

NEW ZEALAND.



ANNO VICESIMO QUARTO

VICTORIÆ REGINÆ.

Local and Personal.

No. 2.

ANALYSIS:

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An Act to enable the Governor to grant a Patent to Arthur Guyon Purchas and James Ninnis for an Invention for the Preparation of various fibres. Title.
[28th September, 1860.]

WHEREAS ARTHUR GUYON PURCHAS, of Onehunga, in the Province of Auckland, Clerk, and JAMES NINNIS, of the same place, Mining Engineer, claim to have discovered or to be in possession of an invention for the preparation of the fibre of the *Phormium tenax* and other plants for manufacturing purposes, and it is expedient to enable the Governor to grant Letters Patent for securing to them the sole use, benefit, and advantage of the said invention as hereinafter mentioned: Preamble.

Purchas and Ninnis Flax Patent.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by authority of the same, as follows:

Short Title.

I. The Short Title of this Act shall be "The Purchas and Ninnis Flax Patent Act, 1860."

Interpretation.

II. In the construction of this Act the word "person" shall include Bodies Corporate and Companies as well as individuals unless the context be repugnant thereto.

Governor to appoint Commissioners to investigate and report on invention.

III. As soon as may be after the passing of this Act the Governor may, by writing under his hand, appoint not less than three nor more than six persons to be Commissioners, whose duty shall be to enquire and report to the Governor upon the questions, and in manner hereinafter mentioned.

Act of the majority binding.

IV. Any act of the majority of the Commissioners, or of the majority of the survivors of them, shall be the act of the Commissioners.

Petition, Description, &c., of Invention, to be presented.

V. At any time within three months from the passing of this Act the said ARTHUR GUYON PURCHAS and JAMES NINNIS may leave at the Office of the Colonial Secretary a petition addressed to the Governor representing that they are in the possession of an invention for the preparation of the fibre of the *Phormium tenax* and other plants for manufacturing purposes which they conceive will be of great public utility, that they are the true and first inventors thereof, and that the same is not in use by any other person to the best of their knowledge and belief, and stating clearly and succinctly the object to be attained by the said invention, and praying that Letters Patent may be granted to them for the exclusive use thereof in the Colony of New Zealand; and they shall deposit with such petition a written specification signed by them of their said invention and of the manner and process of making, constructing, and using the same in such terms, avoiding unnecessary prolixity, as to enable any person skilled in the scheme or manufacture to which it appertains or with which it is most nearly connected, to make, construct, and use the same; and in case of any machine, a statement of the principle and the several modes in which they have contemplated the application of that principle or character by which it may be distinguished from other inventions, and shall in the said specification particularly point out and specify the improvement or combination which they claim as their own invention or discovery: They shall also send a drawing and written references thereto if the nature of the case admits of drawings, and specimens of the produce or manufactured article resulting from the invention: They shall also send a declaration made before some Justice of the Peace that they are, as they believe, the first and true originators or discoverers of the said invention.

Interim protection for Invention.

VI. After the delivery of the said petition and deposit of the said specification, descriptions, and other matters as aforesaid, the said ARTHUR GUYON PURCHAS and JAMES NINNIS shall have during the term of twelve months thence next ensuing the like

Purchas and Ninnis Flax Patent.

protection rights powers and privileges as could be conferred upon them by Letters Patent for the said invention issued under this Act; and during the continuance of such protection, rights, powers, and privileges under this provision, such invention may be used and published without prejudice to any Letters Patent to be granted for the same.

VII. The Colonial Secretary shall cause such provisional protection to be advertised in the New Zealand Gazette and in one newspaper (if such there be) published in each Province of New Zealand.

To be advertised.

VIII As soon as may be after the delivery of the said petition and deposit of the said specification descriptions and other matters as aforesaid, the Colonial Secretary shall cause notice of such application to be inserted in the *Government Gazette*, and shall thereby require any person who may conceive that he would be prejudiced by the granting of Letters Patent for the said invention to send, to the Colonial Secretary within four months of the said publication, a statement in writing setting forth the grounds of such objection, subscribed with his proper name and address.

Notice of application to be advertised.

IX After the expiration of such last mentioned period the Colonial Secretary shall refer all such objections which he may have received, together with the original petition and other documents mentioned in section V., to the Commissioners.

Objections to be referred to Commissioners.

