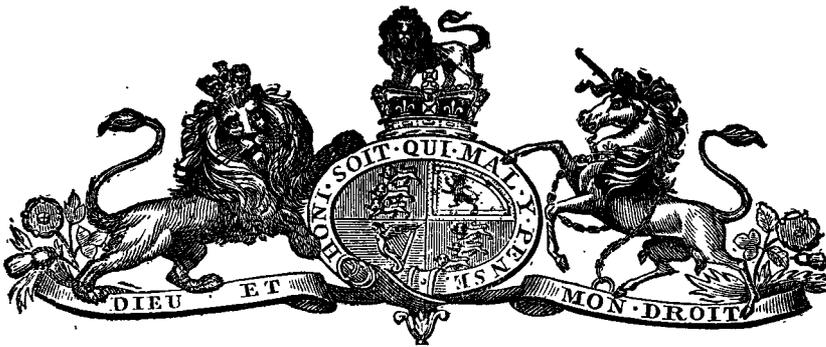


## NEW ZEALAND.



TRICESIMO TERTIO ET TRICESIMO QUARTO

## VICTORIÆ REGINÆ.

No. LXXXIX.

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AN Act to amend the Law relating to Letters Patent for Inventions. Title. [12th September 1870.]

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

1. The Short Title of this Act shall be "The Patents Act 1870" Short Title. It shall come into operation on the thirty-first day of December one thousand eight hundred and seventy.

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## Division of Act.

2. This Act is divided into Parts as follows—

PART I.—Mode of obtaining Letters Patent ss. 5–20.

PART II.—Disclaimer and Alterations ss. 21–24.

PART III.—Extension of Term and Confirmation of Invalid Patents ss. 25–28.

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## Repeal.

3. “The Patents Act 1860” is hereby repealed. Nothing herein contained shall 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commenced or any letters patent or letters of registration granted or any protection or right conferred under the said repealed Act before the coming into operation of this Act and all such proceedings and things shall be as valid and all such letters patent letters of registration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 been passed.

## Interpretation.

4. In the interpretation of this Act the term “Patent Officer” shall mean such person as shall from time to time be appointed by the Governor to be the Patent Officer under this Act and the word “invention” shall mean and include any manner of new manufacture the subject of letters patent and grants of privilege within the meaning of the enactment next hereinafter contained.

## PART I.

## MODE OF OBTAINING LETTERS PATENT.

## Power to grant patent.

21 Jac. I. c. 3 s. 6.

5. It shall be lawful to make and issue in the manner hereinafter mentioned letters patent and grants of privilege for any term not exceeding fourteen years from the date thereof of the sole working or making of any manner of new manufactures within New Zealand to the true and first inventor of such manufactures which others at the time of making such letters patent and grants shall not use so as also they be not contrary to the law nor mischievous to the State by raising prices of commodities or hurt of trade or generally inconvenient. And all other monopolies commissions grants licenses charters and letters patent hereafter to be made or granted to any person or for the sole buying selling making working or using of anything within New Zealand or of any other monopolies or of power liberty or faculty to dispense with any others and all matters and things whatsoever in anywise tending to the instituting erecting or countenancing of the same or any of them shall be utterly void and of none effect and in no wise to be put in execution.

## Ib. s. 1.

## Governor in Council to make rules.

6. It shall be lawful for the Governor in Council from time to time to make such rules and regulations not inconsistent with the provisions hereof as may appear to be necessary and expedient for the purposes of this Act and all such rules and regulations shall be laid before both Houses of the General Assembly within fourteen days after the making thereof if the General Assembly be then sitting and if not then within fourteen days after the commencement of the next Session of the General Assembly.

On application for patents inventor to deposit specification.  
15 and 16 Vict. c. 83 s. 9.

