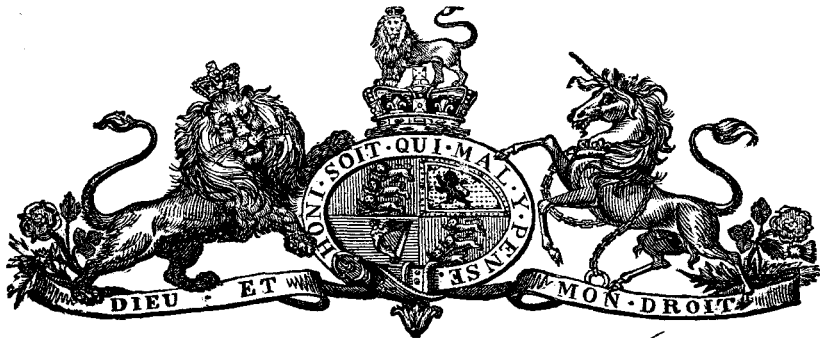


T A S M A N I A



1858.

*Victorian*

*20. 6. 1858.*

ANNO VICESIMO-SECUNDO

VICTORIÆ REGINÆ,

*see English*

No. 22.

*15 & 16 V. c 83*

*16 & 17 V. c 5.*

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AN ACT to regulate the granting of Letters Patent for Inventions. [5 November, 1858.]

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

PREAMBLE.

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

Interpretation.

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

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

“Petition,” “Declaration,” “Specification,” “Appointment to hear Application,” “Warrant,” and “Letters Patent,” respectively, shall mean instruments in the form and to the effect

in the Schedule, subject to such alterations as may, from time to time, be made therein under the powers and provisions of this Act.

Power to grant Letters Patent for inventions.

**2** It shall be lawful for the Governor, with the advice of the Executive Council, in the name and on behalf of Her Majesty the Queen, to make and issue, in the manner hereinafter mentioned, Letters Patent and Grants of Privilege for any term not exceeding Fourteen years from the date thereof of the sole working or making of any manner of new manufactures within this Colony to the true and first Inventor of such manufactures, which others at the time of making such Letters Patent and Grants do not use, so as also they be not contrary to Law nor mischievous to the Community by raising prices of commodities, or hurt of trade, or generally inconvenient.

Governor to make Rules for executing Act.

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

Mode of applying for Letters Patent for inventions.

**4** Every application for the Grant in this Colony, under this Act, of Letters Patent for inventions shall be made by Petition to the Governor, the allegations of which Petition shall be supported by a Declaration, to be made and subscribed by the applicant, that he is the true and first Inventor, and that the article has not to his knowledge or belief been before made or used in this Colony; and such Petitions and Declarations shall be lodged at the Office of the Colonial Secretary, and shall be in the form in the Schedule or to the like effect.

On application for Patent Inventor to deposit Specification.

**5** The applicant for Letters Patent for an invention shall, at the time of lodging such Petition and Declaration as aforesaid, deposit at the said Office of the Colonial Secretary an instrument in writing under his hand and seal, hereinafter called a Specification, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, which Specification shall be mentioned in and annexed to the Declaration; and shall also then deposit at the said Office a copy of such instrument, and of the drawings accompanying the same, if any; and the day of the deposit of every such Specification shall be recorded at the said Office and endorsed on such Specification, and a certificate thereof given to such applicant or his agent; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Act for the term of Six months from the day of such deposit, and the applicant shall have during such term the like powers, rights, and privileges as might have been conferred upon him by Letters Patent for such invention issued under this Act, and duly sealed as of the day of such deposit; and during the continuance of such powers, rights, and privileges under this provision, such invention may be used and published without prejudice to any Letters Patent to be granted for the same; and where Letters Patent are granted in respect of such invention, such Letters Patent shall be conditioned to become void if such Specification does not particularly describe and ascertain the nature of the said invention,

and in what manner the same is to be performed : Provided always, that in case the title of the invention or the said Specification is too large or insufficient, it shall be lawful for the Law Officer during the said term of Six months, and before the grant of the Letters Patent, to allow or require the same to be amended, or another and sufficient Specification to be deposited in lieu of such Specification as aforesaid ; and every such amended or new Specification shall have the same force, effect, and operation as if it had been originally deposited in its amended or new state.

Specification may be amended before Patent issues.

*see Appendix 106  
Patents. p 143.*

**6** Every such Specification shall be in the form in the Schedule, or to the like effect, and shall be written upon parchment upon both sides, and every page thereof shall be of the exact size of Twenty inches in length by Fifteen inches in breadth, leaving a margin of at least One inch and a half on each side of every such page in order and to the intent that the same may be bound into books for safe custody, but the drawings accompanying such Specification, if any, may be made upon larger sheets of parchment, leaving a margin of the size and for the purpose aforesaid ; and every copy of any such Specification as aforesaid, and of the drawings accompanying the same, if any, shall in like manner be written upon paper of the size and with the margins aforesaid.

