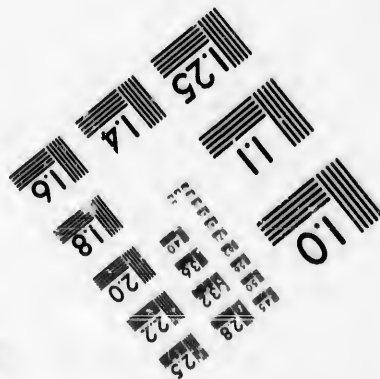
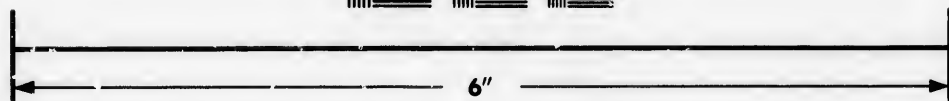
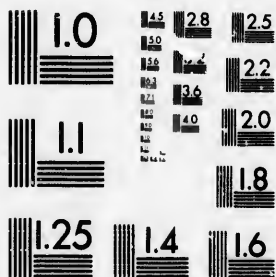


**IMAGE EVALUATION  
TEST TARGET (MT-3)**



**Photographic  
Sciences  
Corporation**

23 WEST MAIN STREET  
WEBSTER, N.Y. 14580  
(716) 872-4503

0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CIHM/ICMH  
Microfiche  
Series.**

**CIHM/ICMH  
Collection de  
microfiches.**



Canadian Institute for Historical Microreproductions / Institut canadien de microreproductions historiques

11  
10  
9  
8  
7  
6  
5  
4  
3  
2  
1

**© 1986**

Technical and Bibliographic Notes/Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming, are checked below.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans le méthode normale de filmage sont indiqués ci-dessous.

- Coloured covers/  
Couverture de couleur
- Covers damaged/  
Couverture endommagée
- Covers restored and/or laminated/  
Couverture restaurée et/ou pelliculée
- Cover title missing/  
Le titre de couverture manque
- Coloured maps/  
Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black)/  
Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations/  
Planches et/ou illustrations en couleur
- Bound with other material/  
Relié avec d'autres documents
- Tight binding may cause shadows or distortion along interior margin/  
La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure
- Blank leaves added during restoration may appear within the text. Whenever possible, these have been omitted from filming/  
Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments:  
Commentaires supplémentaires:

- Coloured pages/  
Pages de couleur
- Pages damaged/  
Pages endommagées
- Pages restored and/or laminated/  
Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed/  
Pages décolorées, tachetées ou piquées
- Pages detached/  
Pages détachées
- Showthrough/  
Transparence
- Quality of print varies/  
Qualité inégale de l'impression
- Includes supplementary material/  
Comprend du matériel supplémentaire
- Only edition available/  
Seule édition disponible
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image/  
Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below/  
Ce document est filmé au taux de réduction indiqué ci-dessous.

10X	12X	14X	16X	18X	20X	22X	24X	26X	28X	30X	32X
					/						

The copy filmed here has been reproduced thanks to the generosity of:

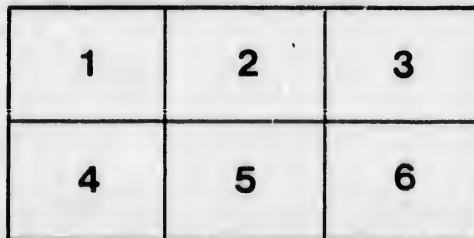
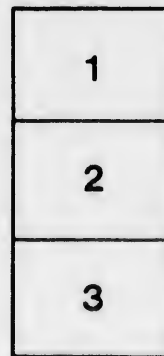
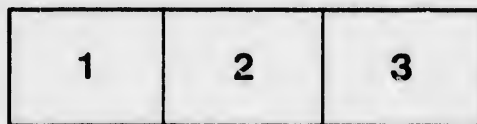
Seminary of Quebec  
Library

The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

Original copies in printed paper covers are filmed beginning with the front cover and ending on the last page with a printed or illustrated impression, or the back cover when appropriate. All other original copies are filmed beginning on the first page with a printed or illustrated impression, and ending on the last page with a printed or illustrated impression.

The last recorded frame on each microfiche shall contain the symbol  $\rightarrow$  (meaning "CONTINUED"), or the symbol  $\nabla$  (meaning "END"), whichever applies.

Maps, plates, charts, etc., may be filmed at different reduction ratios. Those too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:



L'exemplaire filmé fut reproduit grâce à la générosité de:

Séminaire de Québec  
Bibliothèque

Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Les exemplaires originaux dont la couverture en papier est imprimée sont filmés en commençant par le premier plat et en terminant soit par la dernière page qui comporte une empreinte d'impression ou d'illustration, soit par le second plat, selon le cas. Tous les autres exemplaires originaux sont filmés en commençant par la première page qui comporte une empreinte d'impression ou d'illustration et en terminant par la dernière page qui comporte une telle empreinte.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole  $\rightarrow$  signifie "A SUIVRE", le symbole  $\nabla$  signifie "FIN".

Les cartes, planches, tableaux, etc., peuvent être filmés à des taux de réduction différents. Lorsque le document est trop grand pour être reproduit sur un seul cliché, il est filmé à partir de l'angle supérieur gauche, de gauche à droite, et de haut en bas, en prenant le nombre d'images nécessaire. Les diagrammes suivants illustrent la méthode.

é  
s du  
modifier  
r une  
Image

rrata  
to

pelure.  
n à

32X





BUREAU OF THE AMERICAN REPUBLICS,

*Department of State, Washington, D. C., U. S. A.*

---

*Patent*  
AND  
*Trade-mark*  
*Laws*  
*of America.*



Bulletin No. 3.

March, 1891.

While the greatest possible care is taken to insure accuracy in the publications of the Bureau of the American Republics, it will assume no pecuniary responsibility on account of inaccuracies that may occur therein.



# CONTENTS.

## PATENT LAWS.

	Page.
Brazil .....	3
Chile.....	10
Colombia.....	11
Costa Rica.....	13
Ecuador.....	13
Guatemala.....	18
Haiti.....	21
Hawaii.....	21
Jamaica.....	22
Mexico.....	23
Nicaragua.....	29
Peru.....	30
Salvador.....	32
United States.....	33
Venezuela.....	35

## TRADE-MARK LAWS.

Argentine Republic and Uruguay .....	39
Brazil .....	41
Canada .....	43
Chile.....	44
Peru .....	45
United States.....	46
Venezuela.....	47

BUREAU OF THE AMERICAN REPUBLICS,  
NO. 2 LAFAYETTE SQUARE, WASHINGTON, D. C., U. S. A.

---

OFFICIAL STAFF.

*Director.*—WILLIAM E. CURTIS.

*Secretary.*—HENRY L. BRYAN.

*Statistician.*—CARLOS FEDERICO ADAMS-MICHELENA.

*Portuguese Translator.*—JOHN C. REDMAN.

*Spanish Translators.*—RICARDO VILLAGRANCA.

MARY F. FOSTER.

*Clerks.*—JOHN T. SUTER, JR.

LEONARD G. MYERS.

*Stenographer.*—IMOGEN A. HANNA.

# Patent Laws of America.

[Collated from Patent Office Gazette.]

---

## BRAZIL.

To obtain a patent the proponent addresses a petition to the Government, asking for a patent or privilege, and transmitting full explanations of models according to law. This is referred by the Minister of Agriculture to the Auxiliary Society of National Industry, which is subvented by the Government and holds bimonthly sessions. They report on the utility of the inventive process or invention. It is then submitted to the "Procurador da Curoa," or Attorney-General, who endeavors to decide as to its originality, and as to its non interference with anterior rights. Should it not be of a nature also to require reference to the Sanitary Board, or "Junta de Hygiene Publica," or other similar technical authorities, it is then discussed and reported on by the Council of State.

Should it not be necessary to refer it to the legislative body whose authority must be obtained to insure any remittance of customs dues for the articles proposed to be imported, or any similar sacrifice of public resources or funds, it is then returned to the Minister of Agriculture, and the privilege granted or refused.

The actual legitimate official expenses involved by the stamps, documents, &c., varies between £9 (\$45) and £14 (\$68), the patent being granted gratuitously.

The full text of the Brazilian Patent Law, adopted in 1882, is subjoined:  
The General Assembly decrees:

### ARTICLE I.

In the concession of a patent to the author of any invention or discovery the law guarantees the right of property and exclusive use.

SECTION 1. For the effects of this law the following shall constitute an invention or discovery.

1. The invention of new industrial products.
2. The invention of new processes or the new application of known processes for obtaining an industrial product or result.
3. The improvement of an invention already privileged if it shall facilitate the manufacture of the product or the use of the privileged invention, or if it shall increase its utility.

Those industrial products, processes, applications, and improvements shall be considered new which, up to the application for a patent, have never, within or without the Empire, been employed or used, and of which can neither be found descriptions nor publications of the method by which they can be employed or used.

SEC. 2. The following inventions cannot be made the object of a patent:

1. Those contrary to law or morality.
2. Those dangerous to public security.
3. Those noxious to public health.
4. Those which do not offer a practical industrial result.

SEC. 3. The patent will be conceded by the Executive power after the fulfillment of the formalities prescribed in this law and in its regulations.

SEC. 4. The exclusive privilege of a principal invention will only be valid to fifteen years, and that of an improvement to the invention conceded to the author will terminate at the same time with it.

If public necessity or utility require the free use (*vulgarisação*) of an invention, or its exclusive use by the State during its privilege, the patent can be disappropriated in conformity with the legal formalities.

SEC. 5. The patent is transmissible by any of the modes of cession or transference recognized by law.

## ARTICLE II.

Inventors receiving privileges in other countries can obtain a confirmation of their rights in this Empire, provided that they fulfill the formalities and conditions of this law and observe the further dispositions in force applicable to the case. The confirmation will give the same rights as a patent conceded in the Empire.

SEC. 1. The priority of the property right of that inventor who, having solicited a patent from a foreign country, shall make a similar petition to the imperial government within seven months, will not be invalidated by facts which may occur during this period—to wit, another similar petition, the publication of the invention, and its use or employment.

SEC. 2. To the inventor who, before obtaining a patent, desires to experiment in public with his inventions, or wishes to exhibit them in an exposition, official or officially recognized, will be granted a title provisionally guaranteeing to him his right of property for a specified time and with the formalities required.

SEC. 3. During the first year of the privilege only the inventor himself or his legal successors can obtain a privilege for improvements on his own invention. It will be permitted to third parties, however, to present their petitions within the said period in order to establish their rights. The inventor of an improvement cannot engage in the industry benefited while the privilege for the principal invention lasts without an authorization from its author. Nor can the latter employ the improvement without an accord with him.

SEC. 4. If two or more persons solicit a privilege at the same time for an identical invention, the government, except in the hypothesis of section 1 of this article, will require that they shall previously determine the priority either by means of an accord or in a competent court.

### ARTICLE III.

The inventor who seeks a patent will deposit in duplicate in the department which the government shall designate, within a closed and sealed envelope, a report, in the national idiom, describing the invention with accuracy and clearness, its purpose and the method of using it, with the plans, designs, models, and samples which may contribute to an exact understanding of the invention and the elucidation of the report, so than any person cognizant of the subject can obtain or apply the result, means, or product of which it treats. The report shall clearly specify the characteristic feature of the invention, (*privilegio*.) The extension of the right of patent will be determined by the said features, mention of this being made in the patent.

SEC. 1. With the document for deposit will be presented the petition, which should be limited to one single invention, specifying its nature and its purposes or applications in accordance with the report and with the documents deposited.

SEC. 2. If it shall appear that the subject of the invention involves an infraction of section 2, article I, or has for its object alimentary, chemical, or pharmaceutical products, the government will order a previous and secret examination of one of the copies deposited, in conformity with the regulations to be issued, and in accordance with the result it will or will not concede a patent. From a negative decision there will be recourse to the Council of State.