7. All applications under this Act for the grant of letters patent for an invention shall be made as follows that is to say—the applicant shall deposit at the office of the Colonial Secretary an instrument in writing under his hand and seal particularly describing and ascertaining the nature of the said invention and in what manner the same is to be performed and also a copy of such instrument and of the drawings accompanying the same if any. And the day of the deposit of every such specification shall be recorded at the said office and indorsed on such specification and a certificate thereof given to such applicant or his agent and thereupon subject and without prejudice

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to the provisions hereinafter contained the said invention shall be protected under this Act for the term of six months next after the said deposit and the applicant shall have during such term the like powers rights and privileges as might have been conferred upon him by letters patent for such invention issued under this Act and duly sealed as of the day of such deposit and during the continuance of such powers rights and privileges under this provision such invention may be used and published without prejudice to any letters patent to be granted for the same and where letters patent are granted in respect of such invention such letters patent shall be conditioned to become void if such specification does not particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed. Provided always that in case the title of the invention or the said specification be too large or insufficient it shall be lawful for the Patent Officer during the said term of six months and before the grant of the letters patent to allow or require such specification to be amended or another and sufficient specification to be deposited in lieu thereof and every such amended or new specification shall have the same force effect and operation as if it had been originally deposited in its amended or new state.

Specification may be amended before patent issues.

8. 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.

9. 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.

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

15 and 16 Vict. c. 83 s. 10.

10. The applicant so soon as he shall think fit after the deposit of such specification as aforesaid and of the drawings and models accompanying the same if any may give notice in writing at the office of the Patent Officer 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 office of the Patent Officer and at the time of giving such notice shall produce the said certificate of deposit and thereupon the said Patent Officer shall deliver to the applicant or his agent an appointment in the form contained in the Second Schedule to this Act or to the like effect and such applicant or agent not less than sixty clear days prior to the day appointed by the Patent Officer shall cause the said appointment to be published once in the *New Zealand Gazette* and twice in some newspaper published in the principal town of each Province or other division of the Colony and any person having an interest in opposing the grant of letters patent shall be at liberty not less than three clear days before the day so appointed to leave particulars in writing of his objections to the said application at the office of the said Patent Officer.

Mode of proceeding after deposit of specification.

Second Schedule.

11. At the place and time named in the said appointment the applicant or his agent shall produce the *Gazette* and newspapers and the Patent Officer shall thereupon hear and consider the said application and all objections to the same mentioned in the said particulars if any and for that purpose shall obtain from the office of the Colonial Secretary the said copy of the said specification and of the drawings and models accompanying the same if any and may call to his aid such scientific or other person as he may think fit and may by writing

Patent Officer to hear applications and objections.

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under his hand order to be paid to such person some remuneration for his attendance and may also in like manner order that the costs of any hearing upon any 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 and every such order shall be in the form contained in the Third Schedule to this Act or to the like effect and may be made a rule of the Supreme Court of New Zealand Provided always that the applicant the objectors and their respective witnesses and evidence shall be respectively heard examined and considered separately and apart from and in the absence of the other his witnesses and evidence Provided also that if there shall be no objection to the grant of letters patent the Patent Officer shall inquire only as to the due publication of the notices required by this Act and the compliance with the forms prescribed by this Act.

Third Schedule.

Proviso for unopposed cases.

Patent Officer may issue warrant for letters patent.

12. The Patent Officer after such hearing and consideration may issue a warrant under his hand for the granting of letters patent for the said invention and by such warrant shall direct the insertion in such letters patent of all such restrictions conditions and provisoes as he may deem usual and expedient in such grants or necessary in pursuance of this Act and the said warrant shall be the warrant for the making and sealing of letters patent under this Act according to the tenor of the said warrant and every such warrant shall be in the form set forth in the Fourth Schedule to this Act or to the like effect.

Fourth Schedule.

Letters patent may be repealed or withheld and specification cancelled.

15 and 16 Viet. c. 83 s. 16.

13. The writ of *scire facias* shall lie for the repeal of any letters patent granted under this Act and may be issued out of the Supreme Court in any judicial district and in case the grantee does not reside in New Zealand it shall be sufficient to file such writ in the Supreme Court and serve notice thereof in writing at the last known place of residence or business of such grantee and it shall be lawful for the Governor in Council upon the issue of such writ to 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 to order the insertion in any such letters patent of any restrictions conditions or provisoes in addition to or in substitution for any restrictions conditions or provisoes which would otherwise be inserted therein under this Act and it shall also be lawful for the Governor in Council to order any specification in respect of the invention described in which no letters patent may have been granted to be cancelled and thereupon the protection obtained by the deposit of such specification shall cease.

