

directed to advance, out of any moneys in the Treasury not otherwise appropriated, to the Alexandria Canal Company, from time to time, as the progress of the work may require the same, such sums of money, not exceeding three hundred thousand dollars, as may be necessary to complete the said canal to the town and harbor of Alexandria; *Provided*, That the Alexandria Canal Company, in the construction of the remaining piers, abutments and works of their aqueduct over the Potomac river, are hereby prohibited and restrained from throwing earth or clay into the open river, and are required with the money furnished by this bill to remove all earth and clay, heretofore deposited by them in the river.

APPROVED, March 3, 1837.

advance, from time to time, the moneys necessary to complete said canal, not exceeding \$300,000.
Proviso.

CHAP. XLV.—*An Act in addition to the act to promote the progress of science and useful arts, (a)*

STATUTE II.
March 3, 1837.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who may be in possession of, or in any way interested in, any patent for an invention, discovery, or improvement, issued prior to the fifteenth day of December, in the year of our Lord one thousand eight hundred and thirty-six, or in an assignment of any patent, or interest therein, executed and recorded prior to the said fifteenth day of December, may, without charge, on presentation or transmission thereof to the Commissioner of Patents, have the same recorded anew in the Patent Office, together with the descriptions, specifications of claim and drawings annexed or belonging to the same; and it shall be the duty of the Commissioner to cause the same, or any authenticated copy of the original record, specification, or drawing which he may obtain, to be transcribed and copied into books of record to be kept for that purpose; and wherever a drawing was not originally annexed to the patent and referred to in the specification, any drawing produced as a delineation of the invention, being verified by oath in such manner as the Commissioner shall require, may be transmitted and placed on file or copied as aforesaid, together with the certificate of the oath; or such drawings may be made in the office, under the direction of the Commissioner, in conformity with the specification. And it shall be the duty of the Commissioner to take such measures as may be advised and determined by the Board of Commissioners provided for in the fourth section of this act, to obtain the patents, specifications, and copies aforesaid, for the purpose of being so transcribed and recorded. And it shall be the duty of each of the several clerks of the judicial courts of the United States, to transmit, as soon as may be, to the Commissioner of the Patent Office, a statement of all the authenticated copies of patents, descriptions, specifications, and drawings of inventions and discoveries made and executed prior to the aforesaid fifteenth day of December, which may be found on the files of his office; and also to make out and transmit to said Commissioner, for record as aforesaid, a certified copy of every such patent, description, specification, or drawing, which shall be specially required by said Commissioner.

Patents issued, and assignments executed and recorded prior to 15th December, 1836, may be recorded anew, &c.

Measures to be taken to obtain patents, &c., to be recorded, &c.

Clerks of the judicial courts, U. S., to transmit statements of authenticated copies of patents, &c., prior to 15th December, 1836, &c.

SEC. 2. *And be it further enacted*, That copies of such record and drawings, certified by the Commissioner, or, in his absence, by the chief clerk, shall be prima facie evidence of the particulars of the invention and of the patent granted therefor, in any judicial court of the United States, in all cases where copies of the original record or specification and drawings would be evidence, without proof of the loss of such originals; and no patent issued prior to the aforesaid fifteenth day of

Certified copies of such record, &c., to be evidence in any judicial court U. S., &c.

No patent, &c.

(a) An act to promote the progress of useful arts, and to repeal all acts and parts of acts heretofore made for that purpose, July 4, 1836, chap. 357.

issued, &c., prior to 15th December, 1836, to be received in evidence in said courts after 1st June next, unless recorded anew.

New patents to be issued for those lost or destroyed on or before 15th December, 1836. 1842, ch. 263, § 2.

Proviso.

Duplicates of certain models to be procured.

Proviso.

Further proviso.

A temporary board of commissioners to be appointed; their duties.

Patents returned for correction, &c. under 13th section of act to which this is additional, &c.

Act of 1836, ch. 357.

Proviso.

December, shall, after the first day of June next, be received in evidence in any of the said courts in behalf of the patentee or other person who shall be in possession of the same, unless it shall have been so recorded anew, and a drawing of the invention, if separate from the patent, verified as aforesaid, deposited in the Patent Office; nor shall any written assignment of any such patent, executed and recorded prior to the said fifteenth day of December, be received in evidence in any of the said courts in behalf of the assignee or other person in possession thereof, until it shall have been so recorded anew.