Sec 3. With the sole exception of the cases mentioned in the preceding paragraph the patent will be issued without previous examination. In it the object of the privilege will always be designated in a concise manner, with a reserve of the rights of a third party and of the responsibility of the government, in respect to the originality or utility of the invention. In the patent of an inventor privileged outside of the Empire it will be declared that it is valid so long as the foreign patent is in force, never exceeding the specified period of section 4, article I.

SEC. 4. Besides the expenses and fees incurred, the patentees shall pay a tax of twenty dollars for the first year, thirty dollars for the second, forty dollars for the third, increasing ten dollars for each year that shall ensue over the preceding annuity for the whole privilege. In no case will the annuities be refunded.

SEC. 5. To the privileged inventor who improves his own invention will be given a certificate of improvement, which will be appended to the respective patent. For this certificate the inventor will pay, once for all, an amount corresponding to the annuity which has become due.

SEC. 6. The transfer or cession of patents or certificates will not enter into effect until it has been registered in the bureau of agriculture, commerce, and public works.

#### ARTICLE IV.

The patent having been issued, and within a period of thirty days the opening of the deposited envelopes will take place with the formalities which the regulations shall specify. The report shall be immediately published in the *Diario Oficial*, and one of the copies of the designs, plans, models, or samples will be opened for the inspection of the public and for the study of interested parties, it being permitted to take copies.

SEC. 1. In case the previous examination, of which section 2, article III, treats, has not taken place, the government, having published the report, will order a verification by means of experiments of the requisites and conditions required by law for the validity of the privilege according to the method established for such examination.

#### ARTICLE V.

A patent will become of no effect if it is annulled or shall lapse.

SEC. 1. The patent will become null—

1. If in its concession any one of the requirements of sections 1 and 2 of article I has been infringed.

2. If the patentee did not have priority.
3. If the patentee shall have falsified the truth or concealed essential matter in the report descriptive of the invention, whether in its object or in the manner of using it.
4. If the name of the invention shall be, with fraudulent purpose, diverse from its real object.
5. If the improvement shall not have the indispensable relation with the principal industry, and can be constituted a separate industry, or there shall have been priority (*preterição*) in the preference established by article II, section 3.

SEC. 2. The patent will lapse in the following cases:

1. The patentee not making effective use of the invention within three years, counting from the date of patent.
2. The patentee suspending the effective use of the invention for more than one year, except by cause of *force majeure* judged sufficient by the government after consulting the respective section of the Council of State. By use is understood, in these two cases, the effective exercise of the privileged industry, and the supply of the products in proportion to their employment or consumption. If being proved that the supply of the products is evidently insufficient for the needs of employment or consumption, the privilege can be restricted to a zone determined by an act of the government with the approval of the legislative power.
3. The patentee not paying the annuity within the terms of the law.
4. The patentee residing outside of the Empire not constituting an accredited agent to represent him before the government or in court.
5. Through the express renunciation of the patent.
6. The patent or foreign title upon an invention also privileged in the Empire being discontinued.
7. The term of the privilege having expired.

SEC. 3. The nullity of a patent or of a certificate of improvement will be declared by a decision of the commercial court (*jurso commercial*) of the capital of the Empire by means of the summary process of decree No. 731 of November 25, 1850.

The following are competent to promote an action for nullity: the Solicitor of the Treasury (*procurador dos feitos da fazenda*) and his assistants, to whom will be forwarded the documents and proofs corroborative of the infraction and any interested party, with the assistance of that official and his assistants. An action of nullity in the cases of article I, section 2, Nos. 1, 2, and 3, having been begun, the execution of the patent and the use or employment of the

invention will remain suspended until the final decision. If the patent shall not be annulled, the patentee will be reinvested in its enjoyments with the integrity of the term of privilege.

SEC. 4. The lapse of patents will be declared by the Minister and Secretary of State for the Affairs of Agriculture, Commerce, and Public Works, with recourse to the Council of State

#### ARTICLE VI.

The following will be considered infractors of the privilege:

1. Those who, without license from the patentee, manufacture the products or employ the processes or make the applications which are the object of the patent.
2. Those who import, sell, or expose for sale, conceal, or receive for the purpose of sale counterfeited products of the privileged industry, knowing what they are.

SEC. 1. The infractors of a privilege will be punished, in favor of the public coffers, with a fine from five hundred dollars to five thousand dollars, and in favor of the patentee, with from ten to fifty per cent. of the damage caused or which may be caused.

SEC. 2. The following will be considered as aggravating circumstances:

1. The infractor to be or to have been an employé or workman in the establishment of the patentee.
2. The infractor to associate with an employé or workman of the patentee for acquiring knowledge of the practical method of obtaining or employing the invention.

SEC. 3. The cognizance of infractions of a privilege belongs to the *juizes de direito* (district judges) of the *comarcas* (districts) where they reside, who will issue, on the petition of the patentee or his legal representative, the warrants of search, apprehension, and deposit, and will prescribe the preparatory or preliminary proceedings of the process. The sentence will be governed by law No. 562 of July 2, 1850, and by decree No. 707 of October 9th of the same year so far as they apply to the case. The products of which Nos. 1 and 2 of this article treat, and the respective instruments and apparatus, will be adjudged to the patentee by the same sentence which condemns the authors of the infractions.

SEC. 4. The process will not hinder an action by the patentee to secure indemnification for damage caused or which may be caused.



SEC. 5. Commercial jurisdiction is sufficient for all the causes relative to industrial privileges in conformity with this law.

SEC. 6. The following will be punished with a fine of from one hundred dollars to five hundred dollars in favor of the public coffers:

1. Those who announce themselves as possessors of a patent, using the emblems, marks, inscriptions, or labels upon products or objects prepared for commerce or exposed for sale, as if they had been privileged.

2. Those inventors who continue to exercise an industry as privileged, the patent being suspended, annulled, or lapsed.

3. Those privileged inventors who in prospectuses, advertisements, inscriptions, or by any mode of public notice shall mention patents without designating the special object for which they were obtained.

4. Those professional men or experts who in the hypothesis of section 2 of article III cause the general diffusion of the secret of the invention, without prejudice in such case to the criminal or civil actions which the laws permit.

SEC. 7. The infractions of which the preceding paragraph treats will be prosecuted and judged as political crimes, in conformity with the legislation in vigor.

#### ARTICLE VII.

When a patent shall be conceded to two or more co-inventors, or when it becomes common by a title of gift or succession, each one of the co-proprietors can use it freely.

#### ARTICLE VIII.

If a patent shall be given or left in usufruct, the usufructuary will be obliged, when his rights cease through the extinction of the usufruct or termination of the term of privilege, to give to the owner of the property the value at which it shall be estimated, calculated with relation to the time which the usufruct has lasted.

#### ARTICLE IX.

The patents of inventions already conceded will continue to be governed by the law of October 26, 1830, there being applied to them the dispositions of article V, section 2, Nos. 1 and 2, and of article VI of this present law. with the exception of pending processes or actions.

#### ARTICLE X.

All dispositions to the contrary are hereby revoked.

## CHILE.

Article 152 of the Chilean constitution, dated May, 1833, accords to every author or inventor the exclusive proprietorship of his discovery or invention for the time which the law may cede to him, and further authorizes the payment of a proper indemnity should it be found necessary to publish the invention.

In 1840 a law was passed which expressly limits the privileges which should be ceded in Chile to patentees of an invention, and lays down the formula and conditions under which such privileges shall be granted. A new invention or discovery must be laid by the inventor before the Home Minister, who has to name a commission for the examination of the samples, models, or drawings produced. On the report of the commissioners, who are sworn to secrecy, the Minister grants or withhold: the patent.

The term of a patent can not exceed ten years.

The patentee pays a sum of about \$50 into the treasury as a contribution towards the museum in which the model of his invention is kept, together with a full explanation of the use and method of the article or matter he has invented, which is preserved closed under private seal of the inventor until the term of his patent has expired.

By the same law and under the same conditions, a patent is allowed for inventions of arts or industries which may appear in foreign countries, but are unknown in Chile; but such patents are granted for shorter periods, not exceeding eight years.

The transfer of patents, or the privileges thereon, to another party is permitted, unless fraudulency be suspected.

Forgeries of an article already patented are subject to a fine of from \$100 to \$1,000, and the forfeiture not only of the article itself produced, but also of the establishment and implements used in the manufactory; the proceeds of such a fine and forfeiture being equally divided between the treasury and the patentee, after payment of the loss calculated as suffered by the latter.

Should a patent be fraudulently obtained—that is, by false pretenses—or by any other but the inventor himself, such a person is liable to a fine of from \$100 to \$1,000, or an imprisonment of from three to twelve months.

In cases of disputes arising between parties who may obtain privileges sanctioning the issue of the same article, the law provides the settlement of such causes by arbitration, an arbitrator being named by each party and a third by the Home Minister of the government.

Patents may be granted as effective throughout the country, or be confined to one or more provinces.

Terms exclusive of the period allotted for the patent are granted for the purpose of installing the establishment, machinery, or industry for the issue of the invention, but should this term expire without the object for which it is intended being carried out, all privileges allowed for the patent are annulled; and in the same manner is all exclusive privilege disallowed if such establishment is abandoned for more than a year, or if the article produced is inferior to the original sample.

Extension of the term ceded for patents or exclusive privileges of production are allowed when the patentee is judged worthy of such an extension of his patent, but for which he must have applied six months before the expiration of his first license.

In August, 1851, a law was decreed which obliges the commissioners who take cognizance of the petition for a patent or introduction of an industry to report, not only on its utility, but also on the hindrances which might result to industry or commerce by the cession of an exclusive privilege, as also to report on the difficulties or expenses to which the petitioners may be subjected in their undertaking, with a view to determine the allotted time for the introduction of the art or invention, in order that full knowledge may be taken of the industry which may be prejudiced by any cession of exclusive privilege. Special mention must also be made whether the petition is for a patent of invention or for introducing into the country some new article.

Under date of August 16, 1856, a law was promulgated which makes it obligatory on the petitioner for the introduction of inventions already known in other countries, that the privileges for which he solicits be published in the official journal during the term of thirty days, in order that those parties who may have already brought into the country, or established such conventions or industries, or have taken steps for their introduction or establishment, and thereby incurred expense previous to the petition for such exclusive privilege, shall have a right to oppose the cession of the monopoly.

---

#### COLOMBIA.

The power to grant privileges in Colombia, conveying the sole right to make, use, or dispose of any new invention or discovery, is limited and defined by the law of the 13th of May, 1869. This exclusive right is guaranteed by the national executive power of the union by means of an instrument called "patent of invention."

A patent may, in the terms of the law, be granted in respect of any "invention or improvement of a machine, mechanical apparatus, combination of materials, or method of proceeding of useful application to industry, arts, or sciences," and for the making and sale of any manufacture or industrial product, for a term of years not exceeding twenty nor less than five.

No privilege is given for the importation of foreign productions, whether natural or manufactured.

Inventors in possession of a foreign patent may also obtain one in Colombia for the same invention on the condition that its expiration shall coincide with that of the foreign patent.

Patents of invention are obtained upon petition to the executive power, setting forth with clearness the nature of the invention or improvement. In the event of a favorable decision, and in order to obtain the patent, the inventor must furnish the government, within forty days, with a design or model of the machine or mechanical apparatus, or with a circumstantial and complete description of the new method or process, together with a sample of the manufacture or production. Such model, design, or description, as the case may be, is enrolled and deposited in the proper department of state for the twofold purpose of serving as a reference in the event of any controversy as to the genuineness of the invention, and of giving copies thereof to whomsoever may apply for them at the expiration of the patent.

In the patent, reference is made to the law on the subject. In it is embodied the executive decree granting the privilege and stating the nature of the invention, as well as the term to which the duration of the concession is limited. Such decree must be published twice at least in the official gazette.

A patent is granted without any previous examination as to the novelty or utility of the invention. The government does not declare that the invention is new or useful, nor that the patentee is the real inventor, nor that the models or descriptions of the invention are accurate. But it is open to any one whose rights may have been encroached upon by the concession to appeal to the tribunals for its reversal, and in fact the right so to do is expressly reserved in the patent itself.

Thirty days before the issuing of a patent the government is by law required to publish the inventor's petition in the official gazette.