Letters patent to be void on non-performance of conditions.

Ib. s. 17.

Fifth Schedule.

14. All letters patent for inventions granted under this Act shall be in the form contained in the Fifth Schedule to this Act or to the like effect and be made subject to the conditions that the same shall be void and that the powers and privileges thereby granted shall cease and determine at the expiration of three years from the date thereof unless there be paid within the said three years from the date thereof the sum or sums of money in that behalf hereby required to be paid and the Colonial Secretary shall issue under his hand a certificate of such payment and shall indorse a receipt for the same on the letters patent.

Letters patent to be issued within three months after warrant and during the protection.

15. The Colonial Secretary so soon after the receipt by him of the said warrant as required by the applicant shall cause to be prepared letters patent for the invention according to the tenor of the said warrant and it shall be lawful for the Governor to cause such letters patent to be sealed with the Public Seal of the Colony and such letters patent shall be made applicable to the Colony and its Dependencies:

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and shall be valid and effectual as to the whole of the same respectively but except as hereinafter mentioned no letters patent shall issue on any warrant granted as aforesaid unless application be made to seal such letters patent within three months after the date of the said warrant nor unless such letters patent be granted during the continuance of the protection conferred under this Act by reason of such deposit as aforesaid.

16. 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 no from the wilful default of the applicant then such letters patent may be sealed at such time not being more than one month after the expiration of such protection as the Governor may direct and where the applicant for such letters patent dies during the continuance of such protection as aforesaid such letters patent may be granted to the executors or administrators of such applicant during the continuance of such protection or at any time within three months after the death of such applicant notwithstanding the expiration of the term of such protection and the letters patent so granted shall be of the like force and effect as if they had been granted to such applicant during the term of such protection. And in case any letters patent shall be lost or destroyed other letters patent of the like tenor and effect and sealed and dated as of the same day may (subject to such regulations as the Governor in Council may direct) be issued under the authority of the warrant in pursuance of which the original letters patent were issued.

Letters patent may issue after that time in certain cases. 15 and 16 Vict. c. 83 ss. 20-22.

17. 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 and 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 hereinafter mentioned and directed.

Letters patent to bear date of deposit of specification and to be conclusive as to preliminary steps.

18. No letters patent for any invention granted after the coming into operation of this Act 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. Provided always that this enactment shall not extend to the ships or vessels of any foreign State the laws of which authorize subjects of such foreign State having patents or like privileges for the exclusive use or exercise of inventions within its territories to prevent or interfere with the use of such inventions in British ships or vessels or in or about the navigation of British ships or vessels while in the ports of such foreign State or in the waters within the jurisdiction of its Courts where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from such foreign State.

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

Ib. s. 26.

19. Every specification deposited at the office of the Colonial Secretary as aforesaid and the drawings and models accompanying the same (if any) shall forthwith after the grant of the letters patent or if no letters patent be granted then immediately on the expiration of six months from the time of such deposit be kept in such office or place as the Governor in Council shall from time to time appoint for that purpose.

Specification to be filed after issue of patent or expiring of protection.

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Letters of registration for foreign patents.

24 Vict. No. 14 s. 20.

20. 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 it shall be lawful for 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 deem sufficient that such person is the *bona fide* holder or assignee thereof and that the same are or is in full force and upon payment to the Colonial Treasurer of the sum of ten pounds to grant letters of registration to such applicant and such letters of registration shall be deposited in the office of the Colonial Secretary and shall have the same force and effect as letters patent granted under this Act and shall enure to the benefit of the grantee thereof his executors administrators and assigns during the continuance of the original letters patent or other protection in the country or colony where the same was or were granted and no longer and all the provisions contained in the thirteenth eighteenth nineteenth and twenty-fourth sections of this Act and in the sections numbered twenty-ninth to thirty-seventh both inclusive and so much of the thirty-eighth section of this Act and of the Schedule therein referred to as relates to fees for searches and inspections for entries and certificates of assignments and licenses and for copies and extracts of writings shall so far as applicable to such letters of registration apply thereto as if the same were letters patent issued under this Act and the said several provisions shall be construed accordingly.

## PART II.

## DISCLAIMERS AND ADDITIONS.

Notice of application to disclaim or make alterations.