SEC. 3. *And be it further enacted*, That whenever it shall appear to the Commissioner that any patent was destroyed by the burning of the Patent Office building on the aforesaid fifteenth day of December, or was otherwise lost prior thereto, it shall be his duty, on application therefor by the patentee or other person interested therein, to issue a new patent for the same invention or discovery, bearing the date of the original patent, with his certificate thereon that it was made and issued pursuant to the provisions of the third section of this act, and shall enter the same of record: *Provided, however*, That before such patent shall be issued, the applicant therefor shall deposit in the Patent Office a duplicate, as near as may be, of the original model, drawings, and description, with specification of the invention or discovery, verified by oath, as shall be required by the Commissioner; and such patent and copies of such drawings and descriptions, duly certified, shall be admissible as evidence in any judicial court of the United States, and shall protect the rights of the patentee, his administrators, heirs, and assigns, to the extent only in which they would have been protected by the original patent and specification.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Commissioner to procure a duplicate of such of the models destroyed by fire on the aforesaid fifteenth day of December, as were most valuable and interesting, and whose preservation would be important to the public; and such as would be necessary to facilitate the just discharge of the duties imposed by law on the Commissioner in issuing patents, and to protect the rights of the public and of patentees in patented inventions and improvements: *Provided*, That a duplicate of such models may be obtained at a reasonable expense: *And provided, also*, That the whole amount of expenditure for this purpose shall not exceed the sum of one hundred thousand dollars. And there shall be a temporary board of commissioners, to be composed of the Commissioner of the Patent Office and two other persons to be appointed by the President, whose duty it shall be to consider and determine upon the best and most judicious mode of obtaining models of suitable construction; and, also, to consider and determine what models may be procured in pursuance of, and in accordance with, the provisions and limitations in this section contained. And said commissioners may make and establish all such regulations, terms, and conditions, not inconsistent with law, as in their opinion may be proper and necessary to carry the provisions of this section into effect, according to its true intent.

SEC. 5. *And be it further enacted*, That, whenever a patent shall be returned for correction and re-issue under the thirteenth section of the act to which this is additional, and the patentee shall desire several patents to be issued for distinct and separate parts of the thing patented, he shall first pay, in manner and in addition to the sum provided by that act, the sum of thirty dollars for each additional patent so to be issued; *Provided, however*, That no patent made prior to the aforesaid fifteenth day of December, shall be corrected and re-issued until a duplicate of the model and drawing of the thing as originally invented, verified by oath as shall be required by the Commissioner, shall be deposited in the Patent Office;

Nor shall any addition of an improvement be made to any patent heretofore granted, nor any new patent be issued for an improvement made in any machine, manufacture, or process, to the original inventor, assignee, or possessor, of a patent therefor, nor any disclaimer be admitted to record until a duplicate model and drawing of the thing originally intended, verified as aforesaid, shall have been deposited in the Patent Office, if the Commissioner shall require the same; nor shall any patent be granted for an invention, improvement, or discovery, the model or drawing of which shall have been lost, until another model and drawing, if required by the Commissioner, shall, in like manner, be deposited in the Patent Office;

No addition, &c. to be made to any patent heretofore granted, &c. until a verified duplicate model, &c. is deposited, &c.

And in all such cases, as well as in those which may arise under the third section of this act, the question of compensation for such models and drawings shall be subject to the judgment and decision of the commissioners provided for in the fourth section, under the same limitations and restrictions as are therein prescribed.

Compensation for models, &c.

SEC. 6. *And be it further enacted*, That any patent hereafter to be issued, may be made and issued to the assignee or assignees of the inventor or discoverer, the assignment thereof being first entered of record, and the application therefor being duly made, and the specification duly sworn to by the inventor. And in all cases hereafter, the applicant for a patent shall be held to furnish duplicate drawings, whenever the case admits of drawings, one of which to be deposited in the office, and the other to be annexed to the patent, and considered a part of the specification.

Patents hereafter to be issued.