Form and size of Specification, and copy.

**7** In case of any application for Letters Patent for an invention, and the obtaining of protection for the same by reason of the deposit of any such Specification as aforesaid in fraud of the true and first Inventor, any Letters Patent granted to the true and first Inventor of such invention shall not be invalidated by reason of such application or of such protection as aforesaid, or of any use or publication of the invention subsequent to such application and before the expiration of the said term of protection.

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

**8** The applicant so soon as he thinks fit after the deposit of such Specification as aforesaid, and of the drawings and models accompanying the same, if any, may give notice in writing at the Office of the Law Officer of his intention to proceed with his application for Letters Patent for the said invention, stating in such notice the title of the said invention, and the day on which the Specification thereof was deposited at the Office of the Colonial Secretary, and shall at the time of giving such notice produce the said certificate of deposit ; and thereupon the Law Officer shall deliver to the applicant or his agent an appointment to hear the application in the form in the Schedule, or to the like effect ; and such applicant or agent shall cause the said appointment to be published once in the *Gazette* and twice in some newspaper published in *Hobart Town* and in *Launceston* ; and any persons having an interest in opposing the grant of Letters Patent for the said invention shall be at liberty to leave particulars in writing of their objections to the said application at the Office of the Law Officer within such time, not being less than One month, as the Law Officer by such appointment may direct.

Mode of proceeding after deposit of Specification.

**9** At the time and place named in the said appointment the applicant shall produce the *Gazette* and newspapers containing the same ; and the Law Officer shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and for that purpose shall obtain from the Office of the Colonial Secretary the copy of the Specification and of the drawings and models

Law Officer to hear application and objections.

accompanying the same, if any; and the Law Officer may call to his aid such scientific or other person as he may think fit, and may cause such remuneration to be paid to such person as he thinks proper: Provided always, that the applicant, the objectors, and their respective witnesses and evidence, shall be respectively heard, examined, and considered separately and apart from and in the absence of the other and his witnesses and evidence.

Law Officer may order by and to whom costs to be paid.

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

Law Officer may issue Warrant for sealing of Letters Patent.

**11** It shall be lawful for the Law Officer, after such hearing and consideration as he may think fit, to issue a Warrant under his hand and seal for the sealing of Letters Patent for the said invention, and such Warrant shall set forth the tenor and effect of the Letters Patent thereby authorised to be granted, and shall direct the insertion in such Letters Patent of all such restrictions, conditions, and provisoes as the Law Officer may deem usual and expedient in such grants, or necessary in pursuance of the provisions of this Act; and the said Warrant shall be the Warrant for the making and sealing of Letters Patent under this Act according to the tenor of the said Warrant; and every such Warrant shall be in the form in the Schedule or to the like effect.

Writ of *scire facias*.

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

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

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

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

**14** All Letters Patent for inventions granted under this Act shall be in the form in the Schedule or to the like effect, and be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine, at the expiration of Three years and Seven years respectively from the date thereof unless

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there is paid before the expiration of the said Three and Seven years respectively the sum or sums of money in that behalf by this Act required to be paid; and the Colonial Treasurer shall issue under his hand a certificate of such payment, and shall endorse a receipt for the same on the Letters Patent.

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

Colonial Secretary to issue Letters Patent.

**16** Save as hereinafter mentioned, no Letters Patent shall issue on any Warrant granted as aforesaid unless application is made to seal such Letters Patent within Three months after the date of the said Warrant, nor shall any Letters Patent be issued or be of any force or effect unless such Letters Patent are granted during the continuance of the protection conferred under this Act by reason of such deposit as aforesaid.

Letters Patent to be issued within certain time.

**17** Where Letters Patent have not been sealed during the continuance of such protection as aforesaid, and the delay in such sealing has arisen from accident and not from the neglect or wilful default of the applicant, it shall be lawful for the Governor, if he thinks fit, to seal such Letters Patent at any time, not being more than One month after the expiration of such protection; and where the applicant for Letters Patent dies during the continuance of such protection as aforesaid, such Letters Patent may be granted to the executors or administrators of such applicant during the continuance of such protection, or at any time within Three months after the death of such applicant, notwithstanding the expiration of the term of such protection; and the Letters Patent so granted by virtue of this Section shall be of the like force and effect as if they had been granted to such applicant during the continuance of such protection; and in case any Letters Patent are destroyed or lost, other Letters Patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such Regulations as the Governor in Council may direct, be issued under the authority of the Warrant in pursuance of which the original Letters Patent were issued.

Letters Patent may issue after that time in certain cases.