21. 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 and 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 Sixth Schedule to this Act 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 in the manner hereinbefore required with respect to the first-mentioned appointment and any person having an interest in opposing the said application shall be at liberty to leave particulars in writing of his objections to the same at the office of the Patent Officer within such time not less than three clear days prior to the day so appointed Provided always that 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.

Sixth Schedule.

Application for disclaimer to be heard.

22. At the time and place named in such appointment the person or persons applying or one of them shall produce the newspapers containing the same and the disclaimer or memorandum at the foot

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thereof and the Patent Officer shall thereupon hear and consider the said application and all objections to the same mentioned in the said particulars if any and all such 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.

**23.** 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 and such disclaimer or memorandum of alteration being filed in such office as the Governor in Council shall from time to time appoint for that purpose shall be deemed and taken to be part of such letters patent or such specification and subject to the several incidents thereof in all Courts whatever and shall be valid and effectual in favour of any person in whom the rights under the said letters patent may then be or thereafter become legally vested Provided always that 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 proceeding by *scire facias*) 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 Provided always that 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.

How disclaimer may be entered and alterations made. 5 and 6 Will. IV. c. 83 s. 1.

**24.** The copies of all specifications and the drawings and models accompanying the same (if any) and of all disclaimers and memoranda of alterations respectively deposited under or in pursuance of this Act shall be open to the inspection of the public at all reasonable times as well before as after the grant of letters patent and whether such letters patent be granted or not but subject to such regulations as the Governor in Council may from time make in that behalf.

Copies of specifications disclaimers &c. to be open to inspection.

## PART III.

## EXTENSION OF TERM AND CONFIRMATION OF INVALID PATENTS.

**25.** If any person who has obtained letters patent under this Act or any other Act relating to letters patent heretofore in force in New

Mode of obtaining extension of term.

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5 and 6 Will. IV.  
c. 83 s. 4.  
7 and 8 Vict. c. 69  
ss. 2 & 4.

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) if he or they together with the assignee when part only has been assigned or if the assignee alone when the whole has been assigned shall six months before the expiration or other determination of such letters patent present to the Governor a petition for the extension of the term in such letters patent mentioned and shall set forth in such petition that he or they has or have been unable to obtain a due remuneration for his or their expense and labour 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 or their reimbursement and remuneration it shall be lawful for the Governor in Council to refer the consideration of the said petition to one or more Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

Appointment of  
Commissioners.

26. For the purpose of considering any such petition as aforesaid it shall be lawful for the Governor in Council if he shall think fit to issue and direct in the name of Her Majesty her heirs or successors to 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 *New Zealand Gazette* and at some place to be respectively fixed in the said commission and then and there to consider the said petition and to report to the Governor (in case such petitioner shall have prayed for an extension of the term in the letters patent mentioned) whether any and if any what further extension of the said term should be granted according to the prayer of the said petition.

Notice of commission  
to be published and  
caveats entered.

27. 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 Seventh Schedule to this Act or to the like effect and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the Colonial Secretary at any time not less than one week before the time named in the said commission for the consideration thereof.

Seventh Schedule.

Commissioners to  
hear all parties and  
report.

28. 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 and 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 in Council 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 and such new letters patent shall be sealed and bear date as of the day after the expiration of the term of the first letters patent.

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## PART IV.

## MISCELLANEOUS PROVISIONS.

**29.** The Governor may cause indices to all specifications disclaimers and memoranda of alterations heretofore or to be hereafter enrolled or deposited as aforesaid to be prepared in such form as may be thought fit and such indices shall be open to the inspection of the public at such places as the Governor in Council shall appoint and subject to the regulations to be made as hereinbefore provided.

Indices to specifications disclaimers &c.

**30.** There shall be kept at the office to be appointed as aforesaid a book to be called the "Register of Patents" wherein shall be entered and recorded in chronological order all letters patent and letters of registration granted under this Act or "The Patents Act 1860" the deposit and filing of specifications disclaimers and memoranda of alterations filed in respect of such letters patent all amendments in such letters patent and specifications all confirmations and extensions of such letters patent the expiry determination vacating or cancelling of such letters patent with the dates thereof respectively and all other matters and things affecting the validity of such letters patent as the Governor in Council may direct and such Register or a copy thereof shall be open at all convenient times to the inspection of the public subject to such regulations as the Governor in Council may make in that behalf.