X. The Commissioners shall then appoint a time and place for investigating the said petition, and hearing the objections (if any) and shall give notice thereof in the *Government Gazette*, and shall forthwith send a copy of such Gazette by post addressed to each objector.

Commissioners to appoint hearing.

XI. The Commissioners may adjourn their sittings from time to time.

May adjourn.

XII. The said ARTHUR GUYON PURCHAS and JAMES NINNIS may appear before the said Commissioners by themselves, their counsel, and witnesses, in support of their petition, and any such objector may appear in like manner in opposition thereto: Provided always that any such objector shall previously to being heard deposit with the Commissioners the sum of Twenty Pounds.

Parties may appear.

XIII. The Commissioners shall thereupon investigate the said matter and shall be at liberty to call to their aid such scientific or other witnesses as they may think fit, and may cause to be paid to such witnesses by the said ARTHUR GUYON PURCHAS and JAMES NINNIS such remuneration as they may direct.

Commissioners to hear.

XIV. The Commissioners shall report to the Governor whether the said ARTHUR GUYON PURCHAS and JAMES NINNIS were the true and first inventors of the said invention, and whether the same is likely to be of public utility, and whether any Letters Patent or Instrument in the nature of Letters Patent have or has been issued or granted therefor, and whether

Commissioners to report.

Purchas and Ninnis Flax Patent.

in their opinion Letters Patent as aforesaid should be issued therefor to the said ARTHUR GUYON PURCHAS and JAMES NINNIS.

Proceedings if objections sustained.

XV. If any such objection as aforesaid shall be sustained the specifications, drawings, and other matters shall be returned to the said ARTHUR GUYON PURCHAS and JAMES NINNIS, and the sum of Twenty Pounds shall be paid by them to the Colonial Treasurer, to be applied as Ordinary Revenue, and the deposits shall be returned to the several objectors.

Costs of inquiry.

XVI. It shall be lawful for the Commissioners if they see fit, by writing under their hands, to determine the amount of the costs of any hearing or enquiry upon any such objection, and to order by and to whom such costs shall be paid; and if any such costs are so ordered to be paid by any such objector, the said deposit of Twenty Pounds shall be applied thereto, or in part liquidation thereof, and the balance (if any) returned to the objector.

Order for cos's may be made a rule of Court.

XVII. If any costs so ordered to be paid as aforesaid be not paid within seven days after the date of such order, any such order may be made a Rule of the Supreme Court.

Report of Commissioners and other papers to be delivered to Colonial Secretary.

XVIII. The Commissioners shall within the period of nine months from the passing of this Act deliver their report, together with the said petition, specification, descriptions and drawings, and all objections, and other papers and things which shall have come into their hands in consequence of, or in relation to the said investigation, to the Colonial Secretary.

If Commissioners report favourably Governor may direct issue of Letters Patent

XIX. In case the Commissioners shall report that Letters Patent should be issued to the said ARTHUR GUYON PURCHAS and JAMES NINNIS, the Governor may direct that such Letters Patent shall be issued by the Colonial Secretary or other proper officer.

Fee for adjudication.

XX. The said ARTHUR GUYON PURCHAS and JAMES NINNIS, shall, within one month after the issuing of such direction, pay to the Colonial Treasurer, and obtain a receipt for the sum of Twenty Pounds, to be applied as Ordinary Revenue of the Colony.

Letters Patent to issue.

XXI. The Colonial Secretary or other proper officer, upon such direction as aforesaid, and production to him of the said receipt of the Colonial Treasurer, shall forthwith cause Letters Patent to be prepared in the form in the Schedule hereunto annexed, and the Governor may sign the same and cause the Public Seal of the Colony to be affixed thereto, and deliver the same to the said ARTHUR GUYON PURCHAS and JAMES NINNIS, their agent or legal representative; and the said Letters Patent shall be operative from the time of such delivery.

Assignment of Patent and record thereof.

XXII. Such Letters Patent shall be assignable in law either as to the whole interest or any undivided part thereof, or as to any part of the said invention by Deed which assignment and also any grant or conveyance of the exclusive right thereunder to make and use and to grant to others the right to make and use the thing patented therein or any part thereof

Purchas and Ninnis Flax Patent.

shall be recorded in the office of the Colonial Secretary within six months from the execution thereof upon payment by the assignee or grantee to the Colonial Treasurer of the sum of Five Pounds, to be applied as aforesaid.

