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[AS AMENDED BY THE JOINT STATUTES REVISION COMMITTEE.]

*** The amendments made by the Committee are shown by underlines.

[STATUTES REVISION COMMISSION.]

PATENTS.

THIS Bill incorporates all the existing Acts relating to Patents. We have no remarks of a general nature to offer, and need only point out certain additions which have been suggested by us, which consist chiefly of adaptations from the regulations in force; but it has been thought more appropriate they should be inserted in the Act.

Clause 5: The italic matter keeps alive the existing regulations.

Clause 6 provides for the appointment of the Patent Officer, and fixing the locality of his office. Section 4 of the Act of 1870 is not clear on these points. The latter part of the clause saves the necessity of a fresh appointment of the person at present holding the office of Patent Officer and stating where his office is. We suggest the requirement to lay regulations before Parliament should be omitted. In lieu it is proposed all such regulations shall be gazetted.

Clause 8: The italic matter in this clause is adapted from the regulations in force.

Clause 11: The new matter in this clause explains itself.

Clause 14: Adapted from the regulations.

Clauses 15, 16, and 17: The new matter is mainly adapted from regulations.

Clause 20: An addition is made at the end, with the view of making this clause more effectual.

Clauses 22 and 23: In these clauses have been collected several conditions applicable to all patents. They are taken from the form of Letters Patent and other parts of the Act of 1870; and by inserting them here they form part of the present law affecting patents, and enable the form in the Schedule to be made more concise.

Clause 25: The changes in this clause are necessitated by the new Supreme Court practice, which has abolished the writ of *scire facias*. (*Vide* "Supreme Court Act, 1882," Rule 471.)

Clause 28: This clause has been modified by restoring the provisions of "The Patents Act, 1860," so far as related to the effect of Letters of Registration.

It has been suggested to us that there is now no reason why the system peculiar to this colony of issuing Letters of Registration should be continued, or why holders of foreign patents should not take out patents in New Zealand in the ordinary course. It will be for the Legislature to say whether this provision shall remain, or the law be amended as we have indicated.

Clauses 40, 41, 42, and 43 are adaptations from existing regulations.

Clause 48: The new matter is necessary for the same reason as stated in note to clause 25.

Clause 51 is the repeal clause, with usual saving.

In Schedule 7 the form of Letters Patent has been considerably reduced in length. This has been effected as pointed out in the note to clause 22. The italic matter shows what is new in the form.

A. J. JOHNSTON.
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PATENTS.

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A BILL INTITULED

Title.

AN ACT to consolidate the Law relating to Letters Patent for Inventions.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :— 5

Short Title.

1. The Short Title of this Act is "The Patents Act, 1883."
It shall come into operation on the first day of January, one thousand eight hundred and eighty-four.

Division of Act.
1870, No. 89, s. 2.

2. This Act is divided into Parts as follows :— 10

PART I.—Mode of obtaining Letters Patent.

PART II.—Disclaimers and Alterations.

PART III.—Extension of Term, and Confirmation of Invalid Patents.

PART IV.—Miscellaneous Provisions. 15

Interpretation.
Ib., s. 4.

3. In this Act,—

"Invention" means and includes any manner of new manufacture the subject of letters patent and grants of privilege within the meaning of the *fourth* section hereof :

"Patent Office" means the Patent Office appointed under this Act, but does not include any local Patent Office : 20

"Patent Officer" means the person appointed to be Patent Officer under this Act :

"Regulations" mean regulations made under this Act.

PART I.

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MODE OF OBTAINING LETTERS PATENT.

(1.) *For what Patent may issue.*

Power to grant
patents.
Ib., s. 5.

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 30 or making of any manner of new manufactures within New Zealand, to the true and first inventor of such manufactures, which others, at the time of making such letters patent and grants, shall not use, so as also they be not contrary to the law nor mischievous to the State, by raising prices of commodities or hurt of trade, or generally inconvenient. 35

Monopolies
forbidden.

And all other monopolies, commissions, grants, licenses, charters, and letters patent hereafter to be made or granted to any person of or for the sole buying, selling, making, working, or using of anything within New Zealand, or of any other monopolies, or of power, liberty, or faculty to dispense with any others, and all matters and things whatsoever in 40 anywise tending to the instituting, erecting, or countenancing of the

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same or any of them, shall be utterly void and of none effect, and in no wise to be put in execution.

