as aforesaid, and of the drawings and models accompanying the same, if any, may give notice in writing at the office of the law officer 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 *Registrar of Patents*, and shall at the time of giving such notice produce the said certificate of deposit; and thereupon the law officer shall deliver to the applicant or his agent an appointment to hear the application in the form in the schedule, or to the like effect; and such applicant or agent shall cause the said appointment to be published once in the Gazette and twice in some newspaper published in Hobart Town and in Launceston; and any persons having an interest in opposing the grant of Letters Patent for the said invention shall be at liberty to leave particulars in writing of their objections to the said application at

the office of the law officer within such time, not being less than one month, as the law officer by such appointment may direct.

*Law Officer to hear Application and Objections.*

9. At the time and place named in the said appointment the applicant shall produce the Gazette and newspapers containing the same; and the law officer shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and for that purpose shall obtain from the office of the *Registrar of Patents* the copy of the specification and of the drawings and models accompanying the same, if any; and the law officer may call to his aid such scientific or other person as he may think fit, and may cause such remuneration to be paid to such person as he thinks proper: Provided always, that the applicant, the objectors, and their respective witnesses and evidence, shall be respectively heard, examined, and considered separately and apart from and in the absence of the other and his witnesses and evidence.

*Law Officer may order by and to whom Costs to be paid.*

10. It shall be lawful for the law officer, if he sees fit, by certificate under his hand, to order by and to whom the costs and expenses of any hearing or inquiry upon any objection, or otherwise in relation to the grant of such Letters Patent, shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid are not paid within four days after the amount thereof is so ascertained, it shall be lawful for such law officer to make an order for the payment of the same; and every such order may be made a rule of the Supreme Court.

*Law Officer may issue Warrant for sealing Letters Patent.*

11. It shall be lawful for the law officer, after such hearing and consideration as he may think fit, to issue a warrant under his hand and seal for the sealing of Letters Patent for the said invention, and such warrant shall set forth the tenor and effect of the Letters Patent thereby authorized to be granted, and shall direct the insertion in such Letters Patent of all such restrictions, conditions, and provisos as the law officer may deem usual and expedient in such grants, or necessary in pursuance of the provisions of this Act; and the said warrant shall be the



warrant for the making and sealing of Letters Patent under this Act according to the tenor of the said warrant; and every such warrant shall be in the form in the schedule or to the like effect.

*Writ of Scire Facias.*

12. The writ of *scire facias* shall lie for the repeal of any Letters Patent issued under this Act in the like cases as the same would lie in England for the repeal of Letters Patent which may now be issued under the Great Seal; and in case the grantee does not reside in this colony, it shall be sufficient to file such writ in the proper office of the Supreme Court, and serve notice thereof in writing at the last known residence or place of business of such grantee.

*Nothing to affect Prerogatives of Crown in granting or withholding Letters Patent.*

13. Nothing herein contained shall extend to abridge or affect the prerogatives of the Crown in relation to the granting or withholding the grant of any Letters Patent; and it shall be lawful for the Governor in Council to direct such law officer to withhold such warrant as aforesaid, or that any Letters Patent for the issuing whereof he may have issued a warrant as aforesaid shall not issue, or to direct the insertion in any such Letters Patent of any restrictions, conditions, or provisoes, in addition to or in substitution of any restrictions, conditions, or provisoes which would otherwise be inserted therein under this Act; and it shall also be lawful for the Governor in Council to direct the specification in respect of the invention described to be cancelled in any case in which Letters Patent may have been refused to be granted, and thereupon the protection obtained by the deposit of such specification shall cease.

*Letters Patent to be void on Non-Performance of Conditions.*

14. All Letters Patent for inventions granted under this Act shall be in the form in the schedule 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 is paid before the expiration of the said three and seven years respectively the sum or sums of money in that behalf by this Act

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.

*Registrar of Patents to issue Letters Patent.*

15. The *Registrar of Patents*, so soon after the receipt by him of the said warrant as he is required by the applicant, shall cause to be prepared Letters Patent for the invention according to the tenor of the said warrant; and it shall be lawful for the Governor in Council to cause such Letters Patent to be sealed with the seal of the colony; and such Letters Patent shall be made applicable to this colony, and shall be valid and effectual within the same.

*Letters Patent to be issued within certain time.*

16. Save as hereinafter mentioned, no Letters Patent shall issue on any warrant granted as aforesaid unless application is made to seal such Letters Patent within three months after the date of the said warrant, nor shall any Letters Patent be issued or be of any force or effect unless such Letters Patent are granted 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.*

17. Where Letters Patent have not been sealed during the continuance of such protection as aforesaid, and the delay in such sealing has arisen from accident and not from the neglect or wilful default of the applicant, it shall be lawful for the Governor, if he thinks fit, to seal such Letters Patent at any time, not being more than one month after the expiration of such protection; and where the applicant for 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 by virtue of this section 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 are destroyed or lost, other Letters Patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations

as the Governor in Council may direct, be issued under the authority of the warrant in pursuance of which the original Letters Patent were issued.

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

18. Notwithstanding any law 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 such Letters Patent 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 have been issued under this Act it shall not be necessary or material to inquire or ascertain whether such appointment to hear the application as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

*Letters Patent for foreign Inventions not to continue after expiration of foreign Patent.*

19. Where upon any application made under this Act Letters Patent are granted for or in respect of any invention first invented in parts out of this Colony, and a patent or the like privilege for the monopoly or exclusive use or exercise of such invention in any part out of this Colony is there obtained before the grant of such Letters Patent in this Colony, all rights and privileges under such Letters Patent shall, notwithstanding any term in such Letters Patent limited, cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such part out of this Colony continues 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 first expires or is 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 has 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 prevent the use of Inventions in foreign Ships resorting to Ports of this Colony.*

20. No Letters Patent for any invention granted in pursuance of this Act shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of this Colony, or in any of the waters within the jurisdiction of any of Her Majesty's Courts in this Colony, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from this Colony: Provided always that this enactment shall not extend to the ships or vessels of any foreign state, 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 the territories of such foreign state.

*Specifications, &c., to be filed.*

21. Every specification deposited at the office of the *Registrar of Patents* as aforesaid, and the drawings and models accompanying the same, if any, and all such petitions and declarations as aforesaid, shall forthwith after the grant of the Letters Patent, or if no Letters Patent are granted then immediately on the expiration of six months from the time of such deposit, or upon the specification being so cancelled as aforesaid, be transferred to, kept, and filed in such office as the Governor in Council from time to time appoints for that purpose; and the copies of such specifications, and the drawings and models, if any, accompanying the same, shall also be forwarded to and kept at the same office.

*Applications to disclaim or make Alterations.*

22. Any person who obtains Letters Patent under this Act, or in case such person departs with the whole or any part of his interest by assignment, such person together with the assignee if part only has been assigned, or the assignee alone if the whole

has been assigned, may apply to the law officer 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 a disclaimer or such an alteration as extends the exclusive right granted by the said Letters Patent; and thereupon the law officer shall deliver to such applicant or his agent an appointment to hear such application in the form in the schedule or to the like effect; and such applicant or his agent shall thereupon 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 cause the same respectively to be published in the manner hereinbefore required with respect to the publication of the appointment to hear an application for Letters Patent; 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 law officer, within such time not being less than one month as the law officer, by such appointment, may direct: Provided always, that where such application as aforesaid is 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 law 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.

*Law Officer to hear Applications for leave to Disclaim.*

23. At the time and place named in such appointment the said applicant shall produce the Gazette and newspapers containing the same, and the said disclaimer or memorandum of alteration at the foot thereof; and the law officer 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 upon that occasion by the law officer as by virtue of the provisions hereinbefore contained can and may be exercised in relation to the hearing and considering an application for Letters Patent and objections to the same, and shall and may be enforced in like manner.

*Disclaimers and Alterations to be entered and filed.*

24. After such hearing and consideration, or without such hearing and consideration where the said appointment and

publication have been dispensed with as aforesaid, such applicant may, by leave of the law officer, to be certified by a fiat under his hand to be written at the foot of the same parchment with the disclaimer or memorandum, enter such disclaimer, stating the reason for the same, or such memorandum of alteration; and such disclaimer or memorandum of alteration and fiat shall be filed in the office in which specifications are appointed to be filed as aforesaid, with the specification of the invention to which the same relate; and such disclaimer or memorandum of alteration, being so filed in such office, shall be deemed and taken to be part of the Letters Patent or the 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; and such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the law 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, 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 has been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the law officer certifies in his said fiat that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration; and that no such disclaimer or memorandum of alteration shall be receivable in evidence in any action or suit, save and except in any proceeding by *scire facias* pending at the time when such disclaimer or alteration was 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 granted: Provided also, that when any such fiat has been issued under this Act, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act.

*Specifications, &c., to be open to Inspection.*

25. All specifications, and the drawings and models accompanying the same, if any, and all petitions, declarations, disclaimers, and memoranda of alterations filed in the office appointed for filing specifications under and in pursuance of this Act, and also the copies of the specifications, and drawings and models accompanying the same, if any, kept at the said office, shall be open to the inspection of the public at all reasonable times, subject to such regulations as the Governor in Council may appoint in that behalf.

*Mode of obtaining Extension of the Term.*

26. If any person having obtained Letters Patent under this Act, or in case such person has departed with his whole or any part of his interest by assignment, if such person, together with the assignee where part only has been assigned, or if the assignee alone where the whole has been assigned, six months before the expiration or other determination of such Letters Patent, presents to the Governor a petition for the extension of the term in such Letters Patent mentioned, and sets forth in such petition that he has been unable to obtain a due remuneration for his expense and 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 reimbursement and remuneration, it shall be lawful for the Governor in Council to refer the consideration of the said petition to Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Mode of obtaining Confirmation of Invalid Patent.*

27. If in any suit or action it is proved or specially found by the verdict of a jury that any person who has 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 in this Colony, before the date of such Letters Patent, or if such patentee or his assigns discover that some other person had, unknown to such patentee, invented or used the same or some part thereof in this Colony before the date of such Letters Patent, such patentee or his assigns may petition the

Governor to confirm the said Letters Patent, or to grant new Letters Patent, and it shall be lawful for the Governor in Council to refer the consideration of the said petition to Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Appointment of Commissioners.*

28. For the purpose of considering any such petition as aforesaid, it shall be lawful for the Governor in Council, if he thinks fit, to issue and direct a commission in the name of Her Majesty to five or more persons, of whom the Judges of the Supreme Court shall be two, reciting such petition and requiring or authorising such persons or any three of them, of whom one of the said Judges shall be one, to meet at some time, not being less than two months from the publication of the said commission in the Gazette, and at some place to be fixed in the said commission, and then and there to consider the said petition, and to report to the Governor, in case the petitioner prays 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, or in case the petitioner prays for a confirmation of the Letters Patent or for a grant of new Letters Patent, whether such confirmation or grant should be made, and upon what, if any, conditions the prayer of any such petition should be complied with.

*Notice of Commission to be published and Caveats entered.*

29. Two months at least before the time named in the commission for the consideration of any such petition as aforesaid, the petitioner shall cause an advertisement of the contents of the said commission, in the form in the schedule or to the like effect, to be published in the same manner as is hereinbefore required with respect to the publication of the appointment to hear an application for Letters Patent; 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 *Registrar of Patents*, at any time not being less than one week before the time named in the commission for the execution thereof.

*Commissioners to hear all Parties and report.*

30. At the time and place fixed in the Commission for that purpose the Commissioners shall meet and proceed to consider



such petition; and the petitioner shall be heard by his counsel and witnesses to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this Act; and the persons entering caveats shall likewise be heard by their counsel and witnesses; and all such witnesses shall be examined upon oath, which oath any one of the Commissioners is hereby authorized and required to administer; and the proceedings before the said Commissioners may be adjourned from time to time as may be necessary.

*Extension of Term may be granted.—Invalid Patents may be confirmed.—Parties to Actions to have notice of Petitions.*

31. If upon hearing and inquiry of the whole matter the Commissioners, in case the petitioner prays for an extension as aforesaid, are of opinion, and so report, that a further extension of the said term should be granted, it shall be lawful for the Governor in Council, if he thinks fit, to grant to the petitioner new Letters Patent for the said invention for any term not exceeding fourteen years after the expiration of the term of the first Letters Patent, anything hereinbefore contained to the contrary in anywise notwithstanding; and if the Commissioners, in case the petitioner prays for a confirmation or grant as aforesaid, upon examining the said matter, and being satisfied that such patentee as aforesaid believed himself to be the first and original inventor, and that such invention, or part thereof, had not been publicly and generally used in this colony before the date of the first Letters Patent, report their opinion that the prayer of such petition ought to be complied with, the Governor in Council may, if he thinks fit, grant such prayer; and the said Letters Patent shall be available at law and in equity to give to such petitioner the sole right of using, making, and vending such invention as against all persons whatsoever, anything hereinbefore contained to the contrary notwithstanding: Provided, that any person, party to any former suit or action touching any such first Letters Patent as in this section are mentioned, 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 that after any such report has 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 hereinbefore directed in that behalf.

*Conditions may be inserted in new Patents.—Date of new Patents.*

32. It shall be lawful for the Governor in Council to insert in any such new Letters Patent as in the preceding section are mentioned any restrictions, conditions, and provisions which may be recommended by the Commissioners in their report, or which to the Governor in Council may seem proper; 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.

*Index to Specifications, etc.*

33. The Governor may cause indexes to all specifications, petitions, declarations, disclaimers, and memoranda of alterations, deposited and filed as aforesaid, to be prepared in such form as may be thought fit; and such indexes shall be open to the inspection of the public, subject to the regulations to be made by the Governor.

*Register of Patents to be kept.*

34. There shall be kept at the office appointed for filing specifications as aforesaid a book, to be called "The Register of Patents," wherein shall be entered and recorded in chronological order all Letters Patent granted under this Act,—the deposit and filing of specifications, disclaimers and memoranda of alterations filed in respect of such Letters Patent,—all amendments in such Letters Patent and specifications,—all confirmations and extensions of such Letters Patent, the expiry, determination, vacating, or cancelling of such Letters Patent, with the dates thereof respectively,—and all such other matters and things affecting the validity of such Letters Patent as the Governor in Council 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.*

35. There shall be kept at the same office a book, entitled "The Register of Proprietors," wherein shall be entered, in

such manner as the Governor directs, the assignment of any Letters Patent, or of any share or interest therein,—any licence under Letters Patent, and the district to which such licence relates, with the name or names of any person having any share or interest in such Letters Patent or Licence,—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 licence; and a copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be *prima facie* proof of the assignment of such Letters Patent, or share or interest therein, or of the licence or proprietorship, as therein expressed; and such register or a copy thereof shall be open to public inspection, subject to such regulations as the Governor may make: Provided always, that until such entry has been made, the grantee of the Letters Patent shall be deemed and taken to be the sole and exclusive proprietor of such Letters Patent, and of all the licences and privileges thereby given and granted.

*More than Twelve Persons may be interested in Patent.*

36. It shall be lawful for a larger number than twelve persons to have a legal and beneficial interest in Letters Patent granted under this Act.

*Certified Copies to be Evidence.*

37. The Governor may cause a seal to be made for the purposes hereinafter mentioned; and all courts, judges, and other persons whomsoever shall take notice of such seal, and receive impressions thereof in evidence in like manner as impressions of the seal of the colony are received in evidence; and copies or extracts, certified and sealed with such seal, of Letters Patent, 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 in all courts, and by all judges and other persons whomsoever.

*Falsification or Forgery of Entries.*

38. If any person wilfully makes, or causes to be made, any false entry in the said register of proprietors, or wilfully makes or forges, or causes to be made or forged, any writing falsely

purporting to be a copy of any entry in the said book, or produces or tenders, or causes or suffers to be produced or tendered in evidence, any such writing knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years, or be fined and imprisoned at the discretion of the court.

*Entries may be expunged from Register of Proprietors.*

39. If any person deems himself aggrieved by any entry made under colour of this Act, in the said register of proprietors, it shall be lawful for such person to apply by motion to the Supreme Court in term time, or by summons to a judge of such court in vacation, for an order that such entry may be expunged, vacated, or varied; and upon any such application, such court or judge respectively 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 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 the requisition of such order.

