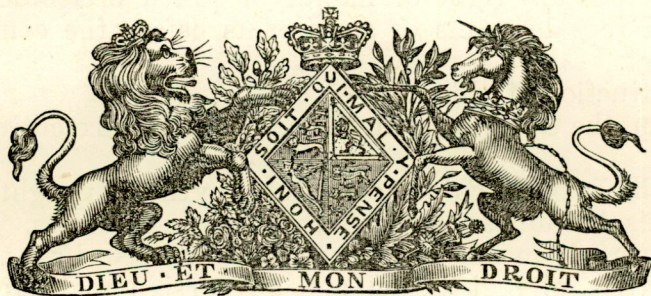


*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber, } F. W. WEBB,  
Sydney, 5 October, 1886. } Acting Clerk of Legislative Assembly.*

New South Wales.



ANNO QUINQUAGESIMO

VICTORIÆ REGINÆ.

\*\*\*\*\*

No. .

An Act to remodel the Law relating to the Protection of Inventions and the Registration of Designs.

**W**HEREAS it is expedient to make better provision for the protection of inventions and designs Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

Preamble.

PART I.

1. This Act may be cited as the "Patents and Designs Act 1886" and is divided into Four Parts as follows :—

Short title and division of Act.

- 10 PART I.—PATENTS—*Preliminary—Establishment—Condition on which Patent may be granted—Application for and grant of Patent—Letters of Registration—Provisional Protection—Complete Specification—Amendment of Specification—ss. 1 to 27.*
- 15 PART II.—*Form issue effect duration &c. of Patent—Compulsory Licenses—Register of Patents—Fees—Extension of Term of Patent—ss. 28 to 40.*
- 20 PART III.—DESIGNS—*Registration of Designs—Copyright in Registered Designs—Register of Designs—Fees—Legal Proceedings—Definitions—ss. 41 to 54.*
- 655—A PART



*Patents and Designs.*PART IV.—*Revocation of Patent—Legal Proceedings—Miscellaneous and general Provisions—Offences—Patent Agents—ss. 55 to 95.*

## SCHEDULE.

- 5        2. The Act sixteenth Victoria number twenty-four and forty-  
second Victoria number twenty-seven are hereby repealed also Part III  
and so much of any other Part of the Act forty-second Victoria number  
twenty as are applicable to designs for any article or work of manu-  
10      operation of any of the said repealed Acts or enactments or the validity  
of any letters of registration granted or designs registered thereunder  
nor shall such repeal affect any right or liability acquired or accrued  
under any of the said repealed Acts or enactments before the com-  
mencement of this Act.
- 15       3. In the construction of this Act—  
“Governor” means the Governor with the advice of the Executive  
Council.  
“Judge” means the Judge of Patents constituted by the fifty-eighth  
20      section of this Act unless the context otherwise indicates.  
“Industrial Property” means any invention protected by any  
patent or letters of registration and any design registered  
under this Act And when reference is made to any Inter-  
national Convention for the Protection of Industrial Property  
then the term shall have the meaning assigned to it in any  
25      such convention.  
“Invention” comprises everything which may be the subject of  
Letters Patent under section nine of this Act and includes  
every new and useful manufacture and also every alleged  
invention.  
30      “Inventor” means the person who first practically makes or  
introduces into the Colony any new and useful invention in  
the sense set forth in this Act.  
“Manufacture” means and includes every new article of manu-  
35      facture and every new process or method of manufacture and  
also the application of a new principle to any species of  
manufacture and includes particularly :—  
    (I) New contrivances applied to new objects or purposes.  
    (II) New contrivances applied to old objects or purposes  
        when the application is attended with some degree of  
40      utility.  
    (III) New processes applied to the production of known  
substances.  
    (IV) Any new mode of applying a known machine process  
material or principle to a new or old purpose provided  
45      that some ingenuity and some novelty are exhibited  
in the mode of making that application and that the  
application is attended by some useful result.  
    (V) Any addition to an old machine or process provided the  
invention is confined to the addition.  
50      (VI) Any addition to or subtraction from any known  
machine or process causing the old machine or process  
to accomplish an object in a more speedy perfect or  
economical manner than heretofore.  
55      (VII) Any new combination consisting of two or more known  
processes or implements when used together to effect  
a new purpose or to effect an old purpose in a  
better cheaper or more expeditious manner than had  
previously been the case.

Repeal of  
enactments relating  
to Patents and  
Designs.

Interpretation of  
terms.

(VIII)



*Patents and Designs.*

- (VIII) Any new combination consisting of two or more known parts or materials even though in use for the same purpose producing a new result or producing an old result in a more economical manner or more perfect form whereby in either case an article cheaper or better than had before been produced shall be obtainable.
- (IX) Chemical processes whether in combination with mechanical contrivances or not whereby something useful is produced or effected.
- (X) Any new principle or idea as regards an art or manufacture coupled with a mode of carrying that idea into practice as by a machine although the principle or the machine would not alone be patentable.
- “Obstructive monopoly” means the use of a patent or design in such a way as to render such patent or design obtainable within the Colony only at an inordinate price or of an inferior quality or in insufficient quantity or with unreasonable difficulty.
- “Minister” means the Minister charged with the administration of this Act.
- “Patent” means Letters Patent for an invention.
- “Patentee” means the person for the time being entitled to the benefit of a patent.
- “Prescribed” means prescribed by this Act or by any regulation or rules under this Act.
- “Registrar” means the Registrar of Patents and Designs appointed under this Act.
- “Representative” in respect of a person deceased means his executors or administrators and in respect of any other person the duly authorized agent or attorney of such person for the time being.
4. For the purposes of this Act the Minister shall provide an office to be called the Patent Office which shall be under the immediate control of an officer to be called the “Registrar of Patents and Designs”
- 35 There shall be a seal for the Patent Office and impressions thereof shall be judicially noticed and admitted in evidence.
5. The Governor shall appoint some competent person to be the “Registrar of Patents and Designs” and so many officers and clerks as he shall think fit and shall fix the remuneration or salary of the persons so appointed. The Registrar shall act under the general administrative control of the Minister and any act directed to be done by the Registrar may in his absence be done by any officer in that behalf authorized by the Minister.
- 45 6. If the Registrar or any person employed under or by virtue of this Act shall buy sell or otherwise acquire any invention design or patent or the right to register the same or shall in any way traffic therewith every such purchase and sale and every assignment or transfer thereof by or to any such person shall be null and void. Provided that nothing in this section shall apply to any original
- 50 inventor or to any acquisition by bequest.
7. If such Registrar or person as aforesaid shall either demand or receive any gratuity or reward in money or otherwise except his authorized salary or remuneration he shall be liable to a penalty of fifty pounds to be recovered by action of debt and may also be either suspended or dismissed from his office if he fills one and shall thenceforward be incapable of holding any office or being employed in the Public Service of the Colony.

Establishment of  
Patent Office.  
46 and 47 Vic. c. 57  
ss. 82 84.

Appointment of  
officers.  
Ib. s. 83.

Patent officers not to  
be concerned in  
patents.