(2.) *Regulations.*

5 5. The Governor in Council from time to time may make such regulations, not inconsistent with the provisions hereof, as may appear to be necessary and expedient for the purposes of this Act; and all such regulations shall be gazetted. Governor in Council to make regulations. Ib., s. 6.

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

New clause.

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

The person who, at the commencement of this Act, holds the office of Patent Officer under the Acts hereby repealed shall be the Patent Officer under this Act, without any further appointment.

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

20 *New clause.*

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

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

35 (3.) *Procedure to obtain Patent.*

40 8. The Governor may, for all such purposes as he may deem necessary for the public convenience, appoint local Patent Offices and Patent Office Agents in the various centres of population throughout the colony, and from time to time alter or revoke the appointment of such offices and agents respectively. Appointment of local offices and officers. 1882, No. 18, s. 4.

The local Patent Offices and the Patent Office Agents appointed under "The Patents Act Amendment Act, 1882," shall be deemed to have been appointed under this Act without further appointment. Saving of existing appointments.

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

Mode of application.

Ib., s. 5.

Ib.

Gazette, 1878, p. 1227.

First Schedule.

Gazette, 1878, p. 1227.

Receipt for documents.

Ib., s. 6.

Second Schedule.

Protection of invention.

Ib., s. 7.

Third Schedule.

Patent of true inventor not to be affected by specification of pretended inventor.

1870, No. 89, s. 9.

Mode of proceeding after deposit of specification.

1870, No. 89, s. 10.

1881, No. 22, s. 2.

1882, No. 18, ss. 5, 8.

Gazette, 1878, p. 1228.

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

(1.) The applicant shall deposit at the Patent Office, or at any local Patent Office, a *specification, written in a plain legible hand or printed in fair legible type upon parchment or paper, and under his hand and seal, in the form or to the effect in the First Schedule hereto*, particularly describing and ascertaining the nature and details of the said invention with precision, and in what manner the same is to be performed, and *containing a distinct claim for the especial novelty thereof, and a declaration that no letters patent have been applied for elsewhere by the applicant for the said invention*; and accompanied by drawings, if necessary, for the full description and understanding of the said invention, and also a copy of such *specification* and drawings. 5

(2.) *The title of the invention must state distinctly and specifically the nature and object of the invention, and every specification must be limited to one invention.* 15

(3.) If such deposit be made at any local office, the Patent Office Agent shall give the applicant or his agent a receipt therefor in the form contained in the *Second Schedule* hereto, or to the like effect, and shall forthwith transmit the documents and a copy of his receipt to the *Patent Officer*. 20

10. (1.) The exact time of the deposit of every specification, which upon examination by the *Patent Officer* is found to be in accordance with this Act and the regulations, shall be recorded at the Patent Office and indorsed upon such specification, and a certificate thereof, *under the hand of the Patent Officer and in the form contained in the Third Schedule hereto, shall be given or transmitted* to such applicant or his agent. 25

(2.) And thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act for the term of twelve months next after the said deposit, and the applicant shall have during such term the like powers, rights, and privileges as might have been conferred upon him by letters patent for such invention issued under this Act and duly sealed as of the day of such deposit. 30

(3.) 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. 35

11. In case of the deposit of any such specification as aforesaid in fraud of the true and first inventor, any letters patent granted to the true and first inventor of such invention shall not be invalidated by reason of such deposit, or of any use or publication of the invention subsequent to such deposit and before the expiration of the said term of protection. 40

Struck out.

11. (1.) 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, *but not less than ninety days before the expiration of the period of protection*, may give notice in writing at the Patent Office of his intention to proceed with the application for letters patent for the said invention, stating in such notice the title of such invention, and the day on which the specification thereof was deposited at the said office. 45 50

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

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

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

The applicant, the objectors, and their respective witnesses and evidence shall be respectively heard, examined, and considered separately and apart from and in the absence of the other, his witnesses and evidence.

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

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

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

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

16. If there shall be no objection to the grant of letters patent, and he is satisfied that this Act and the regulations have been complied with, the Patent Officer shall, may, on the day appointed or as soon as may be thereafter, and, when there are objections, after such hearing and consideration, issue a warrant under his hand for the granting of letters patent for the said invention; and, by such warrant, shall direct the insertion in such letters patent of all such restrictions, conditions, and provisos as he may deem usual and expedient in such grants, or necessary in pursuance of this Act.