**18** Notwithstanding any Law to the contrary, all Letters Patent to be issued in pursuance of this Act shall be sealed and bear date as of the day of the deposit of such Specification as aforesaid; and such Letters Patent shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date; and after any Letters Patent have been issued under this Act it shall not be necessary or material to inquire or ascertain whether such appointment to hear the application as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

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

**19** Where upon any application made under this Act Letters Patent are granted for or in respect of any invention first invented in parts out of this Colony, and a Patent or the like privilege for the monopoly or exclusive use or exercise of such invention in any part out of this Colony is there obtained before the grant of such Letters Patent in this Colony, all rights and privileges under such Letters Patent shall,

Letters Patent for foreign inventions not to continue after expiration of foreign Patent.

notwithstanding any term in such Letters Patent limited, cease and be void immediately upon the expiration or other determination of the term during which the Patent or like privilege obtained in such part out of this Colony continues in force, or where more than one such Patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which first expires or is determined of such several Patents or like privileges: Provided always, that no Letters Patent for or in respect of any invention for which any such Patent or like privilege as aforesaid has been obtained abroad, granted in this Colony after the expiration or determination of the term for which such Patent or privilege was granted or was in force, shall be of any validity.

Letters Patent not to prevent the use of inventions in foreign ships resorting to Ports of this Colony.

**20** No Letters Patent for any invention granted in pursuance of this Act shall extend to prevent the use of such invention in any foreign ship or vessel, or for the navigation of any foreign ship or vessel which may be in any Port of this Colony, or in any of the waters within the jurisdiction of any of Her Majesty's Courts in this Colony, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from this Colony: Provided always, that this enactment shall not extend to the ships or vessels of any foreign State the Laws of which authorise subjects of such foreign State having Patents or like privileges for the exclusive use or exercise of inventions within its territories to prevent or interfere with the use of such inventions in British ships or vessels, or in or about the navigation of British ships or vessels while in the Ports of such foreign State, or in the waters within the jurisdiction of its Courts, where such inventions are not so used for the manufacture of goods or commodities to be vended within or exported from the territories of such foreign State.

Specifications &c. to be filed.

**21** Every Specification deposited at the Office of the Colonial Secretary as aforesaid, and the drawings and models accompanying the same, if any, and all such Petitions and Declarations as aforesaid, shall forthwith after the grant of the Letters Patent, or if no Letters Patent are granted then immediately on the expiration of Six months from the time of such deposit, or upon the Specification being so cancelled as aforesaid, be transferred to, kept, and filed in such Office as the Governor in Council from time to time appoints for that purpose; and the copies of such Specifications, and the drawings and models, if any, accompanying the same, shall also be forwarded to and kept at the same Office.

Applications to disclaim or make alterations.

**22** Any person who obtains Letters Patent under this Act, or in case such person departs with the whole or any part of his interest by assignment, such person together with the assignee if part only has been assigned, or the assignee alone if the whole has been assigned, may apply to the Law Officer for leave to enter a disclaimer of any part of either the title of the invention or of the Specification, or a memorandum of any alteration in the said title or Specification not being such a disclaimer or such an alteration as extends the exclusive right granted by the said Letters Patent; and thereupon the Law Officer shall deliver to such applicant or his agent an appointment to hear such application in the form in the Schedule or to the like effect; and such applicant or his agent shall thereupon cause such disclaimer, stating the reason for the same, or such memorandum of alteration, to be written at the foot of the said appointment, and cause the same respectively to be published in the manner hereinbefore

required with respect to the publication of the appointment to hear an application for Letters Patent ; and any person having an interest in opposing the said application shall be at liberty to leave particulars in writing of their objections to the same at the Office of the Law Officer, within such time not being less than One month as the Law Officer by such appointment may direct : Provided always, that where such application as aforesaid is for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the Law Officer may dispense with such appointment and publication, and in that case shall certify in the fiat hereinafter mentioned that he has dispensed with the same.

**23** At the time and place named in such appointment the said applicant shall produce the *Gazette* and newspapers containing the same, and the said disclaimer or memorandum of alteration at the foot thereof ; and the Law Officer shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and all such power and authority shall and may be exercised upon that occasion by the Law Officer as by virtue of the provisions herebefore 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.

Law Officer to hear applications for leave to disclaim.