Penalties upon  
patent officers con-  
cerned in patents.

*Conditions*



*Patents and Designs.**Conditions on which a Patent may be granted.*

8. Subject to the provisions of this Act a patent may be granted for any new and useful art machine manufacture or composition of matter or for any new and useful improvement or alteration in or addition to any art machine manufacture or composition of matter except in the following cases :—

For what subjects a patent may be granted.

- (I) When the discovery or invention improvement alteration or addition is illegal or has an illicit object in view—
- (II) Or is for a mere scientific or abstract principle—
- (III) Or for a natural product—
- (IV) Or would be injurious to public health morals or safety—
- (V) Or would be likely to create an obstructive monopoly—
- (VI) Or if it be already registered as an invention or a design in this Colony—
- (VII) Or if it be claimed by anyone employed in the Patent Office or employed or engaged in or occupying any official position or discharging any public function in connection with the Government or with any Municipal body or any corporate body of a public character and if it appears that the knowledge of the invention or of its essential features have been acquired from communications received in such capacity—
- (VIII) Or if it be for an invention or improvement relating to implements of war or any other invention the exclusive use of which belongs to the Government But patents shall be granted for inventions and improvements which though applicable to military or naval or other Government purposes are useful also to private persons provided that such patents shall be granted solely on the condition that the same shall not hinder the Government from making trial of or using such inventions for the public service—
- (IX) Or in the case of inventions or designs that have been previously patented or registered elsewhere if it should seem that the grant of such patent or the registration of such design would be likely to create an obstructive monopoly or would not serve some industrial purpose advantageous to the Colony.

9. An application may be made by any of the following persons (whether British subjects or not) for the grant of a patent subject to the provisions of this Act—

To whom and on what conditions a patent may be granted.

- (I) In the case of new and original inventions—  
By the first and true inventor if domiciled in or carrying on business permanently in the Colony.
- (II) In the case of inventions previously patented or registered in the United Kingdom or any of the British possessions (other than the Australasian Colonies) or in any country in treaty or convention with Great Britain for the protection of industrial property—  
By the patentee or registered proprietor Provided that application is made within twelve months from the date upon which the provisional or other original patent or document of registration was issued.
- (III) In the case of inventions previously patented or registered in any of the Australasian Colonies—  
By the patentee or registered proprietor Provided that application is made within six months of the date of the provisional or other original patent or document of registration.

(IV)



*Patents and Designs.*

(iv) In the case of inventions in respect of which application has not been duly made for letters patent under this section—

By any person domiciled or carrying on business permanently in the Colony.

5 10. (i) The agent of any person entitled to make application Agent may apply.  
for a patent under sub-section (ii) or (iii) of the preceding section  
may make application on behalf of such person if domiciled or carry-  
ing on business permanently in the Colony and if authorized by such  
person to make such application and to work the invention within the  
10 Colony.

(ii) Any two or more persons may make a joint appli- Two or more persons  
cation and a patent may be granted to them jointly A company or a may apply.  
corporation applying for a patent must either include the person who  
first made the invention or the person who first introduced the same.

15 (iii) No patent for an invention shall be granted unless Registrar to be satis-  
the Registrar is satisfied that the applicant is the person duly entitled fied before granting  
to make the application. patent.

(iv) In the case of any invention under sub-section (i) of As to user of  
section nine such invention must not have been publicly used or offered invention or design.  
20 for sale in the Colony before the date of the application But the  
publication of a printed description of a patent in any book pamphlet  
or newspaper circulating in the Colony shall not be deemed to consti-  
tute a public use thereof.

(v) In the case of any invention under sub-section (ii) (iii) Conditions of grant.  
25 or (iv) of section nine the grant of the patent shall be subject to the  
following condition :—

The publication in this Colony within the respective periods  
mentioned in section nine of any description of the invention  
or the using or offering for sale therein during such periods  
30 of such invention shall not invalidate the patent which may  
be granted for the same.

*Application for and grant of Patent.*

11. (i) An application for a patent must be made in the pre- Application how  
scribed form and must be left at or sent by post to the Patent Office made.  
35 in the prescribed manner. *Ib. s. 5.*

(ii) An application must contain a declaration to the effect  
that the applicant is in possession of an invention for which he or (in  
the case of a joint invention) one or more of the applicants claims or  
claim to be the person or persons entitled to apply for and to obtain  
40 a patent and must be accompanied by either a provisional or complete  
specification and the prescribed fee.

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

45 (iv) 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 carried out in practice  
and must be accompanied by drawings if required and also by a model  
if the Registrar considers a model necessary for the illustration of the  
50 invention.

12. (i) The same complete specification shall not include the Specification not to  
description of more than one complete and distinct invention but may include description  
include the description of any number of accessories and applications of more than one  
of such invention provided such accessories and applications are invention &c.  
55 ancillary to each other and collectively contribute to the working of  
the invention.

(ii)



*Patents and Designs.*

(II) When two or more discoveries inventions or improvements or two or more additions to or alterations in the same are different from each other such discoveries improvements additions or alterations may only be united into one patent when they relate as 5 component parts or operative means to one and the same object.

13. A specification whether provisional or complete must com- Specification must include title and claim. *Ib. s. 5.*  
 mence with the title and in the case of a complete specification must end with a distinct statement of the invention claimed and may contain more than one claim The title must correctly designate the 10 invention and the claim or claims must be in conformity with the specification.

14. If a person possessed of an invention within the meaning Application by representative of deceased inventor. *Ib. s. 34.*  
 of sub-section one of section nine of this Act dies without making or without completing application for a patent for such invention 15 application for the same may be made by and a patent granted to his representative Provided that such application be made within six months of the death of such person and contain a declaration by his representative that he believes the deceased person to be the true and first inventor of the invention

20 15. The Registrar shall examine the application to ascertain Examination of application. *Ib. s. 6.*  
 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 whether the title sufficiently indicates the subject matter of the invention.

25 16. (i) If the Registrar considers 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 Power for Registrar to refuse application or require amendment. *Ib. s. 7.*  
 matter of the invention the Registrar may require that the application 30 specification or drawings be amended before he proceeds with the application.

(II) Where the Registrar requires an amendment the applicant may appeal from his decision to the Judge.

(III) The Judge shall if required hear the applicant and 35 the Registrar and may make an order determining whether and subject to what conditions (if any) the application shall be accepted.

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

(v) If after an application has been made but before a 40 patent has been sealed an application is made accompanied by a specification bearing the same or a similar title it shall be the duty of the Registrar if he considers that the specification comprises the same invention to give notice thereof to the applicants.

(VI) Where the Registrar considers the inventions com- 45 prised in both applications to be the same he may subject to appeal to the Judge refuse to seal a patent on the application of the second applicant.