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

Every such warrant shall be in the form set forth in the Sixth Schedule, or to the like effect.

17. In case the title of the invention, or the specification, be too large or insufficient, or clerical errors exist therein, the Patent Office Agent, Officer, on the hearing of the application for the grant of the letters patent, may allow or require such specification to be amended,

Fourth Schedule.

Particulars of objections may be lodged. 1870, No. 89, s. 10.

Patent Officer to hear applications and objections.

Ib. 1881, No. 22, s. 2. 1892, No. 18, s. 5.

Hearing may be adjourned. *Gazette*, 1878, p. 1228. Patent Officer may award expenses and costs. 1870, No. 89, s. 11. *Gazette*, 1878, p. 1228.

Fifth Schedule.

Patent Officer may issue warrant for letters patent. Ib., s. 12.

Sixth Schedule.

Amendments. 1882, No. 18, s. 7. *Gazette*, 1878, p. 1228.

or another and sufficient specification to be deposited in lieu thereof, and every such amended or new specification shall have the same force, effect, and operation as if it had been originally deposited in its amended or new state.

When an applicant desires to amend his specification or drawings, or to substitute an amended specification, he must deposit particulars of such amendment or such amended specification at the Patent Office at least fifteen days before the day of hearing. 5

Letters patent to be issued on application and during the protection.

18. (1.) The Patent Officer, after the issue by him of the said warrant, and on application in writing by the applicant or his agent, with payment of the fee thereon, shall cause to be prepared letters patent for the invention according to the tenor of the said warrant, and the Governor may cause such letters patent to be sealed with the public seal of the Colony. 10

1870, No. 89, s. 15.

(2.) Such letters patent shall be made applicable to the colony and its dependencies, and shall be valid and effectual as to the whole of the same respectively; but, except as hereinafter mentioned, no letters patent shall issue on any warrant granted as aforesaid, unless application be made to seal such letters patent during the continuance of the protection conferred under this Act, by reason of such deposit as aforesaid. 15

Letters patent may issue after that time in certain cases.

Ib., s. 16.
1881, No. 22, s. 4.
Gazette, 1878, p. 1228.

19. (1.) When the application to seal such letters patent has been made during the continuance of such protection as aforesaid, and the sealing of such letters patent has been delayed from accident, and not from the wilful default of the applicant, then such letters patent may be sealed at such time after the expiration of such protection as the Governor may direct. 20

(2.) Where the applicant for such letters patent dies during the continuance of such protection as aforesaid, such letters patent may be granted to the executors or administrators of such applicant during the continuance of such protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the term of such protection. 30

Duplicate letters patent may be issued.

20. In case any letters patent shall be lost or destroyed, duplicate letters patent of the like tenor and effect, and sealed and dated as of the same day as such lost or destroyed letters patent, may be issued upon evidence of such loss or destruction being produced to the satisfaction of the Patent Officer. 35

Letters patent to bear date of deposit of specification, and to be conclusive as to preliminary steps.
1870, No. 89, s. 17.

21. Notwithstanding any enactment to the contrary, all letters patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such specification as aforesaid, and shall be of the same force and validity as if they had been sealed on the day as of which they are expressed to be sealed and bear date. 40

After any letters patent shall have been issued in pursuance of this Act, it shall not be necessary or material to inquire whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed. 45

(4.) Form and Conditions of Patent.

Conditions for granting letters patent.
Seventh Schedule.
1870, No. 89, s. 14.
1881, No. 22, s. 3.
1870, No. 89, Sched. 5

22. All letters patent for inventions granted under this Act shall be in the form contained in the Seventh Schedule, or to the like effect, and shall be made subject to the provisions of this Act, and to the conditions and restrictions that may be inserted in such patent by virtue thereof, or that are imposed by this Act; that is to say,— 50

- 5 (1.) That the powers and privileges thereby granted shall cease and determine at the expiration of five years from the date thereof, unless there be paid within such five years the sum or sums of money required to be paid *under this Act*; and the *Patent Officer* shall indorse a receipt for the same on the letters patent.
- 10 (2.) No letters patent shall extend to *entitle* the *patentee* to use or imitate any invention or work which, *before the date of such patent*, had been found out or invented by any other person, and publicly used or exercised, *or to whom like letters patent or privileges have been already granted for the sole use, exercise, and benefit thereof within the colony.*
- 15 (3.) The *patentee*, and all and every other person and persons to whom like letters patent or privileges have been granted, shall distinctly use and practise their several inventions by them invented and found out according to the true intent and meaning of the same respective letters patent.
- 20 (4.) Nothing contained in *any letters patent* shall prevent the *Patentee* from granting licenses in such manner and for such considerations as they may by law be granted.