Register of patents to be kept.

**31.** There shall be kept at the same office a book entitled the "Register of Proprietors" wherein shall be entered in such manner as the Governor in Council shall direct 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 names of any person having any share or interest in such letters patent or letters of registration or license the date of his acquiring such letters patent or letters of registration share or interest and any other matter or thing relating to or affecting the proprietorship in such letters patent or letters of registration or license And a copy of any entry in such book certified as hereinafter mentioned shall be given to any person requiring the same and shall be *prima facie* proof of the assignment of such letters patent or letters of registration or share or interest therein or of the license or proprietorship as therein expressed Provided always that until such entry shall have been made the grantee 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 and such register or a copy shall be open to public inspection subject to such regulations as the Governor in Council may make.

Register of proprietors to be kept.

15 and 16 Vict. c. 83 s. 35.

**32.** The Governor may cause a seal to be made for the purposes hereinafter mentioned and all Courts Judges and other persons whomsoever shall take notice of such seal and receive impressions thereof in evidence in like manner as impressions of the seal of the Supreme Court are received in evidence and copies or extracts certified 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.

**33.** If any person shall wilfully make or cause to be made any false entry in any such register or shall wilfully make or forge or cause to be made or forged any writing falsely purporting to be a copy

Falsification or forgery of entries.

Ib. s. 37.

*Patents.*

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

Entries may be expunged.  
15 and 16 Vict. c. 83 s. 38.

**34.** If any person shall deem himself aggrieved by any entry made under colour of this Act in any such register it shall be lawful for such person to apply by motion to the Supreme Court 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 officer having the care and custody of such register on the production to him of any such order shall expunge vacate or vary the said entry according to such order.

Penalty for the unauthorized use of the word "patent."  
5 and 6 Will. IV. c. 83 s. 7.

**35.** 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 if any person shall upon such thing not having been purchased from the patentee or some person who purchased it from or under such patentee or not having had the license or consent in writing of such patentee or his assigns write paint print mould cast carve engrave stamp or otherwise mark the word "patent" the words "letters patent" or the words "by the Queen's patent" or any words of the like kind meaning or import with a view of imitating or counterfeiting the stamp mark or other device of the patentee he shall for every such offence forfeit and pay the sum of one hundred pounds one half to Her Majesty her heirs and successors and the other half with full costs of suit to any person who shall sue for the said penalty Provided always that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "patent" upon anything for the sole making or vending of which letters patent before obtained shall have expired or otherwise determined.

In actions for infringement particulars of breaches and objections to be delivered.

Ib. s. 5.

**36.** In any action for the infringement of letters patent the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action and the defendant on pleading thereto shall deliver with his pleas and the prosecutor in any proceedings by *scire facias* to repeal letters patent shall deliver with his declaration particulars of any objections on which he means to rely at the trial in support of the pleas in the said action or of the suggestions of the said declaration in *scire facias* respectively and at the trial of such action or proceeding by *scire facias* no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such letters patent which shall not be contained in the particulars delivered as aforesaid Provided always that the place or places at or in which and in what manner the invention is alleged to have been used or published prior to the date of the letters patent shall be stated in such particulars Provided also that it shall and may be lawful for any Judge at chambers to allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid upon such terms as to such Judge shall seem fit Provided also that at the trial of any proceeding by

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*scire facias* to repeal letters patent the defendant shall be entitled to begin and to give evidence in support of such letters patent and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such letters patent the defendant shall be entitled to the reply.

37. In taxing the costs in any action for infringing letters patent regard shall be had to the particulars delivered in such action and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular unless certified by the Judge before whom the trial was had to have been proved by such plaintiff or defendant respectively without regard to the general costs of the cause and it shall be lawful for the Judge before whom any such action shall be tried to certify on the record that the validity of letters patent in the declaration mentioned came in question and the record with such certificate being given in evidence in any suit or action for infringing the said letters patent or in any proceeding by *scire facias* to repeal the letters patent shall entitle the plaintiff in any such suit or action or the defendant in such proceeding by *scire facias* on obtaining a decree decretal order or final judgment to his full costs charges and expenses 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.