*Penalty for unauthorised use of word "Patent."*

40. If any person writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks upon anything made, used, or sold by him, for the sole making or selling of which he has not obtained Letters Patent, the name or any imitation of the name of any other person who has obtained Letters Patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns, or if any person 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 licence or consent in writing of such patentee or his assigns, writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks 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 sues for the said penalty by action of debt: Provided always, that nothing herein contained shall be construed to extend to subject

any person to any penalty in respect of stamping or in any way marking the word "Patent" upon anything made for the sale or vending of which Letters Patent before obtained have expired or been otherwise determined.

*In Actions for Infringement, particulars of breaches and objections to be delivered.*

41. 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 proceeding by *scire facias* to repeal Letters Patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration in the proceeding by *scire facias* respectively; and at the trial or proceeding by *scire facias* no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such Letters Patent which are not contained in the particulars delivered as aforesaid: Provided always, that the place 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 seems fit. Provided also, that at the trial of any proceeding by *scire facias* to repeal Letters Patent the defendant shall be entitled to begin and to give evidence in support of such Letters Patent; and in case evidence is adduced on the part of the prosecutor impeaching the validity of such Letters Patent, the defendant shall be entitled to the reply.

*Court may grant Injunction in case of Infringement.*

42. In any action for the infringement of Letters Patent, it shall be lawful for the court, if the court is then sitting, or if the court is not sitting then for a judge, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such court or judge may seem fit.

*Particulars to be regarded in taxing Costs.*

43. 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 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 is tried to certify on the record that the validity of the Letters Patent in the declaration mentioned came in question: and the record with such certificate being given in evidence in any suit or action for infringing the said Letters Patent, or in any proceeding by *scire facias* to repeal the Letters Patent, shall entitle the plaintiff in any such suit or action, or the defendant in such proceeding by *scire facias*, on obtaining a decree, decretal order, or final judgment, to his full costs, charges, and expenses, taxed as between attorney and client, unless the judge making such decree or order, or the judge trying such action or proceeding, certifies that the plaintiff or defendant respectively ought not to have such full costs.

*Fees on obtaining Patents.*

44. There shall be paid in respect of Letters Patent applied for or issued under or in pursuance of this Act, the depositing of specifications, the filing of disclaimers and memoranda of alterations, certificates, entries, and searches, and other matters and things respectively mentioned in the schedule, such fees as are enumerated in the schedule; and such of the said fees as are hereby made payable to the law officer shall and may be received and retained by such law officer for his own proper use; and the residue of the said fees shall form part of the general revenue, and shall be forthwith paid into the colonial treasury by the persons receiving the same in pursuance of this Act.

*English Patents.*

45. All Letters Patent which are granted in the United Kingdom of Great Britain and Ireland after the 30th day of June, 1859, 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 Act had not been passed would have been valid in this colony, shall be deemed and taken to have been granted under this Act, and may be dealt with accordingly.

*Forms in Schedule may be varied.*

46. The Governor in Council may, if he thinks fit, vary and alter the several forms in the schedule as occasion may require.

*Short title.*

47. In referring to this Act it shall be sufficient to use the expression the Patent Law Act.

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#### SCHEDULE.

—  
FORMS.

—  
*Petition.*

No.

To His Excellency the Governor of the Colony of Tasmania.

The humble petition of [*here insert name and address of Petitioner,*]  
for, &c.

Showeth,—

That your petitioner is in possession of an invention for [*the title of the invention*], which invention he believes will be of great public utility; that he is the true and first inventor thereof; and that the same has not been before made or used in this Colony by any other person or persons, to the best of his knowledge and belief.

Your petitioner therefore humbly prays that Your Excellency will be pleased to grant unto him, his executors, administrators, and assigns, Letters Patent for the term of fourteen years, pursuant to the provisions of the Patent Law Act.

And your petitioner will ever pray, &c.

—  
*Declaration.*

No.

I, *A. B.*, of \_\_\_\_\_, in Tasmania, do hereby solemnly and sincerely declare that I am in possession of an invention for, &c. [*the title as*





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 then next ensuing: And I do further notify that the said *A. B.* 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 said Letters Patent, to leave before that day at my office at Hobart Town particulars in writing of their objections to the said application, otherwise they will be precluded from urging the same.

Given under my hand this day of , 18 .  
*F. S.*, [*Attorney*] *General*,  
*Macquarie Street, Hobart Town.*

#### *Warrant.*

I have heard and considered the application of *A. B.*, of , in Tasmania, Engineer, for Letters Patent for [*insert the title as in the specification*], and [*also all objections to the same, if any*], 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, Letters Patent may be issued to the said *A. B.*, in the form contained in the Schedule to the Patent Law Act; [*with the following additional clauses; that is to say, here set them out, if any.*]

Given under my hand and seal, this day of , 18 .  
*F. S.* (L. S.),  
 [*Attorney*] *General.*

#### *Letters Patent.*

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith:—

To all to whom these presents come, greeting:—

Whereas *A. B.*, of , in , Tasmania, Engineer, has represented that he is desirous of obtaining Letters Patent for securing unto him Our special Licence that he, his executors, administrators, and assigns, and such others as he or they should agree with, and no others, should and lawfully might, make, use, exercise, and vend within Our Colony of Tasmania an invention for [*insert the title of the invention*]; and by an instrument in writing under his hand and seal deposited in the Office of the *Registrar of Patents*, the said *A. B.* has particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed:

And We, being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon

the said *A. B.* the privileges herein-after mentioned: Know ye, therefore, that We, of Our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents, for Us, Our heirs, and successors, do give and grant unto the said *A. B.*, his executors, administrators, and assigns, Our especial licence, full power, sole privilege, and authority that he the said *A. B.*, his executors, administrators, and assigns, and every of them, by himself and themselves, and his or their deputy or deputies, servants or agents, or such others as he or they at any time agree with, and no others, during the term herein expressed, shall and lawfully may, make, use, exercise, and vend his said invention within Our said Colony, in such manner as to him, his executors, administrators, and assigns, or any of them, seems meet, and that he, his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention during the said term; to have, hold, exercise, and enjoy the said licences, powers, privileges, and advantages unto and by the said *A. B.*, his executors, administrators, and assigns, for and during and unto the full end and term of fourteen years now next ensuing: And to the end that the said *A. B.*, his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit, and the sole use and exercise, of the said invention according to Our gracious intention, We do by these presents, for Us, Our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other Our subjects 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 *A. B.* 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 devisors thereof, without the consent, licence, or agreement of the said *A. B.*, his executors, administrators, or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this Our Royal command, and further to be answerable to the said *A. B.*, his executors, administrators, and assigns, according to law, for his and their damages thereby occasioned: Provided always, and these Our Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted it appears that this Our grant is contrary to law or prejudicial or inconvenient to Our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said *A. B.* is not the true and first inventor thereof within this Colony, 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 *A. B.*, his executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which has 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, within Our said Colony: It being Our will and pleasure that the said *A. B.*, his executors, administrators, and assigns, and all and every other person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and 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 *A. B.*, his executors, administrators, and assigns, shall not pay at the Office of the Colonial Treasurer of Our said Colony the sum of fifteen pounds within three years next after the date of these presents, and the sum of twenty pounds within seven years next after such date, and also if the said *A. B.*, his executors, administrators, or assigns, shall not supply or cause to be supplied for Our service all such articles of the said invention as he or they are required to supply by the persons administering the department of Our 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 are settled for that purpose by the said persons requiring the same, that then and in any of the said cases these Our Letters Patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything herein-before contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted: And lastly We do by these presents, for Us, Our heirs and successors, grant unto the said *A. B.*, his executors, administrators, and assigns, that these Our Letters Patent shall be in 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 *A. B.*, his executors, administrators, and assigns, as well as in all Our Courts of Record as elsewhere, and by all and singular the officers and ministers whatsoever of Us, Our heirs and successors, in Our said Colony, and amongst all and every the subjects of Us, Our heirs and successors, whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention, or of the materials thereunto conducing and belonging. In witness whereof We have caused these Our Letters Patent to be made Patent, and to be sealed and bear date as of the            day of            , 18            .

*Appointment to hear Application for Leave to enter Disclaimer.*

Patent for [*insert title*]. This is to notify that *C. D.*, of \_\_\_\_\_, in Tasmania, has applied to me for leave to enter a disclaimer of part of [*or a memorandum of alteration in*] the title of the said invention [*or, as the case may be*] the particulars whereof are stated below; I do therefore appoint [*Thursday*], the \_\_\_\_\_ day of \_\_\_\_\_ next, at \_\_\_\_\_ o'clock in the noon, at my office, 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 at Hobart Town, particulars in writing of their objection to the same, otherwise they will be precluded from urging such objections.

Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

*F. S.*, [*Attorney*] *General*,  
*Macquarie Street, Hobart Town.*

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 the reasons for the disclaimer, and sign it.*]

*Notice of Appointment of Commission.*

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, or, as the case may be*] the said Patent; and that a Commission has issued authorising and requiring certain Commissioners therein named to consider and report upon the subject to His Excellency the Governor, which said Commissioners will meet for that purpose on the \_\_\_\_\_ day of \_\_\_\_\_ next, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, at \_\_\_\_\_: All persons objecting to the said confirmation [*or extension, or, as the case may be*] must enter a caveat against the same at the Office of the *Registrar of Patents* at Hobart Town, not less than one week before the time named for the said meeting, otherwise they will be precluded from objecting to the said petition.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

*A. B.*

**FEEES.***Fees on obtaining Patents.*

	£	s.	d.
On depositing specification . . . . .	2	10	0
To the law officer for any appointment . . . . .	2	4	6
On obtaining Letters Patent . . . . .	2	10	0

	£	s.	d.
At or before the expiration of the third year . . . . .	15	0	0
At or before the expiration of the seventh year . . . . .	20	0	0
To the law officer with particulars of objections . . . . .	2	4	6
On presenting petition for extension or confirmation . . . . .	2	10	0
Every search and inspection . . . . .	0	1	0
Entry of assignment or licence . . . . .	0	10	0
Certificate of assignment or licence . . . . .	0	10	0
Filing disclaimer or memorandum of alteration . . . . .	2	10	0
Entering any caveat . . . . .	2	10	0
Copy or extract of any writing, per common law folio . . . . .	0	1	0

**TRINIDAD.**

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*Ordinance, No. 25, 2nd September, 1867.*

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An Ordinance enacted by the Governor of Trinidad, with the advice and consent of the Legislative Council thereof, for amending the Law for granting Patents for Invention.

Be it enacted by his Excellency the Governor, with the advice and consent of the Legislative Council, as follows:—

*On delivery of Declaration and Specification, the Registrar-General to issue Certificate to Inventor.*

1. The Registrar-General, on an application by or on behalf of any person claiming to be the inventor within this Colony of any invention, and on the delivery to such Registrar-General of a declaration in writing according to the form in the schedule to this Ordinance, together with a specification signed by the applicant or his agent, particularly describing and ascertaining the nature of the invention and in what manner the same is to be performed, shall deliver to such person or his agent a certificate according to the form in the schedule to this Ordinance, and a copy of such certificate shall be inserted by the Registrar-General in the Royal Gazette.

*Specification may be opened or closed, and, if closed, to be opened in Six Months.*

II. Any specification of an invention may be delivered to the Registrar-General, open or closed, in an envelope, with a

note of the name of the invention to which the specification refers endorsed on such envelope, and signed by the applicant or his agent, and where any such specification shall be so delivered closed, the Registrar-General shall, on the expiration of six calendar months from the day of granting the certificate, or at any earlier day, on the request of the applicant, his executors, administrators, or assigns, break the seal of such envelope and enregister the specification.

*Inventions to be duly recorded, and Specifications numbered.*

III. The Registrar-General shall number with a distinguishing number, and shall, in a book to be kept by him for that purpose, to be called "The Book of Inventions," enter and record in its chronological order every such invention, and the christian and surnames of the inventor, and the day of the date of the certificate of such invention, and shall cause every specification to be marked with the distinguishing number of the invention to which the specification refers, and such Book of Inventions and such specifications shall be open to the inspection of the public.

*Certificate to vest exclusive Right for Fourteen Years.*

IV. Every certificate granted under this Ordinance shall vest in the applicant, his executors, administrators, or assigns, the sole right and benefit of using within this island the invention mentioned in such certificate for and during the space of fourteen years next after the granting of such certificate.

*Disclaimer may be entered.*

V. Any person who, as grantee, assignee, or otherwise, shall obtain a certificate under this Ordinance, may, if he think fit, enter with the Registrar-General a disclaimer or disclaimers of any part or parts of either the title of the invention or of the specification, stating the reason for such disclaimer, or may enter a memorandum of any alteration in such title or specification, not being such disclaimer or such alteration as shall extend the exclusive right vested by such certificate; and such disclaimer or memorandum of alteration, being filed by the said Registrar-General, shall be deemed and taken to be part of such specification in all courts whatever; provided always, that no action shall be brought on any certificate in any case where

any disclaimer or memorandum shall have been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration.

*Where the Invention assigned, who may enter Disclaimer.*

VI. In case any person obtaining such certificate shall part with his or their whole or any part of his or their interest by assignment to any other person or persons, it shall be lawful for the person obtaining such certificate, together with such assignee or assignees, if part only hath been assigned, and for the assignee or assignees, if the whole hath been assigned, to enter a disclaimer and memorandum of alteration under the powers of this Ordinance: and such disclaimer and memorandum of such alteration, having been so entered and registered as in this Ordinance mentioned, shall be valid and effectual in favour of any person or persons in whom the rights under the said certificate may then be or thereafter become legally vested; and no objection shall be made in any proceeding whatsoever on the ground that the party making such disclaimer or memorandum of such alteration had not sufficient authority in that behalf.

*Disclaimer to be recorded, and a Note thereof to be endorsed on the Specification.*

VII. The Registrar-General shall cause every such disclaimer and memorandum to be entered in a book to be kept by him for that purpose, and to be marked with the distinguishing number of the invention and specification to which such disclaimer or memorandum shall refer, and shall endorse on the declaration and specification to which such disclaimer or memorandum shall refer a memorandum in writing of the date and entry of every such memorandum and disclaimer.

*Penalties for Infringement of exclusive Right.*

VIII. If any person shall, during the said term of fourteen years from the granting of a certificate for an invention, directly or indirectly make, use, or put in practice the said invention, or any part of the same, or in anywise counterfeit or imitate the same, or make or cause to be made any addition or subtraction from the same, whereby to pretend himself the inventor thereof, without the licence in writing of the inventor,



his executors, administrators, or assigns, the inventor, his executors, administrators, or assigns, shall have and be entitled to such and the like remedies against such persons, both in law and in equity, as the grantee of any Letters Patent for any invention would be entitled to in the like case by the law of England.

*Exclusive Right to cease in certain cases.*

IX. Provided always, that if at any time during the said term of fourteen years, it shall be made to appear that the said invention is not a new invention as to the public use and exercise thereof in this Colony, or that the said invention is prejudicial or inconvenient to the subjects of our Lady the Queen in general, then all privileges and advantages hereby granted to the inventor, his executors, administrators, and assigns, in respect of such invention, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary in anywise notwithstanding.

*Fees to be paid.*

X. There shall be paid to the Registrar-General the several fees mentioned in the schedule to this Ordinance, and such fees shall be paid over monthly by the Registrar-General to the Receiver-General for the use of the Colony.

*Form of Declaration.*

I            of            declare that I am in possession of an invention for  
(state the title of the invention), which invention I believe will  
be of great public utility, and that the same is not in use by any person  
or persons in the Island of Trinidad to the best of my knowledge and  
belief, and that the instrument in writing under my hand herewith  
delivered particularly describes and ascertains the nature of the said  
invention and the manner in which the same is to be performed.

Signature.

*Form of Certificate.*

I, J. B., Registrar General of the Island of Trinidad, do hereby certify  
that on the            day of            has been delivered to me by (or on  
behalf of            the name and place of abode of the inventor), a declara-  
tion in writing, signed by the said            of a certain invention whereof

the said                    claims to be the inventor in this island, being an invention (state the name of the invention), together with a specification (open or under seal, as the case may be), describing the nature of the said invention, and the manner in which the same is to be performed.

In witness whereof, I have hereunto put my hand at Port of Spain, in the Island of Trinidad, this            day of                    in the year one thousand eight hundred and                    .