23. All letters patent, and all *privileges* and advantages whatsoever thereby granted, shall utterly cease and become void—

Matters rendering letters patent void. 1870, No. 89, s. 7. *Ib.*, Sched. 5.

- 25 (1.) If the specification does not particularly describe and ascertain the nature of the invention, and in what manner the same is to be performed;
- (2.) If at any time during the term for which such letters are granted it appears that the grant is contrary to law, or prejudicial or inconvenient to the public good, or that the invention *therein mentioned* is not a new invention, or that the *patentee* is not the true and first inventor thereof within this colony;
- 30 (3.) If the *patentee* shall not supply or cause to be supplied for the Government of the colony all such articles of the said invention as he is required to supply by the persons administering the department of the public service for the use of which the same are required, in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the said persons requiring the same.
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45 24. Every invention protected by letters patent issued under this Act shall be brought into actual and public use within the colony within the space of two years from the date of such letters patent, or in default thereof such letters patent shall at the expiration of such period of two years cease and be of no effect.

Invention to be brought into actual and public use. 1870, No. 89, s. 8.

(5.) *Repeal of Patent.*

25. (1.) *An action* shall lie for the repeal of any letters patent granted under this Act, and may be commenced in any district of the Supreme Court, *in such form as may be authorized by its rules in substitution for the process by writ of scire facias*; and, in case the grantee

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Letters patent may be repealed. *Ib.*, s. 13.

does not reside in New Zealand, it shall be sufficient to *file the writ* in the Supreme Court and to serve notice of *such action*, in writing, at the last known place of residence or business of grantee:

Or issued with restrictions, or

(2.) The Governor in Council, upon the issue of the writ in *such action*, may order such Patent Officer to withhold such warrant as aforesaid, or that any letters patent, for the granting whereof he may have issued a warrant as aforesaid, shall not issue; or may order the insertion, in any such letters patent, of any restrictions, conditions, or provisos in addition to or in substitution for any restrictions, conditions, or provisos which would otherwise be inserted therein under this Act. 5 10

Specification may be cancelled.

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

Letters patent not to prevent the use of inventions in foreign ships in New Zealand ports.
Ib., s. 18.

26. No letters patent granted for any invention shall extend to prevent the use of any such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any port of New Zealand, or in any of the waters within the jurisdiction of any of Her Majesty's Courts in New Zealand, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from the same. 15 20

But this enactment shall not extend to the ships or vessels of any foreign State the laws of which authorize subjects of such foreign State, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British ships or vessels or in or about the navigation of British ships or vessels while in the ports of such foreign State, or in the waters within the jurisdiction of its Courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from such foreign State. 25 30

Struck out.

Documents to be kept in Patent Office, and open to inspection.
Ib., ss. 19, 24.
1882, No. 18, s. 5.

27. Every specification deposited at the Patent Office, and the drawings and models accompanying the same, if any, and all other documents so deposited, shall be kept in the Patent Office, and shall be open to the inspection of the public at all reasonable times, as well before as after the grant of letters patent, and whether such letters patent be granted or not, but subject to regulations. 35

(6.) Letters of Registration.

Letters of registration for foreign patents.
1870, No. 89, s. 20.
1860, No. 14, s. 20.

28. (1.) No person shall receive letters patent under this Act for an invention or discovery for which letters patent or any like protection shall have been issued in Great Britain or any other country or colony; but the Governor, in his discretion, on the application of any person being the holder or assignee of any such letters patent or like protection, and upon such proof as the Governor may by regulations require that such person is the *bona fide* holder or assignee thereof, and that the same are or is in full force, and upon payment of the sum of ten pounds, may grant letters of registration to such applicant. 40 45

Effect of registration.