Patents of invention are withheld in the following cases: When the provisions of the law are not faithfully complied with by the petitioners, or when the invention endangers the public salubrity or security, or encroaches upon proprietary rights already acquired.

The moment a patent expires everyone is at liberty to profit by it. The descriptions of the invention are published, and copies of the models or designs

given to any applicant on payment of the necessary expenses. The same publicity is given to the invention in the event of the patent becoming void from any cause.

An injunction may be obtained for the infringement of a patent, the offender being dealt with in conformity with the penal laws of the union.

A patent is void when it violates vested rights, the decision in such cases resting with the courts of justice. It also lapses if during a whole year no use is made of the invention, unless it be from accidents beyond the control of the patentee.

To secure a privilege a fee of from \$5 to \$10 (£1 to £2) for every year of its duration must be paid to the government, the entire sum being levied when the patent is granted. In soliciting a patent, the number of years for which it is desired to take it out is mentioned in the petition, but no petition is entertained unless preceded by a payment into the treasury of \$10, (£2,) which the petitioner forfeits if the application is refused, or if granted is computed as part payment of the fee.

---

#### COSTA RICA.

The power of granting patents is exclusively confined to Congress by Article XX of the Constitution, which provides that "it belongs to Congress to promote the progress of the arts and sciences, and to secure, for limited time, to authors or inventors the exclusive right of their writings and discoveries."

According to this, everyone that believes himself to have a right to a patent of invention must solicit it from the constitutional Congress.

---

#### ECUADOR.

The Congress of the Republic of Ecuador consider that it is important to regulate the mode and form of grant of patents of invention in order to avoid their being transformed into a species of monopoly and to facilitate the acquisition of them if useful to science, art and industry. It is decreed—

ARTICLE 1. The law assures to every inventor the full and entire enjoyment of his own invention, provided that it be not contrary to the laws or good morals.

ART. 2. The following shall be considered as inventions,—the means or methods which may be discovered for the improvement of any manufacture or industry.

ART. 3. The following shall not be considered as inventions,—those which consist in theoretical modifications or objects of pure ornament.

ART. 4. The State shall have power to buy for public use the secret of any invention useful to industry.

ART. 5. To assure the author of an invention or of an improvement, the enjoyment of his exclusive property, a patent is to be conceded to him of which the duration shall not be less than ten (10) years or more than fifteen (15).

ART. 6. It is unlawful to grant patents to inventors of secret remedies; they ought to publish the compositions of these under the reserve of a just indemnity.

ART. 7. The introducers of machines or of new methods of manufacture, or industry unknown heretofore in the Republic, will have the right of obtaining exclusive patents which will be conceded upon the following scale:

ART. 8. If the establishment of the machine or industry imported requires a capital or an advance of 25,000 pesos the patent will be granted for three years; if this capital be raised to 50,000 pesos it will be granted for six years; and if the same capital amounts to 100,000 pesos or more, it will be granted for ten years.

ART. 9. The patent conceded to introducers of machines or of novel methods of manufacture or of industry already known and employed abroad will only effect for the locality where the machine will be worked or the territory necessary for its exploitation.

MANNER OF OBTAINING PATENTS OF INVENTION, IMPROVEMENT, OR  
IMPORTATION.

ART. 10. The applicant for a patent in any one of these classes must present to the Executive an application in which he will explain what the invention or improvement consists in, reserving to himself the secret of the method of the substances or of the ingredients which he makes use, or of the instrument which he employs. This application must be accompanied by a specimen of the article, of the metal worked, or of the improved invention.

ART. 11. When an application is made for a patent of importation the interested party will add to his application drawings or models of the machine which he proposes to establish or a detailed specification describing the principles, methods, and processes of the industry which he desires to establish in the territory of the Republic as well as the product which he proposes to manufacture.

ART. 12. The government will then name a commission of three competent persons to judge of the matter and examine the process or secret constituting the invention, improvement, or importation.

ART. 13. This commission will be always presided over by the political chief of the canton where the patent is to be worked; and if the patent be taken for

the entire Republic, by the chief of the canton where the application shall be presented and by two members of the municipal council who will proceed to the examination of the matter set forth in the preceding article.

ART. 14. The two members of the municipal council and the three members of the commission named by the government will take before the same political chief an oath not to reveal the secret of the invention or improvement and to conscientiously perform their mission.

ART. 15. The commission and the two members of the municipal council will then discuss (the interested party not being present) the advice which they ought to present, taking care to set forth all the divergences of opinion which may occur between themselves.

ART. 16. The advice or report mentioned in the preceding article will be remitted under sealed cover with "communication réservée" to the Minister of the Interior. In the same envelope will be inclosed the description of the manufacture, machine or other details which constitute the invention, the improvement, or importation.

ART. 17. Within a maximum period of three months after the receipt of the report of the commission charged to examine the invention, improvement, or importation of the new industry, the Executive Power will remit to Congress the papers furnished by the applicant as well as the report cited above.

The Congress after examination will concede or refuse the patent. In the first case it will return the papers presented by the Executive Power, and the latter will send the patent upon stamped paper of the 10th class, and cause to be registered at the Ministry of the Interior the application or specification spoken of in Art. 11.

ART. 18. In order to avoid the abuse which owners of patents can make of their patents the Government will declare upon the same that it does not guarantee either the reality, the merit, or the utility of the invention, improvement, or importation, and that the interested party will work the same at his own risk and peril.

ART. 19. The owner of a patent who shall desire to make changes in his invention or in his original application before obtaining his patent or before the expiration of the term of his patent must make a declaration in writing accompanied by the description of his new methods in the form and fashion prescribed in Art. 10 in order to obtain a corresponding alteration in his patent of which the duration shall not in the meantime be prorogued.

#### THE RIGHTS OF OWNERS OF PATENTS.

ART. 20. The owner of a patent shall enjoy exclusively the benefit of an invention, improvement, or importation made the object of his patent.

ART. 21. He shall have the right of forming establishments in all parts of the Republic, if his invention is taken for the whole extent of it, or all of the localities to which he shall be limited or to authorize parties to employ his methods as well as to dispose of his right as personal property.

ART. 22. The owner of a patent shall not be able to assign it in whole or in part except by a notarial act under pain of losing all rights to his patent.

ART. 23. In case of an interference or doubt between the authors of two applications, the priority of application for a patent shall be decided by the certificate of the Under Secretary of State for the Interior, who shall inscribe the date and hour of the presentation of the respective applications.

#### ON THE DURATION OF PATENTS.

ART. 24. The duration of patents of invention, improvement, or importation shall commence to run from the date of the decree of their grant.

ART. 25. The Letters Patent once accorded by the Government shall be registered in a special book at the Ministry of the Interior. At the same Ministry shall remain also filed until the expiration of the term of the patent the original application, the specification and other papers spoken of in Art. 10.

ART. 26. The grant of patents shall be communicated officially by the Minister of the Interior to the governors of the cantons and published in the Official Journal, it shall also be transcribed in the collections of laws and decrees.

#### CONCERNING THE RIGHTS OF THE NATION AT THE EXPIRATION OF THE TERM OF THE PATENT.

ART. 27. When the term of duration of a patent has expired the invention, the improvement or the importation of the new industrial process for which such patent has been granted will become public property.

ART. 28. At the expiration of a patent the specification and other documents mentioned in Art. 10 will be published and deposited in the public library of the Capital of the Republic.

ART. 29. When a patent shall be declared void from any of the causes mentioned in the law it shall likewise be published and deposited in the Public Library with the object mentioned in Art. 27.

ART. 30. The Government will print the specifications and drawings required for the understanding of the process when it shall become public property and will forward a sufficient number of copies to the governors of Provinces.



## CONCERNING GUARANTEES FOR THE PATENT AGAINST FRAUD.

ART. 31. The patentee, if he can show sufficient cause, may, by provisional mandate, require the sequestration of machinery, instruments, or products, used or manufactured in infringement of his rights; observing with regard thereto the provisions of the law as in force.

ART. 32. The proprietor of such goods shall, if proved guilty of fraud, be condemned to the confiscation of the goods seized, for the benefit of the patentee, and also to the payment, to the latter, of damages and interest in proportion to the importance of the fraud.

ART. 33. If the offense be not proved the (patentee) plaintiff shall pay the defendant for the damages caused by the seizure, and further a fine equal to that which would have been imposed on the defendant if he had been convicted of fraud.

ART. 34. If the patentee be disturbed in the exercise of his exclusive rights he may bring any persons so disturbing him before the ordinary tribunals by which the penalties provided by the preceding articles may be imposed. But if he shall raise any discussion as to the validity of the patent judgment must be given by the administration in the person of the Minister of the Interior.

ART. 35. In case of dispute between two patentees, with regard to two exactly similar inventions, the patent first granted shall be considered valid.

ART. 36. The second patentee shall in this case be considered as improver of the invention.

## CONCERNING GUARANTEES FOR THE NATION AGAINST ABUSES BY THE PATENTEES.

ART. 37. Shall be declared void, all patents granted for an invention, improvement or importation which the tribunals shall condemn as contrary to the laws of the State, to public safety or to police regulations. The patentee will in this case forfeit all claim to an indemnity.

ART. 38. The patents shall also be declared to have lapsed in the following cases: 1st. If the inventor be proved to have concealed in his specification the true method of working his invention. 2nd. If the inventor be proved to have used secret processes which have not been detailed in his specification nor in the declaration which, by Art. 19, he is allowed to make to modify the same. 3rd. If the inventor or one pretending to be such be proved to have obtained a patent for an invention which has already been described and published through the press in the Republic or elsewhere. 4th. If the patentee has allowed a year and a day to pass from the date of granting the patent without having worked his invention and without having justified himself in

view of the circumstances as allowed by the laws. 5th. If the inventor or the licensee of his rights, on any grounds, shall violate the obligations attached to the use of his patent.

ART. 39. In all cases where the patent shall go void or lapse, from any cause, the provision of Art. 27 will be applied.

ART. 40. Every patentee must undertake to submit to the laws of the country on all occasions with regard to his patent and must expressly reject all complaint or diplomatic intervention.

ART. 41. All patentees who have patents already in the Republic are subject, as regards the conditions involving the lapse of such patent, to the provisions of this present law.

---

#### GUATEMALA.

ARTICLE 1. Every discovery or invention, in whatsoever description of industry, gives to its author exclusive right to utilize his invention or improvement, for the time and subject to the conditions stipulated by this law.

ART. 2. Every Guatemalan or stranger domiciled in Guatemala who shall invent or improve any machine, instrument or mechanical appliance, manufacture of any kind or process of useful application for the arts or sciences shall be able to obtain from the Executive a "Patent of Invention" or "Patent of Improvement," which shall secure to him for a period of from five to fifteen years the possession of his invention or improvement.

ART. 3. In order to obtain this patent, the person interested must apply to the Ministerio de Fomento, personally or by proxy, making declaration of his invention or improvement, setting it forth clearly and requesting the privilege.

ART. 4. If the patent be granted, the grantee is required to file within 40 days an accurate drawing of the respective machine or mechanical appliance or a detailed description of the new process, accompanying same by a sample of the manufacture or product if this be possible, and if the same be capable of being preserved, in order that they may be deposited in the archives of the Chamber, under the charge of the official intrusted therewith, and may serve as evidence in case of dispute arising as to the patent.

ART. 5. Patents may be granted to persons who have obtained the same in other countries, as long as their discovery has not become public property and provided there exist a convention thereon between the nation from which the application proceeds and Guatemala. These patents will cease and determine at the same time as the foreign patents; but if such period should be more than 15 years, the privilege can not exceed this space of time.

ART. 6. Every privilege conceded will be registered in a special book, which shall be kept by the respective secretariats.

ART. 7. In the patent which is granted there shall be inserted, in case of the grant of the concession, the citation of this law, the invention or improvement of which it treats, the duration of time comprised and the declaration of possession of the privilege, and it shall be sealed with the seal of the Ministry of Commerce.

ART. 8. The Executive, by the concession of a patent, does not guarantee that the discovery or invention be the property of the person who appears as inventor or author, nor yet its correctness or utility. It will be for those interested to prove the contrary before a court of law.