*Compulsory Licenses.*

17. If on the petition of any person interested it is proved to 50 the Governor that by reason of the refusal or default of a patentee under this Act to grant licenses on reasonable terms— Power for Governor to order grant of compulsory licenses. *Ib. s. 22.*

(i) The patent is not being worked in New South Wales or

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

55 (iii) The price asked for the enjoyment of the subject matter of the invention is excessive or

(IV)



*Patents and Designs.*

(iv) Any person is prevented from working or using to the best advantage an invention of which he is possessed

The Governor may order the patentee to grant licenses on such terms as to the amount of royalties security for payment or otherwise as the  
 5 Governor having regard to the nature of the invention and the circumstances of the case may deem just The costs of the patentee shall be borne by the petitioner if the petition is refused and as may be directed if the petition is granted.

10

*Provisional Protection.*

18. Where a provisional 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  
 15 for the same Such protection from the consequences of use and publi-  
 cation is in this Act referred to as Provisional Protection Articles so  
 protected shall not be marked or labelled with the word "patent" or  
 "patented" or "registered" or with any word or words of like import.

Provisional  
protection.*Ib.* s. 14*Complete Specification.*

20 19. If the applicant does not lodge a complete specification  
 with his application he may do so at any time within nine months  
 from the date of lodging his application but if such complete speci-  
 fication be not lodged within that time the application shall be deemed  
 to have been abandoned.

Time for lodging  
complete specifica-  
tion.*Ib.* s. 8.

25 20. When the applicant has lodged a complete specification  
 the Registrar shall see that the complete specification is in the pre-  
 scribed form has been lodged in the prescribed manner and satisfies  
 the prescribed conditions and that the prescribed fee has been paid in  
 respect thereof And when a complete specification has been lodged  
 30 after a provisional one he shall further see that the invention particu-  
 larly described in the complete specification is substantially the same  
 as that described in the provisional one He shall not receive the  
 complete specification unless he considers it satisfactory in all these  
 respects or it is amended in accordance with his suggestions If the  
 35 Registrar refuses to accept the complete specification the applicant  
 may appeal to the Judge who shall if required hear the applicant and  
 the Registrar and shall make an order determining whether and subject  
 to what conditions (if any) the said specification shall be accepted  
 Unless a complete specification is accepted within twelve months from  
 40 the date of application then (unless an appeal has been lodged under  
 this section) the application shall at the expiration of such twelve  
 months be deemed to be void.

Procedure on  
lodging of complete  
specification.*Ib.* s. 9.

21. On acceptance of the complete specification the Registrar  
 shall cause such acceptance to be advertised in the *Gazette* and in some  
 45 newspaper circulating in Sydney and the application and specification  
 or specifications with the drawings and model (if any) shall be open to  
 public inspection at the Patent Office.

Advertisement on  
acceptance of com-  
plete specification.*Ib.* s. 10.

22. At any time before the expiration of two months from the  
 date of the advertisement in the *Gazette* of the acceptance of a  
 50 complete specification any person may give the Registrar notice of  
 opposition to the grant of a patent on any of the following grounds  
 but no others viz. :—

Opposition to grant  
of patent.*Ib.* s. 11.

(i) That the applicant without proper authority obtained the  
 invention from such person or from such person's legal  
 55 representatives

(ii)



*Patents and Designs.*

(II) That the invention has been registered as an invention or a design or patented in this Colony on an application of prior date

5 (III) That the title or specification of the invention conflicts with the title or specification of some other invention or design in respect of which application for a patent or registration has been made

Upon any such notice being given or if the Registrar himself considers that the specification describes the same invention as is described in a  
10 specification accompanying a prior application or bears a title corresponding with or too closely resembling the same he shall give notice thereof to the applicant and shall on the expiration of the said two months after investigating the matter determine the case subject to appeal to the Judge who shall hear the applicant and the person  
15 so giving notice (if in his opinion entitled to be heard) and determine whether the grant ought or ought not to be made and shall communicate his decision to the Registrar who shall give effect to such decision.

23. After the acceptance of a complete specification and until the date of sealing or the expiration of the time for sealing a patent  
20 in respect thereof 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 proceedings for infringement unless and until a patent for the invention has been granted to him.

Effect of acceptance of complete specification.

*Ib.* s. 15.

24. The time for filing or accepting a complete specification  
25 may be extended without penalty for three months if the Registrar is satisfied with the reasons advanced for such extension.

Extension of time for filing and accepting complete specification.

*Amendment of Specification.*

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

Amendment of specification,

*Ib.* s. 18.

(II) The request and the nature of such proposed amend-  
35 ment shall be advertised in the prescribed manner and at any time within two months from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(III) Where such notice is given the Registrar shall give notice of the opposition to the person making the request and shall  
40 decide the case on the documentary evidence before him provided that he shall be at liberty to receive any verbal explanations that may be offered. The decision of the Registrar shall be subject to appeal to the Judge.

(IV) The Judge shall hear the person making the request  
45 and also the person giving notice and being in his opinion 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.

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

(VI) When leave to amend is refused by the Registrar the person making the request may appeal to the Judge to reverse his  
55 decision.

(VII)



*Patents and Designs.*

(VII) The Judge 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.

5 (VIII) 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.

10 (IX) 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.

15 (x) 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.

26. In any action for the infringement of a patent the Judge and in any proceeding for the revocation of a patent the Supreme Court may at any time order that the patentee shall (subject to such terms as to costs and otherwise as such Judge or Court 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 such action or proceeding shall be postponed.

27. (I) Where any amendment of a specification whether by way of disclaimer correction or explanation shall have been allowed no damages shall be given in any action in respect of the use of the invention before the date of such 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.

(II) Every amendment of a specification shall be advertised in the prescribed manner.

Amendment during action &c.  
*Ib.* s. 19.

Restriction on recovery of damages.  
*Ib.* s. 20.

Advertisement of amendment.

## PART II.

35 *Form issue effect duration &c. of Patent—Register of Patents—Fees—Extension of term of Patent.*

28. The Statute of Monopolies of the twenty-first year of His Majesty King James the First shall not extend to or affect any patent under this Act And every such patent shall have the like binding effect against Her Majesty the Queen as it has against a subject.

40 29. A patent shall issue after the acceptance of a complete specification in all unopposed cases and in all opposed cases in which the determination is in favour of the grant.

30. The Registrar shall cause all patents to be prepared under the seal of the Patent Office and to be endorsed by the Minister No patent shall be so sealed after the expiration of fifteen months from the date of application except in the following cases that is to say—

50 (I) Where the sealing is delayed by an appeal to the Judge or by opposition to the grant the patent may be sealed at such time as may be directed.

(II) If an applicant dies before the expiration of the said fifteen months the patent may be granted to his representative and be sealed at any time within twelve months after the death of such applicant.

As to Statute of Monopolies and extension of patents to bind Crown.  
*Ib.* s. 27.

Issue of patent.

Sealing of patent.  
*Ib.* s. 12.



*Patents and Designs.*

31. Every patent shall be dated and sealed as of the day of the application. Provided that if a specification has been amended or another substituted for it the patent shall date from the day upon which the last such amendment or substitution was made. Provided also that in case of more than one application being made 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. A patent shall be conclusive as to the preliminary steps having been taken in obtaining it. No proceedings shall be taken in respect of any infringement of a patent committed before the date of publication of the last completed specification.