(2.) Such letters of registration shall have the same force and effect as letters patent granted under this Act, and shall enure to the benefit of the grantee thereof, his executors, administrators, and assigns, during

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the continuance of the original letters patent or other protection in the country or colony where the same was or were granted, and no longer; and all the provisions of this Act shall apply to such letters of registration, in the same way, *mutatis mutandis*, and as fully as to letters patent granted under this Act.

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

Copy to be filed.

PART II.

DISCLAIMERS AND ALTERATIONS.

10 27. (1.) Any person who shall obtain letters patent under this Act, his executors or administrators, or, in case he or they shall part with the whole or any part of his or their interest by assignment, he or they together with the assignee if part only has been assigned, or the assignee alone if the whole has been assigned, may apply to the Patent Officer for leave to enter a disclaimer of any part of either the title to the invention, or the specification, or a memorandum of any alterations in the said title or specification, not being such disclaimer as shall extend the exclusive right granted by the said letters patent.

Notice of application to disclaim or make alterations. 1870, No. 89, s. 21.

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

Procedure thereon.

Eighth Schedule.

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

Opposition.

25 (4.) Where such application shall be for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the Patent Officer may dispense with such appointment and publication, and in that case shall certify in the fiat hereinafter mentioned that he has dispensed with the same.

Power to dispense with appointment, &c.

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

Application for disclaimer to be heard. 1870, No. 89, s. 22.

How disclaimer may be entered and alterations made.
Ib., s. 28.

29. (1.) After such hearing and consideration, or without such hearing or consideration where the said appointment and publication shall have been dispensed with as aforesaid, the person or persons applying, or one of them, may by leave of the Patent Officer, to be certified by a fiat under his hand, to be written at the foot of the same paper or parchment with the said disclaimer or memorandum, enter such disclaimer (stating the reason for the same), or such memorandum of alteration, and, at the time of entering such disclaimer or memorandum of alteration, shall deposit a copy thereof in the office next hereinafter mentioned.

Effect of disclaimer.
Ib.

(2.) Such disclaimer or memorandum of alteration, being filed in the Patent Office, shall be deemed and taken to be part of such letters patent or such specification, and subject to the several incidents thereof, in all Courts whatever, and shall be valid and effectual in favour of any person in whom the rights under the said letters patent may then be, or thereafter become, legally vested.

Actions not to be brought in certain cases.
Ib.

30. (1.) No action shall be brought upon any letters patent in respect of which, or the specification of which, any disclaimer or memorandum of alteration shall have been filed, in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration (unless the Patent Officer shall certify, in his said fiat, that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration), and no such disclaimer or alteration shall be receivable as evidence in any action or suit (save any proceedings *for the repeal of letters patent*) pending at the time when such disclaimer or alteration was filed as aforesaid; but in every such action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the letters patent have been or shall have been granted.

Proceedings conclusive.
Ib.

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

PART III.

EXTENSION OF TERM.

Mode of obtaining extension of term.
Ib., s. 25.

31. (1.) Any person who has obtained letters patent under this Act or any other Act relating to letters patent heretofore in force in New Zealand, or the executors or administrators of such person, or (in case such person shall have parted with the whole or any part of his interest in such patent by assignment) he or they together with the assignee when part only has been assigned, or the assignee alone when the whole has been assigned, may, six months before the expiration or other

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determination of such letters patent, present to the Governor a petition for the extension of the term in such letters patent mentioned.

(2.) Such petition shall set forth that *the petitioner* has been unable to obtain a due remuneration for his expense and labour bestowed in perfecting such invention, and that an exclusive right of using and vending the same for some further period, to be named in such petition, in addition to the said term, is necessary for his reimbursement and remuneration; and the Governor may refer the consideration of the said petition to one or more Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

What petition to set forth.

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

Appointment of Commissioners. 1870, No. 89, s. 26.

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

Notice of Commission to be published. *Ib.*, s. 27.

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

Ninth Schedule.
Caveat may be entered.

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

Commissioners to hear all parties, and report. *Ib.*, s. 28.

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

Such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the first letters patent.

PART IV.

MISCELLANEOUS PROVISIONS.

(1.) *Records of Office.**New clause.*

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

35. Every specification deposited at the Patent Office, and the drawings and models accompanying the same, if any, and all other documents so deposited, shall be kept in the Patent Office, and shall be open to the inspection of the public at all reasonable times, as well before as after the grant of letters patent, and whether such letters patent be granted or not, but subject to regulations. 5

Indices to specifica-
tions, disclaimers, &c.
1870, No. 89, s. 29.