ART. 9. Every application for a patent shall be published four times in one month in the Official Gazette, and the patents granted shall be published at least twice in the same publication.

ART. 10. Patents become void, in addition to the case provided for in Art. 4, in the following circumstances:

1. When they have been granted to the prejudice of the rights of a third party in the opinion of a competent tribunal.

2. When a year shall have elapsed without the industry or improvement for which they were granted being put into practice.

3. When after commencement the industry or improvement be abandoned for more than one year.

4. When products are supplied inferior to the samples filed by reason of adulterations made in them.

ART. 11. Patents will not be granted in the following cases:

1. When the invention or improvement is contrary to prior rights, to public safety and order or to morality and good customs.

2. When the formalities prescribed by the law have not been fulfilled.

ART. 12. The patent granted will be solely for the process or means of making and producing; not for the products which manufactured according to other methods may be freely prepared and sold.

ART. 13. Every person has a right to improve upon the invention of another but not to use the invention itself except with the consent of its owner; in the same way the inventor can not make use of improvements and additions made by a subsequent inventor without the consent of the latter.

ART. 14. The grant of a patent causes in favor of the National Treasury a tax of five to fifty pesos for each year of the concession, which the patentee must pay annually in advance.

ART. 15. When the prescribed term of the patent has elapsed, the specifications of the author or inventor and copies of the drawings or models will be

furnished, at his own expense to any person requiring them; and it will be henceforth permissible to manufacture according to this system or process.

ART. 16. The offenses of falsification, imitation, and so forth, against the patented articles will be punished according to the provisions of the penal code.

ART. 17. The Executive may grant concessions in favor of works of public utility which may be established in the country or of persons who propose to establish new industries or to improve those already existing.

ART. 18. These concessions may be: exemption from or diminution of the amount of the fiscal duties for the introduction of machinery or material, the loan gratuitously of public buildings or lands during the term of the concession, exemption from military service of the operatives engaged in the industry to which the concession relates, actual subventions and premiums, according to the circumstances of the case.

In case of remission or diminution of the duties, the principals or administrators of the favored undertakings must present, in order to obtain delivery of the goods, a petition to the respective custom-house which sets forth the following details:

1. That the undertaking is included among those which enjoy a concession.
2. That the goods of which the delivery is desired are not in excess of the necessity or requirements for the existence of the said undertaking.
3. Give the name of the vessels conveying the goods, marks and number of packages.
4. An inventory of the goods existing in their warehouses or stores, previously imported.

The officials intrusted with the forwarding of these goods will adopt the necessary precautions to assure themselves of the conformity thereof with the application and may suspend the arrangement if any discrepancy appears. If the undertaking favored with exemption from payment of duties shall cease by reason of the concession having terminated or for any other cause, it shall present to the respective custom-house a copy of the formal inventory of the articles in existence belonging to the undertaking, and if the said articles are destined for the consumption or use of a third party it remains responsible for the payment of the corresponding dues.

ART. 19. Any person who desires to obtain a concession for the establishment of an undertaking of public utility or introduction or improvement of a special industry shall address himself to the Secretariate of Commerce setting forth fully and explicitly the conditions of the undertaking or industry or improvement which he may desire to introduce.

The Ministry, with the assistance of two or more experts, will report upon the application to the Council of State. The decision of this body having been pronounced, if it be favorable, the concession will be granted, subject, however, to the confirmation of the Assembly, which will take it into consideration during the next following ordinary sessions. The grantee will be permitted to commence to use the concession granted as soon as it has been allowed; but in case the same be not confirmed by the Assembly, he will have no claim to any compensation.

Every application for a concession shall be published four times during one month in the Official Gazette, before being submitted to the consideration of the Council of State in order that if there should be any one whose rights would be prejudicially affected he may present himself before the same Secretariate.

ART. 20. No especial concessions shall be granted for the introduction of machines for domestic use and other objects of ordinary commerce.

ART. 21. The concession granted in favor of a given enterprise will be annulled if it is discovered that the grantee traffics with the raw materials or articles which he imports.

ART. 22. In the case provided for by the preceding article, in addition to the forfeiture of the concession, the grantee shall pay the duties corresponding to the whole of the importations which he shall previously have made thereunder together with forty per cent. upon the total amount.

ART. 23. Concessions also become void in the following cases:

1. When the time has expired within which the grantee was obliged to introduce the industry or improvement, or to commence the works to carry the same into practice.

2. When after the planting it should be abandoned for more than one year.

---

#### HAITI.

(The Republic of Haiti has no law or practice on the subject, having never yet had occasion to apply either. Should it ever feel the want of such a law it would probably base its legislation on the French system.)

---

#### HAWAII.

*Be it enacted by the King and Legislative Assembly of the Hawaiian Islands in the Legislature of the King assembled, That section 255 of the civil code be, and the same is hereby, amended so as to read as follows (laws from 1879):*

The Minister of the Interior, with the approval of his Majesty the King, may

issue a patent to the inventor or improver of any machine, manufacture, or work of art calculated to improve the interests of science, agriculture, or manufactures, and may therein grant to such inventor or improver for any term of years, not exceeding ten, that may be specified in such patent; and upon the granting of such patent the sum of one hundred dollars shall be paid by the patentee to the Minister of the Interior for the use of the royal Exchequer.

Every such inventor or improver shall, before receiving a patent, deliver to the Minister of the Interior a full and clear description in writing of his invention or improvement, together with the mode of using or applying the same to the purpose for which it is intended, and the manner and process of making and constructing or compounding the same; and in case of any machine, he shall also furnish, in addition to the written description, accurate drawings and a complete model thereof, and shall also at the same time, if a citizen of this kingdom, deposit with the Minister of the Interior the sum of thirty dollars, and if a foreigner the sum of one hundred (\$100.00) dollars, for the use of the royal Exchequer.

Any person who shall have invented any new art, machine, or improvement thereof, and shall desire further time to mature the same, may file in the office of the Minister of Interior a caveat, setting forth the design and purpose thereof, its distinguishing characteristics, and praying protection of his right until he shall have matured the same; and such caveat shall, upon payment by the applicant of the sum of thirty (\$30.00) dollars to the Minister of Interior, be filed in the confidential archives of the Department of the Interior and preserved in secrecy; and within one year thereafter, if the applicant shall desire to avail himself of the benefit of his caveat, he shall file his description, specification, drawings, and model, and pay the fee, as provided in applications for patents.

---

#### JAMAICA.

Applications for patents must be addressed to the governor and lodged with the executive council. They must be verified by the oath of the petitioner or his agent, and must allege that he has "invented or discovered some new and useful art, machine, manufacture, or composition of matter not theretofore known or used within this island, or some improvement in any such invention or discovery, and praying to obtain an exclusive property in such new invention and discovery or improvement, and that Letters Patent be granted for the same."

Exclusive rights may be granted for a period not exceeding fourteen years.

All petitions are referred to the attorney-general for examination and approval. In case he approves he certifies them to the executive committee; in case of disapproval he reports his reasons to the governor.

Models are to be filed whenever practicable, but where, from the complicated nature of any machinery, the cost of a model may be so great as to prevent an ingenious but poor inventor from furnishing it, the governor and council may authorize it to be dispensed with.

All patents granted must be put in operation within two years.

Patentees in other countries are not debarred from obtaining patents in Jamaica, provided the invention has not been brought into general use in the colony prior to the application.

A penalty of \$250 is imposed for counterfeiting or imitating patented articles.

The stamp duties amount to about \$30.

---

#### MEXICO.

ARTICLE 1. Any Mexican or foreigner, who is the inventor or improver of any industry or art or of objects destined therefor, has the right, by virtue of article 28 of the constitution, to the exclusive use thereof, during a certain number of years, under the rules and regulations prescribed in this law.

In order to acquire this right, one must obtain a patent of invention or improvement.

ART. 2. Every discovery, invention, or improvement that may have for its object a new industrial product, a new manner of production, or the new application of means, already known, for the obtainment of a result or of an industrial product, is susceptible of being patented. Chemical or pharmaceutical products are likewise susceptible of being patented.

ART. 3. An invention or improvement shall not be considered new when in this country or abroad, and prior to the petition for the patent, it may have received a sufficient publicity to be put into practice. Excepting, however, the case when the publicity may have been made by a foreign authority empowered to issue patents, and when the invention or improvement may have been presented in expositions held within the territory of the Republic or abroad.

ART. 4. The following can not be patented:

I. The inventions or improvements whose working shall be contrary to the laws forbidding them or regarding public security.

II. Scientific principles or discoveries while they are merely speculative or be not put into practice by means of a machine, apparatus, instruments, mechanical or chemical proceedings of a practical industrial character.

ART. 5. The concession of a patent does not guaranty the novelty nor the usefulness of the object to which it relates, nor does it solve questions that may arise therefrom. Consequently, it must be granted without previous examination as to the novelty or utility of the invention or improvement, or of the sufficiency or insufficiency of the descriptions that may accompany the petition.

ART. 6. The concession of a patent can only be made with reference to one object or industrial process. When two or more can be combined among themselves to produce the same industrial result, there must be asked the number of patents that may be necessary therefor.

ART. 7. The rights granted by virtue of the patents issued in the Republic for objects or processes, that may have been or may hereafter be protected by foreign patents, are independent of the rights that the same may grant, and of the effects or results that they may produce.

ART. 8. The effects of a patent are :

I. To deprive every person, without permission from the owner of the patent, of the right to produce, through industrial means, the object of the invention, or to place it in the market and from selling it.

II. With reference to a process, machine, or any other manner of working an instrument or other means of operation, the effect of the patent is to deprive others of the right to apply the process or to use the object of the invention without the permission of the owner of the patent.

ART. 9. The patent does not produce any effect whatever, as regards a third party that was already secretly working or had made the preparations necessary for working within the Republic the invention or process before the presentation of the patent.

ART. 10. The effects of the patent do not comprise the objects or products that may cross in transit the territory of the Republic or may remain within its territorial waters.

ART. 11. The right of petitioning for a patent for objects or processes that may be protected by foreign patents can only be granted to inventors or improvers or to their legitimate representatives.

ART. 12. Inventors shall have the period of one year from the date of the patent within which they shall have exclusive right to petition for patents for improvements.

ART. 13. Patents may be granted for 20 years from the date when the same



shall have been issued; nevertheless, when the patents shall be asked for objects or processes already protected by foreign patents, the terms of duration can not exceed what may be wanting for the expiration of the first patent issued in favor of the petitioner.

ART. 14. The term of a patent may be extended for 5 years at the discretion of the Executive. The extension of the term of a patent of invention involves the extension of the term of the supplementary patents of improvement relative thereto.

ART. 15. On payment of a fair indemnification the Executive may appropriate a patent on the ground of public policy or on account of the patented article being of such a nature that its free use is capable of proving an important source of public wealth. However, this can only be done under one of the following circumstances:

I. When the patentee refuses to allow his patent to be worked.

II. When the machine, apparatus, instrument, or process is capable of being produced or used in the country.

The regulations will determine the formalities and procedure to be observed in the appropriation of patents for the public good.

ART. 16. In order to obtain the protection of this law, application must be made in due form to the department of public works, to which the power to grant patents belongs.

ART. 17. The first applicant for a patent shall have in his favor the presumption of being the first inventor, and moreover enjoys the right of possession.

ART. 18. Inventors, whether citizens or foreigners, who are unable to apply personally to the department of public works, may appoint attorneys in fact to act for them, both in obtaining the patent and in lawsuits and other matters relative thereto.

Citizens may appoint an attorney in fact by a common letter of authorization, but foreigners must grant a regular power of attorney duly registered.

The effects of the power of attorneys cease with the issue of the patent, unless it be otherwise stated in the power.

ART. 19. Petitions for the granting of letters patent shall be published in the official journal of the Federal Government during a period of 2 months, at intervals of 10 days.

ART. 20. During the period of time mentioned in the foregoing article, interference proceedings may be instituted by any one with a view to prevent the granting of the patent solicited.

After the said period of time has elapsed no proceedings of interference will be allowed.