SEC. 7. *And be it further enacted*, That, whenever any patentee shall have, through inadvertence, accident, or mistake, made his specification of claim too broad, claiming more than that of which he was the original or first inventor, some material and substantial part of the thing patented being truly and justly his own, any such patentee, his administrators, executors, and assigns, whether of the whole or of a sectional interest therein, may make disclaimer of such parts of the thing patented as the disclaimant shall not claim to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent; which disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office, on payment by the person disclaiming, in manner as other patent duties are required by law to be paid, of the sum of ten dollars. And such disclaimer shall thereafter be taken and considered as part of the original specification, to the extent of the interest which shall be possessed in the patent or right secured thereby, by the disclaimant, and by those claiming by or under him subsequent to the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing the same.

Whenever any patentee shall, through inadvertence, &c. make his specification too broad, &c. he, &c. may make disclaimer, &c.

SEC. 8. *And be it further enacted*, That, whenever application shall be made to the Commissioner for any addition of a newly-discovered improvement to be made to an existing patent, or whenever a patent shall be returned for correction and re-issue, the specification of claim annexed to every such patent shall be subject to revision and restriction, in the same manner as are original applications for patents; the Commissioner shall not add any such improvement to the patent in the one case, nor grant the re-issue in the other case, until the applicant shall have entered a disclaimer, or altered his specification of claim in accordance with the decision of the Commissioner; and in all such cases, the applicant, if dissatisfied with such decision, shall have the same remedy and be entitled to the benefit of the same privileges and proceedings as are provided by law in the case of original applications for patents.

Applications for additions to newly-discovered improvements to be made to existing patents, &c.

When by mistake, &c. any patentee claims to be the original inventor of part of the thing patented, of which he was not, &c.

Proviso.

Further proviso.

Agents to be appointed to receive and forward models, &c.

Two examining and one copying clerk to be appointed.

Temporary clerks may be employed.

Certificate of the commissioner to be sufficient warrant to the Treasurer.

Affirmation may be substituted for an oath.

Moneys paid

SEC. 9. *And be it further enacted*, any thing in the fifteenth section of the act to which this is additional to the contrary notwithstanding, That, whenever by mistake, accident, or inadvertence, and without any wilful default or intent to defraud or mislead the public, any patentee shall have in his specification claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the first and original inventor, and shall have no legal or just right to claim the same, in every such case the patent shall be deemed good and valid for so much of the invention or discovery as shall be truly and bona fide his own; *Provided*, it shall be a material and substantial part of the thing patented, and be definitely distinguishable from the other parts so claimed without right as aforesaid. And every such patentee, his executors, administrators, and assigns, whether of the whole or of a sectional interest therein, shall be entitled to maintain a suit at law or in equity on such patent for any infringement of such part of the invention or discovery as shall be bona fide his own as aforesaid, notwithstanding the specification may embrace more than he shall have any legal right to claim. But, in every such case in which a judgment or verdict shall be rendered for the plaintiff, he shall not be entitled to recover costs against the defendant, unless he shall have entered at the Patent Office, prior to the commencement of the suit, a disclaimer of all that part of the thing patented which was so claimed without right: *Provided, however*, That no person bringing any such suit shall be entitled to the benefits of the provisions contained in this section, who shall have unreasonably neglected or delayed to enter at the Patent Office a disclaimer as aforesaid.

SEC. 10. *And be it further enacted*, That the Commissioner is hereby authorized and empowered to appoint agents in not exceeding twenty of the principal cities or towns in the United States as may best accommodate the different sections of the country, for the purpose of receiving and forwarding to the Patent Office all such models, specimens of ingredients and manufactures, as shall be intended to be patented or deposited therein, the transportation of the same to be chargeable to the patent fund.

SEC. 11. *And be it further enacted*, That, instead of one examining clerk, as provided by the second section of the act to which this is additional, there shall be appointed, in manner therein provided, two examining clerks, each to receive an annual salary of fifteen hundred dollars; and also, an additional copying clerk, at an annual salary of eight hundred dollars. And the Commissioner is also authorized to employ, from time to time, as many temporary clerks as may be necessary to execute the copying and draughting required by the first section of this act, and to examine and compare the records with the originals, who shall receive not exceeding seven cents for every page of one hundred words, and for drawings and comparison of records with originals, such reasonable compensation as shall be agreed upon or prescribed by the Commissioner.