XXIII. In any action in the Supreme Court for the infringement of such Letters Patent, it shall be lawful for the Court as well in its Common Law as in its Equity Jurisdiction, or for any Judge of the Court on the application of the Plaintiff or the Defendant respectively to make such order for an injunction, inspection, or account, or to give such direction respecting such action, injunction, inspection, or account, and the proceedings therein respectively, as to such Court or Judge shall seem fit.

Injunction, &c.

XXIV. Such Letters Patent may be repealed by Writ of *scire facias* for the same causes and in the same manner as any Grants of the Crown are liable to be repealed.

Patent may be repealed by *scire facias*

XXV. From and after the commencement of Protection under Section VI, all persons whosoever shall have access to the said specification, statement, description, and drawings, and also any corrected or additional specification or description as herein-after mentioned (if any) to be permanently kept in his office,† and all persons whosoever may have access thereto and may inspect and may have copies of or extracts from the same upon payment of reasonable expenses, and such copies or extracts and copies or extracts of or from the record of the said Letters Patent certified by the Colonial Secretary to be true copies or extracts shall be received as evidence of the contents of the said Letters Patent, specification, or other things respectively in all proceedings whatsoever.

Specification &c., to be enrolled.

† Sic.

XXVI. If during the term of such Letters Patent they shall be found to be inoperative or invalid by reason of a defective or insufficient description or specification or by reason of the said ARTHUR GUYON PURCHAS and JAMES NINNIS claiming as their invention more than they have or shall have a right to claim as new, and if the error shall arise by accident, inadvertency, or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the Governor upon the surrender of such Letters Patent and the payment to the Colonial Treasurer of the sum of Ten Pounds to cause new Letters Patent to be issued to the said ARTHUR GUYON PURCHAS and JAMES NINNIS for the same invention for the residue then unexpired of the said term in accordance with their corrected description and specification; and in case of their death or of any assignment by them a similar right shall vest in their executors, administrators, or assigns; and the Letters Patent so re-issued, together with the corrected description and specification shall have the same effect and operation in law on the trial of all actions commenced for causes subsequently accruing as though the same had been originally filed or deposited in such corrected form before the issuing out of the original Letters Patent; and whenever the said ARTHUR GUYON PURCHAS and JAMES NINNIS or their assigns shall be desirous of adding the specification and description of any new improvement of the said

Specification may be corrected.

Purchas and Ninnis Flax Patent.

invention which shall be originated or discovered by them subsequently to the date of the Letters Patent to be issued under this Act they may, like proceedings being had in all respects as in the case of original application, and on the further payment of Twenty Pounds in manner hereinbefore provided, have the same annexed to the original description and specification, and the Colonial Secretary shall certify on the margin of such annexed description and specification the time of its being annexed and recorded; and the same shall thereafter have the same effect in law to all intents and purposes as though it had been embraced in the original description and specification.

Disclaimer may be entered.

† *Sic.*

XXVII. The said ARTHUR GUYON PURCHAS and JAMES NINNIS, their executors, administrators, or assigns may, if they think fit, enter with the Colonial Secretary a disclaimer of any part of the specification, stating the reason for such disclaimer, or may with such permission† enter a memorandum of any alteration in the said specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said Letters Patent; and such disclaimer or memorandum being deposited with the Colonial Secretary shall be deemed and taken as part of such Letters Patent or such specification and subject to the several incidents thereof in all Courts of Justice in the Colony: Provided that no such disclaimer or alteration shall be receivable as evidence in any action save and except in any proceeding by *scire facias*) pending at the time when such disclaimer or alteration was enrolled, but in every such action the original specification alone shall be deemed and taken to be the specification of the invention for which Letters Patent shall have been granted.

Effect of Patent.

XXVIII. The said ARTHUR GUYON PURCHAS and JAMES NINNIS, their executors, administrators, and assigns, shall have within the Colony for a term of Fourteen Years next after the date of the said Letters Patent the exclusive enjoyment and advantage in the said Colony of such invention, and such and the same protection and such and the same remedies at Law and in Equity against any person in the said Colony infringing the said Letters Patent, and generally such and the same rights, powers, and privileges, throughout the said Colony with respect to the said invention as any person to whom Letters Patent for a new invention have been granted under the Great Seal of England has by the Law of England in and throughout the Realm of England.