36. Indices to all specifications, disclaimers, and memoranda of alterations, heretofore or to be hereafter enrolled or deposited as aforesaid, shall be prepared, and shall be open to the inspection of the public at the Patent Office, subject to regulations. 10

Register of patents
to be kept.
Ib., s. 30.

37. There shall be kept at the Patent Office a book, to be called "The Register of Patents," wherein shall be entered and recorded in chronological order— 15

All letters patent and letters of registration granted under this Act or "The Patents Act, 1870;"

The deposit and filing of specifications, disclaimers, and memoranda of alterations filed in respect of such letters patent; 20

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 25

All other matters and things affecting the validity of such letters patent as the Governor may direct.

Such register or a copy thereof shall be open at all convenient times to the inspection of the public, subject to such regulations as the Governor may make in that behalf. 30

Register of pro-
prietors to be kept,
and of assignments
of letters, and of
licenses thereunder.
Ib., s. 31.

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

The assignment of any letters patent or letters of registration, or of any share or interest therein;

Any license under letters patent or letters of registration, and the district to which such license relates, with the name of any person having any share or interest in such letters patent or letters of registration or license; 35

The date of his acquiring such letters patent or letters of registration, share, or interest; and 40

Any other matter or thing relating to or affecting the proprietorship in such letters patent or letters of registration or license.

Struck out.

(2.) *Assignments.**New clauses.*

Conditions for
registering assign-
ment made within
the colony.
Gazette, 1878, p.1228,
Rule No. 15.

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

(1.) A statutory declaration by one of the attesting witnesses to the said assignment or license of the due execution of the said assignment or license; 50

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

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39. Before any assignment or license ~~executed out of New Zealand~~ shall be registered, the assignee or licensee shall furnish—

Conditions for registering assignment.

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

Gazette, 1878, p. 1228, Rule No. 16 amended.

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

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

40. No assignment or license of two or more letters patent or letters of registration included in one deed or instrument shall be registered, and no certificate of assignment or license shall be granted, unless a fee for such registration or certificate be paid in respect of each such letters patent or letters of registration in respect of which such registration or certificate is desired.

Every assignment or license to be made by separate deed.

Ib. Rule No. 17.

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

Register of proprietors to be open to public inspection, and copies or extracts may be made. 1870, No. 89, s. 31.

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

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

(3.) (2.) *Seal.*

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

Seal to be made and noticed judicially. Ib., s. 32.

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

Certified copies to be evidence.

(4.) (3.) *Offences.*

43. If any person shall wilfully make or cause to be made any false entry in any such register, or shall wilfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry therein, or shall produce or tender, or cause or suffer to be produced or tendered, any such writing, knowing the same to be false, he shall be guilty of a misdemeanour, and shall be liable, on conviction, to be kept in penal servitude for any term not exceeding five

Falsification or forgery of entries. Ib., s. 33.

years, or to be imprisoned and kept to hard labour for any term not exceeding two years.

Entries may be expunged. 1870, No. 89, s. 34.

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

Penalty for unauthorized use of the word "patent." *Ib.*, s. 35.

45. (1.) If any person—

Shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark upon anything made, used, or sold by him, for the sole making or selling of which he has not or shall not have obtained letters patent, the name or any imitation of the name of any other person who has or shall have obtained letters patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns; or

Shall upon any such thing, not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having had the license or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "patent," the words "letters patent," or the words "by the Queen's patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee,—

he shall for every such offence forfeit and pay the sum of one hundred pounds, one half to Her Majesty and the other half with full costs of suit to any person who shall sue for the said penalty.

New subsection.

(2.) If any person shall, upon any such thing for which no letters patent or like protection shall have been obtained, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "patent," the words "letters patent," or the words "by the Queen's patent," or any words of the like kind, meaning, or import, or by advertisement or in any other way imply or give reasonable cause to believe that letters patent or like protection have been granted for such thing, he shall for every such offence be liable to a penalty not exceeding *fifty* pounds, one-half of which shall be paid to any person who shall sue for the said penalty.