Particulars to be regarded in taxing costs.  
5 and 6 Will. IV.  
c. 83 s. 6.

38. There shall be paid in respect of letters patent applied for or issued as herein mentioned the depositing of specifications disclaimers and memoranda of alterations warrants certificates entries and searches and other matters and things respectively mentioned in the Eighth Schedule to this Act such fees as are enumerated in that Schedule and shall form part of the Consolidated Revenue and be paid applied and disposed of accordingly.

Fees to be paid.

Eighth Schedule.

## FIRST SCHEDULE.

To all to whom these presents shall come, I [John Doe, of Wellington, in the Province of Wellington, engineer] send greeting: Whereas I am desirous of obtaining Royal Letters Patent for securing unto me Her Majesty's special license that I, my executors administrators and assigns, and such others as I or they should at any time agree with, and no others, should and lawfully might from time to time and at all times during the term of fourteen years (to be computed from the day on which this instrument shall be left at the office of the Patent Officer), make use exercise and vend, within the Colony of New Zealand and its Dependencies, an invention for [*Insert the title of the invention*]; and in order to obtain the said letters patent I must by an instrument in writing under my hand and seal particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and must also enter into the covenant hereinafter contained: Now know ye that the nature of the said invention and the manner in which the same is to be performed is particularly described and ascertained in and by the following statement (that is to say) [*Describe the invention*]. And I do hereby, for myself, my heirs executors and administrators, covenant with Her Majesty, her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, and that I do not know or believe that any other person than myself is the true and first inventor of the said invention, and that I will not deposit these presents at the office of the Patent Officer with any such knowledge or belief as last aforesaid.—In witness &c.

Schedule.

## SECOND SCHEDULE.

PATENT for [*Insert the title of the specification*]. This is to notify that A.B. of &c. did, on the \_\_\_\_\_ day of \_\_\_\_\_ instant [*or last*], deposit at the office of the Patent Officer

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in Wellington, a specification or instrument in writing under his hand and seal, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed; and that by reason of such deposit the said invention is protected and secured to him exclusively for the term of six calendar months thence next ensuing. And I do further notify that the said A.B. has given notice in writing at my office of his intention to proceed with his application for letters patent for the said invention, and that I have appointed [*Thursday*] the            day of            next, at            o'clock in the            noon, at my office, to hear and consider the said application and all objections thereto; and I do hereby require all persons having an interest in opposing the grant of such letters patent to leave, on or before the            day of            at my office in Wellington, particulars in writing of their objections to the said application, otherwise they will be precluded from urging the same.

Given under my hand this            day of            18

C.D.,  
Patent Officer.

## THIRD SCHEDULE.

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

Given under my hand this            day of            18

G.H.,  
Patent Officer.

## FOURTH SCHEDULE.

I HAVE [*heard and*] considered the application of A.B. for letters patent for [*Insert the title as in the specification*] [*and also all objections to the same*], and having perused the specification, and the usual and necessary advertisements, am of opinion that as it is entirely at the hazard of the said applicant whether the said invention is new and will have the desired success, Her Majesty's Royal Letters Patent may be issued in the form contained in the            Schedule to "The Patents Act 1870" [*with the following additional clauses (that is to say) Here set them out if any*].

Given under my hand and seal this            day of            18

(L.S.)  
P.O.,  
Patent Officer.

## FIFTH SCHEDULE.

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*], hath represented that he is desirous of obtaining our Royal Letters Patent for securing unto him our special license that he, his executors administrators and assigns, and such others as he or they should agree with, and no others, should and lawfully might make use exercise and vend, within our Colony of New Zealand and its Dependencies, 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, the said A.B. hath particularly described and ascertained the nature of the said invention, and in what manner the same is to be performed; and we being willing to give encouragement to all arts and inventions which may be for the public good, are graciously pleased to confer upon the said A.B. the privileges hereinafter mentioned: Know ye therefore that we, of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents, for us our heirs and successors, do give and grant unto the said A.B., his executors administrators and assigns, our especial license, full power, sole privilege, and authority that he the said A.B., his executors administrators and assigns, and every of them, by himself and themselves, or his and their deputy or deputies, servants or agents, or such others as he or they shall at any time agree with, and no others, during the term herein expressed, shall and lawfully may make use exercise and vend his said invention within our said Colony and its Dependencies, in such manner as to him, his executors administrators and assigns, or any of them, shall seem meet; and that he, his executors administrators and assigns, shall and lawfully may have and enjoy the whole profit benefit commodity and advantage from time to time coming growing accruing and arising by reason of the said invention during the said term, to have hold exercise and enjoy the said licenses powers privileges and advantages unto and by the said A.B., his executors administrators and assigns, for and during and unto the full end and term of fourteen years now next ensuing: And to the end that he, his executors administrators and assigns, and every of them, may