SEC. 12. *And be it further enacted*, That, whenever the application of any foreigner for a patent shall be rejected and withdrawn for want of novelty in the invention, pursuant to the seventh section of the act to which this is additional, the certificate thereof of the Commissioner shall be a sufficient warrant to the Treasurer to pay back to such applicant two-thirds of the duty he shall have paid into the Treasury on account of such application.

SEC. 13. *And be it further enacted*, That in all cases in which an oath is required by this act, or by the act to which this is additional, if the person of whom it is required shall be conscientiously scrupulous of taking an oath, affirmation may be substituted therefor.

SEC. 14. *And be it further enacted*, That all moneys paid into the

Treasury of the United States for patents and for fees for copies furnished by the Superintendent of the Patent Office prior to the passage of the act to which this is additional, shall be carried to the credit of the patent fund created by said act; and the moneys constituting said fund shall be, and the same are hereby, appropriated for the payment of the salaries of the officers and clerks provided for by said act, and all other expenses of the Patent Office, including all the expenditures provided for by this act; and, also, for such other purposes as are or may be hereafter specially provided for by law. And the Commissioner is hereby authorized to draw upon said fund, from time to time, for such sums as shall be necessary to carry into effect the provisions of this act, governed, however, by the several limitations herein contained. And it shall be his duty to lay before Congress, in the month of January, annually, a detailed statement of the expenditures and payments by him made from said fund; And it shall also be his duty to lay before Congress, in the month of January, annually, a list of all patents which shall have been granted during the preceding year, designating, under proper heads, the subjects of such patents, and furnishing an alphabetical list of the patentees, with their places of residence; and he shall also furnish a list of all patents which shall have become public property during the same period; together with such other information of the state and condition of the Patent Office, as may be useful to Congress or to the public.

APPROVED, March 3, 1837.

into the Treasury for patents, &c. prior to passage of act to which this is additional, to be carried to credit of patent fund created by said act; and said fund appropriated for salaries, &c.

Commissioner authorized to draw upon same, &c.; and lay before Congress annually a statement of expenditures, &c.; and, also, a list of patents, &c.

CHAP. XLVI.—*An Act to provide for continuing the construction, and for the repair of certain roads, and for other purposes, during the year eighteen hundred and thirty-seven.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of one hundred and ninety thousand dollars be, and the same is hereby, appropriated for the purpose of continuing the Cumberland road in the state of Ohio; That the sum of one hundred thousand dollars be, and the same is hereby appropriated, for the purpose of continuing the Cumberland road in the State of Indiana; And the sum of one hundred thousand dollars be and the same is hereby appropriated for the purpose of continuing the Cumberland road in the State of Illinois; *Provided,* That said road within the State of Illinois, shall not be stoned or gravelled, unless it can be done at a cost, not greater than the average cost, of stoning or gravelling said road, within the States of Ohio and Indiana; which sums shall be paid out of any money in the Treasury not otherwise appropriated; *Provided,* That in all cases where it can be done, it shall be the duty of the superintending officers, to cause the work on said road to be laid off in sections, and let out to the lowest substantial bidder, after due notice.

SEC. 2. *And be it further enacted,* That the second section of an act for the continuation of the Cumberland road in the States of Ohio, Indiana and Illinois, approved the second day of July, eighteen hundred and thirty-six, shall not be applicable to expenditures hereafter to be made on said road.

SEC. 3. *And be it further enacted,* That the following sums be and the same are hereby appropriated, to be paid out of any money in the Treasury, not otherwise appropriated, to wit: For the repairs of the Cumberland road, east of the Ohio river, seven thousand one hundred and eighty-three dollars and sixty-three cents;

For continuing the construction of the road from the northern boundary of the Territory of Florida, by Marianna, to Appalachicola, twenty thousand three hundred and thirteen dollars;

STATUTE II.

March 3, 1837.

Continuing the Cumberland road in Ohio, Indiana, and Illinois.

Act of July 2, 1836, ch. 264.

Proviso.

Proviso.

2d section act 2d July, 1836, ch. 264, shall not be applicable, &c.

Repairs on the Cumberland road east of the Ohio river.

Road from northern boundary of Florida to Appalachicola.