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

(5.) (4.) *Procedure in Actions for Infringement.*

46. (1.) In any action for the infringement of letters patent the plaintiff shall deliver with his *statement of claim* particulars of the breaches complained of in the said action; and the defendant on pleading thereto shall deliver with his *statement of defence*, and the

In actions for infringement particulars of breaches and objections to be delivered. *Ib.*, s. 36.

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prosecutor in any proceedings by *action* to repeal letters patent shall deliver with his *statement of claim*, particulars of any objections on which he means to rely at the trial in support of the said action, or of the suggestions of the *statement last mentioned* respectively. At the trial of *any* such action no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such letters patent, which shall not be contained in the particulars delivered as aforesaid.

(2.) The place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars; and any Judge at chambers may allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid, upon such terms as to such Judge shall seem fit.

What shall be stated in particulars.

(3.) At the trial of any proceeding to repeal letters patent, the defendant shall be entitled to begin, and to give evidence in support of such letters patent; and, in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such letters patent, the defendant shall be entitled to the reply.

Order of proceedings.

47. (1.) In taxing the costs in any action for infringing letters patent, regard shall be had to the particulars delivered in such action, and the plaintiff and defendant respectively shall not be allowed any costs in respect of any 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 the Judge before whom any such action shall be tried may certify on the record that the validity of letters patent in the statement mentioned came in question.

Particulars to be regarded in taxing costs.
1870, No. 89, s. 37.

(2.) The record with such certificate, being given in evidence in any action for infringing the said letters patent, or in any proceeding *in an action* to repeal the letters patent, shall entitle the plaintiff in any such action, or the defendant in such proceeding, on obtaining a decree, order, or final judgment, to his full costs, charges, and expenses, to be taxed as between solicitor and client, unless the Judge making such decree or order, or the Judge trying such action or proceeding, shall certify that the plaintiff or defendant respectively ought not to have such full costs.

Effect of record and certificate.

(6.) (5.) *Fees.*

48. There shall be paid in respect of the several matters and things respectively mentioned in the *Tenth* Schedule such fees as are therein enumerated, and all such fees shall be *paid into* the Public Account and form part of the *Consolidated Fund*.

Fees to be paid.
Tenth Schedule.
Ib., s. 38.
1881, No. 22, s. 5.
1882, No. 18, s. 3.

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

Governor may reduce fees.

(7.) (6.) *Repeals.*

49. (1.) The Acts enumerated in the *Eleventh* Schedule are hereby repealed.

Repeal.
Eleventh Schedule.
1870, No. 89, s. 3.
Saving.

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

Schedules.

SCHEDULES.

FIRST SCHEDULE.

SPECIFICATION FOR PATENT.

Ib., Sched. 1, altered. WHEREAS I, _____, of _____, in the _____ [engineer], am desirous of obtaining letters patent for securing unto me Her Majesty's special license that I and such others as I should at any time agree with, should, from time to time during the term of fourteen years (to be computed from the day on which this instrument shall be left at the Patent Office), make, use, and vend, within the Colony of New Zealand and its dependencies, an invention for [*Insert the title of the specification*]; and in order to obtain the said letters patent I must by an instrument in writing under my hand and seal particularly describe the nature of the said invention, and in what manner the same is to be performed, and make a distinct claim for the especial novelty thereof, ~~and must also make the declaration hereinafter contained~~: Now, therefore, the nature and details of the said invention and the manner in which the same is to be performed are particularly described in the following statement [*Describe the invention and the especial novelty thereof, either in instrument or in attached Schedule*]. And I do hereby, for myself, my heirs, executors, and administrators, covenant with Her Majesty, her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, that I do not know or believe that any other person than myself is the true and first inventor of the said invention, that I will not deposit these presents at the Patent Office with any such knowledge or belief as last aforesaid, ~~and that I have not made application at any other place whatsoever for letters patent for the said invention.~~—In witness whereof I have hereunto set my hand and seal this _____ day of _____, 18 _____.

Witness to signature:

SECOND SCHEDULE.

RECEIPT FOR SPECIFICATION.

1882, No. 18,
Schedule 1.

RECEIVED from A.B., specification for an invention for [*Insert the title*], for transmission to the *Patent Officer*, Wellington, at the hour of [*Insert the time*], on this _____ day of _____, 18 _____.
Local Patent Office. O.A., Patent Office Agent.

THIRD SCHEDULE.

DEPOSIT OF SPECIFICATION.