*Fees to be paid to the Registrar-General.*

	£	s.	d.
On leaving any declaration of invention and specification .	10	0	0
Every disclaimer . . . . .	2	0	0
Publication in the Royal Gazette of any declaration, disclaimer, or memorandum of alteration . . . . .	0	10	0
Every search or inspection of the book of inventions . . . . .	0	1	0
Every inspection of any specification . . . . .	0	2	0
For every copy of any specification, for every 120 words .	0	1	0

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**TURKEY.**

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*Law of the 20th day of the month of Rabia, L. A. H., 1297  
(18th February, 1880, Old Style).*

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**SECTION I.****GENERAL PROVISIONS.****Art. 1.**

Every new discovery, invention, or improvement in all branches of industry, confers on its author the right to work the said discovery, invention, or improvement for his own benefit for the time fixed by the following articles. This right is confirmed by deeds delivered by the Government, under the name of patents of invention.

**Art. 2.**

The following shall be considered as new inventions:—

The invention of new industrial products or works; and of new means for their production or the application in a new manner of known means.

**Art. 3.**

The following are not patentable:—

1. Pharmaceutical compounds and medicines of all kinds.
2. Financial and Banking schemes and combinations.

## Art. 4.

The duration of the patents of invention mentioned in Art. 1 will be five, ten, or fifteen years. Every patent shall be subject to the payment of a tax, which is fixed as follows:—

Ten Turkish pounds for a patent for five years.

Twenty Turkish pounds for a patent for ten years.

And thirty Turkish pounds for a patent for fifteen years.

This tax shall be paid by annuities of two Turkish pounds at the commencement of each year, counting from the date of the first payment, which shall be made at the time of the issue of the patent. The patentee who shall have omitted to pay one of these annuities shall be deprived of his rights.

## SECTION II.

## THE FORMALITIES IN RELATION TO THE OBTAINING OF PATENTS.

## CHAPTER I.

*Applications for Patents.*

## Art. 5.

Whoever shall desire to obtain a patent of invention shall deposit, in a sealed envelope, if in Constantinople, at the Ministry of Commerce and Agriculture, and if in the provinces at the office of the Provincial Government, or, if he prefers it, at the said Ministry:—

1. His application for a patent of invention.
2. A specification of his invention.
3. The drawings or samples illustrating the description.
4. A memorandum of the papers deposited.

If the applicant complies with these formalities in a place where he is not domiciled, he must elect domicile there.

## Art. 6.

The application shall be limited to a single principal object, with the details which constitute it. It shall mention the duration which the applicant wishes to assign to his patent, within the limits fixed by Art. 4, and shall not contain any

condition or restriction. It shall have a title giving a short and precise designation of the object of the invention. The application and the specification shall be written without erasures, alterations, or interlineations. The drawings shall be made in ink, to a metrical scale. A duplicate of the specification shall accompany the application, and all the papers shall be signed by the applicant or by his attorney, whose power shall be annexed to the application.

Art. 7.

No application or paper relating to an application will be accepted except upon the production of the receipt of the authority with whom the application was lodged of the sum of two Turkish pounds on account of the tax for the patent. A memorandum of the date of the reception of the papers and deposits shall be prepared and signed by the applicant in a register kept in Constantinople, under the care of the Minister of Commerce and Agriculture, and in the provinces under that of the Governor General. A copy of this memorandum will be given to the applicant on payment of the stamp.

Art. 8.

The term of the patent will begin from the date of the deposit prescribed in Art. 5.

CHAPTER II.

*The Delivery of Patents.*

Art. 9.

The application and papers lodged in the provinces with the Governor-General in accordance with Art. 5 shall, one day after their registration, be transmitted by him to the Ministry of Commerce and Agriculture with a certified copy of the memorandum, the power of attorney, the receipt proving the payment of the annual tax, a list of the papers deposited, all under the seal of the applicant, and accompanied by a letter.

Art. 10.

The papers and articles sent from the provinces to the Ministry and those remitted directly will, after the necessary formalities, be registered in order in a register kept for the purpose, and the patent will be delivered to the applicant.

## Art. 11.

Patents applied for in conformity with this law shall be delivered without previous examination, at the risk and peril of the applicant and without guarantee or responsibility on the part of the Government, either of the reality, novelty, utility, or merit of the invention, or of the accuracy of the specification.

## Art. 12.

All applications relating to the invention of instruments or munitions of war, either for the army or navy, shall first be sent to the Master of Artillery or to the Minister of the Navy. If these authorities, after examination, declare that the Government may derive advantage from it, a patent may thereupon be granted. The Government may besides contract with the inventor to buy his invention, and confer upon him a medal in accordance with Art. 14. The application for an invention of this nature which is regarded as useless will be rejected.

## Art. 13.

Every patent of invention will bear at the top the imperial arms, and at the bottom the seal of the Minister of Commerce and Agriculture, who will certify that the application is in accordance with the law. The certified copy of the specification and drawings mentioned in Art. 6 shall be annexed to the patent. The applicant or his attorney can obtain a copy of these documents on payment of a fee of one Turkish pound, in addition to the cost of the drawings, if any, which shall be borne by the applicant.

## Art. 14.

Persons who have made an invention useful to the country, whether Ottoman subjects or foreigners, will be decorated according to the utility of their inventions with gold, silver, or copper medals, on condition of impressing the said medal on the objects of the invention which gained the decoration.

## Art. 15.

The first copy of a patent is delivered without charge.

## Art. 16.

Every application not in conformity with the provisions of paragraphs 2 and 3 of Art. 5 and of Art. 6 will be rejected,

and half of the sum prepaid will be confiscated. The applicant may, however, repeat his application within three months, counting from the date of the rejection of the application, in which case the sum confiscated will be credited as part of the sum payable.

Art. 17.

The whole of the tax paid for an invention not capable of being patented, and for which the application is rejected, will be returned to the applicant.

Art. 18.

A list of the patents issued by the Ministry of Commerce and Agriculture with a short description of the inventions will be published officially every six months in the usual form for the proclamations of the laws of the empire.

Art. 19.

The duration of patents can only be prolonged by special law.

CHAPTER III.

*Certificates of Addition.*

Art. 20.

The patentee or persons entitled through him have the right of making changes, modifications, or improvements in the invention by complying with the formalities relative to the deposit of applications laid down in Arts. 5, 6, and 7. These changes, additions, or improvements will be confirmed by certificates, which will have, from the date of their delivery, the same effect as the original patents, and will expire with them. Every application for a certificate requires the payment of a tax of one Turkish pound. Certificates taken by any person entitled inures to the benefit of all the others.

Art. 21.

Every patentee who, instead of a certificate of addition, wishes to take out a new patent for a change, improvement, or addition, for one of the three terms mentioned in this law must comply with the formalities prescribed in Arts. 5, 6, and 7, and pay the tax mentioned in Art. 4.

## Art. 22.

Every patentee who has transferred his patent loses the right of applying for a certificate of addition according to Art. 20.

## Art. 23.

No one besides the patentee or persons entitled through him may, during one year from the date of the patent, apply for a patent for a change, improvement or addition. Nevertheless, if such an application is made, it shall remain deposited under seal at the Ministry of Commerce and Agriculture. When the year has expired the seal will be broken and the patent issued. In all cases the original patentee will have the preference over other applicants for changes, improvements, or additions for which he himself shall during the said year have applied for a certificate.

## Art. 24.

Any one who has taken out a new patent for a discovery or invention, connected with the object of another patent shall have no right to work the original invention already patented, and, reciprocally, the owner of the original patent shall not have the right to work the patented invention of the second inventor.

## CHAPTER IV.

*Assignment and Transfer of Patents.*

## Art. 25.

The right of ownership of a patent is divisible into several parts. An assignment, total or partial, of a patent, either gratuitously or for a consideration, can only be made by notarial act, or, in default of a notary, by an Act passed before a tribunal of first instance, and after the payment of the taxes mentioned in Art. 4. No assignment will be valid as against third parties until after the completion of the formalities of registration. The registration shall take place at Constantinople, at the Ministry of Commerce and Agriculture, or in the provinces at the office of the local authority. Registration of an assignment shall be made on the production of a copy of the notarial act, or a copy of a similar act of the Tribunal. A certified copy of each official entry shall be sent to the Ministry of Commerce and Agriculture by the Governors-General within five days from its date.



## Art. 26.

Every patentee may sell in part to third parties the right to work the article invented in any specified quantity, and for any time agreed upon. If the object of the invention is of a dangerous nature, the original patentee or the licensee in question can only work it on finding security, and under surveillance of the government.

## Art. 27.

There shall be kept at the Ministry of Agriculture and Commerce a register for the entry of acts of assignment of patents, which shall be published every six months, as laid down in Art. 18.

## Art. 28.

Licensees under a patent and all who have acquired from a patentee the right to work the invention shall have the benefit of certificates for changes and improvements afterwards granted to the patentee. Reciprocally the patentee and persons entitled through him will profit by certificates which may be issued to the licensees. All those who have the right to profit by a certificate of addition may obtain a copy of it from the Ministry of Commerce and Agriculture on payment of a fee of one Turkish pound.

## CHAPTER V.

*Inspection and Publication of the Specifications and Drawings of Patents.*

## Art. 29.

The specifications, drawings, samples, and models of patents will remain until the expiration of the patents at the Ministry of Commerce and Agriculture, where they may be inspected without cost by those who desire to see them. Any one may obtain, at his own expense, copies of the specifications and drawings of patents.

## Art. 30.

After payment of the second annual fee the specifications and drawings will be published either entire or by extract. There will also be published every year a catalogue of the patents delivered during the preceding year.

## Art. 31.

The specifications, drawings, and catalogue, when published, will be deposited at Constantinople, at the Ministry of Commerce and Agriculture, and in the provinces, at the office of the Administrative Council, where they can be consulted by any person without charge.

## Art. 32.

At the expiration of the patents the original specifications and drawings will be preserved in the museum of the School of Arts and Trades at Constantinople.

## SECTION III.

## RIGHTS OF FOREIGNERS.

## Art. 33.

Foreigners may obtain patents of invention in Turkey.

## Art. 34.

The formalities and conditions prescribed by the present law shall be applicable, without exception, to foreigners applying for patents.

## Art. 35.

The author of an invention already patented in a foreign country may obtain a patent in Turkey; but the term of this patent shall expire with that of the patent obtained in the foreign country.

## SECTION IV.

ANNULMENTS AND FORFEITURES AND ACTIONS RELATING  
THERE TO.

## CHAPTER I.

*Annulments and Forfeitures.*

## Art. 36.

Patents issued in the following cases will be null and void :

1. If the thing discovered or invented is not new.
2. If in accordance with Art. 3 the discovery or invention is not patentable.
3. If the patents relate to purely theoretical or scientific methods, principles, discoveries, or improvements of which the industrial applications are not indicated.
4. If the discovery or invention is contrary to public order or safety, to morals, or to the existing laws of the country.
5. If the title under which the patent was applied for indicates fraudulently an object other than the true object of the invention.
6. If the specification annexed to the patent is not sufficient for the carrying out of the invention or if it does not indicate in a complete and exact manner the mode of execution.
7. If the patent was obtained contrary to the provisions of Art. 23.

In addition penalties will be incurred by those who have made or sold the articles mentioned in paragraphs 3 and 4 of this article.

All certificates comprising alterations, improvements, and additions which do not relate to the subject of the original patent are likewise null and of no effect.

#### Art. 37.

No invention will be considered new which, before the application, has received, either in Turkey or abroad, sufficient publicity to enable the same to be worked.

#### Art. 38.

The following shall be deprived of all rights:—

1. The patentee who neglects to pay the annual tax before the beginning of each year.
2. The patentee who has not worked his invention in Turkey within two years from the date of the patent or who has without sufficient reason ceased to work it for two consecutive years.
3. The patentee who shall have introduced into Turkey articles manufactured abroad and similar to those protected by his patent and forming the subject of his invention.

Nevertheless, models of machines, and other articles manufactured abroad intended to be placed in a part of a public exhibition or for experiments made with the special permission of the Government, and which the Minister of Commerce and Agriculture has authorised to be introduced into Turkey, are excepted.

Art. 39.

Whoever in signs, announcements, marks, prospectuses, or stamps, calls himself a patentee without possessing a patent delivered according to law, or after the expiration of his patent, or who, being a patentee, mentions his title of patentee without adding the words "without guarantee of the government," shall be punished by a fine of from two to forty-five Turkish pounds. In case of repetition of the offence the fine may be doubled.

CHAPTER II.

*Actions for Annulment and Forfeiture.*

Art. 40.

An action for annulment or for forfeiture may be brought by all persons having an interest in the matter, or who can be injured by the act of the defendant. These actions, as well as all disputes relating to the ownership of patents, shall be brought before the civil tribunal of first instance.

Art. 41.

If the claim is brought at the same time against the owner of a patent and against a licensee, it shall be brought before the tribunal of the domicile of the owner of the patent.

Art. 42.

The final judgment pronounced on the nullity or forfeiture of a patent shall be notified to the Ministry of Commerce and Agriculture, and be published in the form prescribed by Art. 18.

## SECTION V.

## PROSECUTIONS, AND PENALTIES FOR INFRINGEMENT.

## Art. 43.

Whoever interferes with the rights of a patentee, either by the manufacture of the products or by the use of means forming the subject of his patent, shall be guilty of the offence of infringement, and shall be punished by a fine of from five to a hundred Turkish pounds.

## Art. 44.

Those who shall have knowingly received, sold, or exposed for sale, or introduced into Turkey, infringing articles shall be punished with the same penalties as infringers.

## Art. 45.

No person shall, without previous authorization from the Government, sell instruments or munitions of war, mentioned in Art. 12, whether or not the Naval Minister or the Master of Artillery has approved their utility. Every contravention of this provision shall be punished by the penalties imposed by Art. 166 of the appendix to the penal code.

## Art. 46.

The penalties established by the present law are not cumulative. The heaviest penalty shall alone be inflicted for all offences previous to the commencement of the prosecution.

## Art. 47.

In case of repetition of the offence, there shall be inflicted, besides the fine prescribed by Arts 42 and 43, imprisonment for from one to six months. It shall be considered a repetition of the offence if the accused has during the previous five years been found guilty of one of the offences coming under the present law. If the infringer is a workman or employé in the factory or establishment of the patentee, or if the infringer having associated with a workman or employé of the patentee has through the latter obtained knowledge of the processes described in the patent, and therefore to be considered as their accom-

plice, he shall be punished by imprisonment of from one to six months.

Art. 48.

The president of the tribunal at the request of the patentee and on production of the patent may issue an order for an inventory of articles alleged to be infringements to be made by an officer of the court, assisted, if need be, by an expert. When a seizure is to be made, the said written order may require security of the person making the requisition. Security shall always be required of foreigners. The owner of the articles shall be furnished with copies of the order, and, if there be one, of the bond for the security. In default of the fulfilment of all these formalities the proceedings shall be considered as null and void, and the party who has suffered injury has the right of claiming damages against the officers.

Art. 49.

If the party making the requisition does not present himself before the tribunal within eight days, in addition to one day for each day's journey between the place in which the objects seized or inventoried were found and the domicile of the infringer, receiver, introducer into Turkey, or retailer, the seizure or inventory shall be void without prejudice to damages.

Art. 50.

The objects declared infringements by judgment of the Court must, and the instruments or tools intended specially for their manufacture may be confiscated, even in case of the acquittal of the infringer, receiver, or retailer. The objects confiscated shall be delivered to the owner of the patent without prejudice to damages or to the publication of the judgment if necessary.

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**UNITED STATES.**

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*Revised Statutes, Forty-third Congress, approved June 22, 1874, so far as they relate to Patents for Inventions.*

(As amended by Acts of Congress.)

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**ORGANIZATION OF THE PATENT OFFICE.**

**TITLE XI.** Rev. Stat., p. 80.

*Establishment of the Patent Office.*

SEC. 475. There shall be in the Department of the Interior an office known as the Patent Office, where all records, books, models, drawings, specifications, and other papers and things pertaining to patents shall be safely kept and preserved.

*Officers and Employés.*

SEC. 476. There shall be in the Patent Office a Commissioner of Patents, one Assistant Commissioner, and three examiners-in-chief, who shall be appointed by the President, by and with the advice and consent of the Senate. All other officers, clerks, and employés authorized by law for the office shall be appointed by the Secretary of the Interior, upon the nomination of the Commissioner of Patents.

*Salaries.*

SEC 477. The salaries of the officers mentioned in the preceding section shall be as follows:

The Commissioner of Patents, four thousand five hundred dollars a year.

The Assistant Commissioner of Patents, three thousand dollars a year.

Three examiners-in-chief, three thousand dollars a year each.

TITLE XI. Rev. Stat., p. 75 :

SEC. 440. There shall be in the Department of the Interior—

\* \* \* \* \*

In the Patent Office :

One chief clerk, at a salary of two thousand five hundred dollars a year.