Penalties of 5. & 6. Will. 4. c. 83, may be enforced.

XXIX. Any of the penalties recoverable by any person holding Letters Patent under the Great Seal of England in any Court in Great Britain under the Act of the Imperial Parliament passed in the Session of the 5th. and 6th. Years of the Reign of His late Majesty King William the Fourth, intituled "An Act to amend the Law touching Letters Patent for 'Inventions'" for any unauthorised person using or imitating the name of any patentee or using the word "Patent" or the like words or counterfeiting the mark of any such patentee may be recoverable and recovered in the Supreme Court by the said ARTHUR

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GUYON PURCHAS and JAMES NINNIS, their executors, administrators, and assigns, for similar injuries to them or any of them.

XXX. If any person shall wilfully make or forge, or cause to be made or forged, any false writing or drawing purporting to be a copy of or extract from the said Letters Patent, specification, statement, descriptions, or drawings, respectively, or shall produce or tender, or cause to be produced or tendered, in evidence any such writing or drawing, knowing the same to be false or forged, he shall be guilty of a misdemeanour, and on conviction thereof shall be punished by fine and imprisonment at the discretion of the Court not exceeding two years and five hundred pounds respectively.

Punishment for falsification of specification, &c.

SCHEDULE REFERRED TO IN THE FOREGOING ACT.

His Excellency Governor and Commander-in-Chief in and over the Colony of New Zealand and its Dependencies,

To All to whom these Presents shall come, Greeting :—

WHEREAS Arthur Guyon Purchas of Onehunga, in the Province of Auckland Clerk, and James Ninnis, of the same place, Mining Engineer, have by their Petition humbly represented unto me that they are in possession of an Invention for the Preparation of the Fibre of the *Phormium Tenax* and other plants for manufacturing purposes which they conceive will be of great public utility,—that they are the true and first inventors thereof, and that the same is not in use by any other person or persons to the best of their knowledge and belief, and the Petitioners therefore humbly prayed that I would be pleased to grant unto them, their Executors, Administrators, and Assigns, Letters Patent for the sole use benefit and advantage of their said invention within the Colony of New Zealand for the term of fourteen years pursuant to the “Purchas & Ninnis Flax Patent Act, 1860” And whereas the said Arthur Guyon Purchas and James Ninnis have particularly described the nature of the said invention, and in what manner the same is to be performed by instruments, in writing, in the manner prescribed by the said Act: Now KNOW YE, that I the said _____, the Governor as aforesaid, in pursuance and exercise of the power and authority for this purpose given to me under and by virtue of the said Act, do hereby grant unto the said Arthur Guyon Purchas and James Ninnis, their Executors, Administrators, and Assigns, the sole privilege and special license, full power and authority, that they the said Arthur Guyon Purchas and James Ninnis, their Executors, Administrators, and Assigns, and every of them by himself and themselves, or by his and their deputy or deputies, servants, or agents, or such others as they the said Arthur Guyon Purchas and James Ninnis, their Executors, Administrators, or Assigns, shall at any time agree with, and no others from time to time and at all times hereafter during the term of years herein expressed shall and lawfully may make use, exercise and vend the said invention within the said Colony, in such manner as to them the said Arthur Guyon Purchas and James Ninnis their Executors, Administrators, and Assigns, or any of them, shall seem meet: And that they the said Arthur Guyon Purchas and James Ninnis their Executors, Administrators, and Assigns, shall and may lawfully have and enjoy the whole profit, benefit, commodity, and advantage from time to time growing, accruing and arising by reason of the said Invention for and during the term of years herein mentioned: To have, hold, exercise and enjoy, the said licenses, powers, privileges, and advantages hereinbefore granted unto the said Arthur Guyon Purchas and James Ninnis, their Executors, Administrators, and Assigns, for, during, and until the full end and term of fourteen years from the date of these presents next immediately ensuing: And to the end that the said Arthur Guyon Purchas and James Ninnis, their 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 as hereinbefore declared, I do by these Presents advise all and every person and persons, Bodies Politic and Corporate, in the said Colony, of what estate, quality, degree, name, and condition soever they be within the said Colony, that neither they or any of them at any time during the continuance of the said term of fourteen years