**24** After such hearing and consideration, or without such hearing and consideration where the said appointment and publication have been dispensed with as aforesaid, such applicant may by leave of the Law Officer, to be certified by a fiat under his hand to be written at the foot of the same parchment with the disclaimer or memorandum, enter such disclaimer, stating the reason for the same, or such memorandum of alteration ; and such disclaimer or memorandum of alteration and fiat shall be filed in the Office in which Specifications are appointed to be filed as aforesaid with the Specification of the invention to which the same relate ; and such disclaimer or memorandum of alteration, being so filed in such Office, shall be deemed and taken to be part of the Letters Patent or the Specification, and subject to the several incidents thereof, in all Courts whatever, and shall be valid and effectual in favour of any person in whom the rights under the said Letters Patent may then be or thereafter become legally vested ; and such filing of any disclaimer or memorandum of alteration in pursuance of the leave of the Law Officer certified as aforesaid shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Act, and no objection shall be allowed to be made in any proceeding upon or touching such Letters Patent, Specification, disclaimer, or memorandum of alteration on the ground that the person entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf : Provided always, that no action shall be brought upon any Letters Patent in which or on the Specification of which any disclaimer or memorandum of alteration has been filed in respect of any infringement committed prior to the filing of such disclaimer or memorandum of alteration, unless the Law Officer certifies in his said fiat that any such action may be brought, notwithstanding the entry or filing of such disclaimer or memorandum of alteration ; and that no such disclaimer or memorandum of alteration shall be receivable in evidence in any action or suit, save and except in any proceeding by *scire facias*, pending at the time when such disclaimer or alteration was filed as aforesaid, but in every such last mentioned

Disclaimers and alterations to be entered and filed.

action or suit the original title and Specification alone shall be given in evidence, and be deemed and taken to be the title and Specification of the invention for which the Letters Patent have been granted: Provided also, that when any such fiat has been issued under this Act, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Act.

Specifications, &c. to be open to inspection.

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

Mode of obtaining extension of the term.

**26** If any person having obtained Letters Patent under this Act, or in case such person has departed with his whole or any part of his interest by assignment, if such person together with the assignee where part only has been assigned, or if the assignee alone where the whole has been assigned, Six months before the expiration or other determination of such Letters Patent, presents to the Governor a Petition for the extension of the term in such Letters Patent mentioned, and sets forth in such Petition that he has been unable to obtain a due remuneration for his expense and labour in perfecting such invention, and that an exclusive right of using and vending the same for some further period to be named in such Petition, in addition to the said term, is necessary for his reimbursement and remuneration, it shall be lawful for the Governor in Council to refer the consideration of the said Petition to Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

Mode of obtaining confirmation of invalid Patent.

**27** If in any suit or action it is proved or specially found by the verdict of a Jury that any person who has obtained Letters Patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person having invented or used the same, or some part thereof, in this Colony before the date of such Letters Patent, or if such Patentee or his assigns discover that some other person had, unknown to such Patentee, invented or used the same or some part thereof in this Colony before the date of such Letters Patent, such Patentee or his assigns may petition the Governor to confirm the said Letters Patent, or to grant new Letters Patent, and it shall be lawful for the Governor in Council to refer the consideration of the said Petition to Commissioners to be appointed for that purpose in the manner hereinafter mentioned.

Appointment of Commissioners.

**28** For the purpose of considering any such Petition as aforesaid, it shall be lawful for the Governor in Council, if he thinks fit, to issue and direct a Commission in the name of Her Majesty to Five or more persons, of whom the Judges of the Supreme Court shall be Two, reciting such Petition and requiring or authorising such persons or any Three of them, of whom one of the said Judges shall be One, to meet at some time, not being less than Two months from the publication of the said Commission in the *Gazette*, and at some place to be fixed in the said Commission, and then and there to consider the said Petition,



and to report to the Governor, in case the Petitioner prays for an extension of the term in the Letters Patent mentioned, whether any, and if any what, further extension of the said term should be granted, or in case the Petitioner prays for a confirmation of the Letters Patent or for a grant of new Letters Patent, whether such confirmation or grant should be made, and upon what, if any, conditions the prayer of any such Petition should be complied with.

**29** Two months at least before the time named in the Commission for the consideration of any such Petition as aforesaid, the Petitioner shall cause an advertisement of the contents of the said Commission, in the form in the Schedule or to the like effect, to be published in the same manner as is hereinbefore required with respect to the publication of the appointment to hear an application for Letters Patent; and any person having an interest in opposing the said Petition shall be at liberty to enter a Caveat against the same at the Office of the Colonial Secretary, at any time not being less than One week before the time named in the Commission for the execution thereof.

Notice of Commission to be published and Caveats entered.

**30** At the time and place fixed in the Commission for that purpose the Commissioners shall meet and proceed to consider such Petition; and the Petitioner shall be heard by his Counsel and witnesses to prove his case as stated in such Petition, and the publication of the said last-mentioned advertisement as required by this Act; and the persons entering Caveats shall likewise be heard by their Counsel and witnesses; and all such witnesses shall be examined upon oath, which oath any One of the Commissioners is hereby authorised and required to administer; and the proceedings before the said Commissioners may be adjourned from time to time as may be necessary.