No.

Regulation.

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

Dated this _____ day of _____, 18 _____.

Patent Office, Wellington, New Zealand.

P.O., Patent Officer.

FOURTH SCHEDULE.

HEARING APPLICATION.

1881, No. 22,
Schedule 1.

Patent Office, Wellington, 18 _____.
PATENT for [*Insert title of specification*].—A.B., of _____, has deposited at this office a specification of the said invention, and I have appointed _____, the _____ day of _____ next, at _____ o'clock in the forenoon, at this office, to

hear the said application and all objections thereto; and I require all persons having an interest in opposing the grant of such letters patent to leave, on or before the _____ day of _____ next, at this office, particulars in writing of their objections to the said application; otherwise they will be precluded from urging the same. _____ P.O., Patent Officer.

FIFTH SCHEDULE.

ORDER FOR EXPENSES.

UPON hearing the objection of A.B. to the grant to C.D. of letters patent for [Insert the title as in the specification], I do by this writing under my hand order that the said A.B. shall pay to the said C.D. the sum of _____ for the costs of such hearing [or to E.F. the sum of _____ as a remuneration for his attendance at such hearing].

Given under my hand this _____ day of _____, 18____ P.O., Patent Officer.

SIXTH SCHEDULE.

WARRANT FOR GRANT OF LETTERS PATENT.

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, am of opinion that, as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, Her Majesty's Royal Letters Patent may be issued in the form contained in the Seventh Schedule to "The Patents Act, 1883" [with the following additional clauses, that is to say (Here set them out if any)].

Given under my hand this _____ day of _____, 18____ P.O., Patent Officer.

SEVENTH SCHEDULE.

FORM OF LETTERS PATENT.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to all to whom these presents shall come, greeting: Whereas A.B., of _____, in the _____ of _____ [engineer] (who, with his executors, administrators, and assigns, is and are hereinafter included in the term "Patentee"), hath represented that he is desirous of obtaining letters patent for securing unto him our special license for 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 Patent Officer under the provisions of "The Patents Act, 1883," the Patentee hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed: Now, therefore, know ye that we have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the Patentee our special license and authority that the Patentee, by himself or his servants or agents, or such others as he shall at any time agree with during the term herein expressed, shall and lawfully may make, use, and vend his said invention within our said colony and its dependencies, in such manner as to him shall seem meet: To have, hold, and enjoy the said license, privilege, and advantage unto and by the Patentee for and during the term of fourteen years now next ensuing; and that he shall and lawfully may have and enjoy the whole profit, benefit, and advantage from time to time coming, accruing, and arising by reason of the said invention during the said term: Subject, however, in all things to the provisions of "The Patents Act, 1883," and to the conditions and restrictions thereby imposed [and inserted herein, if any].

In witness whereof we have caused these our letters to be made patent, and to be sealed and bear date as of the _____ day of _____, one thousand eight hundred and _____.

EIGHTH SCHEDULE.

DISCLAIMER.

1870, No. 89,
Schedule 6.

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

Given under my hand this day of 18 .
P.O., Patent Officer.

The following is the disclaimer [*or as the case may be*] which I desire to make in, &c. [*The applicant must here set forth what he wishes to enter, and sign it.*]

NINTH SCHEDULE.

EXTENSION OF PATENT.

Ib., Schedule 7.

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

Dated this day of , 18 . A.B.

TENTH SCHEDULE.

FEES.

1881, No. 22,
Schedule 2.
1882, No. 18, s. 3.
Gazette, 1878, p.1228.

	£	s.	d.
On depositing specification	0	10	0
On depositing amended specification, <i>or application for amendment to specification</i>	0	10	0
On obtaining letters patent, <i>or any duplicate thereof</i>	2	0	0
At or before the expiration of the fifth year	7	0	0
On lodging particulars of objections	2	0	0
On presenting petition for extension	2	0	0
Search and inspection: <i>For each book or specification</i>	0	1	0
Entry of assignment or license	0	10	0
Certificate of assignment or license	0	10	0
Filing of memorandum of alteration or disclaimer	2	10	0
Entering any caveat	2	10	0
Copy or extract of any writing, per common-law folio	0	0	6

ELEVENTH SCHEDULE.

ACTS REPEALED.

1870, No. 89.—The Patents Act, 1870.

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

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