One examiner in charge of interferences, at a salary of two thousand five hundred dollars a year.

One examiner in charge of trade-marks, at a salary of two thousand five hundred dollars a year.

Twenty-four principal examiners, at a salary of two thousand five hundred dollars a year each.

Twenty-four first assistant examiners, at a salary of one thousand eight hundred dollars a year each.

Twenty-four second assistant examiners (two of whom may be women), at a salary of one thousand six hundred dollars a year each.

Twenty-four third assistant examiners, at a salary of one thousand four hundred dollars a year each.

One librarian, at a salary of two thousand dollars a year.

One machinist, at a salary of one thousand six hundred dollars a year.

Three skilled draughtsmen, at a salary of one thousand two hundred dollars a year each.

Thirty-five copyists of drawings, at a salary of one thousand dollars a year each.

One messenger and purchasing clerk, at a salary of one thousand dollars a year.

One skilled labourer, at a salary of one thousand two hundred dollars a year.

Eight attendants in the model-room, at a salary of one thousand dollars a year each.



Eight attendants in the model room, at a salary of nine hundred dollars a year each.

*One examiner of designs, two thousand four hundred dollars.*

[NOTE.—The words in italics were added by the Act of June 15, 1880.]

TITLE XI. Rev. Stat., p. 80 :

*Seal.*

SEC. 478. The seal heretofore provided for the Patent Office shall be the seal of the office, with which the Letters Patent and papers issued from the office shall be authenticated.

*Bonds of Commissioner and Chief Clerk.*

SEC. 479. The Commissioner of Patents and the chief clerk, before entering upon their duties, shall severally give bond, with sureties, to the Treasurer of the United States, the former in the sum of ten thousand dollars, and the latter in the sum of five thousand dollars, conditioned for the faithful discharge of their respective duties, and that they shall render to the proper officers of the Treasury a true account of all money received by virtue of their offices.

*Restrictions upon Officers and Employés.*

SEC. 480. All officers and employés of the Patent Office shall be incapable, during the period for which they hold their appointments, to acquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by the office.

*Duties of Commissioner.*

SEC. 481. The Commissioner of Patents, under the direction of the Secretary of the Interior, shall superintend or perform all duties respecting the granting and issuing of patents directed by law; and he shall have charge of all books, records, papers, models, machines, and other things belonging to the Patent Office.

*Duties of Examiners-in-Chief.*

SEC. 482. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and

determine upon the validity of the adverse decisions of examiners upon applications for patents, and for reissues of patents, and in interference cases; and, when required by the Commissioner, they shall hear and report upon claims for extensions, and perform such other like duties as he may assign them.

*Establishment of Regulations.*

SEC. 483. The Commissioner of Patents, subject to the approval of the Secretary of the Interior, may from time to time establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.

*Arrangement and Exhibition of Models, &c.*

SEC. 484. The Commissioner of Patents shall cause to be classified and arranged in suitable cases, in the rooms and galleries provided for that purpose, models, specimens of composition, fabrics, manufactures, works of art, and designs, which have been or shall be deposited in the Patent Office; and the rooms and galleries shall be kept open during suitable hours for public inspection.

*Disposals of Models on rejected Applications.*

SEC. 485. The Commissioner of Patents may restore to the respective applicants such of the models belonging to rejected applications as he shall not think necessary to be preserved, or he may sell or otherwise dispose of them after the application has been finally rejected for one year, paying the proceeds into the Treasury, as other patent moneys are directed to be paid.

*Library.*

SEC. 486. There shall be purchased for the use of the Patent Office a library of such scientific works and periodicals, both foreign and American, as may aid the officers in the discharge of their duties, not exceeding the amount annually appropriated for that purpose.

*Patent-Agents may be refused recognition.*

SEC. 487. For gross misconduct the Commissioner of Patents may refuse to recognize any person as a patent-agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the approval of the Secretary of the Interior.

*Printing of Papers filed.*

SEC. 488. The Commissioner of Patents may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed at the cost of the party filing them.

*Printing Copies of Claims, Laws, Decisions, &c.*

SEC. 489. The Commissioner of Patents may print, or cause to be printed, copies of the claims of current issues, and copies of such laws, decisions, regulations, and circulars as may be necessary for the information of the public.

*Printing Specifications and Drawings.*

SEC. 490. The Commissioner of Patents is authorized to have printed, from time to time, for gratuitous distribution, not to exceed one hundred and fifty copies of the complete specifications and drawings of each patent hereafter issued, together with suitable indexes, one copy to be placed for free public inspection in each capital of every State and territory, one for the like purpose in the clerk's office of the district court of each judicial district of the United States, except when such offices are located in State or territorial capitals, and one in the Library of Congress, which copies shall be certified under the hand of the Commissioner and seal of the Patent Office, and shall not be taken from the depositories for any other purpose than to be used as evidence.

[See Sect. 894.]

*Additional Specifications and Drawings.*

SEC. 491. The Commissioner of Patents is authorized to have printed such additional number of copies of specifications and drawings, certified as provided in the preceding section, at a price not to exceed the contract price for such drawings, for sale, as may be warranted by the actual demand for the same; and he is also authorized to furnish a complete set of such specifications and drawings to any public library which will pay for binding the same into volumes to correspond with those in the Patent Office, and for the transportation of the same, and which shall also provide for proper custody for the same, with convenient access for the public thereto, under such regulations as the Commissioners shall deem reasonable.

*Lithographing and Engraving.*

SEC. 492. The lithographing and engraving required by the two preceding sections shall be awarded to the lowest and best bidders for the interest of the Government, due regard being paid to the execution of the work, [the work] to be done under the supervision of the Commissioner of Patents, who shall receive competitive bids therefor.

*The work of said photographing, or otherwise producing plates and copies, referred to in this and the two preceding paragraphs, to be done under the supervision of the Commissioner of Patents, and in the city of Washington, if it can be there done at reasonable rates; and the Commissioner of Patents, under the direction of the Secretary of the Interior, is authorized to make contracts therefor.*

[NOTE.—The words in italics were added by the Act of June 15, 1880.]

*Price of Copies of Specifications and Drawings.*

SEC. 493. The price to be paid for uncertified printed copies of specifications and drawings of patents shall be determined by the Commissioner of Patents, within the limits of ten cents as the minimum and fifty cents as the maximum price.

*The Commissioner may print or cause to be printed copies of the specifications of all Letters Patent and of the drawings of the same, and copies of the claims of current issues, and copies of such laws, decisions, rules, regulations, and circulars as may be necessary for the information of the public.*

[NOTE.—The words in italics were added by the Act of July 8th, 1870.]

*Annual Report of the Commissioner.*

SEC. 494. The Commissioner of Patents shall lay before Congress, in the month of January, annually, a report, giving a detailed statement of all monies received for patents, for copies of records or drawings, or from any other source whatever; a detailed statement of all expenditures for contingent and miscellaneous expenses; a list of all patents which were granted during the preceding year; designating under proper heads the subjects of such patents; and alphabetical list of all the patentees, with their places of residence; a list of all patents which have been extended during the year; and such other information of the condition of the Patent Office as may be useful to Congress or the public.

*Custody of Collections of Exploring Expedition.*

SEC. 495. The Collections of the Exploring Expedition, now in the Patent Office, shall be under the care and management of the Commissioner of Patents.

*Disbursements for Patent Office.*

SEC. 496. All disbursements for the Patent Office shall be made by the disbursing clerk of the Interior Department.

TITLE XIII. Rev. Stat., p. 168 :

*Copies of Records, &c., of Patent Office.*

SEC. 892. Written or printed copies of any records, books, papers, or drawings belonging to the Patent Office, and of Letters Patent authenticated by the seal and certified by the Commissioner or Acting Commissioner thereof, shall be evidence in all cases wherein the originals could be evidence; and any person making application therefor, and paying the fee required by law, shall have certified copies thereof.

*Copies of foreign Letters Patent.*

SEC. 893. Copies of specifications and drawings of foreign Letters Patent certified as provided in preceding section, shall be primâ facie evidence of the fact of the granting of such Letters Patent; and of the date and contents thereof.

*Printed Copies of Specifications and Drawings of Patents.*

SEC. 894. The printed copies of specifications and drawings of patents, which the Commissioner of Patents is authorized to print for gratuitous distribution, and to deposit in the capitols of the States and territories, and in the clerks' offices of the district courts, shall, when certified by him and authenticated by the seal of his office, be received in all courts as evidence of all matters therein contained.

[See Sect. 490.]

TITLE XV. Rev. Stat., p. 261 :

*Patented Articles connected with Marine Engines.*

SEC. 1537. No patented article connected with marine engines shall hereafter be purchased or used in connection with any steam vessels of war until the same shall have been sub-

mitted to a competent board of naval engineers, and recommended by such board, in writing, for purchase and use.

Title XVII. Rev. Stat., p. 292 :

*No royalty to be paid by United States to its Officers for a certain Patent.*

SEC. 1673. No royalty shall be paid by the United States to any one of its officers or employés for the use of any patent for the system, or any part thereof, mentioned in the preceding section (*Springfield breech-loading system*), nor for any such patent in which said officers or employés may be directly or indirectly interested.

#### PATENTS.

TITLE LX. Rev. Stat., chap. 1, p. 953 :

*Patents, how issued, attested, and recorded.*

SEC. 4883. *All patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Secretary of the Interior, or under his direction by one of the Assistant Secretaries of the Interior, and countersigned by the Commissioner of Patents, and they shall be recorded, together with the specifications, in the Patent Office, in books to be kept for that purpose.*

[NOTE.—The original section was repealed and the words in italics substituted by the Act of Feb. 8th, 1888.]

#### *Contents and Duration.*

SEC. 4884. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the invention or discovery throughout the United States and the territories thereof, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

#### *Date of Patent.*

SEC. 4885. Every patent shall bear date as of a day not later than six months from the time at which it was passed and allowed and notice thereof was sent to the applicant or his agent; and if the final fee is not paid within that period the patent shall be withheld.

*What Inventions are patentable.*

SEC. 4886. Any person who has invented or discovered any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application, unless the same is proved to have been abandoned, may upon payment of the fees required by law, and other due proceedings had, obtain a patent therefor.

*Patents for Inventions previously patented abroad.*

SEC. 4887. No person shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid, by reason of its having been first patented or caused to be patented in a foreign country, unless the same has been introduced into public use in the United States for more than two years prior to the application. But every patent granted for an invention which has been previously patented in a foreign country shall be so limited as to expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest term, and in no case shall it be in force more than seventeen years.

*Requisites of Application, Description, Specification, and Claim.*

SEC. 4888. Before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the Commissioner of Patents, and shall file in the Patent Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle, so as to distinguish it from other inventions; and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery.

The specification and claim shall be signed by the inventor and attested by two witnesses.

*Drawings, when requisite.*

SEC. 4889. When the nature of the case admits of drawings, the applicant shall furnish one copy signed by the inventor or his attorney in fact, and attested by two witnesses, which shall be filed in the Patent Office; and a copy of the drawing, to be furnished by the Patent Office, shall be attached to the patent as a part of the specification.

*Specimens of Ingredients, &c.*

SEC. 4890. When the invention or discovery is of a composition of matter, the applicant, if required by the Commissioner, shall furnish specimens of ingredients and of the composition, sufficient in quantity for the purpose of experiment.

*Model, when requisite.*

SEC. 4891. In all cases which admit of representation by model, the applicant, if required by the Commissioner, shall furnish a model of convenient size to exhibit advantageously the several parts of his invention or discovery.

*Oath required from Applicant.*

SEC. 4892. The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent, holding commission under the Government of the United States, or before any notary public of the foreign country in which the applicant may be.

*Examination and issuing Patent.*

SEC. 4893. On the filing of any such application and the payment of the fees required by law, the Commissioner of Patents



shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the Commissioner shall issue a patent therefor.

*Limitation upon time of completing Applications.*

SEC. 4894. All applications for patents shall be completed and prepared for examination within two years after the filing of the application, and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable.

*Patents granted to Assignee.*

SEC. 4895. Patents may be granted and issued or reissued to the assignee of the inventor or discoverer; but the assignment must first be entered of record in the Patent Office. And in all cases of an application by an assignee for the issue of a patent, the application shall be made and the specification sworn to by the inventor or discoverer; and in all cases of an application for a reissue of any patent, the application must be made, and the corrected specification signed by the inventor or discoverer, if he is living, unless the patent was issued and the assignment made before the eighth day of July, eighteen hundred and seventy.

*When and on what Oath Executor or Administrator may obtain Patent.*

SEC. 4896. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall have left a will, disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when the application is made by such legal representatives, the oath or

affirmation required to be made shall be so varied in form that it can be made by them.

*Renewal of Application in cases of failure to pay Fees in Season.*

SEC. 4897. Any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but who fails to make payment thereof within six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application. But such second application must be made within two years after the allowance of the original application. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent was ordered to issue under such renewed application prior to the issue of the patent. And upon the hearing of renewed applications preferred under this section, abandonment shall be considered as a question of fact.

*Assignments of Patents.*

SEC. 4898. Every patent or any interest therein shall be assignable in law by an instrument in writing; and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent to the whole or any specified part of the United States. An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof.

*Persons purchasing of Inventor before application, may use or sell the thing purchased.*

SEC. 4899. Every person who purchases of the inventor, or discoverer, or with his knowledge and consent constructs any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, or who sells or uses one so constructed, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor.

*Patented Articles must be marked as such.*

SEC. 4900. It shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented; either by fixing thereon the word "patented," together with the day and year the patent was granted; or when, from the character of the article, this cannot be done, by fixing to it, or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damages shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make, use, or vend the article so patented.

*Penalty for falsely marking or labelling Articles as patented.*

SEC. 4901. Every person who, in any manner, marks upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor, without the consent of such patentee, or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any such patented article the word "patent," or "patentee," or the words "Letters Patent," or any word of like import, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any unpatented article the word "patent" or any word importing that the same is patented, for the purpose of deceiving the public, shall be liable, for every such offence, to a penalty of not less than one hundred dollars, with costs; one-half of said penalty to the person who shall sue for the same, and the other to the use of the United States, to be recovered by suit in any district court of the United States within whose jurisdiction such offence may have been committed.

*Filing and Effect of Caveats.*

SEC. 4902. Any citizen of the United States who makes any new invention or discovery, and desires further time to mature

the same, may, on payment of the fees required by law, file in the Patent Office a caveat setting forth the design thereof, and of its distinguishing characteristics, and praying protection of his right until he shall have matured his invention. Such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof; and if application is made within the year by any other person for a patent with which such caveat would in any manner interfere, the Commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confidential archives of the office, and give notice thereof, by mail, to the person by whom the caveat was filed. If such person desires to avail himself of his caveat, he shall file his description, specifications, drawings, and model within three months from the time of placing the notice in the post office in Washington, with the usual time required for transmitting it to the caveator added thereto; which time shall be endorsed on the notice. An alien shall have the privilege herein granted, if he has resided in the United States one year next preceding the filing of his caveat, and has made oath of his intention to become a citizen.

*Notice of Rejection of Claim for Patent to be given to Applicant.*

SEC. 4903. Whenever, on examination, any claim for a patent is rejected, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant persists in his claim for a patent, with or without altering his specifications, the Commissioner shall order a re-examination of the case.

*Interferences.*

SEC. 4904. Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct the primary examiner to proceed to determine the question of priority of invention. And

the Commissioner may issue a patent to the party who is adjudged the prior inventor, unless the adverse party appeals from the decision of the primary examiner, or of the board of examiners-in-chief, as the case may be, within such time, not less than twenty days, as the Commissioner shall prescribe.

#### *Affidavits and Depositions.*

SEC. 4905. The Commissioner of Patents may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorised by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

#### *Subpœnas to Witnesses.*

SEC. 4906. The clerk of any court of the United States, for any district or territory wherein testimony is to be taken for use in any contested case pending in the Patent Office, shall, upon the application of any party thereto, or of his agent or attorney, issue a subpœna for any witness residing or being within such district or territory, commanding him to appear and testify before any officer in such district or territory authorised to take depositions and affidavits, at any time and place in the subpœna stated. But no witness shall be required to attend at any place more than forty miles from the place where the subpœna is served upon him.

#### *Witness's Fees.*

SEC. 4907. Every witness duly subpœnaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States.