Commissioners to hear all parties, and report.

**31** If upon hearing and inquiry of the whole matter the Commissioners, in case the Petitioner prays for an extension as aforesaid, are of opinion, and so report, that a further extension of the said term should be granted, it shall be lawful for the Governor in Council, if he thinks fit, to grant to the Petitioner new Letters Patent for the said invention for any term not exceeding Fourteen years after the expiration of the term of the first Letters Patent, anything hereinbefore contained to the contrary in anywise notwithstanding: and if the Commissioners, in case the Petitioner prays for a confirmation or grant as aforesaid, upon examining the said matter, and being satisfied that such Patentee as aforesaid believed himself to be the first and original inventor, and that such invention or part thereof had not been publicly and generally used in this Colony before the date of the first Letters Patent, report their opinion that the prayer of such Petition ought to be complied with, the Governor in Council may, if he thinks fit, grant such prayer; and the said Letters Patent shall be available at Law and in Equity to give to such Petitioner the sole right of using, making, and vending such invention as against all persons whatsoever, anything hereinbefore contained to the contrary notwithstanding: Provided, that any person, party to any former suit or action touching any such first Letters Patent as in this Section are mentioned, shall be entitled to have notice in writing of the time and place fixed as aforesaid for the first meeting of the said Commissioners to consider the said Petition; and that after any such report has been made, it shall not be material or necessary to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner hereinbefore directed in that behalf.

Extension of term may be granted.

Invalid Patents may be confirmed.

Parties to actions to have notice of Petitions.

Conditions may be inserted in new Patents.

**32** It shall be lawful for the Governor in Council to insert in any such new Letters Patent as in the preceding Section are mentioned any restrictions, conditions, and provisions which may be recommended by the Commissioners in their report, or which to the Governor in Council may seem proper ; and such new Letters Patent shall be sealed and bear date as of the day after the expiration of the term of the first Letters Patent.

Date of new Patents.

Index to Specifications, &c.

**33** The Governor may cause indexes to all Specifications, Petitions, Declarations, disclaimers and memoranda of alterations, deposited and filed as aforesaid, to be prepared in such form as may be thought fit ; and such indexes shall be open to the inspection of the public, subject to the Regulations to be made by the Governor.

Register of Patents to be kept.

**34** There shall be kept at the Office appointed for filing Specifications as aforesaid a book, to be called "The Register of Patents," wherein shall be entered and recorded in chronological order all Letters Patent granted under this Act,—the deposit and filing of Specifications, disclaimers and memoranda of alterations filed in respect of such Letters Patent,—all amendments in such Letters Patent and Specifications,—all confirmations and extensions of such Letters Patent,—the expiry, determination, vacating, or cancelling of such Letters Patent, with the dates thereof respectively,—and all such other matters and things affecting the validity of such Letters Patent as the Governor in Council may direct ; and such Register, or a copy thereof, shall be open at all convenient times to the inspection of the public, subject to such Regulations as the Governor may make in that behalf.

Register of Proprietors to be kept.

**35** There shall be kept at the same Office a book, entitled "The Register of Proprietors," wherein shall be entered in such manner as the Governor directs the assignment of any Letters Patent, or of any share or interest therein,—any licence under Letters Patent, and the district to which such licence relates, with the name or names of any person having any share or interest in such Letters Patent or licence,—the date of his or their acquiring such Letters Patent, share, and interest,—and any other matter or thing relating to or affecting the proprietorship in such Letters Patent or licence ; and a copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same, and shall be *prima facie* proof of the assignment of such Letters Patent, or share or interest therein, or of the licence or proprietorship, as therein expressed ; and such Register or a copy thereof shall be open to public inspection, subject to such Regulations as the Governor may make : Provided always, that until such entry has been made the grantee of the Letters Patent shall be deemed and taken to be the sole and exclusive proprietor of such Letters Patent, and of all the licences and privileges thereby given and granted.

More than Twelve persons may be interested in Patent.

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

Certified copies to be evidence.

**37** The Governor may cause a Seal to be made for the purposes hereinafter mentioned ; and all Courts, Judges, and other persons whomsoever shall take notice of such Seal, and receive impressions thereof in evidence in like manner as impressions of the Seal of the Colony are received in evidence ; and copies or extracts, certified and sealed with such Seal, of Letters Patent, Specifications, disclaimers,

memoranda of alterations, and all other documents or books recorded, filed, and kept in pursuance of this Act, shall be received in evidence in all proceedings relating to Letters Patent for inventions in all Courts, and by all Judges and other persons whomsoever.