ART. 21. Interference proceedings can only be instituted on the following grounds:

I. That the alleged invention or improvement is not properly patentable under the provisions of this law.

II. That such alleged invention or improvement has been taken from descriptions, drawings, models, devices, apparatuses, or methods invented by another, or from processes already reduced to practice by another, or, in general, on the ground that the applicant is not the original inventor or his legitimate assignee.

ART. 22. If two or more persons claim the same invention, the first inventor shall be entitled to the patent, but if priority of invention can not be determined, the patent shall be granted to the first petitioner.

ART. 23. If interference proceedings be instituted, as determined by articles 20 and 21, the department of public works shall summon the parties and endeavor to reconcile their conflicting claims. But if this is not obtained, the department shall suspend all further executive proceedings and shall transmit all the evidence in the case to the proper judicial authority. The party instituting interference proceedings shall be allowed two months to make good his action in court, but if he fail to do so within this time, his claim shall be disallowed.

ART. 24. All sentences given by the judicial authority shall be transmitted to the department of public works that they may be duly enforced.

ART. 25. The decrees of the department of public works granting a patent can only be canceled by a judicial sentence, and only owing to the nullity of the patent.

ART. 26. At the expiration of the 2 months referred to in article 19, and after the Government tax has been paid into the treasury of the nation, the letters patent shall be issued with reference to the invention or improvement sought, provided always that letters patent covering the same invention have not previously been granted by the department of public works.

ART. 27. Letters patent issued in the name of the nation shall have subscribed thereto the signature of the President of the Republic, be countersigned by the secretary of public works, and bear, besides, the great seal; furthermore, they must contain in clear language a description of the discovery or improvement patented.

The letters patent, with one of the copies of the drawings, samples, models, and other matters under seal, together with the documents presented with the petition duly certified by the subsecretary, shall constitute the title of property or the person who may obtain the patent.

ART. 28. Letters patent shall be recorded in a special record wherein the appropriate entries relative thereto shall be made.

ART. 29. All letters patent that may be issued shall be published in the official journal; and, furthermore, every year, a special book shall be published which must contain a clear and exact description of the inventions or improvements, as also copies of the drawings.

ART. 30. All inventions protected by letters patent shall bear a mark stating that fact and the number and date of the letters patent.

ART. 31. Letters patent shall require the payment of a fee amounting to from \$50 to \$150, payable in Mexican dollars or in bonds of the national consolidated debt.

ART. 32. In case of the extension referred to in article 14, a new fee shall be paid in conformity with the foregoing article.

ART. 33. The owner of letters patent for an invention or improvement must prove before the department of public works, within the period of 5 years after the date of the patent, that the objects or processes protected thereby are manufactured or employed in the Republic or that everything necessary has been done for the purpose of having them so employed or manufactured.

The term within which these facts must be proved can not be extended.

ART. 34. The department of public works shall make an entry in the registry of letters patent of the fact that the requirement referred to in the foregoing articles has been complied with.

ART. 35. Letters patent are null and void—

I. Whenever they may have been issued in contravention of what is prescribed in articles 2, 3, and 4. Nevertheless, when letters patent shall have been obtained, in conformity with a petition wherein the petitioner has presented and obtained more than what he is entitled to as the first discoverer or inventor, his letters patent shall be valid in so far as it relates to whatever he may be entitled to, provided it does not infringe the provisions of the following subdivision and that no fraud shall have been committed upon making the petition. In this case the letters patent shall be limited to what it should only comprise, the proceedings relating thereto to be in conformity with what is prescribed in article 39.

II. Whenever the object for which the patent has been asked is different from that which is obtained by virtue of the letters patent.

III. Whenever it is proved that the main object sought in the petition for the letters patent is comprised within one of the cases referred to in subdivision 11 of article 21.

The proceedings to invalidate letters patent have to be commenced within the term of 1 year after the date when the patent shall be put in operation in the Republic.

ART. 36. An action for the purpose of declaring invalid letters patent before the courts may be instituted in the name or on behalf of the district attorney.

Whoever may work or have in operation the same industry shall have the right to interpose an exception and take part in the proceedings of interference.

ART. 37. Letters patent shall lapse—

I. Whenever the term for which they were granted shall have terminated and they may not have been extended.

II. When they shall be given up in part or in their entirety.

III. Whenever compliance shall not have been made with the prescriptions of article 33.

ART. 38. The department of public works shall declare the invalidity of the patent in the two first cases referred to in the foregoing article; in the third case that can only be done by the court at the instance and request of the district attorney or of the party in interest by instituting an action of interference proceedings therefor.

ART. 39. The determinations of nullity and lapse of letters patent shall be published in the official journal of the Federal Government and entered in the record of inscriptions of the department of public works.

ART. 40. The determinations of nullity and lapse of letters patent produce the effect of subjecting the inventions or improvements to the use thereof by the public in general.

In case of giving up any letters patent, if only a portion of the same is given up, then the public has merely the right to use the portion thus abandoned, the letters patent remaining valid as to the rest thereof. The abandonment shall be made by writing and be entered in the record.

ART. 41. The ownership in letters patent may be assigned by any of the means established by law with regard to private property, but no act of assignment or any other that implies the modification of the right of property shall be prejudicial to the rights of third parties, if the same shall not be recorded in the office of the department of public works.

ART. 42. Everything relating to the fraudulent infringement of letters patent shall be subject to the prescriptions of the penal code of the federal district and to those established by the codes of procedure.

ART. 43. The proceedings relating to letters patent at present pending shall be continued and decided in conformity, in all particulars as to the part not terminated, with the prescriptions of this law.

ART. 44. All those at present enjoying privileges by virtue of letters patent now in full force, may avail themselves of the provisions of this law upon paying beforehand the fees herein set forth.

ART. 45. The executive of the union may issue rules of practice appropriate to this law, and may establish, if he deems it proper, a patent office in connection with the department of public works.

ART. 46. The law of May 7, 1832, and every part thereof, and all other provisions of law adopted relative to this subject, are hereby repealed.

---

#### NICARAGUA.

The resolutions of the Spanish Cortes, of 21st September, 1821, regulating the right of property in inventions, are nominally in force in this republic.

Decree 43 declares as to this right—to consider as proprietor of his work him who should invent, import, or introduce.

The Government, by means of the proper minister, will issue to the said proprietor a certificate, in which will appear his name as inventor, improver, or introducer of the work, a description of it (the invention), and the duration of the exclusive right. This certificate will serve as a sufficient title; but in order to obtain it it is necessary that the petitioner should address himself to the prefect of the department or to the municipality, giving an account of his work, describing it with the greatest exactness possible in conformity with the model, which the same law establishes.

The said authorities, in their turn, shall be obliged to give to the petitioner testimony of the same, which may serve for the information of the minister of the department.

The inventor shall have ten years of exclusive property, the improver seven, and the introducer five. These terms may be extended by the sovereign power, on the proposition of the Government, to fifteen, ten, and seven years, respectively.

The inventor, improver, and introducer, apart from the aforesaid terms, will cease to be considered as sole proprietors, first, if they cede their right for the public good; secondly, if they let six months pass without taking up the certificate; thirdly, if they let two years pass without putting in execution their invention, perfection, or improvement.

This is, in substance, that which is decreed by the Spanish Cortes.

Article XLII, section 22, of the constitution of Nicaragua, however, confers

on Congress power to grant rewards and privileges to inventors, and in practice the rules of the decree cited above are not followed.

He who wishes for a reward or privilege seeks it from Congress, which concedes it, if it sees fit to do so.

---

### PERU.

ARTICLE 1. Any discovery or invention in any branch of industry whatsoever gives the author the exclusive right to work it to his profit, under the conditions and during the time determined by this law. This right is derived from a patent granted by the Government.

ART. 2. The following are considered inventions and discoveries: 1st. New industrial products. 2nd. New processes or the new application of known processes for obtaining an industrial product.

ART. 3. The following can not be patented: 1st. Pharmaceutical preparations or remedies of any kind whatever. 2nd. Plans or combinations of credit or finance. 3rd. Processes having for their object the use of known methods for the improvement of an industry the exercise of which is free within and without the territory of the Republic.

ART. 4. In the third case of the preceding article, will be admitted and then only in cases of necessity, proposals relating to contracts allowed by the law.

ART. 5. The duration of the patents cannot exceed the term of ten years, and the proprietors shall pay every year a tax of (100) one hundred solés (dollars).

ART. 6. The applicants for patents of invention or of importation must present themselves at the Prefecture of the department in which they may desire to establish their industry or at the Prefecture of the department in which they reside if it is to be established in two or more departments.

ART. 7. The application must contain: 1st. The specification of the invention or of the object which it is proposed to introduce. 2nd. The drawings or models necessary for understanding the same. 3rd. The list and explanation of the models presented. 4th. The clear and precise indication or determination of the principal object and of the details which constitute the invention and the specification of its methods of application. 5th. The duration of the patent. 6th. The indication of the guarantees presented for the realization of the product.

ART. 8. This application shall be written in Spanish and, in conformity, as

regards the metric system of weights and measures, with that in use in the Republic. In the case of an application for patent bearing the signature of a foreigner, this latter must expressly reject all diplomatic intervention with regard to the patent applied for, and must submit absolutely and exclusively to the laws and tribunals of the Republic. Without this condition his application will not be taken under consideration.

ART. 9. The prefects will, with regard to the application for patent, take the opinion of the municipality, the treasury or agent of the treasury, or other functionaries according to the nature of the case and will consult experts it required. After having fulfilled these formalities they will forward the documents, with the specification, plans, models, &c., to the proper authorities at the expense of the person interested.

ART. 10. The Minister of the said department will take the opinion of the treasury, of the Supreme Court, and of any other functionaries which he may consider necessary to consult and, according to the information he may receive, will grant or refuse the patent.

ART. 11. A prolongation of the duration of patents as well as changes or alterations in the terms of the same can only be granted by a resolution of the legislature, made at the request of the persons interested and for just causes founded on proved facts and authentic documents.

ART. 12. The proprietor of a patent alone may work such patent during the period of its duration. Any other person desiring to do so must be authorized by him or must be put in his place and stead by a contract of transfer or by any other means provided by the laws.

ART. 13. The patents are void and of non effect in the following cases: 1st. If the discovery, invention or application be not new. 2nd. If the object of the patent do not come under the terms of Art. 2. 3rd. If the patent refer to principles, methods systems, or theoretical or scientific discoveries for which no industrial application is shown. 4th. If the discovery, invention or application be contrary to order and public safety, or to the laws without exemption, in this case, from the penalties imposed upon manufacturers or merchants of prohibited objects. 5th. If it should appear that the applicant for a patent has fraudulently obtained privilege for an object different to and distinct from the invention. 6th. If, on working the invention it be found not to agree with the specification annexed to the application. 7th. If the patent have been obtained in infraction of any of the provisions of the present law. 8th. If, at the same time as the patent there be given pecuniary grants not included in the budgets of the Republic, or contrary to the laws. Authorizations relating

to changes, additions or improvements not contained in the original patent are also void and of non effect.

ART. 14. A discovery, invention or application will not be considered new, which prior to the date of application for the patent shall have had, in Peru or elsewhere, sufficient publicity to enable it to be put in practice.

ART. 15. The proprietor will forfeit his rights if, 1st, he do not pay the annuity or tax fixed in Art. 2. 2nd. If he do not put in practice the discovery or invention within two years or any term which may be stated on the Letters Patent unless he can legally justify his delay. 3rd. If he introduce objects manufactured abroad and similar to those protected by his patent with the sole exception of the models of machines the introduction of which may be authorized by the Government after due investigation.

ART. 16. Whoever shall by means of advertisements, prospectuses marks or otherwise give himself the title of proprietor of a patent without legally possessing such patent or after it has gone void shall be punished by a fine of fifty (50) to a thousand (1000) solés (dollars) without exempting him from the penalties incurred for the crime of forgery.

ART. 17. All persons who may be justly interested will have the right to demand the voidance or lapsing of a patent. The public prosecutor will take part in the action and if the patent be declared null or lapsed, from whatever cause, notice will be given thereof by the said prosecutor.