#### *Penalty for failing to attend or refusing to testify.*

SEC. 4908. Whenever any witness, after being duly served with such subpœna, neglects or refuses to appear, or after appearing refuses to testify, the judge of the court whose clerk issued the subpœna may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience, as in other like cases. But no witness shall be guilty of contempt for disobeying such subpœna, unless his fees and travelling expenses in going to, returning from, and one day's attendance

at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret invention or discovery made or owned by himself.

*Appeals from Primary Examiners to Examiners-in-Chief.*

SEC. 4909. Every applicant for a patent, or for the reissue for a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in charge of interferences in such case, or to the board of examiners-in-chief; having once paid the fee for such appeal.

*From Examiners-in-Chief to Commissioner.*

SEC. 4910. If such party is dissatisfied with the decision of the examiners-in-chief, he may, on payment of the fee prescribed, appeal to the Commissioner in person.

*From the Commissioner to the Supreme Court, District of Columbia.*

SEC. 4911. If such party, except a party to an interference, is dissatisfied with the decision of the Commissioner, he may appeal to the Supreme Court of the District of Columbia, sitting in banc.

*Notice of such Appeal.*

SEC. 4912. When an appeal is taken to the Supreme Court of the District of Columbia, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing.

*Proceedings on Appeal to Supreme Court.*

SEC. 4913. The court shall, before hearing such appeal, give notice to the Commissioner of the time and place of the hearing, and on receiving such notice the Commissioner shall give notice of such time and place in such manner as the court may prescribe, to all parties who appear to be interested therein. The party appealing shall lay before the court certified copies of all the original papers and evidence in the case, and the Commissioner shall furnish the court with the grounds of his decision, fully set forth in writing, touching all the points involved by

the reasons of appeal. And at the request of any party interested, or of the court, the Commissioner and the examiners may be examined under oath, in explanation of the principles of the thing for which a patent is demanded.

*Determination of such Appeal, and its effect.*

SEC. 4914. The court, on petition, shall hear and determine such appeal, and revise the decision appealed from in a summary way, on the evidence produced before the Commissioner, at such early and convenient time as the court may appoint; and the revision shall be confined to the points set forth in the reasons of appeal. After hearing the case the court shall return to the Commissioner a certificate of its proceedings and decisions, which shall be entered of record in the Patent Office, and shall govern the further proceedings in the case. But no opinion or decision of the court in any such case shall preclude any person interested from the right to contest the validity of such patent in any court wherein the same may be called in question.

*Patents obtainable by Bill in Equity.*

SEC. 4915. Whenever a patent on application is refused, either by the Commissioner of Patents or by the Supreme Court of the District of Columbia upon appeal from the Commissioner, the applicant may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favour of the right of the applicant, shall authorise the Commissioner to issue such patent on the applicant filing in the Patent Office a copy of the adjudication, and otherwise complying with the requirements of law. In all cases, where there is no opposing party, a copy of the bill shall be served on the Commissioner; and all the expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favour or not.

*Reissue of Defective Patents.*

SEC. 4916. Whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of

the patentee claiming as his own invention or discovery more than he had a right to claim as new, if the error has arisen by inadvertence, accident or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected specification, to be issued to the patentee, or, in the case of his death or of an assignment of the whole or any undivided part of the original patent, then to his executors, administrators, or assigns, for the unexpired part of the term of the original patent. Such surrender shall take effect upon the issue of the amended patent. The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued Letters Patent. The specifications and claim in every such case shall be subject to revision and restriction in the same manner as original applications are. Every patent so reissued, together with the corrected specifications, shall have the same effect and operation in law, on the trial of all actions for causes thereafter arising, as if the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

*Disclaimer.*

SEC. 4917. Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of such parts of the thing patented as he shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent



of his interest in such patent. Such disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office; and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

*Suits touching interfering Patents.*

SEC. 4918. Whenever there are interfering patents, any person interested in any one of them, or in the working of the invention claimed under either of them, may have relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent; and the court, on notice to adverse parties, and other due proceedings had according to the course of equity, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the right of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

*Suits for infringement; Damages.*

SEC. 4919. Damages for the infringement of any patent may be recovered by action on the case, in the name of the party interested, either as patentee, assignee, or grantee. And whenever in any such action a verdict is rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

*Pleading and Proof in Actions for Infringement.*

SEC. 4920. In any action for infringement the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney, thirty days before, may prove, on trial, any one or more of the following special matters:

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

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

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

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

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

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

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

*Power of Courts to grant Injunctions and estimate Damages.*

SEC. 4921. The several courts vested with jurisdiction of cases arising under the patent laws shall have power to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for an infringement, the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby; and the court shall assess the same, or cause the same to be assessed under its direction. And the court shall have the same power to increase such

damages, in its discretion, as is given to increase the damages found by verdicts in actions in the nature of actions of trespass upon the case.

*Suit for infringement where Specification is too broad.*

SEC. 4922. Whenever, through inadvertence, accident, or mistake, and without any wilful default or intent to defraud or mislead the public, a patentee has, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer, every such patentee, his executors, administrators, and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was *bonâ fide* his own, if it is a material and substantial part of the thing patented, and definitely distinguishable from the parts claimed without right, notwithstanding the specifications may embrace more than that of which the patentee was the first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff no costs shall be recovered unless the proper disclaimer has been entered at the Patent Office before the commencement of the suit. But no patentee shall be entitled to the benefits of this section if he has unreasonably neglected or delayed to enter a disclaimer.

*Patent not void on account of previous use in foreign country.*

SEC. 4923. Whenever it appears that a patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented or described in a printed publication.

*Extension of Patents granted prior to March 2, 1861.*

SEC. 4924. Where the patentee of any invention or discovery, the patent for which was granted prior to the second day of March, eighteen hundred and sixty-one, shall desire an extension of this patent beyond the original term of its limitation, he shall make application therefor in writing to the Commissioner of Patents, setting forth the reasons why such extension should

be granted ; and he shall also furnish a written statement under oath of the ascertained value of the invention or discovery, and of his receipts and expenditures on account thereof, sufficiently in detail to exhibit a true and faithful account of the loss and profit in manner accruing to him by reason of the invention or discovery. Such application shall be filed not more than six months nor less than ninety days before the expiration of the original term of the patent ; and no extension shall be granted after the expiration of the original term.

*What notice of application for Extension must be given.*

SEC. 4925. Upon the receipt of such application and the payment of the fees required by law, the Commissioner shall cause to be published in one newspaper in the city of Washington, and in such other papers published in the section of the country most interested adversely to the extension of the patent as he may deem proper, for at least sixty days prior to the day set for hearing the case, a notice of such application, and of the time and place when and where the same will be considered, that any person may appear and show cause why the extension should not be granted.

*Applications for Extension, to whom to be referred.*

SEC. 4926. Upon the publication of the notice of an application for an extension, the Commissioner shall refer the case to the principal examiner having charge of the class of inventions to which it belongs, who shall make the Commissioner a full report of the case, stating particularly whether the invention or discovery was new and patentable when the original patent was granted.

*Commissioner to hear and decide the question of Extension.*

SEC. 4927. The Commissioner shall, at the time and place designated in the published notice, hear and decide upon the evidence produced both for and against the extension ; and if it shall appear to the satisfaction of the Commissioner that the patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention or discovery a reasonable remuneration for the time, ingenuity, and expense bestowed upon it, and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be extended, the Commis-

sioner shall make a certificate thereon, renewing and extending the patent for the term of seven years from the expiration of the first term. Such certificate shall be recorded in the Patent Office; and thereupon such patent shall have the same effect in law as though it had been originally granted for twenty-one years.

*Operation of Extensions.*

SEC. 4928. The benefit of the extension of a patent shall extend to the assignees and grantees of the right to use the thing patented, to the extent of their interest therein.

**FEEES.**

SEC. 4934. The following shall be the rates for patent fees:

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

On issuing each original patent, twenty dollars.

On filing each caveat, ten dollars.

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

On filing each disclaimer, ten dollars.

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

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

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

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

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

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

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

*Mode of Payment.*

SEC. 4935. Patent fees may be paid to the Commissioner of Patents, or to the Treasurer or any of the assistant treasurers of the United States, or to any of the designated depositaries,

national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose; and such officer shall give the depositor a receipt or certificate of deposit therefor. All money received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the Treasury as received, without any deduction whatever.

*Refunding.*

SEC. 4936. The Treasurer of the United States is authorised to pay back any sum or sums of money to any person who has through mistake paid the same into the Treasury, or to any receiver or depository, to the credit of the Treasury, as for fees accruing at the Patent Office, upon a certificate thereof being made to the Treasurer by the Commissioner of Patents.

OFFICIAL GAZETTE.

*Act, May 18, 1872.*

PATENT OFFICE.—To provide for the plates of an Official Gazette of the Patent Office abstracts of the drawings of patents issued, thirteen thousand three hundred and thirty-three dollars, to be expended under the direction of the Commissioner of Patents: Provided, That one copy of said Gazette shall be furnished to each senator, representative, and delegate in Congress; and one copy each shall be sent to eight such public libraries as may be designated by each senator, representative, and delegate, and two copies to the library of Congress: Provided further, That a subscription-price of not less than five dollars per annum for said Gazette shall be charged to each subscriber; and all sums received from such subscription shall be, on or before the first day of each month, paid into the Treasury.

FOR THE PUBLIC PRINTING.—For the additional expense of printing and stitching the Patent Office Official Gazette with the abstracts of specifications and drawings, five thousand four hundred and twenty-five dollars.

REPEAL PROVISIONS.

TITLE LXXIV. Rev. Stat. p. 1091:

*What revised Statutes embrace.*

SEC. 5595. The foregoing seventy-three titles embrace the statutes of the United States general and permanent in their

nature, in force on the 1st day of December, one thousand eight hundred and seventy-three, as revised and consolidated by commissioners appointed under an act of Congress, and the same shall be designated and cited, as the Revised Statutes of the United States.

*Repeal of Acts embraced in revision.*

SEC. 5596. All acts of Congress passed prior to said first day of December, one thousand eight hundred and seventy-three, any portion of which is embraced in any section of said revision, are hereby repealed, and the section applicable thereto shall be in force in lieu thereof; all parts of such acts not contained in such revision, having been repealed or superseded by subsequent acts, or not being general and permanent in their nature: *Provided*, That the incorporation into said revision of any general and permanent provision, taken from an act making appropriations, or from an act containing other provisions of a private, local, or temporary character, shall not repeal, or in any way affect any appropriation, or any provision of a private, local, or temporary character, contained in any of said acts, but the same shall remain in force; and all acts of Congress passed prior to said last-named day, no part of which are embraced in said revision, shall not be affected or changed by its enactment.

*Accrued rights reserved.*

SEC. 5597. The repeal of the several acts embraced in said revision shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before the said repeal, but all rights and liabilities under said acts shall continue, and may be enforced in the same manner, as if said repeal had not been made; nor shall said repeal in any manner affect the right to any office, or change the term or tenure thereof.

*Prosecutions and Punishments.*

SEC. 5598. All offences committed, and all penalties or forfeitures incurred under any statute embraced in said provision prior to said repeal, may be prosecuted and punished in the same manner and with the same effect as if said repeal had not been made.

*Acts of limitation.*

SEC. 5599. All acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offences, or for the recovery of penalties of forfeitures, embraced in said revision and covered by said appeal, shall not be affected thereby; but all suits, proceedings, or prosecutions, whether civil or criminal, for causes arising or acts done or committed prior to said repeal, may be commenced and prosecuted within the same time as if said repeal had not been made.

*Arrangement and Classification of Sections.*

SEC. 5600. The arrangement and classification of the several sections of the revision have been made for the purpose of a more convenient and orderly arrangement of the same, and therefore no inference or presumption of a legislative construction is to be drawn by reason of the Title under which any particular section is placed.

*Acts passed since Dec. 1, 1873, not affected.*

SEC. 5601. The enactment of the said revision is not to affect or repeal any act of Congress passed since the 1st day of December, one thousand eight hundred and seventy-three, and all acts passed since that date are to have full effect as if passed after the enactment of this revision, and so far as such acts vary from, or conflict with, any provision contained in said revision, they are to have effect as subsequent statutes, and as repealing any portion of the revision inconsistent therewith.



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**VICTORIA.**

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*Act No. CCXL., 9th May, 1865.*

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**AN ACT TO CONSOLIDATE THE LAW CONCERNING LETTERS PATENT  
FOR INVENTIONS.**

[NOTE.—The words “Registrar-General” in italics were substituted for “Chief Secretary,” by the Act, No. 432, 17th Dec., 1872, which only relates to this alteration, and the word “twelve” for “six” by the Act of 1884, for which see Supplement.]

BE it enacted by the Queen’s most excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria, in this present Parliament assembled, and by the authority of the same, as follows :

*Title.*

1. This Act shall come into operation on the first day of June, in the year of our Lord one thousand eight hundred and sixty-five, and shall be called and may be cited as “The Patents Statute, 1865.” Its sections are divided into parts as follow :

PART I.—Mode of obtaining Letters Patent, ss. 4–19.

PART II.—Disclaimers and Alterations, ss. 20–23.

PART III.—Extension of Term and Confirmation of Invalid Patents, ss. 24–28.

PART IV.—Miscellaneous Provisions, ss. 29–39.

*Repeal of Acts.*

2. The Acts mentioned in the first schedule hereto, to the extent to which the same are in and by the said schedule expressed to be repealed, shall be and the same are hereby repealed. Nothing herein contained shall affect any proceedings or things lawfully taken, done, or commenced, or any Letters Patent granted, or any protection or right conferred, or any rules and regulations, or any register or appointment made, or any notice or particulars given or published, or any warrant issued or caveat entered under the said repealed Acts, or either of them, before the coming into operation of this Act; and all such proceedings and things shall be as valid and may be continued, and all such Letters Patent, protections, rights, rules, and regulations, registers, appointments, notices, particulars, warrants, and caveats shall have the same force and efficacy as if this Act had not been passed. Letters Patent may be granted in respect of applications made before the coming into operation of this Act in like manner as if this Act had not been passed; and where Letters Patent have been granted before the commencement of this Act, or shall in respect of any application made before the commencement of this Act be hereafter granted for any invention, such Letters Patent may be confirmed, or the term thereof extended or new Letters Patent granted for such invention in like manner as if the original or first Letters Patent had been granted under this Act.

*Interpretation.*

3. In the interpretation of this Act the word "invention" shall mean and include any manner of new manufacture the subject of Letters Patent and Grant of Privilege within the meaning of the enactment next hereinafter contained.

## PART I.—MODE OF OBTAINING LETTERS PATENT.

*Power to grant Patents.*

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 Victoria and its dependencies 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, licences, 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 Victoria or its dependencies, 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 nowise to be put in execution.

*Governor in Council to make Rules for executing this Act.*

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

*On application for Patents inventor to deposit Specification. —  
Specification may be amended before Patent issues.*

6. All applications under this Act for the grant of Letters Patent for an invention shall be made as follows; (that is to say,) the applicant shall deposit at the office of the *Registrar-General* an instrument in writing under his 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 (if any); and the day of the deposit of every such specification shall be recorded at the said office and endorsed on such specification, and a certificate thereof given to such applicant or his agent; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act for the term of *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; and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any Letters Patent to be granted for the same; and where Letters Patent are granted in respect of such invention, such Letters Patent shall be conditioned to become void if such specification does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed: Provided always, that in case the title of the invention or the said specification be too large or insufficient, it shall be lawful for the law officer during the said term of *twelve* months, and before the grant of the Letters Patent, to allow or require such specification to be amended, or another and sufficient specification to be deposited in lieu thereof; and every such amended or new specification shall have the same force, effect, and operation as if it had been originally deposited in its amended or new state.

*Form and size of Specification and Copy.*

7. Every such specification as aforesaid shall be in the form contained in the second schedule to this Act, or to the like effect, and shall be written upon both sides of one or more skin or skins of parchment, and every page thereof shall be of the exact size of twenty inches in length by fifteen inches in breadth, leaving a margin of at least one inch and a half on each side of every such page in order and to the intent that the same may be bound into books for safe custody; but the drawings accompanying such specification (if any) may be made upon larger sheets of parchment, leaving a margin of the size and for the purpose aforesaid; and every copy of any such specification as aforesaid, and of the drawings accompanying the same (if any), shall in like manner be written upon one or more sheet or sheets of paper of the size and with the margins aforesaid.

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

8. 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.