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have and enjoy the full benefit and the sole use and exercise of the said invention, according to our gracious intention, We do by these presents, for us our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other our subjects whatsoever, of what estate quality degree name or condition soever they be, within our said Colony and its Dependencies, that neither they nor any of them, at any time during the said term, either directly or indirectly, do make use or put in practice the said invention, or any part of the same, so attained unto by the said A.B. as aforesaid, nor in anywise counterfeit imitate or resemble the same, nor shall make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors deviser or devisors thereof, without the consent license or agreement of the said A.B., his executors administrators or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this our Royal command, and further to be answerable to the said A.B., his executors administrators and assigns, according to law, for his and their damages thereby occasioned: Provided always, and these our letters patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall appear that this our grant is contrary to law or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention, or that the said A.B. is not the true and first inventor thereof, within this Colony or its Dependencies, these our letters patent shall forthwith cease determine and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided also that these our letters patent or anything herein contained shall not extend or be construed to extend to give privilege unto the said A.B., his executors administrators or assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of our subjects whatsoever, and publicly used or exercised, unto whom our like letters patent or privileges have been already granted for the sole use exercise and benefit thereof, within our said Colony or its Dependencies, it being our will and pleasure that the said A.B., his executors administrators and assigns, and all and every other person and persons to whom like letters patent or privileges have been already granted as aforesaid, shall distinctly use and practise their several inventions by them invented and found out according to the true intent and meaning of the same respective letters patent and of these presents: Provided likewise nevertheless, and these our letters patent are upon this express condition, that if the said instrument in writing does not particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed, and also if the said A.B., his executors administrators or assigns, shall not pay at the office of the Patent Officer of our said Colony the sum of            pounds within three years next after the date of these presents, and also if the said A.B., his executors administrators or assigns, shall not supply or cause to be supplied for our service all such articles of the said invention as he or they shall be required to supply by the persons administering the department of our service for the use of which the same shall be 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, and also that if the said A.B., his executors administrators or assigns, shall not, within two years next after the date of these presents, bring the said invention into actual and public use, that then and in any of the said cases these our letters patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease determine and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted. And lastly, we do by these presents, for us our heirs and successors, grant unto the said A.B., his executors administrators and assigns, that these our letters patent shall be in and by all things good firm valid and sufficient and effectual in the law according to the true intent and meaning thereof, and shall be taken construed and adjudged in the most favourable and beneficial sense for the best advantage of the said A.B., his executors administrators and assigns, as well in all our courts of record as elsewhere, and by all and singular the officers and ministers whatsoever of us our heirs and successors in our said Colony and its dependencies, and amongst all and every the subjects of us our heirs and successors whatsoever and wheresoever, notwithstanding the not full and certain describing the nature or quality of the said invention or of the materials thereunto conducing and belonging.—In witness whereof we have caused these our letters to be made patent and to be sealed and bear date as of the day of

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**SIXTH SCHEDULE.**

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

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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

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.*]

## SEVENTH SCHEDULE.

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

A.B.

## EIGHTH SCHEDULE.

	£	s.	d.
On depositing specification	...	...	...
On obtaining letters patent	...	...	...
At or before the expiration of the third year	...	...	...
On lodging particulars of objections	...	...	...
On presenting petition for extension	...	...	...
Every search and inspection	...	...	...
Entry of assignment or license	...	...	...
Certificate of assignment or license	...	...	...
Filing of memorandum of alteration or disclaimer	...	...	...
Entering any caveat	...	...	...
Copy or extract of any writing per common law folio	...	...	...

WELLINGTON, NEW ZEALAND:

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