ART. 18. Any infringement of the rights of a proprietor of a patent, whether in the manufacture of the products or in the use of processes mentioned in the application will constitute the crime of adulteration and will be punished, according to the importance of the case, by a fine in favor of the person interested and by the confiscation of the objects manufactured.

ART. 19. All privileges or patents at present in force and which have been granted in conformity with provisions prior to this law, will remain in force for the whole period for which they have been granted.

---

#### SALVADOR.

The Constitution of Salvador confers power upon the Executive to concede privileges to the authors of useful inventions. No secondary law has been passed defining or restricting the terms on which those privileges should be granted.



## UNITED STATES.

The laws of the United States relating to patents are contained in sections 4883 to 4936 of the Revised Statutes of the United States.

Any person who has invented or discovered a new useful art, machine, manufacture, or composition of matter or improvement thereof, not known to others or described in any printed publication, can apply for a patent giving the exclusive right to make, use, or vend the same for 17 years.

Application must be made in writing to the Patent Office, under oath, stating that the applicant believes himself to be the original inventor or discoverer of the article for which application for patent is made. The applicant must state of what country he is a citizen. Accompanying the application must be a full, clear, concise, and exact description of the invention or discovery, and the mode of constructing, compounding, or using it; and in case of a machine the principle must be explained and the manner in which it is to be applied, distinctly pointing out and claiming what is the part, improvement, or combination for which the patent is asked. The specifications and claims are signed by the inventor and two witnesses. Drawings, signed by the inventor, or his attorney, and two witnesses, must be furnished when practicable. Samples, and the ingredients may be required in case of compositions. Models may be required in cases admitting of a model.

Application must be completed within 2 years after filing, and upon failure to prosecute for 2 years the application may be considered abandoned.

Patents may be granted for inventions which have been patented abroad, unless the same have been introduced into public use in the United States for two years prior to the application. Patents so granted are limited to expire when the foreign patent expires, or in 17 years.

Assignments must be registered in the Patent Office, and be in writing.

Articles patented must be labeled or marked as such. Penalties for falsely marking articles as patented are enforced in the United States courts.

Citizens, or aliens who have resided one year in the United States and made oath of intention to become citizens, making a new invention and desiring time to mature the same, may file a caveat in the secret archives in the Patent Office, which will entitle the inventor to the notice of any application made during the year which might interfere with his invention. Upon receipt of such notification the specification, description, etc., for the completion of the patent must be filed within three months thereafter.

When a claim for patent is rejected, the reasons for rejection are given together with such information and references as may be useful in judging of the propriety of renewing the application or altering the specification.

Notice of interferences are given to applicants having pending claims.

Where claims are rejected, appeals lie from the primary examiner to the examiner in chief, and from him to the Commissioner of Patents, from whom an appeal lies to the supreme court of the District of Columbia. Whenever a patent or application is refused by the Commissioner of Patents or the supreme court of the District of Columbia, an applicant may file a bill in equity in any circuit court of the United States, and if successful a patent will be issued by the Commissioner of Patents upon the record certified from the court.

Whenever patents are inoperative, by reason of defective specifications arising from mistake, upon surrender of the patent a new patent in accordance with the corrected specification may be issued. Where an accidental claim has been made by a patentee for more than the applicant was the original inventor, a disclaimer may be filed in the Patent Office for such parts of the invention as he does not choose to claim.

Actions and suits in matters relating to patents are cognizable in the circuit courts of the United States.

The official fees of the Patent Office are as follows:

On filing each original application for a patent, except in design cases, \$15.

On issuing each original patent, except in design cases, \$20.

In design cases: For 3 years and 6 months, \$10; for 7 years, \$15; for 14 years, \$30.

On filing each caveat, \$10.

On every application for the reissue of a patent, \$30.

On filing each disclaimer, \$10.

On every application for the extension of a patent, \$50.

On the granting of every extension of a patent, \$50.

On an appeal for the first time from the primary examiners to the examiners-in-chief, \$10.

On every appeal from the examiners-in-chief to the Commissioner, \$20.

For certified copies of patents, and other papers, including certified printed copies, 10 cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, \$1; over three hundred and under one thousand words, \$2; of over one thousand words, \$3.

For copies of drawings, the reasonable cost of making them.

## VENEZUELA.

Any person, the author of a discovery or invention in matters of industry, or of an improvement not before used or known, or who introduces from abroad any kind of manufacturing process or industrial improvement known in other countries, but not in use in Venezuela, can obtain a patent or industrial privilege.

To obtain the patent above alluded to a petition must be addressed direct to the minister of the interior, stating, in a clear and precise manner, the principal and essential points of the discovery, invention or improvement, accompanied by so complete, clear, and correct a description that any one acquainted with the art could obtain the result or manufacture the article if employing the means of proceeding in the manner indicated.

Provisional declarations unaccompanied by the above-mentioned description are not taken into consideration.

On the petition having been presented, the day and hour of its having been made are noted on the margin, in order to insure to the petitioner the priority of the discovery or invention.

Should the patent be in dispute between the persons, the first who had applied for it is entitled to it; and if both applications were made the same day and hour, the question is decided by arbitrators, one named by each interested party and another by the minister of the interior. Should one of the interested parties refuse to name an arbitrator, the patent is issued to the other; and should there be more than two contending parties, and these should not agree in the nomination of three arbitrators, the nomination is then made by the minister of the interior.

In the case of death of an inventor before obtaining a patent for his invention, his lawful heirs may obtain it in conformity with law.

The petitioner for a patent has to make oath to the effect that he believes himself to be the true inventor of the art, machinery, &c., with reference to which he applies for a patent.

The patent is issued by the president of the republic, and in it is mentioned the name of the inventor, and that he has made oath according to law; the art or machine, &c., invented, (fully described as above stated,) and the number of years during which he is allowed the exclusive right to exercise the industry, or manufacture the machine, or sell the article invented; the government, however, not guaranteeing the priority or merits of the invention.

The patent for a discovery, invention, or improvement, insures to the author the exclusive right to exercise the industry, or manufacture the machine, or

sell what he invented, for the number of years stated in the patent, in all the states of the republic; but in the case of the introducing of some kind of industrial invention or improvement from abroad, known in other countries, but not in use in Venezuela, an exception is made with regard to such states of the republic where such invention or improvement may have been known and in use before the patent was issued.

The owner of a patent may make such establishments or shops as may be required for the working of the patent; may employ all sorts of workmen; have partners; establish everywhere deposits for the sale of the productions of his patent, and he may freely dispose of his secret and patent and transfer it to others in legal form, although the person to whom it may be transferred, under the penalty of losing the right, is bound to inform the minister of the interior of the transfer.

A patent issued for an improvement of an invention already patented is limited to its special object, according to the distinctive points indicated in the description, and confers no right to any part of the invention that may have been the subject of a prior patent or of a process previously known; but the owner of the prior patent can not either avail himself of the improvement or the subject of the later patent without coming to an understanding with its owner.

No privileged industry can, according to law, be subjected to any national or municipal contribution or tax exceeding one per cent. per annum on the original cost of the edifice with all its machinery; and so soon as fabrication is in activity the interested party must present to the minister of the interior the documents proving the said cost, and the definitive amount is to be advertised in the gazette of Venezuela.

Primary materials required for a patented industry are exempt from all import duties for the whole period for which the patent has been granted; and, in order to avoid abuses, the patentee must inform the government, on commencing to work his patent, of the primary materials he proposes importing, and the government issues the necessary orders to the customs; and if it be proved that the patentee, abusing the exemption, has introduced such materials for sale without applying them to the patented industry, independently of his having to pay the duties for the materials sold as above stated, he loses for the future the right to the exemption from duties.

Any violation or sale of an article of the patent of invention, without the consent of the owner, is forbidden as an attack upon his prerogative, and entitles him to obtain the intervention of the police to put a stop immediately to any ulterior violation and to provisionally embargo the falsified articles, be they in the hands of the manufacturer himself, or in the hands of any one

commissioned to sell them, or be they imported from abroad, and all under penalties established by law.

The utmost duration of the exclusive rights of the patent is fifteen years, and the least is six years, to count from the date on which the patent was issued; but as regards the prohibition to sell articles of the kind of the patented industry, the term of years is to be reckoned from the date on which the patented industry is brought into operation.

In order to facilitate the trying of experiments, patents may be issued for a less time than fifteen years; and if application be made before the lesser term be completed, it is extended to the fifteen years; but if the application be not made the patent ceases.

Every one is at liberty to make use of the invention, discovery, or improvement when the term of a patent ceases, as well as whenever the inventor, discoverer, improver, or importer ceases to be considered to be the owner of the patent, which happens under the following circumstances:

When it is proved that, by adding or suppressing part of the description he is required to furnish, the patentee conceals the true means for the working of his patent.

When it is proved that he employs secret means, not comprised in the description he is required to furnish, and which he did not add to it by any subsequent declaration.

When it is proved that he applied for and obtained a patent for more than there was in reality of discovery, invention, improvement, or to be imported

When it is proved, with respect to discoveries, inventions, or improvements, that they had been in use before in Venezuela or elsewhere, or are described in some work previously published, the description being sufficiently clear and precise to enable any one acquainted with the art to carry out the invention; and, with respect to those introduced from abroad, that they had already obtained a patent in Venezuela. Also, when it is proved that the patentee has failed, in the former case, within the term of two years, and, in the latter case, within that of one year, to carry the invention into effect.

When the inventor, within six months of his invention having been freely made use of, has not applied for a patent.

When the patent has been obtained through usurpation of the discovery or invention of another person.

When the patent has been transferred to another person, and this person has not notified the transfer to the minister of the interior.

The above points must be proved in a regular suit at law, and if proved the patent is annulled.

A register for patents issued, with other information relating to them is, according to law, to be kept at the department of the interior.

On a patent being issued, the circumstance is, according to law, to be published in the gazette of Venezuela.

When the term of a patent lapses, or when a patent is annulled, a circumstantial description of the invention is, according to law, to be published in the gazette of Venezuela.

The violation of a patent is punishable, according to law, by a penalty of from three months' to two years' imprisonment, and a fine of from 50 to 500 pesos, say \$50 to \$500.

## Trade-mark Laws of America.

---

The following is a summary of the trade-mark laws of the American Republics, prepared by Francis Forbes, esq., United States Trade-Mark Association, 137 Broadway, New York City:

### ARGENTINE REPUBLIC AND URUGUAY.

*Date of law.*—August 19, 1876, Argentine Republic; March 1, 1877, Uruguay.

*Who may register.*—Any manufacturer or merchant, Argentine Republic; interested party, Uruguay.

*What are registrable as trade-marks.*—Names of objects and persons in a special form, emblems, monograms, engravings or prints, seals, vignettes and reliefs, letters and figures of a special design, the receptacles or wrappers of objects and every other sign employed to distinguish the products of a factory or article of commerce. (Art. 1.)

Use of mark is optional, but it may become obligatory when public convenience demands it. (Art. 6.)

*What are not registrable as trade-marks.*—1. Letters, words, names, or distinctions used by or pertaining to the state. 2. The form of the article given by the manufacturer. 3. Color of products. 4. Terms or designations which may be in general use. 5. Designations usually employed to indicate the nature of products or the class to which they belong. 6. Designs or expressions contrary to morals. (Art. 3.)

*Ownership and transfer.*—Absolute property in the mark and the right to oppose the use of any other which may cause confusion directly or indirectly between the products shall belong to the manufacturer or merchant who may have complied with the requirements of the law. (Art. 4.) Ownership extends no further than industries of the same kind. (Art. 5.) Ownership passes to the heirs and may be transferred by contract. (Art. 7.) Ownership passes with the sale of the establishment, unless otherwise excepted. (Art. 8.) Transfers must be recorded in the office in which registered. (Art. 9.) Only those marks for which the office has given certificates of proprietorship shall be considered effective under the law. (Art. 10.) The right of preference for the property in a mark shall be determined by the date of application. (Art. 15.)

*Duration.*—Ten years. Can be renewed for the same period repeatedly by the same formalities, etc., paying the same fees. (Art. 11.) (Argentine Republic.) Ten years. Renewable for same period indefinitely. (Uruguay.)