*Mode of proceeding after deposit of Specification.*

9. The applicant, so soon as he shall think fit after the deposit of such specification as aforesaid, and of the drawings and models accompanying the same (if any), may give notice in writing at the chambers of the law officer 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 *Registrar-General*, and at the time of giving such notice shall produce the said certificate of deposit; and thereupon the said law officer shall deliver to the applicant or his agent an appointment in the form contained in the third schedule to this Act, or to the like effect; and such applicant or agent, not less than twenty-one clear days prior to the day appointed by the law officer, shall cause the said appointment to be published once in the *Government Gazette*, once in some newspaper published in the city of Melbourne, and twice in some newspaper published in the town or place at or near to which the applicant uses or exercises the said invention, or (in case he does not use or exercise the same) in or near to which he resides, or if there shall be no newspaper published in such town or place then twice in some newspaper circulating in the neighbourhood where he uses or exercises the said invention or (in case he does not use or exercise 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, not less than three clear days prior to the day so appointed, to leave particulars in writing of his objections to the said application at the chambers of the law officer.

*Law Officer to hear Applications and Objections and award Costs.*

10. At the place and time named in the said appointment the applicant shall produce the newspapers containing the same; and the law officer shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars (if any), and for that purpose shall obtain

from the office of the *Registrar-General* the said copy of the said specification, and of the drawings and models accompanying the same (if any), and may call to his aid such scientific or other person as he may think fit, and may, by writing under his hand, order to be paid to such person some remuneration for his attendance; and may also in like manner order that the costs of any hearing upon any objection, or otherwise in relation to the grant of such Letters Patent, or the protection acquired by the applicant under this Act, shall be paid, and in and by such writing shall fix the amount of such remuneration or costs, and by or to whom the same respectively shall be paid; and every such order shall be in the form contained in the fourth schedule to this Act, or to the like effect, and may be made a rule of the Supreme Court: Provided always, that the applicant, the objectors, and their respective witnesses and evidence shall be respectively heard, examined, and considered separately and apart from and in the absence of the other and his witnesses and evidence.

*Law Officer may issue Warrant for Letters Patent.*

11. The law officer, after such hearing and consideration, may issue a warrant under his hand and seal for the granting of Letters Patent for the said invention, and by such warrant shall direct the insertion in such Letters Patent of all such restrictions, conditions, and provisos as he may deem usual and expedient in such grants, or necessary in pursuance of this Act: and the said warrant shall be the warrant for the making and sealing of Letters Patent under this Act according to the tenor of the said warrant; and every such warrant shall be in the form contained in the fifth schedule to this Act, or to the like effect.

*Letters Patent may be repealed or withheld, and Specification cancelled.*

12. Nothing herein contained shall extend to abridge or affect the prerogative of the Crown in relation to the granting or withholding the grant of any Letters Patent; and it shall be lawful for the Governor in Council to order such law 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 to order the insertion in

any such Letters Patent of any restrictions, conditions or provisos, in addition to or in substitution for any restrictions, conditions, or provisos which would otherwise be inserted therein under this Act; and it shall also be lawful for the Governor in Council 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.

[NOTE.—The first part of the original section was repealed by the Act of 1884. See Supplement.]

*Letters Patent to be void on non-performance of Conditions.*

13. All Letters Patent for inventions granted under this Act shall be in the form contained in the sixth schedule to this Act, or to the like effect, and be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine, at the expiration of three years and seven years respectively from the date thereof, unless there be paid within the said three and seven years respectively the sum or sums of money in that behalf hereby required to be paid; and the *Registrar-General* shall issue under his hand a certificate of such payment, and shall endorse a receipt for the same on the Letters Patent.

*Letters Patent to be issued within Three Months after Warrant and during the protection.*

14. The *Registrar-General*, so soon after the receipt by him of the said warrant as required by the applicant, shall cause to be prepared Letters Patent for the invention according to the tenor of the said warrant; and it shall be lawful for the Governor in Council to cause such Letters Patent to be sealed with the seal of the colony; and such Letters Patent shall be made applicable to the said 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 within three months after the date of the said warrant, nor unless such Letters Patent be granted during the continuance of the protection conferred under this Act by reason of such deposit.

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

15. 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 Governor in Council 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 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 continuance of such protection; and in case any Letters Patent shall be destroyed or lost, other Letters Patent of the like tenor and effect, and sealed and dated as of the same day, may (subject to such regulations as the Governor in Council may direct) be issued under the authority of the warrant in pursuance of which the original Letters Patent were issued.

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

16. 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 the same are expressed to be sealed and bear date; and after any Letters Patent shall have been granted or issued under this Act it shall not be necessary or material to inquire or ascertain whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore-mentioned and directed.

*Letters Patent for Foreign Inventions not to continue after expiration of Foreign Patent.*

[NOTE.—Section 17 was repealed by the Act of 1884. See Supplement.]



*Letters Patent not to prevent the use of Inventions in Foreign Ships resorting to ports in Victoria.*

18. No Letters Patent for any invention granted after the coming into operation 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 Victoria or its dependencies or in any of the waters within the jurisdiction of any of Her Majesty's courts of Victoria, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the same: Provided always, that 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 the territories of such foreign state.

*Specification to be filed after issue of Patent or expiring of Protection.*

19. Every specification deposited at the office of the *Registrar-General* as aforesaid, and the drawings and models accompanying the same (if any), shall, forthwith after the grant of the Letters Patent, or if no Letters Patent be granted then immediately on the expiration of *twelve* months from the time of such deposit, be transferred to and kept in such office as the Governor in Council shall from time to time appoint for that purpose.

PART II.—DISCLAIMERS AND ALTERATIONS.

*Notice of Application to disclaim or make alterations.*

20. Any person who shall obtain Letters Patent under this Act, or in case such person shall part with his whole or any part of his interest by assignment, such person together with the assignee (if part only has been assigned), or the assignee alone (if the whole has been assigned), may apply to the law officer for leave to enter a disclaimer of any part of either the

title of the invention or of the specification, or a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said Letters Patent; and thereupon the law officer shall deliver to such patentee and assignee, or either of them, or to their or either of their agent, an appointment in the form contained in the seventh schedule to this Act, or to the like effect; and such patentee or assignee shall thereupon cause such disclaimer (stating the reason for the same), or such memorandum of alteration, to be written at the foot of the said 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 his objections to the same at the chambers of the law officer within such time not being less than three clear days prior to the day so appointed: Provided always, that where such application as aforesaid shall be for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the law 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.*

21. 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 law officer 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 upon that occasion by the law officer as by virtue of the provisions hereinbefore contained can and may be exercised in relation to the hearing and considering an application for Letters Patent and objections to the same, and shall and may be enforced in like manner.

*How Disclaimer may be entered and alterations made.*

22. 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 law officer (to be certified by a fiat under his hand to be written at the foot of the same parchment with the said disclaimer or memorandum) enter such disclaimer (stating the reason for the same) or such memorandum of alteration, and at the time of entering such disclaimer or memorandum of alteration shall deposit a copy thereof in the office next hereinafter mentioned; and such disclaimer or memorandum of alteration, being filed in such office as the Governor in Council 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 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; 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 law 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 pending at the time when such disclaimer or alteration was filed as aforesaid; but in every such last-mentioned action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the Letters Patent have been or shall have been granted: Provided also, that when any such fiat shall have been granted or issued under this Act, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act, and such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the law 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.

*Copies of Specification, Disclaimers, &c., to be open to inspection.*

23. The copies of all specifications and the drawings and models accompanying the same (if any) and of all disclaimers and memoranda of alterations respectively deposited under or in pursuance of this Act shall be open to the inspection of the public at all reasonable times after the grant of Letters Patent, or if no Letters Patent be granted then immediately on the expiration of *twelve* months from the time of such deposit; but subject to such regulations as the Governor in Council may make in that behalf.

PART III.—EXTENSION OF TERM AND CONFIRMATION OF INVALID PATENTS.

*Mode of obtaining extension of the Term.*

24. If any person who has obtained Letters Patent under this Act or any other Act relating to Letters Patent heretofore in force in Victoria, or (in case such person shall have parted with his whole or any part of his interest by assignment) if such person, together with the assignee where part only has been assigned, or of the assignee alone where the whole has been assigned, shall, six months before the expiration or other determination of such Letters Patent, present to the Governor in Council 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 and 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 Governor in Council to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Mode of obtaining confirmation of invalid Patent.*

25. If in any suit or action it shall be proved or specially found by the verdict of a jury that any person who shall have obtained Letters Patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented or used the

same, or some part thereof, before the date of such Letters Patent, or if such patentee or his assigns shall discover that some other person had, unknown to such patentee, invented or used the same, or some part thereof, before the date of such Letters Patent, such patentee or his assigns may petition the Governor to confirm the said Letters Patent or to grant new Letters Patent; and it shall be lawful for the Governor in Council to refer the consideration of the said petition to commissioners to be appointed for that purpose in the manner hereinafter mentioned.

*Appointment of Commissioners.*

26. For the purpose of considering any such petition as aforesaid, it shall be lawful for the Governor in Council (if he shall think fit) to issue and direct in the name of Her Majesty, her heirs or successors, to five or more persons (of whom some of the judges of the Supreme Court shall be two) a commission reciting such petition, and requiring and authorising such persons, or any three of them, of whom one of the said judges shall be one, to meet at some time (not being less than two months from the publication of the said commission in the Government Gazette) and at some place to be respectively fixed in the said commission, and then and there to consider the said petition, and to report to Her Majesty, her heirs and successors (in case such petitioner shall have prayed for an extension of the term in the Letters Patent mentioned), whether any and, if any, what further extension of the said term should be granted according to the prayer of the said petition, and upon what, if any, conditions, or (in case such petitioner shall have prayed for a confirmation of the Letters Patent or for a grant of new Letters Patent) whether such confirmation or grant should be made.

*Notice of Commission to be published and Caveats entered.*

27. Two months at least before the time named in the said commission for the consideration of any such petition as aforesaid, the petitioner shall cause to be published in the same manner as is hereinbefore required with respect to the said first-mentioned appointment an advertisement of the contents of the said commission in the form contained in the eighth schedule to this Act, or to the like effect; and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the

*Registrar-General* 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.*

28. At the time and place fixed in the said commission for that purpose the commissioners shall meet and proceed to consider such petition; and the petitioner shall be heard by his counsel and witnesses to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this Act; and the persons entering caveats shall likewise be heard by their counsel and witnesses; and all such witnesses shall be examined upon oath or affirmation (which oath or affirmation such commissioners as aforesaid are hereby authorised and required to administer); and thereupon and upon hearing and inquiry of the whole matter (in case such petitioner shall have prayed for an extension as aforesaid) the said commissioners may report whether any and, if any, what further extension of the said term should be granted; and the Governor in Council is hereby authorised and empowered, if he shall think fit, to grant to the petitioner new Letters Patent for the said invention for a term not exceeding fourteen years after the expiration of the first term, anything hereinbefore contained to the contrary thereof in anywise notwithstanding; and such new Letters Patent shall be sealed and bear date as of the day after the expiration of the term of the first Letters Patent. Or (in case such petitioner shall have prayed for a confirmation or grant as aforesaid) such commissioners, upon examining the said matter and being satisfied that such patentee as aforesaid believed himself to be the first and original inventor, and being satisfied that such invention, or part thereof, had not been publicly and generally used before the date of such first Letters Patent, may report to Her Majesty, her heirs and successors, their opinion that the prayer of such petition ought to be complied with, whereupon the Governor in Council may, if he shall think fit, grant such prayer; and the said Letters Patent shall be available at law and in equity to give to such petitioner the sole right of using, making, and vending such invention as against all persons whomsoever, anything hereinbefore contained to the contrary thereof notwithstanding: Provided that any person, party to any former suit or action touching such first Letters Patent as last aforesaid, shall be entitled to have notice in writing of the

time and place fixed as aforesaid for the first meeting of the said commissioners to consider the said petition; and after any such report shall have been made it shall not be material 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 hereinbefore directed in that behalf.

PART IV.—MISCELLANEOUS PROVISIONS.

*Index to Specifications, Disclaimers, &c.*

29. The Governor in Council 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 such form as may be thought fit; and such indices shall be open to the inspection of the public, at such places as the Governor in Council shall appoint, and subject to the regulations to be made as hereinbefore provided.

*Register of Patents to be kept.*

30. There shall be kept at the office to be appointed as aforesaid a book or books, to be called "The Register of Patents," wherein shall be entered and recorded in chronological order all Letters Patent granted under this Act and any other Act relating to Letters Patent heretofore in force in Victoria, 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 Governor in Council 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 in Council may make in that behalf.

*Register of Proprietors to be kept.*

31. There shall be kept at the same office a book or books, entitled "The Register of Proprietors," wherein shall be entered, in such manner as the Governor in Council shall

direct, the assignment of any Letters Patent, or of any share or interest therein, any licence under Letters Patent, and the district to which such licence relates, with the name or names of any person having any share or interest in such Letters Patent or licence, 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 licence; and a copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be *primâ facie* proof of the assignment of such Letters Patent, or share or interest therein, or of the licence 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 licences and privileges thereby given and granted; and such register of a copy shall be open to public inspection, subject to such regulations as the Governor in Council may make.

*Certified Copies to be Evidence.*

32. The Governor in Council may cause a seal to be made for the purposes hereinafter mentioned; and all courts, judges, and other persons whomsoever shall take notice of such seal, and receive impressions thereof in evidence in like manner as impressions of the seal of the colony are received in evidence; and copies or extracts, certified and sealed with such seal, of Letters Patent, specifications, disclaimers, memoranda of observations, 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 in all courts, and by all judges and other persons whomsoever.

*Falsification or forgery of Entries.*

33. 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 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 a misdemeanor, and shall be liable to be imprisoned for any term not exceeding five years.



*Entries may be expunged.*

34. If any person shall deem himself aggrieved by any entry made under colour of this Act in any such register, it shall be lawful for such person to apply by motion to the Supreme Court in term time, or by summons to a judge of such court in vacation, 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 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.

*Penalty for unauthorised user of the word "Patent."*

[NOTE.—Section 35 was repealed by the Act of 1884. See Supplement.]

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

[NOTE.—Section 36 was repealed by the Act of 1884. See Supplement.]

*Particulars to be regarded in taxing Costs.*

[NOTE.—Section 37 was repealed by the Act of 1884. See Supplement.]

*Fees on obtaining Patents.*

38. There shall be paid in respect of Letters Patent applied for or issued as herein mentioned, the depositing of specifications, disclaimers, and memoranda of alterations, warrants, certificates, entries, and searches, and other matters and things respectively mentioned in the ninth schedule to this Act, such fees as are enumerated in that schedule; and such of the said fees as are thereby made payable to the law officer shall and may be received and retained by such law officer for his own proper use; and the residue thereof shall form part of the consolidated revenue of Victoria, and be paid, applied, and disposed of accordingly.

*English Patents to be subject to this Act.*

39. All Letters Patent which shall have been or which shall be granted in the United Kingdom of Great Britain and Ireland

after the thirty-first day of December in the year of our Lord one thousand eight hundred and fifty-seven, for any invention, shall, so far as the same relate to Victoria and its dependencies, be and be deemed to have been utterly void and of none effect, and in nowise be put in execution; but all such Letters Patent granted in the said United Kingdom on or before that day, and which would be or would have been valid in Victoria if this Act or any other Act relating to Letters Patent heretofore in force in Victoria had not been passed, shall be deemed and taken to have been granted under this Act, and may be dealt with accordingly.

## SCHEDULES.

### SCHEDULE I.

#### *Section 2.*

Date of Act.	Title of Act.	Extent of Repeal.
18 Vict. No. 1 ..	“ An Act to protect the rights of “ inventors of articles at the “ Exhibition in Victoria of one “ thousand eight hundred and “ fifty-four.”	The whole.
20 Vict. No. 3 ..	“ An Act concerning Letters Patent “ for Inventions.”	The whole.

### SCHEDULE II.

#### *Section 7.*

To all to whom these presents shall come, I [John Doe, of Taradale, in the county of Talbot, engineer,] send greeting:

Whereas I am desirous of obtaining Royal Letters Patent for securing unto me Her Majesty's special licence that I, my executors, administrators, 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 *Registrar-General*), make, use, exercise, and vend within the colony of Victoria and

its dependencies 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 and seal 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, is 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, 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, and that I do not know or believe that any other person 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 *Registrar-General* with any such knowledge or belief as last aforesaid.

In witness, &c.

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### SCHEDULE III.

#### Section 9.

[NOTE.—Schedule III. was repealed by the Act of 1884. See Supplement.]