Date &c. of patent.  
Ib. s. 13.

32. Every patent granted under this Act when sealed with the seal of the Patent Office signed by the Registrar and endorsed by the Minister shall have effect throughout New South Wales and its dependencies and be recognized abroad as if it were sealed with the Great Seal of the Colony. Every patent shall be in the prescribed form and have annexed to it a copy of the specification and drawings (if any) and shall be granted for one invention only pursuant to section twelve of this Act. But in any legal proceedings no objection shall be taken to a patent on the ground that it comprises more than one invention.

Form and effect of patent.  
Ib. s. 33.

33. Subject to the provisions hereinafter contained for the extension of a patent the term limited in every patent for the duration thereof shall be fourteen years from its date. Provided that in the case of inventions first patented or registered outside of the Colony the patent shall expire at the earliest date at which any foreign patent for the same invention expires. But every patent shall nevertheless be null and void if and so soon as the patentee fails to make due payment of any of the prescribed fees in respect of such patent. Provided that if the failure to pay any such fee shall have been owing to mistake accident or inadvertence the Minister may by writing under his hand direct that the patent shall stand good notwithstanding such failure upon payment of the prescribed fee.

Duration of patent.  
Ib. s. 17.

34. A patent granted to any person who is entitled thereto within the meaning of this Act 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.

Patent to person entitled thereto not invalidated by application in fraud of him.  
Ib. s. 35.

35. A patentee may assign his patent for any place in or part of the Colony as effectually as if the patent were originally granted to extend to that place or part only. Provided that such assignment shall not be a bar to the *bonâ fide* use or sale or purchase or possession of the patented article in or the carriage of it through such place by the patentee or by any assignee of such invention for any other part of the Colony or by any purchaser of the invention or the representative of either of such persons.

Assignment for particular places.  
Ib. s. 36.

36. The Minister or the officers or authorities administering any department of the Public Service may by themselves their agents contractors or others at any time before or after the application for a patent use the invention for the Public Service and the Minister may fix the terms upon which this is to be done either before or after the use of the invention or he may permit the terms to be fixed by arbitration in the prescribed manner.

Use of patent by Government.  
Ib. s. 27.

37. If a patent is lost or destroyed or its non-production is accounted for to the satisfaction of the Registrar he may at any time cause a duplicate thereof to be sealed and issued to the person rightfully entitled to the patent.

Loss or destruction of patent.  
Ib. s. 37.



*Patents and Designs.**Register of Patents.*

38. A Register of Patents shall be kept at the Patent Office wherein shall be entered the names and addresses of grantees of patents notifications of assignments and of transmissions of patents and of  
 5 amendments extensions and revocations of patents of licenses under patents and such other matters affecting the validity or proprietorship of patents as may be prescribed The Register of Patents shall be *prima facie* evidence of any matters by this Act authorized to be inserted therein Copies of deeds licenses and any other documents affecting the  
 10 proprietorship in any letters patent or in any license thereunder shall be supplied in the prescribed manner to the Registrar for filing in the Patent Office.

Register of patents  
&c.  
1b. s. 23.

*Fees.*

39. Every person transacting business with the Patent Office  
 15 shall pay to the Registrar the several fees set forth in the Schedule to this Act in respect of the several matters and at the several times specified in that Schedule and shall also pay in respect of any other matter under this Act such fees as may be prescribed But the provisions of this section shall not apply to any patentee or applicant who  
 20 has paid the fee prescribed by the Act hereby repealed in respect of his application for letters of registration thereunder The time for paying any fee may be extended for three months by the Minister if he is satisfied that the omission was caused by accident mistake or inadvertence.

Fees payable.  
1b. s. 24.

25

*Extension of Term of Patent.*

40. A patentee may after advertising in the prescribed manner his intention to do so present a petition to the Governor 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 expira-  
 30 tion of the patent and any person may lodge at the Patent Office a caveat against such extension The Governor may refer any such petition to a Board of Advice to be nominated by him The petitioner and any person who has entered a caveat shall be entitled to be heard before such Board by himself or by counsel Such Board shall in  
 35 considering their decision have regard to the nature and merits of the invention in the public interests to the profits made by the patentee and to all special circumstances in the case and if they shall report in favour of the extension the Governor may extend the term of the patent for a further term not exceeding seven years or may order the  
 40 grant of a new patent for the term therein mentioned and containing any restrictions conditions and provisions that he may think fit The whole cost of investigating applications for the extension of the term of patents shall be borne by the applicants and the caveators in such proportions as the Board of Advice may determine The Governor  
 45 may make rules regulating the procedure to be followed and fees to be paid on petitions for extensions under this section.

Extension of term  
of patent on  
petition to the  
Governor.  
1b. s. 25.



*Patents and Designs.*

## PART III.

## DESIGNS.

*Registration of Designs—Copyright in Registered Designs—Register of Designs—Fees—Legal Proceedings—Definitions.*

5 41. (I) The Registrar may on application by or on behalf of any person claiming to be the proprietor of any design within the meaning of this Act register the design under this part of this Act. Application for registration of designs. *Ib.* s. 47.

10 (II) The application must be made in the prescribed form and must be left at or sent by post to the Patent Office in the prescribed manner and with the prescribed fee.

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

15 (IV) The same design may be registered in more than one class if the registrations are effected simultaneously.

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

20 (VI) The Registrar may if he thinks fit refuse to register any design presented to him for registration but any person aggrieved by any such refusal may appeal therefrom to the Judge.

(VII) The Judge may make any order determining whether and subject to what conditions (if any) registration is to be permitted.

25 (VIII) The respective provisions contained in sections nine and ten hereof relating to applicants and applications for patents shall be applied to applicants and applications for designs to the extent and in the manner to be prescribed in that behalf.

30 42. (I) On application for registration of a design the applicant shall furnish to the Registrar the prescribed number of copies of drawings photographs or tracings of the design sufficient in the opinion of the Registrar to enable him to identify the design or the applicant may instead of such copies furnish exact representations or specimens of the design. Drawings, &c., to be furnished on application. *Ib.* s. 48.

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

40 43. (I) After the design has been registered the Registrar shall grant to the proprietor thereof a certificate of registration under the seal of the Patent Office And if the proprietor desires at any time to make use of such certificate outside the Colony he may on application to the Registrar have the document endorsed by the Minister. Certificate of registration. *Ib.* s. 49.

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

45 *Copyright in Registered Designs.*

44. (I) When a design is registered the registered proprietor of the design shall subject to the provisions of this Act have copyright in the design during five years from the date of registration. Copyright on registration. *Ib.* s. 50.

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



*Patents and Designs.*

45. Before delivery on sale of any articles to which a registered design has been applied the proprietor of the design shall cause each such article to be marked with the prescribed mark or with the prescribed word or words or figures denoting that the design is registered  
 5 And if he fails to apply such mark the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

Marking registered designs.  
*Ib.* s. 51.