*Formalities necessary to obtain ownership of trade-mark.*—Application to the patent office accompanied by two copies of the mark. 2. Description in duplicate of the mark or sign, if figures or emblems. Designation of the class of objects to which the mark or sign is intended to be applied, and whether to be applied to products of a factory or to articles of commerce. 3. Receipt from the general treasury of the payment of forty piasters. 4. Power of attorney whenever the applicant does not appear in person. (Art. 13.)

*Office regulations.*—A summarized entry of the applications shall be made in substance their contents, with mention of the date and hour of presentation. This entry shall be signed by the chief of the bureau, the secretary, and the applicant, who shall be entitled to copies without other expense than the stamped paper. (Art. 14.)

The patent office shall keep a book in which shall be inscribed grants of marks according to the order of their delivery.

The chief of the bureau shall furnish every three months to the executive government a statement of the certificates granted and refused, with their respective dates, which shall be published. (Art. 18.) Marks shall be classed in the files of the patent office. In case of litigation the record shall be exhibited. (Art. 20.) Marks may be examined at the patent office by the public. (Art. 21.)

*Form of certificate.*—The certificate delivered by the patent office shall consist of a certificate of grant accompanied by a duplicate of the description and the design. It shall be attested in the name of the nation by authority of the government and shall be countersigned by the signature of the chief of the bureau and the secretary, and the stamp of the bureau. (Art. 16.)

*Appeal.*—Appeal may be taken within 10 days to the minister of the interior from a decision of the bureau refusing to accord property in a mark. The minister, after having heard the attorney of the treasury, shall confirm or reverse the decision. (Art. 17.)

*Fees.*—Registration, 40 hard dollars. Recording and certificate of transfer, 20 hard dollars. For each attested copy, 4 hard dollars in addition to the stamp on the paper. (Art. 19.) (Argentine.) Fifty dollars in gold. For registering transfer, \$25 in gold. (Uruguay.)

*Names of individuals and firms.*—The merchant's name, the firm name, the sign or the designation of a house dealing in particular articles, constitute industrial property. (Art. 22.) If a merchant or manufacturer wishes to carry on an industry already initiated by another person bearing the same name he must adopt a distinct modification thereof. (Art. 23.) The injured party must protest within a year. (Art. 24.) Corporations have the same rights to their names as individuals and are subject to the same conditions. (Art. 25.) The exclusive right to the name as an industrial property ceases with the house or with the failure of that branch of industry. (Art. 26.) It is not necessary to register the name in order to enjoy the rights accorded by this law, except in cases where it forms part of the mark. (Art. 27.)

*Punishment for infringement.*—Shall be punished by a fine of from 20 to 500 hard



dollars or by imprisonment from 15 days to 1 year: 1. Those who falsify or forge in any manner a factory or commercial mark. 2. Those who affix to their products or articles of commerce a mark belonging to another. 3. Those who knowingly sell, offer for sale, acquiesce in the sale or circulate articles bearing marks counterfeited or fraudulently applied. 4. Those who knowingly sell, offer for sale, or accept the sale of counterfeit marks as well as authentic marks without the knowledge of the proprietor. 5. Those who with fraudulent intent place or cause to be placed upon merchandise a statement or any other designation which is false relative to either the nature, quality, quantity, number, weight, or measurement of the same or the country in which it has been manufactured or from which it has emanated. 6. Those who knowingly sell, offer for sale, or accept the sale of merchandise bearing the false indications mentioned in the preceding clause. Double penalty second offence. (Art. 28.)

*Infringement.*—To make a crime it is not necessary that the counterfeit extend to all the objects; the application to one object is sufficient. (Art. 29.)

*Information to be given by infringer.*—Those who sell or offer for sale articles with an infringing or counterfeit mark shall give to the proprietor complete written information of the name and address of those to whom he has made sales or attempted to make sale as well as the date when the transactions commenced, and in case of refusal to supply such information they shall be compelled by law under the penalty of being adjudged accomplices. (Art. 31.)

*Disposition of infringing goods and labels.*—Articles bearing counterfeit marks found in the possession of the falsifier or his agents shall be seized and sold; and the product after paying costs and indemnity established by law shall be applied to the service of the public school of the province where seized. (Art. 32.)

The false marks found in the possession of the infringer as well as the instruments employed in the falsification shall be destroyed. (Art. 33.)

*Proceedings against infringers.*—Only the person injured shall institute criminal proceedings, but once commenced they may be continued by the fiscal department. The complainant may discontinue the proceedings at any time before sentence is passed. (Art. 34.)

Persons damaged may bring civil actions for damages against the authors of the fraud and accomplices. The sentence shall be published at expense of defendant. (Art. 35.)

Limitation of action 3 years after offence and one year after notice received by complainant. (Art. 36.)

Infringements of names governed by same rule as of trade-marks. (Art. 37.)

#### BRAZIL.

*Date of law.*—October 14, 1887

*Who may register.*—Any manufacturer or merchant. (Art. 1.)

*What are registrable as trade-marks.*—A trade-mark may consist of anything not prohibited by this law which distinguishes an object from the same or a similar object of different origin. Every name, necessary or common, a denomination, signature or firm name, as well as all letters or figures can only serve for this purpose when of a distinctive form. (Art. 2.)

*What are not registrable as trade-marks.*—Marks containing or consisting of: (1) Arms, crests, medals, or public or official distinctive signs, whether native or foreign, when for their use proper authorization shall not have been obtained; (2) the signature or name of a commercial firm of which the applicant cannot legally make use; (3) indication of a determined locality or establishment which is not that of the origin of the object, whether or not there be joined to this indication a fictitious or another's name; (4) words, pictures, or allegories which involve offence to either individuals or the public decorum; (5) reproduction of another mark already registered for objects of the same species; (6) complete or partial imitation of a mark already registered for products of the same species which may lead to error or confusion of the buyer; the possibility of error or confusion shall be considered verified whenever the differences between the two marks cannot be recognized without careful comparison or examination. (Art. 8.)

*Ownership and transfer.*—Registration, deposit, and publication under the present law are indispensable for the guarantee of the exclusive use of trade-marks. (Art. 3.) The mark can only be transferred with the business. Transfer shall be noted on the registry book on the exhibition of the document. The same note shall be made if the mark remains after a change of firm. In such case publication is necessary. (Art. 13.)

*Duration.*—Fifteen years. Can be renewed for same term repeatedly.

Lapses on failure to use for three years. (Art. 12.)

*Formalities necessary to obtain ownership of trade-mark.*—The Junta Commercial of the place of the house, or of the principal house (when branches) and of Rio de Janeiro for foreign marks and for those registered in other Juntas, are empowered to register. (Art. 5.)

The interested party or his special attorney must make a petition, accompanied by three copies of the mark, and containing a description of the mark and all its accessories and explanations of the same, a designation of the kind of industry or of commerce to which it is to be applied, the profession of the applicant and his residence. (Art. 5.)

*Appeal.*—Appeal to the court of second instance from decision refusing registration, and also in case of decision admitting to registration by whoever may consider himself prejudicially affected. (2) The interested party in cases 2 and 3, Art. 8. (3) The injured individual in case 4, Art. 8. (4) The public prosecutor in cases 1 and 2, last part Art. 8. Term of appeal 5 days for residents, 30 days for nonresidents. (Art. 10.)

*Names of individuals and firms.*—Every personal or firm name can only be used as a trade-mark when clothed in a distinctive form. (Art. 2.)

*Punishment for infringement.*—Shall be punished by a fine of from \$500 to \$5,000, or by imprisonment from one to six months, who: (1) Reproduce, in entirety or in part, a mark duly registered and published without authority from its proprietor or his legal representative; (2) make use of another's mark or of a counterfeited mark in the terms of No. 1; (3) sell, or expose for sale, objects bearing another's mark or counterfeited in whole or in part; (4) imitate a mark so that it may mislead the buyer; (5) use the mark thus imitated; (6) sell, or expose for sale, objects bearing the imitated mark; (7) use a commercial name or signature not belonging to them, whether or not it form part of a registered mark. (Art. 14.)

Shall be punished with fines of from \$100 to \$500, in favor of the State, who: (1) Without proper authority, use native or foreign arms, crests, public or official distinctive signs; (2) marks which are offensive to public decorum; (3) a mark containing indication of a locality or establishment which is not that of the origin of the object, whether or not there be joined to this indication a supposed or another's name; (4) sell or expose for sale, merchandise or products bearing marks as described in Nos. 1 and 2 of this article; (5) sell or expose for sale merchandise or products marked as in No. 3. (Art. 15.)

He who uses a mark containing personal offence, or sells or exposes for sale articles bearing such a mark, shall suffer the penalties of article 237, sec. 3, of the criminal code. (Art. 16.)

*Infringement.*—To constitute the imitation referred to in Nos. 4 and 6 of this article it is not necessary that the resemblance to the mark be complete, it sufficing, whatever the difference may be, that there exist a possibility of mistake or confusion, as laid down in the latter part of article 8.

The usurpation of a name or commercial signature treated of in No. 7, whether the reproduction be entire, or with additions, omissions, or alterations, shall be considered to exist if there be the said possibility of mistake or confusion by the buyer. (Art. 14.)

*Disposition of infringing goods and labels.*—The interested party may solicit: (2) Seizure and destruction of counterfeited or imitated marks in the workshop where they are prepared, or wherever they may be found, before being used for criminal purposes. (3) Destruction of the counterfeited or imitated marks on the packages or objects bearing same before their dispatch by the fiscal department (custom-house) even though the wrapper and the merchandise and produce be thus damaged. The objects seized shall serve to guarantee the payment of the fines and damages for which they shall be sold by auction during the progress of the action if they be of a substance which quickly deteriorates, and otherwise at the execution of the sentence. (Art. 21.)

*Proceedings against infringers.*—Criminal action against delinquents, stated in Nos. 1, 2, and 4 of Art. 15, shall be instituted by the public prosecutor of the district in which the objects bearing the marks treated of be found.

Those competent in the cases Nos. 3 and 5 are, any merchant or manufacturer of a similar article residing in the place of its production and the owner of the establishment falsely indicated; and against those delinquents referred to in Art. 14 and 16, the injured or interested parties. (Art. 17.)

#### CANADA.

*Date of law.*—May 15, 1879.

*Who may register.*—Proprietor. (Art. 6.)

*What are registrable as trade-marks.*—All marks, names, brands, labels, packages, or other business devices which may be adopted for use by any person in his trade, business, occupation, or calling, for the purpose of distinguishing any manufacture, product, or article of any description by him manufactured, produced, compounded, packed, or offered for sale, no matter how applied, whether to such manufacture, product, or article or to any package, parcel, case, box, or other vessel or

receptacle of any description whatever containing the same, shall be considered and known as trade-marks and may be registered for the exclusive use of the party registering the same. (Sec. 8.)

*What are not registrable as trade-marks.*—A mark identical with or which resembles a trade-mark already registered, or calculated to deceive the public, or which contains any immorality or scandalous figure, or which does not contain the essentials necessary to constitute a trade-mark properly speaking. (Sec. 5.)

*Ownership and transfer.*—Every registered trade-mark is assignable in law, and on production of assignment and payment of fee for recording same (§2) assignment shall be entered on the margin of the register of trade-marks. (Sec. 14.)

*Duration.*—A general trade-mark shall endure without limitation. A specific trade-mark for a special class of merchandise twenty-five years, subject to repeated renewals by reregistration. (Sec. 10.)

*Formalities necessary to obtain ownership of trade-mark.*—Forwarding to the minister of agriculture a drawing and description in duplicate of trade-mark, together with a declaration that the same was not in use to his knowledge by any other person than himself at the time of his adoption thereof. (Sec. 6.)

*Office regulations.*—Minister of agriculture shall register trade-mark and return to the proprietor one copy of the drawing and description, with a certificate (see form of certificate). (Sec. 7.)

In case of application for registration of trade-mark like one already registered the minister of agriculture may bring the parties before him for the purpose of establishing who is entitled to the mark. The minister may make an entry or cancellation, or both. (Sec. 15.)