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### SCHEDULE IV.

#### Section 10.

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 .

G. H.,  
General.

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### SCHEDULE V.

#### Section 11.

I have heard and considered the application of *A.B.* 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



against the same, at the office of the *Registrar-General* in Melbourne, otherwise they will be precluded from objecting to it.

Dated this            day of

A. B.

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SCHEDULE IX.

*Section 38.*

[NOTE.—Schedule IX. was repealed by the Act of 1884. See Supplement.]

**WESTERN AUSTRALIA.**

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*Act No. 5, of 26th November, 1888.*

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

Whereas it is desirable to amend and consolidate the law relating to Patents for Inventions: Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

*Short title.*

1. This Act may be cited as “The Patent Act, 1888.”

*Commencement.*

2. This Act, except where it is otherwise expressed, shall come into operation on the first day of January, One thousand eight hundred and eighty-nine.

*Interpretation.*

3. For the purposes of this Act, and save so far as the context requires a different meaning, the following words shall have the meanings in this section assigned to them, namely:—

“The Registrar” shall mean the Registrar of patents.

“The Court” shall mean the Supreme Court of this Colony.

“Prescribed” shall mean prescribed by any of the schedules to this Act, or by regulations under this Act.

“Examiner” shall mean any skilled person or persons to whom the Registrar shall refer questions concerning patents under this Act.

“Foreign vessel” shall mean vessel belonging to any other state or colony.

*The Patent Office and the Registrar of Patents.*

4. The Patent Office shall be attached to the Department of the Registrar-General, or to a branch of such Department, and shall be under the immediate control of the Registrar of Patents, who shall be appointed by the Governor.

*Provision for absence of Registrar.*

5. Any act or thing directed to be done by or to the Registrar may, in his absence, be done by or to any officer for the time being in that behalf authorised by the Registrar-General.

*Seal of Patent Office.*

6. There shall be a seal for the Patent Office, to be called “The seal of the Patent Office,” and impressions thereof shall be judicially noticed and admitted in evidence.

*Persons entitled to apply for patent.*

7. Any person, whether a British subject or not, may make an application for a patent, or two or more persons may make a joint application for a patent, and a patent may be granted to them jointly.

*Application and specification.*

8. (1.) An application for a patent must be made in the form set forth in the First Schedule to this Act, or in such other form as may be from time to time prescribed, or in a form as like thereto as the circumstances will permit; and must be left at the Patent Office in the prescribed manner.

(2.) An application must contain a statutory declaration by the applicant, or, in the case of a joint application, by one of the applicants, to the effect that one or more of the applicants is or are in possession of an invention, whereof one or more of the applicants claims or claim to be the true and first inventor or inventors, or to which one or more of the applicants claims or claim to be entitled as legal representative or representatives, or under a bequest in the will of the true and first inventor, and

for which the applicant or applicants desires or desire to obtain a patent. The application must be accompanied by either a provisional or complete specification, and must state an address in Perth for the reception of notices and other communications with respect to the application or invention.

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

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

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

*Registrar may refer application to examiner.*

9. The Registrar shall, if he think fit, refer any application to an examiner, who shall ascertain whether the nature of the invention has been fairly described, and the application, specification, and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject-matter of the invention, and shall report thereon to the Registrar.

*Power for Registrar to refuse application or require amendment.*

10. (1.) If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not or have not been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject-matter of the invention, the Registrar may require that the application, specification, or drawings be amended, before he proceeds with the application.

(2.) Where the Registrar requires an amendment, the applicant may appeal from his decision to the Attorney-General.

(3.) The Attorney-General shall, if required, hear the applicant and the Registrar, and may make an order determining whether and subject to what conditions (if any) the application shall be accepted.

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

(5.) If after an application has been made, but before a



patent has been sealed, an application is made, accompanied by a specification bearing the same or a similar title, the Registrar, if he think fit, may refer the question to an examiner, who shall report to the Registrar whether the specification appears to the examiner to comprise the same invention; and, if he reports in the affirmative, the Registrar shall give notice to both applicants that he has so reported. Where the examiner reports in the affirmative, the Registrar may determine, subject to an appeal to the Attorney-General, whether the invention comprised in both applications is the same, and, if so, he may refuse to seal a patent on the application of the second applicant.

*Time for leaving complete specification.*

11. (1.) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within nine months from the date of application, and the Registrar may, on payment of the prescribed fee, extend such time to ten months.

(2.) Unless a complete specification is left within nine months, or such extended time, the application shall be deemed to be abandoned.

*Comparison of provisional and complete specification.*

12. (1.) Where a complete specification is left after a provisional specification, the Registrar may, if he think fit, refer both specifications to an examiner for the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner, and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification.

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

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

(4.) Unless a complete specification is accepted within twelve months from the date of application, or such extended time not exceeding fifteen months from the date of the appli-

ation, as the Registrar on payment of the prescribed fee may allow, then (save in the case of an appeal having been lodged against the refusal to accept) the application shall, at the expiration of the said twelve months, or such extended time, become void.

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

*Advertisement on acceptance of complete specification.*

13. On the acceptance of the complete specification, the Registrar shall advertise the acceptance in the *Government Gazette* of Western Australia; and the application and specification or specifications with the drawings (if any) shall be open to public inspection.

*Opposition to grant of patent.*

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

(2.) Where such notice is given, the Registrar may require the applicant to give security to an amount not exceeding Twenty-five pounds for the costs of the opposition; and if the security so required is not given within the said two months, the opposition shall lapse.

(3.) Where such notice and such security, if required, is given, the Registrar shall give notice of the opposition to the applicant, and shall, on the expiration of the said two months,

after hearing the applicant and the person so giving notice, if desirous of being heard, decide on the case, but subject to appeal to the Attorney-General.

(4.) The Attorney-General shall, on such appeal, hear the applicant and any person so giving notice and being, in the opinion of the Attorney-General, entitled to be heard in opposition to the grant, and shall determine whether the grant ought or ought not to be made.

(5.) The Attorney-General may, if he thinks fit, obtain the assistance of an expert, who shall be paid such remuneration as the Attorney-General shall determine.

(6.) The Attorney-General or the Registrar, as the case may be, may, after decision, make such order as may be thought fit for the payment of costs by the applicant to the party giving notice or *vice versá*, and such order may be made a rule of the Court on an application *ex parte*.

*Specifications, &c., not to be published unless application accepted.*

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

*Sealing of patent.*

16. (1.) If there is no opposition, or, in the case of opposition, if the determination is in favor of the grant of a patent, the Registrar shall cause a patent to be sealed with the seal of the Patent Office.

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

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

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

- (c.) Where the Registrar has extended the time for leaving or the time for accepting the complete specification, or both such times, the total period of time so extended shall be added to the period of fifteen months above provided.

*Date of patent.*

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

PROVISIONAL PROTECTION.

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

PROTECTION BY COMPLETE SPECIFICATION.

*Effect of acceptance of complete specification.*

19. After the acceptance of a complete specification, and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification; Provided that an applicant shall not be entitled to institute any proceeding for infringement, unless and until a patent for the invention has been granted to him.

PATENT.

*Power to grant patents jointly, though some grantees are not inventors.*

20. A patent may be granted to several applicants jointly,

although some or one of them only are or is the true and first inventors or inventor.

*Extent of patent.*

21. Every patent, when sealed, shall have effect throughout the Colony of Western Australia.

*Term of patent.*

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

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

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

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

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

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

AMENDMENT OF SPECIFICATION.

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

(2.) The request and the nature of such proposed amendment shall be advertised in the *Government Gazette*, and at any time within one month from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(3.) Where such notice is given, the Registrar shall give notice of the opposition to the person making the request, and shall hear and decide the case, subject to an appeal to the Attorney-General.

(4.) The Attorney-General shall, if required, hear the person making the request and the person so giving notice, and being, in the opinion of the Attorney-General, entitled to be heard in opposition to the request, and shall determine whether, and subject to what conditions, if any, the amendment ought to be allowed.

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

(6.) When leave to amend is refused by the Registrar, the person making the request may appeal from his decision to the Attorney-General.

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

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

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

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

*Power to disclaim part of invention during action, &c.*

24. In an action for infringement of a patent, and in a proceeding for revocation of a patent, the Court or a Judge may order that the patentee shall, subject to such terms as to costs and otherwise as the Court or a Judge may impose, be at liberty to apply at the Patent Office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

*Restriction on recovery of damages.*

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

*Advertisement of amendment.*

26. Every amendment of a specification shall be advertised in the *Government Gazette* of Western Australia.

## COMPULSORY LICENSES.

*Power for Governor to order grant of licenses.*

27. If on the petition of any person interested it is proved to the Governor in Council that, by reason of the default of a patentee to grant licenses on reasonable terms—

- (a.) The patent is not being worked in this Colony; or
- (b.) The reasonable requirements of the public with respect to the invention cannot be supplied; or
- (c.) Any person is prevented from working or using to the best advantage an invention of which he is possessed;

The Governor in Council may order the patentee to grant licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor in Council, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.

## REGISTER OF PATENTS.

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

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

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

#### FEEES.

##### *Fees in schedule.*

29. There shall be paid, in respect of the several matters and things described in the Second Schedule to this Act, the fees in that schedule mentioned; and such fees shall be levied and paid to the credit of the general revenue of the Colony.

#### EXTENSION OF TERM OF PATENT.

##### *Extension of term of patent on petition to the Governor in Council.*

30. (1.) A patentee may, after advertising in manner directed by any rules made under this section his intention to do so, present a petition to the Governor in Council, praying that his patent may be extended for a further term; but such petition must be presented at least six months before the time limited for the expiration of the patent.

(2.) Any person may enter a caveat, addressed to the Clerk of the Executive Council at the Council Office, against the extension.

(3.) If the Governor in Council shall be pleased to refer any such petition to the Supreme Court, the Court shall proceed to consider the same, and the petitioner and any person who has entered a caveat shall be entitled to be heard by himself or by counsel on the petition.

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

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

(6.) It shall be lawful for the Governor in Council to make, from time to time, rules of procedure and practice for regulating



proceedings on such petitions, and subject thereto such proceedings shall be regulated according to the existing procedure and practice in patent matters of the Court.

(7.) The costs of all parties of and incident to such proceedings shall be in the discretion of the Court; and the orders of the Court respecting costs shall be enforceable in like manner as other orders of the Court.

#### REVOCATION.

31. (1.) No proceeding by *scire facias* to repeal a patent shall be taken.

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

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

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

(a.) The Attorney-General:

(b.) Any person authorised by the Attorney-General:

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

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

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

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

(6.) Particulars delivered may be from time to time amended by leave of the Court or a Judge.

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

evidence impeaching the validity of the patent, the defendants shall be entitled to reply.

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

#### CROWN.

##### *Patent to bind Crown.*

32. A patent shall have to all intents the like effect as against Her Majesty the Queen, Her heirs and successors, as it has against a subject, excepting always that the officers or authorities administering any department of the service of the Crown may, by themselves, their agents, contractors, or others, at any time after the application, use the invention for the services of the Crown on terms to be before or after the use thereof agreed on, with the approval of the head of the department, between those officers or authorities and the patentee, or, in default of such agreement, on such terms as may be settled by the Court after hearing all parties interested.

#### LEGAL PROCEEDINGS.

##### *Hearing with assessor.*

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

(2.) The remuneration, if any, to be paid to an assessor under this section shall be determined by the Court and be paid in the same manner as the other expenses of the execution of this Act.

##### *Delivery of particulars.*

34. (1.) In an action for infringement of a patent, the plaintiff must deliver with his statement of claim, or, by order of the Court or a Judge, at any subsequent time, particulars of the breaches complained of.

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

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

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

(5.) Particulars delivered may be from time to time amended by leave of the Court or a Judge.

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

*Order for inspection, &c., in action.*

35. In an action for infringement of a patent, the Court or a Judge may, on the application of either party, make such order for an injunction inspection or account, and impose such terms and give such directions respecting the same and the proceedings thereon as the Court or a Judge may see fit.

*Certificate of validity questioned and costs thereon.*

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

*Remedy in case of groundless threats of legal proceedings.*

37. Where any person claiming to be the patentee of an invention, by circulars, advertisements, or otherwise, threatens any

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

#### MISCELLANEOUS.

##### *Licensed patent agents.*

38. It shall be lawful for the Registrar, 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 the Registrar's satisfaction of the malfeasance or incapacity of any such licensed patent agent, or on non-payment of any annual fee for any such license, as prescribed by the Second Schedule hereto, and with such sanction as aforesaid, to revoke any such license.

##### *Patent for one invention only.*

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

##### *Patent on application of representative of deceased inventor.*

40. (1.) If a person possessed of an invention for which he is entitled to obtain a patent dies without making application for a patent for the invention, application may be made by, and a patent for the invention granted to, the legal representative of the inventor, or to any person to whom the inventor may have bequeathed or assigned the right to obtain the patent.

(2.) Every such application must be made within six months of the decease of such person, and must contain a declaration by the legal representative that he believes such person to be the true and first inventor of the invention.

*Patent to first inventor not invalidated by application in fraud of him.*

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

*Assignment of patent for particular place.*

42. A patentee may assign his patent for the whole of the Colony or any place in or any part thereof.

*Loss or destruction of patent.*

43. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the Registrar, the Registrar may at any time cause a triplicate thereof to be sealed and delivered to the person entitled thereto.

*Witnesses may be summoned.—See Imperial Patent Act, 1883, s. 38.*

44. For the purpose of any application or opposition or other matters requiring the decision of the Registrar or the Attorney-General, they or either of them may, and at the request of any party to be heard shall, issue summonses under the seal of the Patent Office for the attendance of witnesses, and may examine witnesses on oath and administer oaths for that purpose under this part of the Act, 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 have been disposed of, and to produce any document in his power, possession, custody, or control which he shall by such summons be required to produce.

*Proceedings and costs before Attorney-General.*

45. The Attorney-General may from time to time make, alter, and rescind rules regulating references and appeals to the Attorney-General, and the practice and procedure before him under this part of this Act; and in any proceeding before the

Attorney-General under this part of this Act, he may order costs to be paid by either party, and any such order may be made a rule of the Court.

*Exhibition at industrial or international exhibition not to prejudice patent rights.*

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

- (a.) The exhibitor must, before exhibiting the invention, give the Registrar the prescribed notice of his intention to do so ; and
- (b.) The application for a patent must be made before or within six months from the date of the opening of the exhibition.

*Power to require models on payment.*

47. Where the invention is one which admits of being represented by a model, the Registrar may require the patentee to furnish him with a model of the invention on payment to the patentee of the cost of the manufacture of the model ; the amount to be settled in case of dispute by the Attorney-General.

*Assignment to Colonial Secretary of certain inventions.*

48. (1.) The inventor of any improvement in instruments or munitions of war, his executors, administrators, or assigns (who are in this section comprised in the expression the inventor) may (either for or without valuable consideration) assign to the Colonial Secretary, on behalf of Her Majesty, all the benefit of the invention and of any patent obtained or to be obtained for the same ; and the Colonial Secretary may be a party to the assignment.

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

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

(4.) If the Colonial Secretary so certifies, the application and specification or specifications, with the drawings (if any), and any amendment of the specification or specifications, and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the Registrar in a packet sealed by authority of the Colonial Secretary.

(5.) Such packet shall, until the expiration of the term or extended term during which a patent for the invention may be in force, be kept sealed by the Registrar, and shall not be opened save under the authority of an order of the Colonial Secretary, or of the Attorney-General.

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

(7.) On the expiration of the term or extended term of the patent, such sealed packet shall be delivered to any person authorised by writing under the hand of the Colonial Secretary to receive it.

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

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

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

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

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

*Holder or assignee of patents obtained in other countries may obtain letters of registration.*

49. No person shall receive a patent or an instrument in the nature of Letters Patent under this Act for an invention or discovery which has been previously patented in Great Britain or any other country, but it shall be lawful for the Governor in his discretion, on the application of any person being the holder or assignee of any patent granted or issued in Great Britain or any other country for any new discovery or invention, and upon such proof as the Governor may deem sufficient, that such person is the *bonâ fide* holder or assignee of the said patent, and that the same is in full force, and upon payment to the Colonial Treasurer of the sum of Fifteen pounds, to grant letters of registration under the seal of Western Australia to the holder of such patent as aforesaid or his assignee, and such letters of registration shall be deposited in the Patent Office, and shall be deemed to be Letters Patent issued under this Act for such invention or improvement, and shall have the same force and effect as Letters Patent issued thereunder; and shall inure to the benefit of the holder during the continuance of the original



patent in the country in which it was issued or 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 or an instrument in the nature of Letters Patent issued under this Act.