**38** If any person wilfully makes, or causes to be made, any false entry in the said Register of Proprietors, or wilfully makes or forges, or causes to be made or forged, any writing falsely purporting to be a copy of any entry in the said book, or produces or tenders, or causes or suffers to be produced or tendered in evidence any such writing knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding Two years, or be fined and imprisoned, at the discretion of the Court.

Falsification or forgery of entries.

**39** If any person deems himself aggrieved by any entry made under colour of this Act in the said Register of Proprietors, it shall be lawful for such person to apply by motion to the Supreme Court in Term time, or by summons to a Judge of such Court in Vacation, for an order that such entry may be expunged, vacated, or varied; and upon any such application such Court or Judge respectively may make such order for expunging, vacating, or varying such entry, and as to the costs of such application, as to such Court or Judge may seem fit; and the Officer having the care and custody of such Register, on the production to him of any such order, shall expunge, vacate, or vary the said entry according to the requisition of such order.

Entries may be expunged from Register of Proprietors.

**40** If any person writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks upon anything made, used, or sold by him, for the sole making or selling of which he has not obtained Letters Patent, the name or any imitation of the name of any other person who has obtained Letters Patent for the sole making and vending of such thing without leave in writing of such Patentee or his assigns, or if any person upon such thing, not having been purchased from the Patentee, or some person who purchased it from or under such Patentee, or not having had the licence or consent in writing of such Patentee or his assigns, writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks the word "Patent," the words "Letters Patent," or the words "by the Queen's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the Patentee, he shall for every such offence forfeit and pay the sum of One hundred Pounds, one half to Her Majesty, and the other half with full costs of suit to any person who sues for the said penalty by action of debt: Provided always, that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "Patent" upon anything made for the sole making or vending of which Letters Patent before obtained have expired or been otherwise determined.

Penalty for unauthorised user of the word "Patent."

**41** In any action for the infringement of Letters Patent the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action, and the defendant on pleading thereto shall deliver with his pleas, and the prosecutor in any proceeding by *scire facias* to repeal Letters Patent shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the

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

pleas in the said action, or of the suggestions of the said declaration in the proceeding by *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 are not contained in the particulars delivered as aforesaid: Provided always, that the place at or in which and in what manner the invention is alleged to have been used or published prior to the date of the Letters Patent shall be stated in such particulars: Provided also, that it shall and may be lawful for any Judge at Chambers to allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid, upon such terms as to such Judge seems fit: Provided also, that at the trial of any proceeding by *scire facias* to repeal Letters Patent the defendant shall be entitled to begin and to give evidence in support of such Letters Patent; and in case evidence is adduced on the part of the prosecutor impeaching the validity of such Letters Patent the defendant shall be entitled to the reply.

Court may grant injunction in case of infringement.

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

Particulars to be regarded in taxing costs.

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

Fees on obtaining Patents.

**44** There shall be paid in respect of Letters Patent applied for or issued under or in pursuance of this Act, the depositing of Specifications, the filing of disclaimers and memoranda of alterations, certificates, entries and searches, and other matters and things respectively mentioned in the Schedule, such Fees as are enumerated in the Schedule; and such of the said Fees as are thereby made payable to the Law Officer shall and may be received and retained by such Law Officer for his own proper use; and the residue of the said Fees shall form part of the General Revenue, and shall be forthwith paid into the Colonial Treasury by the persons receiving the same in pursuance of this Act.

**45** All Letters Patent which are granted in the United Kingdom of *Great Britain and Ireland* after the Thirtieth day of *June*, 1859, for any invention, shall, so far as the same relate to this Colony, be utterly void and of none effect, and in nowise be put in execution; but all such Letters Patent granted in the said United Kingdom or or before that day, and which if this Act had not been passed would have been valid in this Colony, shall be deemed and taken to have been granted under this Act, and may be dealt with accordingly. English Patents.

**46** The Governor in Council may, if he thinks fit, vary and alter the several Forms in the Schedule as occasion may require. Forms in Schedule may be varied.

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

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## SCHEDULE.

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### FORMS.

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#### PETITION.

Sect. 4.

No.

To His Excellency the Governor of the Colony of *Tasmania*.

The humble Petition of [*here insert Name and Address of Petitioner*] for, &c.

Showeth,

That your Petitioner is in possession of an Invention for  
[*The Title of the Invention,*]

which Invention he believes will be of great public utility; that he is the true and first Inventor thereof; and that the same has not been before made or used in this Colony by any other person or persons, to the best of his knowledge and belief.

Your Petitioner therefore humbly prays, that Your Excellency will be pleased to grant unto him, his executors, administrators, and assigns, Letters Patent for the Term of Fourteen Years, pursuant to the provisions of *The Patent Law Act*.

And your Petitioner will ever pray, &c.

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#### DECLARATION.

Sect 4.

No.