*Form of certificate.*—Copy of drawing and description with certificate signed by the minister to the effect that the said trade-mark has been duly registered and the date in the register. (Sec. 7.)

*Fees.*—General trade-mark, \$30; specific trade-mark, \$25. Renewal of specific, \$20. Separate copy of certificate, \$1. Recording assignment, \$2.

*Punishment for infringement.*—Marking goods with registered trade-mark or any part thereof, or using package with genuine mark with intent to deceive without consent of owner, or knowingly selling, or offering for sale, any article marked with a registered trade-mark or any part thereof, with intent to deceive and to induce persons to believe that such article was manufactured, produced, compounded, packed, or sold by the proprietor of such trade-mark, is a misdemeanor, punished by forfeiture for each offense not less than \$20 nor more than \$100, which shall be paid to the proprietor of the mark, together with the cost. (Sec. 16.)

*Proceedings against infringers.*—Suit against person using registered trade-mark or any fraudulent imitation thereof, or selling articles bearing such trade-mark or any imitation thereof, or contained in packages being or purporting to be his, contrary to the provisions of act. (Sec. 17.)

Any complaint under section 16 for misdemeanor shall be made by the proprietor of the trade-mark. (Sec. 16.)

#### CHILI.

*Date of law.*—November 12, 1874.

*Who may register.*—Manufacturer, agriculturist, or merchant.

*What are registrable as trade-marks.*—Commercial or factory labels, proper

names, emblems, or any other sign adopted by the merchant or manufacturer to distinguish the objects he sells or makes shall be considered trade-marks. (Art. 3.)

*What are not registrable as trade-marks.*—

*Ownership and transfer.*—He who registers a commercial or factory mark has exclusive right to the same. (Art. 5.) The transfer of a mark, as well as the authorization given to another to use same, shall be noted on the trade-mark register after publication for ten days. (Art. 6.)

*Duration.*—Ten years. Can be renewed for the same term repeatedly.

*Office regulations.*—The entry in the register must show the date and hour on which it is made, the name of the proprietor of the mark, his profession, residence, and the place of his factory or business house, the nature of the industry or business to which the mark is to be applied, and also a facsimile of the mark. The entry shall bear an order number corresponding to that upon the mark and all other indications which may become necessary. Both the entry in the register and the copy thereof given to the interested party shall be signed by the interested party before two witnesses. (Art. 9.)

*Fees.*—Twelve dollars for each factory mark, \$3 for each commercial mark, and \$1 for a copy of entry. (Art. 10.)

*Names of individuals and firms.*—The name of an agricultural establishment, mill, foundry, or factory shall be the exclusive property of the owner of such agricultural establishment, mill, foundry, or factory. (Art. 4.)

*Punishment for infringement.*—Whoever falsifies or makes fraudulent use of the marks or labels treated of in this law shall incur the penalties imposed by the Penal Code, Arts. 185, 190, and 191. (Art. 11.)

*Disposition of infringing goods and labels.*—The objects bearing the false marks shall be forfeited in favor of the injured party. The apparatus employed in the falsification shall be destroyed. (Art. 12.)

#### PERU.

*Date of law.*—November 8, 1877—February 10, 1885.

*What are registrable as trade-marks.*—Marks for liquors, sirups, soda-water, drugs, perfumery, and cigars.

Manufacturers of liquors are bound to attach to the packages thereof a special label unlike those used by others. (Law of 1877.) Id. Syrups, soda water, drugs, perfumery, and brands of cigars. (Law of 1885.)

*What are not registrable as trade-marks.*—Anonymous labels are forbidden. Each must mention the name of the owner or manufacturer answerable therefor and the place of the works or manufactory where products are produced. (Art. 7.)

*Formalities necessary to obtain ownership of trade-mark.*—The registry of labels shall be made by the board of health, with the previous permit of the lord mayor. The label must be presented in writing to the lord mayor with two copies.

*Office regulations.*—Labels shall be entered in a special book, signed by the owner or manufacturer, to whom a certified copy of the register shall be given, stamped with the seal of the board of health, and signed by the inspector of the board with the words "Registered at folio —, book."

*Fees.*—One hundred soles for registering each label.

*Punishment for infringement.*—Any one counterfeiting a mark is liable to a fine of 5 to 20 soles, which shall be doubled in case offense is repeated. (Law of 1835.)

*Infringement.*—It is absolutely forbidden to any establishments to use labels of others, either foreign or domestic.

#### UNITED STATES.

*Date of law.*—March 3, 1881.

*Who may register.*—Owners. (Sec. 1.)

*What are registrable as trade-marks.*—Trade-marks used in commerce with foreign nations or with the Indian tribes, provided the owner shall be domiciled in the United States or located in a foreign country, which, by treaty, convention, or law, affords similar privileges to citizens of the United States. (Sec. 1.)

(No definition of trade-mark is given.)

*What are not registrable as trade-marks.*—No alleged trade-mark shall be registered unless the same appear to be lawfully used as such by the applicant in foreign commerce, or is within the provisions of a treaty, convention, or declaration with a foreign power; nor which is merely the name of the applicant; nor which is identical with a registered or known trade-mark owned by another and appropriate to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion or mistake in the mind of the public or to deceive purchasers. (Sec. 3.)

*Ownership and transfer.*—Registration shall be *prima facie* evidence of ownership. (Sec. 7.) Commissioner of Patents is authorized to make rules and regulations and prescribe forms for the transfer of the right to use trade-mark and for recording transfers in his office. (Sec. 12.)

*Duration.*—Thirty years, except in case article is not made in this country and trade-mark receives protection under the laws of a foreign country for a shorter period, in which case it shall cease to have any force by virtue of this act at the same time it ceases to be exclusive property elsewhere.

Renewable during six months prior to expiration for like period. (Sec. 5.)

*Formalities necessary to obtain ownership of trade-mark.*—Causing to be recorded in the Patent Office a statement specifying name, domicile, location, and citizenship of party applying; class of merchandise and particular description of goods comprised in such class to which the particular trade-mark has been appropriated; a description of the trade-mark itself, with facsimiles thereof, and a statement of the mode in which affixed to goods and length of time used. (Sec. 1.)

Application shall be accompanied with a written verified declaration to the effect that the party has at the time the right to use the trade-mark, and no other person, firm, or corporation has the right to such use, either in the identical form or in such near resemblance thereto as might be calculated to deceive; that it is used in commerce with foreign nations, and that the description and facsimiles presented for registration truly represent it. (Sec. 2.)

*Office regulations.*—Time of receipt shall be noted and recorded. The Commissioner of Patents shall decide the presumptive lawfulness of claim to the alleged trade-mark. In case of dispute, he shall follow the practice of the courts of equity of the United States in analogous cases. (Sec. 3.)

A record of the registration, together with printed copies of the specification, shall be kept in books. (Sec. 4.)

*Form of certificate.*—The certificate shall be issued in the name of the United States of America, under the seal of the Department of the Interior, and shall be signed by the Commissioner of Patents. (Sec. 4.)

*Fees.*—Twenty-five dollars.

*Names of individuals and firms.*—No alleged trade-mark shall be registered which is merely the name of the applicant. (Sec. 3.)

*Punishment for infringement.*—Civil action by owner of trade-mark for damages. (Sec. 7.)

*Proceedings against infringers.*—Any person who shall reproduce, counterfeit, copy, or colorably imitate any trade-mark registered under this act and affix the same to merchandise of substantially the same descriptive properties as those described in the registration shall be liable to an action on the case for damages for the wrongful use of said trade-mark at the suit of the owner thereof, and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of such trade-mark. (Sec. 7.)

No suit shall be maintained in any case where the trade-mark is used in any unlawful business or upon any article injurious in itself, or which has been used with the design of deceiving the public in the purchase of merchandise, or under a certificate of registry fraudulently obtained. (Sec. 8.)

*Fraudulently procuring registration.*—Any person who shall procure the registry of a trade-mark by a false or fraudulent representation or declaration shall be liable to pay any damages sustained in consequence thereof to the injured party, to be recovered by an action on the case. (Sec. 9.)

#### VENEZUELA.

*Date of law.*—May 24, 1887.

*Who may register.*—Any person or firm domiciled in the Republic and any corporation created by the national authority, as well as every person, firm, or corporation resident in a foreign country which by treaty or convention accords to citizens of Venezuela the same rights as granted by the present law, or analogous rights can obtain protection for every legitimate factory or commercial mark, for whose usage there exists an exclusive use, or which they may adopt with this character on condition of fulfilling the requirements of the present law.

These works on foreign products or merchandise registered out of the Republic may be registered at the Ministry of the FOMENTO, although there be no treaty or convention on the subject when the products are involved whose utility is known to the Republic.

*What are not registerable as trade marks.*—That which is not a lawful trade mark, or which consists of the name of a person, firm, or corporation only, without a distinguishing characteristic sufficient to distinguish it from the same name employed by others, or which is identical with another mark already applied to the same class of objects and registered or presented for registration, or which shall have such resemblance to another trade mark under the above conditions that there will be probability of error on the part of the public. (Art. 4.)

**Ownership and transfer.**—Registration gives the right of exclusive use to the registrant. (Art. 8.)

**Duration.**—Thirty years, except that in case the mark is applied to articles made outside of the Republic, and guaranteed by the laws of a foreign country for a shorter period, the protection granted shall cease with that accorded by the foreign country. (Art. 7.) Renewals may be demanded by the same formalities as originally within six months prior to expiration of registration. (Art. 9.)

**Formalities necessary to obtain ownership of trade-mark.**—A petition to the Minister of *Fomento* on stamped paper of the 7th class, containing the name of the applicant, his residence and place of business, the class of articles or merchandise and the particular objects in the class to which the mark is applied; a description of the mark, with fac-similes representing its application. (Art. 2.)

The petition shall be signed by the applicant or his attorney duly authorized in writing, and accompanied by a written declaration that the applicant has the right to its use, and that the mark has no such resemblance to any other analogous mark already registered as to be confounded with it and deceive the public. Besides, the applicant shall prove that the description or fac-simile which is to be registered is an exact copy of the trade mark which he seeks to protect. (Art. 3.)

**Office regulations.**—The date of application shall be registered at the Ministry of *Fomento*. (Art. 5.) The National Executive through the Ministry of *Fomento* shall send the applicant if there be no opposition, a certificate (see form of certificate). (Art. 6.) Whatever pertains to registration under the present law shall be in charge of the Direction applicable to patents in the Ministry of *Fomento*. (Art. 13.) The Direction shall provide a book of entry for commercial marks and one for manufacturing marks. (Art. 14.)

**Form of certificate.**—A certificate upon stamped paper of the third class which shall be countersigned by the applicant declaring that the latter is the proprietor of the registered trade mark with all its specifications; this certificate, which shall serve as a title to the registration, shall bear the signature of the Minister of *Fomento*, and be sealed with the seal of the said Minister. (Art. 6.)

**Names of individuals and firms.**—The Minister of *Fomento* shall not register that which consists of the name of a person, firm, or corporation only, without a distinguishing characteristic sufficient to distinguish it from the same name employed by others. (Art. 4.)

**Punishment for infringement.**—Whoever shall reproduce, falsify, copy, or imitate any registered trade mark or apply to any merchandise marks having substantially the same description, properties, and qualities as those referred to in the registration shall be subject to respond in court for the damage caused by the unlawful use of the mark, without prejudice in the case of fraud to the penalties established by the penal code. (Art. 12.)

**Proceedings against infringers.**—No action to registrant on a trade mark employed or which may be employed for an illegitimate object or upon some object dangerous in itself or upon a mark, obtained fraudulently or which has been formed with the intention of deceiving the public in the same or use of any merchandise. (Art. 10.)

**Fraudulently procuring registration.**—False or fraudulent statements made in application for registration punished under penal code, without prejudice to civil action by injured party.



to the

made  
for a  
reign  
igin-

Min-  
the  
adise  
tion

d in  
ight  
mark  
the  
d is

y of  
hall  
ite).  
arge  
The  
anu-

ich  
or of  
hall  
Fo-

hat  
tin-  
l by

or  
sub-  
the  
un-  
es-

yed  
ger-  
ith  
ise.

in  
ivil