46. During the existence of copyright in a design the design shall not be open to inspection except by the proprietor or a person  
 10 authorized in writing by the proprietor or a person authorized by the Registrar or by the Judge or Supreme Court and only upon furnishing such information as may enable the Registrar to identify the design nor except in the presence of the Registrar or of an officer acting under him nor except on payment of the prescribed fee And  
 15 the person making the inspection shall not be entitled to take any copy of the design or of any part thereof After the copyright in a design has ceased the design shall be open to inspection and may be copied by any person on payment of the prescribed fee.

Inspection of registered design.  
*Ib.* s. 52.

47. On the request of any person producing a particular design  
 20 together with its mark of registration or producing only its mark of registration or furnishing such information as may enable the Registrar to identify the design and on payment of the prescribed fee it shall be the duty of the Registrar to inform such person whether the registration still exists in respect of such design and if so in respect of  
 25 what class or classes of goods and to state also the date of the registration and the name and address of the registered proprietor.

Information as to the existence of copyright.  
*Ib.* s. 53.

48. If a registered design is used in manufacture anywhere  
 outside the Colony and is not used in the Colony within six months of  
 its registration in the Colony the copyright in the design shall cease  
 30 And it shall cease also if at any time after the said period the design is not used in manufacture in the Colony or if the article to which the design is applied is imported into the Colony by the proprietor or is not procurable in the Colony in a manner satisfactory to the Minister  
 or if the proprietor does not keep constantly registered at the Patent  
 35 Office the address within the Colony at which the design may be procured.

Cesser of copyright in certain cases.  
*Ib.* s. 54.

*Register of Designs.*

49. (i) There shall be kept at the Patent Office a book called  
 the Register of Designs wherein shall be entered the names and  
 40 addresses of proprietors of registered designs notifications of assignments and of transmissions of registered designs and such other matters as may be prescribed.

Register of designs.  
*Ib.* s. 55.

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

*Fees.*

50. There shall be paid in respect of applications and registra-  
 tions and other matters under this Part such fees as may be prescribed.

Fees on registration &c.  
*Ib.* s. 56.

*Legal Proceedings.*

50 51. During the existence of copyright in any design—

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

Legal proceedings.  
*Ib.* s. 58.

(ii)



*Patents and Designs.*

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

Any person who acts in contravention of this section shall be liable for every offence to forfeit a sum not exceeding fifty pounds to the registered proprietor of the design who may recover such sum as a simple contract debt. Penalty on piracy of registered designs.

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

*Definitions.*

53. In and for the purposes of this Act—  
 “Design” means any design applicable to any article of manufacture or to any substance artificial or natural or partly artificial and partly natural whether the design is applicable for the pattern or for the shape or configuration or for the ornament thereof or for any two or more of such purposes and by whatever means it is applicable whether by printing painting embroidery weaving sewing modelling casting embossing engraving staining or any other means whatever manual mechanical or chemical separate or combined not being a design for a sculpture or other thing within the meaning of the Sculpture Copyright Act passed by the Imperial Parliament in the year one thousand eight hundred and fourteen (fifty-fourth George the Third chapter fifty-six) or of Part II of the “Copyright Act 1879” passed by the Parliament of this Colony (forty-second Victoria number twenty). Definition of “design” and “copyright.” Ib. s. 60.

“Copyright” means the exclusive right to apply a design to any article of manufacture or to any such substance as aforesaid.

54. The author of any design which is new and original within the meaning of this Act shall be considered the proprietor thereof unless he has executed the work on behalf of another person for a good or valuable consideration in which case such person shall be considered the proprietor. And every person acquiring for a good or valuable consideration a new and original design or the right to apply the same to any such article or substance as aforesaid either exclusively of any other person or otherwise and also every person on whom the property in such design or such right to the application thereof shall devolve shall be considered the proprietor of the design in the respect in which the same may have been so acquired and to that extent but not otherwise. The term shall also have the extended meaning attributed to it in sub-section (VIII) of section forty-two. Definition of “proprietor.” Ib. s. 61.



*Patents and Designs.*

## PART IV.

*Revocation of Patent—Legal Proceedings—Miscellaneous and General Provisions—Offences—Patent Agents.*

55. No proceeding by *scire facias* to repeal a patent shall here-  
 5 after be admissible but revocation of a patent may be obtained on  
 petition to the Supreme Court Every ground on which letters of  
 registration might before the commencement of this Act be repealed by  
*scire facias* shall be available by way of defence to an action of infringe-  
 ment and shall also be a ground of revocation A petition for revocation  
 10 of a patent may be presented by—

- (i) The Minister or any person authorized by the Minister in the prescribed manner.
- (ii) 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.
- 15 (iii) Any person alleging that he or any person under or through whom he claims would be entitled but for the grant of the patent to make application and obtain letters patent for any invention under sections nine or ten hereof respectively.
- 20 (iv) 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 anything claimed by the patentee as his invention before the date on which it is alleged the right upon which such patentee bases his claim first accrued.
- 25

56. In any proceeding for the revocation of a patent the  
 plaintiff shall deliver with his petition particulars of the objections  
 on which he means to rely and no evidence shall except by leave of  
 the said Court or a Judge thereof be admitted in proof of any objection of  
 30 which particulars are not so delivered but such particulars may be  
 amended by leave of such Court or Judge The defendant shall be  
 entitled to begin and give evidence in support of the patent and if the  
 plaintiff gives evidence impeaching the validity of the patent the  
 defendant shall be entitled to reply Where a patent has been re-  
 35 voked 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 revocation of the patent so revoked but the patent so granted  
 shall cease on the expiration of the term for which the revoked patent  
 40 was granted.

*Legal Proceedings.*

57. (i) The jurisdiction of the Supreme Court or of any Judge  
 thereof heretofore exercisable in respect of the infringement of any  
 Letters of Registration or Copyright granted under the authority of  
 45 any Act hereby wholly or in part repealed and in respect of the  
 infringement of any Patent or Letters of Registration or Copyright  
 issued or registered under this Act and whether such jurisdiction were  
 exercisable at law or in equity shall after the passing of this Act be  
 exercisable in the first instance exclusively by the Master in Equity  
 50 for the time being under the title of "Judge of Patents" And the  
 power of granting injunctions as also the power of taking accounts  
 in any suit or proceedings instituted in regard to any such Patent  
 Letters of Registration or Copyright to the extent to which such  
 powers could at the time of the passing of this Act be exercised by  
 55 the said Court or any Judge thereof shall be exercisable by the said  
 Master in Equity sitting as Judge of Patents,

Substituted  
 procedure for *scire facias*  
*Id.* s. 26.

Proceedings for  
 revocation of patent  
*Id.* s. 26.

Constitution of  
 Master in Equity to  
 be Judge of Patents.  
 His jurisdiction &c.

(ii)



*Patents and Designs.*

(II) While sitting or acting as such Judge of Patents such Master in Equity shall have full power to hear and determine (subject to appeal as hereinafter provided) all matters relating to such Patents Letters of Registration and Copyright as aforesaid except only 5 applications for the revocation of Patents and Letters of Registration made under section fifty-six.