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

[*the Title as in Petition,*]

which Invention I believe will be of great public utility; that I am the true and first Inventor thereof; and that the same has not been before made or used in this Colony by any other person or persons, to the best of my knowledge and belief; and that the Instrument in writing under my hand and seal, hereunto annexed, particularly describes and ascertains the nature of the said Invention, and the manner in which the same is to be performed; all which matters I conscientiously believe to be true; and I make this Declaration under the provisions of the Act of Council, intituled *An Act for the Abolition of extra-judicial and unnecessary Oaths*.

*A.B.*

Taken before me this \_\_\_\_\_ day of \_\_\_\_\_  
1858.

*C.D.*  
Justice of the Peace.

Sect. 6.

## SPECIFICATION.

No.

To all to whom these Presents come ;

I *A. B.*, of \_\_\_\_\_ in *Tasmania, Engineer*, send greeting :

WHEREAS I am desirous of obtaining Letters Patent for securing unto me Her Majesty's special Licence that I, my executors, administrators, and assigns, or 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 is left at the Office of the Colonial Secretary at *Hobart Town*, make, use, exercise and vend, within the Colony of *Tasmania*, 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: Now know ye, that I the said *A. B.* do hereby declare the nature of the said Invention, and the manner in which the same is to be performed, to be particularly described and ascertained in and by the following statement; that is to say, [*describe the Invention.*]

In witness whereof, I the said *A. B.* have hereunto set my hand and seal this  
day of \_\_\_\_\_ 1858.

*A. B. (L.S.)*

Sect. 8.

## APPOINTMENT TO HEAR APPLICATION FOR LETTERS PATENT.

Patent for [*insert the title as in the Specification*]. This is to notify that *A. B.* of \_\_\_\_\_ in *Tasmania, Engineer*, did on the \_\_\_\_\_ day of \_\_\_\_\_ instant [*or last*] deposit at the Office of the Colonial Secretary at *Hobart Town* 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 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 before that day at my Office at *Hobart Town* particulars in writing of their objections to the said application, otherwise they will be precluded from urging the same.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 1858.

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

Sect. 11.

## WARRANT.

I HAVE heard and considered the application of *A. B.* of \_\_\_\_\_ in *Tasmania, Engineer*, for Letters Patent for [*insert the title as in the Specification*] and [*also all objections to the same, if any,*] and having perused the Specification and the usual and necessary advertisements, am of opinion that as it is entirely at the hazard of the said applicant whether the said Invention is new and will have the desired success, Letters Patent may be issued to the said *A. B.*, in the form contained in the Schedule to *The Patent Law Act*; [*with the following additional clauses; that is to say, here set them out, if any.*]

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ 1858.

*F. S. (L.S.)*  
[Attorney] General.

## LETTERS PATENT.

Sect. 14.

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

To all to whom these Presents come, greeting :

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

And We, being willing to give encouragement to all Arts and Inventions which may be for the public good, are graciously pleased to confer upon the said *A.B.* the privileges 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 Licence, full power, sole privilege, and authority that he the said *A.B.*, his executors, administrators, and assigns, and every of them by himself and themselves, and his or their deputy or deputies, servants or agents, or such others as he or they at any time agree with, and no others, during the term herein expressed, shall and lawfully may make, use, exercise, and vend his said Invention within Our said Colony in such manner as to him, his executors, administrators, and assigns, or any of them, seems meet, and that he, his executors, administrators, and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity, and advantage, from time to time coming, growing, accruing, and arising by reason of the said Invention during the said term; TO HAVE, HOLD, EXERCISE, AND ENJOY the said Licences, powers, privileges, and advantages unto and by the said *A.B.*, his executors, administrators, and assigns, for and during and unto the full end and term of Fourteen years now next ensuing: AND to the end that the said *A.B.*, his executors, administrators, and assigns, and every of them, may have and enjoy the full benefit, and the sole use and exercise, of the said Invention according to Our gracious intention, We do by these Presents, for Us, Our Heirs and Successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other Our subjects whatsoever, of what estate, quality, degree, name, or condition soever they be, within Our said Colony, that neither they nor any of them at any time during the said term, either directly or indirectly, do make, use, or put in practice the said Invention or any part of the same so attained unto by the said *A.B.* as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor make or cause to be made any addition thereunto or subtraction from the same whereby to pretend himself or themselves the Inventor or Inventors, deviser or devisors, thereof without the consent, licence, or agreement of the said *A.B.*, his executors, administrators, or assigns, in writing under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this Our Royal command, and further to be answerable to the said *A.B.*, his executors administrators, and assigns, according to Law for his and their damages thereby occasioned: Provided always, and these Our Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted it appears that this Our grant is contrary to Law or prejudicial or inconvenient to Our subjects in general, or that the said Invention is not a new Invention as to the public use and exercise thereof, or that the said *A.B.* is not the true and first Inventor thereof within this Colony, these Our Letters Patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything 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 has heretofore been found out or invented by any other of Our subjects whatsoever and publicly used or exercised, unto whom Our like Letters Patent or privileges have been already granted for the sole use, exercise, and benefit thereof within Our said Colony: It being Our will and pleasure that the said *A.B.*, his executors, administrators, and assigns, and all and every other person and persons to whom like Letters Patent or privileges have been already granted as aforesaid, shall distinctly use and practise their several Inventions by them invented and found out according to the true intent and meaning of the same respective Letters Patent and of these