*Governor may make regulations.*

50. The Governor may make regulations for carrying] into effect the provisions of this Act, and for regulating the amount, collection, and disposal of the fees in the schedules heretc, and may also from time to time rescind, alter, or vary any such regulations. All such regulations shall, upon publication in the *Government Gazette* of Western Australia, be in force and effect. A copy of every such regulation shall be laid upon the table of the Legislative Council within fourteen days from the issue thereof, or, if the Legislative Council be not sitting, then within fourteen days after the commencement of the next ensuing session. Provided that, until such regulations be made, the fees in the Schedule to this Act contained shall be the fees payable in respect of the matters to which they are respectively applicable.

*Repeal of 36 Vict., No. 1.*

51. The Act intituled "An Act to regulate Grants of Patents for Inventions in the Colony of Western Australia" is hereby repealed, but without prejudice to the past operation thereof, or to any Letters Patent lawfully granted or assigned thereunder.

*Partial repeal of 50 Vict., No. 5.*

52. The Act 50 Vict., No. 5, is hereby repealed in so far as it relates to patents, and the Officer therein described as Registrar of Patents, Designs, and Trade Marks shall be and be called Registrar of Designs and Trade Marks.

*Saving for prerogative.*

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

## SCHEDULES.

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### THE FIRST SCHEDULE (Section 8).

#### FORMS OF APPLICATION, &c.

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#### FORM A.

##### *Form of Application for Patent.*

I, (*here insert name, address, and calling of inventor*) of \_\_\_\_\_, in \_\_\_\_\_, do solemnly and sincerely declare that I am in possession of an invention for (*here insert title of invention*) that I am the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of my knowledge and belief; and I humbly pray that a patent may be granted to me for the said invention.

And I make the above solemn declaration conscientiously believing the same to be true, etc.

(*Signature of inventor.*)

Declared at \_\_\_\_\_, in \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.

Before me,

(*Signature and title of the officer before whom the declaration is made.*)  
Justice of the Peace.

[NOTE.—This declaration must be accompanied by the statement of an address in the city of Perth in Western Australia for the reception of all notices and other communications with respect to the application or invention.]

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#### FORM B.

##### *Form of Provisional Specification.*

(*Here insert title as in declaration.*)

I, (*here insert name, address, and calling of inventor as in declaration*)

of \_\_\_\_\_, in \_\_\_\_\_, do hereby declare the nature of my invention for \_\_\_\_\_ to be as follows:—

*(Here insert short description of invention.)*

*(Signature of inventor.)*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.

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FORM C.

*Form of Complete Specification.*

*(Here insert title as in declaration.)*

I, *(here insert name, address, and calling of inventor as in declaration)* of \_\_\_\_\_, in \_\_\_\_\_, do hereby declare the nature of my invention for \_\_\_\_\_ and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement:—

*(Here insert full description of invention.)*

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

- 1.
  - 2.
  - 3, &c.,
- (Here state distinctly the features of novelty claimed.)*

*(Signature of inventor.)*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.

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FORM D.

*Form of Patent.*

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

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

And whereas the said inventor hath humbly prayed that we would be graciously pleased to grant unto him (hereinafter together with his executors, administrators, and assigns, or any of them, referred to as the

said patentee) our Royal Letters Patent for the sole use and advantage of his said invention :

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

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

Know ye, therefore, that we of our especial grace, certain knowledge, and mere motion do by these presents, for us, our heirs and successors, give and grant unto the said patentee, our especial license, full power, sole privilege, and authority, that the said patentee by himself, his agents, or licensees, and no others, may at all times hereafter, during the term of years herein mentioned, make, use, exercise, and vend the said invention within in such manner as to him or them may seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the date hereunder written of these presents: and to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, we do by these presents for us, our heirs and successors, strictly command all our subjects whatsoever within that they do not at any time during the continuance of the said term of fourteen years, either directly or indirectly, make use of or put in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, license, or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal command, and of being answerable to the patentee according to law for his damages thereby occasioned: Provided that these our Letters Patent are on this condition, that, if at any time during the said term it be made to appear to us, our heirs or successors, or to our Supreme Court 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 within or that the said patentee is not the first and true inventor thereof within this as aforesaid, these our Letters Patent shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained: Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these Letters Patent, or in respect of any matter relating thereto at the time or times, and in manner for the time being by law provided; and also if the said patentee shall not supply or cause to be supplied, for our service all such articles of the said invention as may be required by the officers or commissioners administering any department of our service in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided, then, and in any of the said cases, these our

Letters Patent, and all privileges and advantages whatever hereby granted shall determine and become void notwithstanding anything hereinbefore contained: Provided also, that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted: and lastly, we do by these presents for us, our heirs and successors, grant unto the said patentee that these our Letters Patent shall be construed in the most beneficial sense for the advantage of the said patentee. In witness whereof we have caused these our letters to be made patent this one thousand eight hundred and and to be sealed as of the said one thousand eight hundred and

L. S.

### THE SECOND SCHEDULE (Section 29).

Fees to be paid in respect of the several matters hereunder specified:—

	<b>£</b>	<b>s.</b>	<b>d.</b>
For every application for a patent accompanied by a provisional specification only . . . . .	1	10	0
Examiner's fee on reference of application with provisional specification, not exceeding . . . . .	3	3	0
For every application for a patent accompanied by a complete specification . . . . .	4	0	0
Examiner's fee on reference of complete specification, not exceeding . . . . .	3	3	0
On extending the time for leaving complete specification . . . . .	0	5	0
On extending the time for acceptance of complete specification . . . . .	0	5	0
On every patent before the expiration of four years from its date . . . . .	4	0	0
And before the expiration of seven years . . . . .	4	0	0
On filing every amended or substituted specification . . . . .	1	0	0
On notice of opposition to grant of patent . . . . .	0	10	6
On every summons to witness . . . . .	0	5	0
On hearing of every opposed application . . . . .	1	0	0
On extension of patent . . . . .	20	0	0
On filing every disclaimer or memorandum of alteration . . . . .	1	10	0
For every office copy (including the seal) per folio of seventy-two words . . . . .	0	0	6
On filing every certificate voiding a patent . . . . .	0	5	0
On deposit of any assignment, deed, license or other document affecting proprietorship of patent . . . . .	2	0	0
On delivering triplicate patent after loss, etc. . . . .	2	0	0
On every search, including inspection. . . . .	0	2	6

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	£	s.	d.
Annual fee for license to patent agent. . . . .	2	10	0
Certified copies or extracts sealed with the seal, at per folio . . . . .	0	1	0
For every matter or thing not above provided for. . . . .	0	5	0

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THE THIRD SCHEDULE (Section 30).

Attorney-General settling letters of registration . . . . .	1	3	6
Crown Solicitor . . . . .	1	1	0

**INTERNATIONAL CONVENTION FOR  
THE PROTECTION OF INDUSTRIAL  
PROPERTY.**

*Signed at Paris, March 20, 1883.*

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*[Ratifications exchanged at Paris, June 6, 1884.]*

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**ARTICLE I.**

The Governments of Belgium, Brazil, Spain, France, Guatemala, Italy, Holland, Portugal, Servia, and Switzerland, constitute themselves into a Union for the protection of Industrial Property.

[NOTE.—*The following Governments have since adhered to the Convention in accordance with Art. XVI. : Great Britain, (Order in Council, under § 103 of the Patents Act, dated 26th June, 1884), Tunis, Santo Domingo, Sweden, Norway, Queensland, the United States, and Mexico.]*

**ARTICLE II.**

The subjects or citizens of each of the Contracting States shall, in all the other States of the Union, in matters concerning patents, industrial designs or models, trade and commercial marks and trade names, enjoy the advantages that their respective laws now grant, or shall hereafter grant, to natives.

Consequently, they shall have the same protection as the latter, and the same legal remedy against any infringement of

their rights, subject to the fulfilment of the formalities and conditions imposed on natives by the internal legislation of each State.

### ARTICLE III.

Subjects or citizens of States not forming part of the Union, who are domiciled or have industrial or commercial establishments in the territory of any of the States of the Union, shall be assimilated to the subjects or citizens of the Contracting States.

### ARTICLE IV.

Any person who has duly lodged an application for a patent, an industrial design or model, or a trade or commercial mark in one of the Contracting States, shall enjoy, for lodging the application in the other States, and reserving the rights of third parties, a right of priority during the terms hereinafter stated.

Consequently, a subsequent application in any of the other States of the Union before the expiration of these periods shall not be invalidated through any acts accomplished in the interval, either, for instance, by another application, by publication of the invention, or by the working of it by a third party, by the sale of copies of the design or model, or by the use of the mark.

The above-mentioned terms of priority shall be six months for patents, and three months for industrial designs and models and for trade and commercial marks. The terms will be increased by a month for countries beyond the sea.

### ARTICLE V.

The introduction by the patentee into the country where the patent has been issued of objects manufactured in any of the States of the Union shall not entail forfeiture.

Nevertheless, the patentee shall remain subject to the obligation to work his patent in conformity with the laws of the country into which he introduces the patented objects.

### ARTICLE VI.

Every trade or commercial mark duly deposited in the country of its origin shall be admitted for registration, and protected in like manner in all the other countries of the Union.



The country where the applicant has his chief establishment shall be deemed the country of origin.

If this chief establishment is not situated in one of the countries of the Union, the country to which the applicant belongs shall be deemed the country of origin.

The deposit may be refused if the object for which it is solicited is considered contrary to morality or public order.

#### ARTICLE VII.

The nature of the goods on which the trade or commercial mark is to be used can, in no case, be an obstacle to the registration of the mark.

#### ARTICLE VIII.

A trade name shall be protected in all the countries of the Union, without the necessity of registration, whether it form part or not of a trade or commercial mark.

#### ARTICLE IX.

All goods illegally bearing a trade or commercial mark or trade name may be seized on importation into those States of the Union where this mark or trade name has a right to legal protection.

The seizure shall be effected at the request of either the Public Prosecutor or of the interested party, pursuant to the internal legislation of each country.

#### ARTICLE X.

The provisions of the preceding Article shall apply to all goods falsely bearing the name of any locality as indication of their place of origin, when such indication is associated with a trade name either fictitious or assumed with fraudulent intent.

Any manufacturer or merchant engaged in the manufacture or sale of such goods, established in the locality falsely designated as the place of origin, shall be deemed an interested party.

#### ARTICLE XI.

The High Contracting Parties agree to grant temporary protection to patentable inventions, to industrial designs or models, and trade and commercial marks, for articles exhibited at official or officially recognized International Exhibitions.

## ARTICLE XII.

Each of the High Contracting Parties agrees to establish a special Department for industrial property, and a central office for the communication to the public of patents, industrial designs or models, and trade and commercial marks.

## ARTICLE XIII.

An international office shall be organized under the name of the "Bureau International de l'Union pour la Protection de la Propriété Industrielle."

This office, the expense of which shall be defrayed by the Governments of all the Contracting States, shall be placed under the high authority of the Central Administration of the Swiss Confederation, and shall work under its supervision. Its functions shall be determined by agreement between the States of the Union.

## ARTICLE XIV.

The present Convention shall be submitted to periodical revisions, with a view to introducing improvements calculated to perfect the system of the Union.

To this end Conferences shall be successively held in one of the Contracting States by Delegates of the said States. The next meeting shall take place in 1885 at Rome.

## ARTICLE XV.

It is agreed that the High Contracting Parties respectively reserve to themselves the right to make separately, between themselves, special arrangements for the protection of Industrial Property, in so far as such arrangements do not contravene the provisions of the present Convention.

## ARTICLE XVI.

States which have not taken part in the present Convention shall be permitted to adhere to it at their request.

Such adhesion shall be notified officially through the diplomatic channel to the Government of the Swiss Confederation, and by the latter to all the others. It shall imply complete accession to all the clauses, and admission to all the advantages stipulated by the present Convention.

ARTICLE XVII.

The execution of the reciprocal engagements contained in the present Convention is subordinated, in so far as necessary, to the observance of the formalities and rules established by the Constitutional laws of those of the High Contracting Parties who are bound to procure the application of the same, which they engage to do with as little delay as possible.

ARTICLE XVIII.

The present Convention shall come into operation one month after the exchange of ratifications, and shall remain in force for an unlimited time, till the expiration of one year from the date of its denunciation.

This denunciation shall be addressed to the Government commissioned to receive adhesions. It shall only affect the denouncing State, the Convention remaining in operation as regards the other Contracting Parties.

ARTICLE XIX.

The present Convention shall be ratified, and the ratifications exchanged in Paris, within one year at the latest.

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ON THE SIGNATURE OF THE CONVENTION THE  
PLENIPOTENTIARIES AGREED AS FOLLOWS:—

1. The words "Industrial Property" shall be understood in their broadest sense; they are not to apply simply to industrial products properly so called, but also to agricultural products (wine, corn, fruits, cattle, &c.), and to mineral products employed in commerce (mineral waters, &c.).

2. Under the word "patents" are comprised the various kinds of industrial patents recognized by the legislation of each of the Contracting States, such as patents of importation, patents of improvement, &c.

3. The last paragraph of Article II. of the Convention does not affect the legislation of each of the Contracting States as regards the procedure to be followed before the Tribunals, and the competence of those Tribunals.

4. Paragraph 1 of Article VI. is to be understood as meaning that no trade or commercial mark shall be excluded from pro-

tection in any State of the Union, from the fact alone that it does not satisfy, in regard to the signs composing it, the conditions of the legislation of that State; provided that on this point it comply with the legislation of the country of origin, and that it had been properly registered in the said country. With this exception, which relates only to the form of the mark, and reserving the provisions of the other Articles of the Convention, the internal legislation of each State remains in force.

To avoid misconception, it is agreed that the use of public armorial bearings and decorations may be considered as being contrary to public order in the sense of the last paragraph of Article VI.

5. The organization of the special Department for Industrial Property mentioned in Article XII., shall comprise, so far as possible, the publication in each State of a periodical official paper.

6. The common expenses of the International Office, instituted by virtue of Article XIII., are in no case to exceed each year a total sum representing an average of 2000 fr. for each Contracting State.

To determine the part which each State should contribute to this total of expenses, the Contracting States, and those which may afterwards join the Union, shall be divided into six classes, each contributing in the proportion of a certain number of units, namely:—

1st class	..	..	..	..	..	..	25 units.
2nd class	..	..	..	..	..	..	20 „
3rd class	..	..	..	..	..	..	15 „
4th class	..	..	..	..	..	..	10 „
5th class	..	..	..	..	..	..	5 „
6th class	..	..	..	..	..	..	3 „

These co-efficients will be multiplied by the number of States in each class, and the sum of the result thus obtained will supply the number of units by which the total expense has to be divided. The quotient will give the amount of the unit of expense.

The Contracting States are classed as follows, with regard to the division of expense:—

1st class	..	..	France, Italy.
2nd class	..	..	Spain.
3rd class	..	..	Belgium, Brazil, Portugal, Switzerland.
4th class	..	..	Holland.
5th class	..	..	Servia.
6th class	..	..	Guatemala, Salvador.

The Swiss Government will superintend the expenses of the International Office, advance the necessary funds, and render an annual account, which will be communicated to all the other Administrations.

The International Office will centralize information of every kind relating to the protection of Industrial Property, and will bring it together in the form of a general statistical statement which will be distributed to all the Administrations. It will interest itself in all matters of common utility to the Union, and will edit, with the help of the documents supplied to it by the various Administrations, a periodical paper in the French language dealing with questions regarding the object of the Union.

The numbers of this paper, as well as all the documents published by the International Office, will be circulated among the Administrations of the States of the Union in the proportion of the number of contributing units as mentioned above. Such further copies as may be desired either by the said Administrations, or by Societies or private persons will be paid for separately.

The International Office shall at all times hold itself at the service of members of the Union, in order to supply them with any special information they may need on questions relating to the international system of Industrial Property.

The Administration of the country in which the next conference is to be held will make preparation for the transactions of that conference, with the assistance of the International Office.

The Director of the International Office will be present at the meetings of the conferences, and will take part in the discussions, but without the privilege of voting.

He will furnish an annual Report upon his administration of the office, which shall be communicated to all the members of the Union.

The official language of the International Office will be French.

7. The present Final Protocol, which shall be ratified together with the Convention concluded this day shall be considered as forming an integral part of, and shall have the same force, validity, and duration as the said Convention.

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