(III) The Judge of Patents may exercise in Chambers the jurisdiction conferred on him by this Act and when sitting in the exercise thereof shall have all the powers of a Superior Court of Record 10 and the decrees orders and directions of such Judge shall have the same force and effect as if the same had been made or given by the Supreme Court and such Judge shall have full power to decide all questions whatsoever whether of law or fact and of settling perfecting and carrying out any such decrees or orders Provided that if in any case 15 either party desire a question of fact to be tried by a Common or Special Jury or the Judge thinks it ought to be so tried then a trial may be directed to be had accordingly in the same manner as on the trial of an issue at law in the Supreme Court at such time and place and in such Court as the order addressed to the Prothonotary and 20 directing the same shall provide.

(IV) The Judge of Patents sitting in Court or Chambers may in all matters before him award such costs as to him shall seem just.

(V) Every decree order and direction made by the Judge of 25 Patents shall be subject to appeal to the Supreme Court which for the purposes of such appeal shall be constituted by the presence of any two Judges of such Court and such Judges may for the purpose of any such appeal require the Judge of Patents to sit with them as Assessor but he shall not take part in the judgment on appeal.

(VI) The Judges of the Supreme Court or any three of 30 them shall have power to make General Rules prescribing in what cases and on what terms and within what time appeals from the orders and decisions of the Judge of Patents shall be allowed and for regulating the proceedings on such appeals and otherwise carrying into 35 effect the provisions and objects of this Act All such Rules shall be laid before both Houses of Parliament within twenty-one days from the making thereof if Parliament be then sitting or if not sitting then within the like time after the commencement of its next sitting Provided always that until such General Rules shall be framed 40 the Rules in force for the time being in the Equity jurisdiction of the Supreme Court shall so far as they may be applicable to procedure under this Act be deemed to be in force.

58. (I) In an action for infringement of a patent the Judge and in a proceeding for the revocation of a patent the Court may if 45 such Judge or Court thinks fit and shall on the request of either of the parties call in the aid of an assessor specially qualified and try and hear the case wholly or partially with his assistance Any issue in any proceeding for the revocation of a patent may if the Court shall so direct be tried by a common or special jury with or without the aid 50 of such assessor as aforesaid.

Hearing with  
assessor &c.  
*Ib. s. 28.*

(II) The remuneration if any to be paid to an assessor under this section shall be determined by the Judge or Court and if the assessor has been called in at the instance of either of the parties he shall be paid by such party or as the Judge or Court may direct.

59. (I) In an action for infringement of a patent the plaintiff 55 must deliver with his statement of claim or by order of the Judge at any subsequent time particulars of the breaches complained of.

Delivery of par-  
ticulars.  
*Ib. s. 29.*

(II) The defendant must deliver with his statement of defence or by order of the Judge at any subsequent time particulars of 60 any objections on which he relies in support thereof.

(III)



*Patents and Designs.*

(III) 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.

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

(v) Particulars delivered may be from time to time amended by leave of the Judge.

10 (VI) 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 Judge to have been proven or to have been reasonable and proper without regard to  
15 the general costs of the case.

60. In an action for infringement of a patent the 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 Judge may see fit.

Order for inspection  
&c. in action.  
*Ib.* s. 30.

20 61. In an action for infringement of a patent the Judge may certify that the validity of the patent came in question and if the 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  
25 solicitor and client unless the Judge certifies that he ought not to have the same.

Validity of certificate  
questioned and costs  
thereon.  
*Ib.* s. 31.

62. 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  
30 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  
35 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 commences and prosecutes with due diligence an action for infringement of his patent.

Remedy in case of  
groundless threats of  
legal proceedings.  
*Ib.* s. 32.

63. Every appeal to the Judge shall be subject to such conditions and provisions as may be prescribed and shall be absolutely  
40 final and binding on all parties to the appeal. But if either party be dissatisfied with the decision of the Judge in point of law or upon the admission or rejection of evidence such party within the time and subject to the conditions and provisions to be prescribed may appeal  
45 from such decision to the Supreme Court.

Appeal to Judge.

64. The Registrar or the Judge or the Supreme Court may on any application or on the hearing of any appeal or other matter under  
50 this Act if he or the Judge or such Court thinks fit obtain the assistance of an expert who shall be paid such remuneration for his services as may be prescribed.

As to experts.  
*Ib.* s. 11.

65. No report memorandum or minute made under the authority of this Act or used for purposes in connection with it whether referring to a provisional or complete specification or to any proceeding under the Act shall be published or be open to public inspection or be liable  
55 to production or inspection in any legal proceeding other than an appeal to the Judge or the Supreme Court and then only for the information of the Judge or Court unless the Judge or the Court shall consider that such production or inspection is necessary in the interests of justice and shall order accordingly.

Reports &c. privileged from publication and inspection.  
*Ib.* s. 9.



*Patents and Designs.**Miscellaneous and General Provisions.*

66. The exhibition of an invention or design at any Industrial International Intercolonial or other Exhibition held in this Colony under the authority of the Government or the publication of any description of the invention or design during the period of the holding of such exhibition or the use of the invention or design for the purpose of such exhibition in the place where the same is held or the use of the invention or design during the period of the holding of such exhibition by any person elsewhere without the privity or consent of the inventor or person entitled thereto shall not prejudice the right of such inventor or his legal personal representative to apply for and obtain provisional protection and letters patent in respect of the invention or to register the design or prejudice the validity of any document of title granted on any such application provided that both the following conditions are complied with namely:—

Exhibition at Industrial International Intercolonial or other Exhibition not to prejudice patent rights or copyright in designs.

*Ib.* s. 39.

- (I) The exhibitor must before exhibiting the invention or design give the Registrar the prescribed notice of his intention to do so and
- (II) The application for letters patent or for the registration of a design must be made before or within six months from the date of the opening of the Exhibition.

67. (I) The Minister shall authorize the Registrar to issue monthly a journal of patented inventions as well as such reports of patent cases decided by Courts of law and any other information relating to patents that he may deem generally useful or important.

Publication of journal lists indexes abridgments &c.

*Ib.* s. 40.

(II) Provision shall be made by the Registrar for the keeping on sale of such publication and also of complete specifications of patents for the time-being in force with their accompanying drawings if any.

(III) The Registrar shall continue in such form as he may deem expedient indexes and abridgments of specifications and shall from time to time prepare and publish such other indexes abridgments of specifications catalogues and other works relating to inventions as he may see fit.

68. After the grant of a patent for any important invention the Registrar may require the patentee to furnish the Government with neat working models on a convenient scale and with suitable drawings of the invention for the use of such educational and other institutions as may be prescribed And the Minister shall fix the price to be paid for such models and drawings.

Drawings and models for certain institutions.

69. (I) A patent shall not prevent the use of the invention to which it relates on board any foreign vessel within the jurisdiction of the Colony either for the purpose of the navigation thereof or for any other purpose provided such invention is not used for or in connection with the manufacture or preparation of anything intended to be sold in or exported from the Colony.

Foreign vessels within the jurisdiction of the Colony.

*Ib.* s. 43.