Presents: Provided likewise nevertheless, and these Our Letters Patent are upon this express condition, that if the said Instrument in writing does not particularly describe and ascertain the nature of the said Invention, and in what manner the same is to be performed, and also if the said *A.B.*, his executors, administrators, and assigns, shall not pay at the Office of the Colonial Treasurer of Our said Colony the sum of Fifteen Pounds within Three years next after the date of these Presents, and the sum of Twenty Pounds within Seven years next after such date, and also if the said *A.B.*, his executors, administrators, or assigns, shall not supply or cause to be supplied for Our service all such articles of the said Invention as he or they are required to supply by the persons administering the Department of Our service for the use of which the same are required, in such manner, at such times, and at and upon such reasonable prices and terms as are settled for that purpose by the said persons requiring the same; that then and in any of the said cases these Our Letters Patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided, that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by Law be granted; And lastly We do by these Presents for Us, Our Heirs and Successors, grant unto the said *A.B.*, his executors, administrators, and assigns, that these Our Letters Patent shall be in and by all things good, firm, valid, sufficient and effectual in the Law according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favourable and beneficial sense for the best advantage of the said *A.B.*, his executors, administrators, and assigns, as well as in all Our Courts of Record as elsewhere, and by all and singular the Officers and Ministers whatsoever of Us, Our Heirs and Successors, in Our said Colony, and amongst all and every the subjects of Us, Our Heirs and Successors, whatsoever and wheresoever notwithstanding the not full and certain describing the nature or quality of the said Invention, or of the materials thereunto conducing and belonging. In witness whereof We have caused these Our Letters to be made Patent, and to be sealed and bear date as of the day of 1858.

Sect. 22.

**APPOINTMENT TO HEAR APPLICATION FOR LEAVE TO ENTER  
DISCLAIMER.**

Patent for [*insert title*]. This is to notify that *C.D.* of \_\_\_\_\_ in *Tasmania* has applied to me for leave to enter a disclaimer of part of [*or a memorandum of alteration in*] the title of the said Invention, [*or as the case may be*] the particulars whereof are stated below; I do therefore appoint [*Thursday*] the \_\_\_\_\_ day of \_\_\_\_\_ next at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon at my Office, to hear and consider the said application, and all objections to the same; and I do hereby require all persons having an interest in opposing the said application to leave before that day, at my Office at *Hobart Town*, particulars in writing of their objections to the same, otherwise they will be precluded from urging such objections.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 1858.

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

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

Sect. 29.

**NOTICE OF APPOINTMENT OF COMMISSION.**

Patent for [*insert the title*]. Notice is hereby given that I have presented a Petition to His Excellency the Governor praying for the confirmation of [*or extension of the term in, or as the case may be*] the said Patent; and that a Commission has issued authorising and requiring certain Commissioners therein named to consider and report upon the subject to His Excellency the Governor, which said Commissioners will meet for that purpose on the \_\_\_\_\_ day of \_\_\_\_\_ next at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon at \_\_\_\_\_: All persons objecting to the said confirmation [*or extension, or as the case may be*] must enter a Caveat against the same at the Office of the Colonial Secretary at *Hobart Town*, not less than One week before the time named for the said meeting, otherwise they will be precluded from objecting to the said Petition.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 1858.

*A.B.*



## F E E S.

## F E E S ON OBTAINING PATENTS.

Sect. 44.

	£	s.	d.
On depositing Specification .....	2	10	0
To the Law Officer for any Appointment .....	2	4	6
On obtaining Letters Patent .....	2	10	0
At or before the expiration of the Third year.....	15	0	0
At or before the expiration of the Seventh year.....	20	0	0
To the Law Officer with Particulars of Objections .....	2	4	6
On presenting Petition for Extension or Confirmation .....	2	10	0
Every Search and Inspection .....	0	1	0
Entry of Assignment or Licence .....	0	10	0
Certificate of Assignment or Licence .....	0	10	0
Filing Disclaimer or Memorandum of Alteration .....	2	10	0
Entering any Caveat.....	2	10	0
Copy or extract of any writing, per Common Law folio.....	0	1	0