(II) But this section shall not extend to vessels of any foreign state in whose territories British subjects do not enjoy benefits in respect of the subject matter of this section.

70. No notice of any trust expressed implied or constructive shall be entered in any register kept under this Act or be receivable by the Registrar.

Trust not to be entered in register.

*Ib.* s. 85.

71. Where a person becomes entitled by assignment transmission or other operation of law to a patent or letter of registration or to the copyright in a registered design the Registrar shall on request and on proof of title to his satisfaction cause the name of such person to be entered as proprietor of the patent or letter of registration or the copyright in the design in the Register of Patents or in the Register of Designs as the case may be The person for the time-being entered

Entry of assignments and transmissions in registers.

*Ib.* s. 87.

in



*Patents and Designs.*

in the Register of Patents or of Designs as proprietor of a patent or letter of registration or of copyright in a design as the case may be shall subject to any rights appearing from such register to be vested in any other person have power absolutely to assign grant licenses as  
5 to or otherwise deal with the same and to give effectual receipts for any consideration for such assignment license or dealing Provided that any equities in respect of such patent or letter of registration or design may be enforced in like manner as in respect of any other personal property.

- 10 72. Permission to search for any entry in any Index Book kept Searching indexes.  
under this Act may be obtained by making written application to the Registrar specifying the particulars required and paying the prescribed fee in respect of each entry for which search is made Such search may be conducted by an officer of the Department if the Registrar  
15 considers that to be the most convenient course.

73. Every register kept under this Act shall be open to public Inspection of registers.  
inspection at the times and in the manner prescribed Provided written Ib. s. 88.  
application is made to the Registrar stating the entry or entries in respect of which the proposed search is to be instituted and that the  
20 prescribed fee is paid for inspecting each such entry.

74. Printed or written copies or extracts purporting to be Sealed copies to be received in evidence.  
certified by the Registrar and sealed with the seal of the Patent Office Ib. s. 89.  
of or from patents specifications disclaimers and other documents in the Patent Office and of or from registers and other books kept there  
25 shall be admitted in evidence in all Courts and in all proceedings without further proof or production of the originals Such documents when intended for use outside the Colony shall be endorsed by the Minister in the prescribed manner.

75. A certificate purporting to be under the hand of the Regis- Certificate of Registrar to be evidence.  
30 trar as to any entry matter or thing which he is authorized by this Ib. s. 96.  
Act or any general rules made thereunder to make or do shall be *prima facie* evidence of the facts stated in such certificate.

76. The Registrar may on request in writing accompanied by Power for Registrar to correct clerical errors.  
the prescribed fee correct any clerical error in or in connection with an  
35 application for a patent or for registration of a design or correct any clerical error in the name style or address of the registered proprietor of a patent or design. Ib. s. 91.

77. The Judge may on the application of any person aggrieved Rectification of registers by Court.  
by the omission of any name from any register kept under this Act or Ib. s. 90.  
40 by any improper or erroneous entry in any such register make such order for making expunging or varying the entry as he may think fit or may refuse the application and in either case may make such order with respect to the costs of the proceedings as he may think fit The Judge may in any proceeding under this section decide any question  
45 necessary or proper to carry out any rectification of a register and may direct an issue to be tried for the decision of any question of fact and may award damages to the party aggrieved Any order of the Judge rectifying a register shall direct that due notice of the rectification be given to the Registrar.

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

- 55 79. (I) The register of letters of registration and of proprietors Former registers to be deemed continued.  
thereof kept under the enactments repealed by this Act shall respec-  
tively be deemed parts of the same book as the register of patents kept under this Act.



*Patents and Designs.*

(II) The registers of copyright in designs kept under the Acts hereby repealed shall be deemed a part of the same book as the register of copyright in designs kept under this Act.

(III) All records documents or other things used in the administration of the "Letters of Registration (Inventions) Act" sixteenth Victoria number twenty-four or of Part III (Designs) of the "Copyright Act 1879" forty-second Victoria number twenty shall be transferred to the Patent Office Provided that if in any case it should not be practicable to so transfer original books or documents 10 certified copies thereof may be supplied instead.

80. Where any discretionary power is by this Act given to the Registrar he shall not exercise that power adversely to the applicant for a patent or for amendment of a specification or for registration of a design until (if so required by the applicant within the prescribed 15 time) such applicant shall have been afforded an opportunity either personally or by his agent of submitting documentary evidence or offering verbal explanations.

Exercise of discretionary power by Registrar.  
*Ib. s. 94.*

81. In all other respects than as regards the payment of fees applications that are in progress but have not been finally dealt with 20 on the passing of this Act may on the petition of the applicant to the Registrar in the prescribed form be dealt with as applications under this Act or the procedure under this Act may be partially applied to such applications as the Registrar may think fit.

Applications in progress on passing of Act.

82. (I) Any application notice or other document authorized 25 or required by this Act or the regulations to be left made or given at the Patent Office or to the Registrar or to any other person may be sent by a letter through the post and if so sent shall be deemed to have been left made or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

Applications and notices by post.  
*Ib. s. 97.*

30 (II) In proving the service or sending of any letter it shall be sufficient to prove that the letter was properly addressed and put into the post.

83. Whenever by this Act or the regulations thereunder any- thing is required to be done on a date which falls on a Sunday or a 35 day proclaimed as a public holiday for the whole Colony or for the locality in which the act is to be done under the "Bank Holidays Act 1875" (thirty-ninth Victoria number two) or the "Civil Service Act 1884" (forty-eighth Victoria number twenty-four) such act may be performed on the next day and if that is also a holiday on the next 40 day which is not a holiday.

Provision as to holidays.

84. If any person is by reason of infancy lunacy or other disability incapable of making any declaration or doing anything 45 required or permitted by this Act or prescribed by regulations thereunder the guardian or committee (if any) of such person or if there be none any person appointed by the Judge exercising Jurisdiction in Lunacy upon a petition presented to him on behalf of such incapable person or of any other person interested in making such declaration or doing such thing may make such declaration or a declaration as nearly corresponding thereto as circumstances permit and do such thing in 50 the name and on behalf of such incapable person And all acts done by such substitute shall for the purposes of this Act be as effectual as if done by the person for whom he is substituted.

Declaration by infant lunatic &c.  
*Ib. s. 99.*

85. There shall be maintained in connection with the Patent 55 Office a library of specifications of and indexes to Imperial Colonial and other patents and of scientific works and periodicals of a kind to aid the officers in the discharge of their duties and to serve the purposes of inventors and others seeking for information of a scientific character.

Library.



*Patents and Designs.*

86. All fees fines penalties and other moneys arising under this Act shall be received by the Registrar and shall be paid by him into the Treasury for the credit of the Consolidated Revenue Fund or of the Trust Moneys Deposit Account as the case may require.

Collections—how dealt with.

5 87. The Governor may frame regulations dealing with any or all of the following matters or any other matters affecting the administration of this Act and such regulations may provide for their enforcement under penalties in no case to exceed ten pounds and to be summarily recoverable before a Stipendiary Magistrate and copies of  
10 all such regulations shall be laid before both Houses of Parliament within twenty-one days if Parliament be then sitting and if Parliament be not then sitting then within twenty-one days after the commencement of the next ensuing Session thereof and if not disallowed by resolution of both Houses within twenty-one days of their being  
15 so laid before Parliament such regulations shall have the force of law and shall thereupon be published in the *Gazette* for general information.

Power to make general rules for classifying goods and regulating business of Patent Office.  
*Ib.* s. 101.

Regulations to have the force of law.

- (I) For regulating the practice of registration under this Act.
- 20 (II) For prescribing such fees as may be fixed by this Act or the regulations thereunder in respect of proceedings under this Act and for determining the time and mode of payment of such fees and for the registration of the addresses of patentees their legal representatives and of factories and establishments in which patented inventions are manufactured.
- 25 (III) For classifying goods for the purposes of designs.
- (IV) For securing and regulating the publishing and selling at such prices and in such manner as he shall think fit of copies of specifications drawings amendments indexes and other documents connected with patents and designs.
- 30 (V) For securing and regulating the making printing publishing and selling of indexes to and abridgements of specifications and other documents in the Patent Office and providing for the inspection of indexes and abridgments and other documents.
- 35 (VI) For regulating the presentation of copies of Patent Office publications to patentees and to public authorities bodies and institutions in this Colony and elsewhere.
- (VII) For regulating the Patent Office Library.
- 40 (VIII) Generally for regulating the business of the Patent Office and all things by this Act placed under the direction or control of the Registrar.

88. The Registrar shall before the first day of July in every year after the passing of this Act prepare a report in the prescribed form of all matters done under the authority of this Act and such  
45 report shall be submitted to the Minister and by him be laid before both Houses of Parliament.

Annual report.  
*Ib.* s. 102.

*Offences.*

89. (I) The fact of any article having been protected by patent in this Colony may be indicated by marking the article in this form  
50 "Patent N. S. W. 1886" Any person applying any such mark or causing it to be applied to any article for which such patent has not been granted or for which the patent right has expired or has been determined shall be guilty of a misdemeanor and shall be liable at the instance of the Registrar for every offence on summary conviction  
55 before any Stipendiary or Police Magistrate to a fine not exceeding fifty pounds And no person shall knowingly sell or have for sale or advertise for sale or profess to keep for sale any article to which such mark has been so applied after such conviction under a like penalty  
Provided

Penalties.



*Patents and Designs.*

Provided that the Registrar may if he finds it more convenient proceed against such person as is last mentioned instead of against the person who unauthorizedly applied the patent mark or is supposed to have done so.

- 5 (II) Any person falsely or fraudulently applying the word "patent" or "patented" or "registered" or any word or words of like import to indicate that such article has been protected in this Colony by letters of registration granted before the passing of this Act or by patent or is protected elsewhere by any form of patent or registration shall be liable for each offence to a fine not exceeding fifty pounds to be recovered at the instance of the person affected thereby or his representative on summary conviction before any Stipendiary or Police Magistrate And any person knowingly selling or exposing or offering or advertising for sale or professing to keep for sale any article to which such word or words are so applied shall be liable for each offence to a fine not exceeding twenty-five pounds to be recovered in like manner.

*Patent Agents.*

90. At any time after the passing of this Act the Minister How licensed. may grant a license to practice as a Patent Agent within the Colony of New South Wales to any person applying for such license and giving satisfactory proof of his fitness to discharge the necessary duties on payment of the prescribed fee Such license may be renewed by the Minister on application in like manner on first July annually
- 25 Any Patent Agent who has not obtained a renewal of his license at that date may nevertheless with the consent of the Registrar prosecute any case already initiated in the Patent Office before that date.

91. The Registrar may refuse to recognize as a Patent Agent any person acting in that capacity without a license. Persons practising as Patent agents without license.
- 30 92. A Patent Agent shall in each case in which he is employed lodge with the Registrar a writing under the hand of the applicant authorizing such agent to sign papers and to act generally on behalf of such applicant in relation to the application and the Registrar may recognise such Patent Agent to such extent as he may deem fit in the progress of each such case A Patent Agent so recognised may sign any documents in connection with the application except the application itself and the papers and drawings relating to it The Registrar shall not be obliged to recognise the agent and the principal at the same time but may deal with whichever of them he thinks fit He may also recognise as an agent for the applicant any person duly appointed to act in that capacity although such person is not a licensed Patent Agent. Authority to act in each case.

93. For gross misconduct or making inordinate charges the Registrar may refuse to recognize any person as a Patent Agent in any particular case but the reasons for such refusal shall be duly recorded and the refusal itself shall be subject to the approval of the Minister Patent Agents must conform to the prescribed rules under penalty of being struck off the roll. Patent Agents may be refused recognition.

94. Licensed Patent Agents shall not be obliged in any legal proceedings to divulge the secrets of their clients in any circumstances in which solicitors or attorneys would be exempt from such obligation and if any person shall at any time disclose any such secrets which have become known to him while he was a licensed patent agent without the consent of his client he shall be liable to a penalty not exceeding fifty pounds. Patent Agent not to divulge secrets of his clients.

95. Any person falsely representing himself by advertisement or otherwise to be a Patent Agent when he is not at the time the holder of a license shall be liable to be fined to any amount not exceeding twenty pounds on the prosecution of the Registrar. Persons falsely representing themselves to be Patent Agents.



*Patents and Designs.*

## SCHEDULE.

*Fees.*

					£	s.	d.
	On lodging application for patent—						
	With provisional specification only	...	...	...	1	0	0
5	Or with complete specification	...	...	...	2	0	0
	Or on lodging complete specification after provisional specification	...	...	...	2	0	0
	On lodging any petition or caveat	...	...	...	1	0	0
	On lodging an amended specification	...	...	...	1	0	0
<i>Periodical Payments during currency of Patent.</i>							
10	At or before the end of the second year	} in each year		...	...	2	0 0
	" " " third "						
	" " " fourth "						
	At or before the end of the fifth year	} in each year		...	...	4	0 0
	" " " sixth "						
15	" " " seventh "						
	At or before the end of the eighth and	} in each year		...	...	8	0 0
	of each subsequent year up to and						
	including the thirteenth year	...					

[1s. 3d.]

Sydney : Thomas Richards, Government Printer.— 1886



Patents and Designs

SCHEDULE

Fee

On lodging application for patent	1 0 0
With provisional specification only	2 0 0
Or with complete specification	2 0 0
On lodging form for registration of design	1 0 0
On lodging complete specification of design	1 0 0
At or before the end of the second year	2 0 0
At or before the end of the third year	2 0 0
At or before the end of the fourth year	2 0 0
At or before the end of the fifth year	2 0 0
At or before the end of the sixth year	2 0 0
At or before the end of the seventh year	2 0 0
At or before the end of the eighth year	2 0 0
At or before the end of the ninth year	2 0 0
At or before the end of the tenth year	2 0 0

By Order of the Registrar of Patents and Designs

(11. 22)