

mitted to us by the said act, and in the name, and for and on behalf of the said state, do, by these presents, convey, assign, transfer, and set over unto the United States of America, for the benefit of the said states, North Carolina inclusive, all right, title, and claim which the said state hath to the sovereignty and territory of the lands situated within the chartered limits of the said state, as bounded and described in the above recited act of the General Assembly, to and for the uses and purposes, and on the conditions mentioned in the said act.

Boundaries and conditions of the cession.

In witness whereof, we have hereunto subscribed our names, and affixed our seals, in the senate-chamber, at New York, this twenty-fifth day of February, in the year of our Lord, one thousand seven hundred and ninety, and in the fourteenth year of the independence of the United States of America.

SAM. JOHNSTON. (L.S.)

BENJAMIN HAWKINS. (L.S.)

Signed, sealed, and delivered

in the presence of

SAM. A. OTIS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said deed be, and the same is hereby accepted.

Accepted.

APPROVED, April 2, 1790.

STATUTE II.

April 10, 1790.

CHAP. VII.—*An Act to promote the progress of useful Arts.*(a)

SECTION I. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That upon the petition of any person or persons to the Secretary of State, the Secretary

Patents for useful discoveries, how applied for, and granted.

(a) The acts passed by Congress, subsequent to this statute, relating to patents for useful inventions, have been:

1. An "act to promote the progress of useful arts; and to repeal the act heretofore made for this purpose," passed February 21, 1793. Repealed by act of July 4, 1836.

2. An act supplementary to the act entitled an "act to promote the progress of useful arts," passed June 7, 1794. Repealed by act of July 4, 1836.

3. An act to extend the privilege of obtaining patents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees, passed April 17, 1800. Repealed by act of July 4, 1836.

4. An act concerning patents for useful inventions, passed July 3, 1832. Repealed by act of July 4, 1836.

5. An act concerning the issuing of patents to aliens for useful discoveries and inventions, passed July 13, 1832. Repealed by act of July 4, 1836.

6. An act to promote the progress of useful arts, and to repeal all acts heretofore made for that purpose, passed July 4, 1836.

7. An act authorizing the commissioner of the patent office to issue patents to Angier Marsh Perkins, and John Howard Ryan, passed March 31, 1838.

8. An act in addition to an act to promote the progress of the useful arts, passed March 3, 1839, chap. 87. Altered by act of August 29, 1842, chap. 262.

9. An act in addition to an act to promote the progress of the useful arts, and to repeal all acts heretofore made for that purpose, passed August 29, 1842, chap. 262.

The following cases have been decided in the courts of the United States, upon the laws granting patents for new and useful inventions:—

1. On the form and subjects of patents,—*Invention and Discovery,—the Specification and Description.*—Evans v. Eaton, 3 Wheat. 454; 4 Cond. Rep. 291. Pennock v. Dialogue, 2 Peters, 16. Grant et al. v. Raymond, 6 Peters, 218. Shaw v. Cooper, 7 Peters, 292. Prouty v. Ruggles, 16 Peters, 336. Whittemore v. Cutter, 1 Gallis. C. C. R. 429, 478. Odiorne v. Winkley, 2 Gallis. C. C. R. 51. Stearns v. Barrett, 1 Mason's C. C. R. 153. Lowell v. Lewis, 1 Mason's C. C. R. 182. Bedford v. Hunt, 1 Mason's C. C. R. 302. Kneass v. The Schuykill Bank, 4 Wash. C. C. R. 9. Barrett et al. v. Hall et al., 1 Mason's C. C. R. 447. Odiorne v. The Amesbury Nail Factory, 2 Mason's C. C. R. 28. Moody v. Fisk et al., 2 Mason's C. C. R. 112. Langdon v. De Groot, Paine's C. C. R. 203. Goodyear v. Matthews, Paine's C. C. R. 300. Morris v. Huntingdon, Paine's C. C. R. 348. Sullivan v. Redfield et al., Paine's C. C. R. 441. Rutgen v. Kanovers, 1 Wash. C. C. R. 168. Evans v. Chambers, 2 Wash. C. C. R. 125. Evans v. Eaton, 3 Wash. C. C. R. 443; Peters' C. C. R. 322. Dixon v. Moyer, 4 Wash. C. C. R. 68. Gray et al. v. James et al., Peters' C. C. R. 394. Mellus v. Silsbee, 4 Mason's C. C. R. 108. Ames v. Howard, 1 Sumner's C. C. R. 482. Delano v. Scott, Gilpin's D. C. R. 489. Wood v. Williams, *ibid.* 517. Evans v. Jordan et al., 1 Brockenb. C. C. R. 248. Davis v. Palmer, 2 Brockenb. C. C. R. 298. Ryan v. Goodwin, 3 Sumner's C. C. R. 514. Blanchard v. Sprague, 3 Sumner's C. C. R. 279. Alden v. Dewey, 1 Story's C. C. R. 336. Prouty v. Draper, *ibid.* 568. Reed v. Cutter, *ibid.* 590. Stone v. Sprague, *ibid.* 270.

*Infringement of Patent Rights.*—Evans v. Jordan et al., 9 Cranch, 199; 3 Cond. Rep. 358. Keplenger v. De Young, 10 Wheat. 358; 6 Cond. Rep. 135. Shaw v. Cooper, 7 Peters, 292. Whittemore v. Cutter,

Repealed by the act of 21st Feb. 1793, ch. 11.

The Secretary of State, the Sec. of war, and the Attorney General, or any two of them, if they shall deem the invention, &c. useful and important, to cause letters patent to be issued.

Continuance of a patent.

Attorney General to certify the conformity of the patent with this act.

Patents to be recorded.

Specification in writing with a draft or model thereof to be delivered and filed in the office of the Secretary of State.

for the department of war, and the Attorney General of the United States, setting forth, that he, she, or they, hath or have invented or discovered any useful art, manufacture, engine, machine, or device, or any improvement therein not before known or used, and praying that a patent may be granted therefor, it shall and may be lawful to and for the said Secretary of State, the Secretary for the department of war, and the Attorney General, or any two of them, if they shall deem the invention or discovery sufficiently useful and important, to cause letters patent to be made out in the name of the United States, to bear teste by the President of the United States, reciting the allegations and suggestions of the said petition, and describing the said invention or discovery, clearly, truly and fully, and thereupon granting to such petitioner or petitioners, his, her or their heirs, administrators or assigns for any term not exceeding fourteen years, the sole and exclusive right and liberty of making, constructing, using and vending to others to be used, the said invention or discovery; which letters patent shall be delivered to the Attorney General of the United States to be examined, who shall, within fifteen days next after the delivery to him, if he shall find the same conformable to this act, certify it to be so at the foot thereof, and present the letters patent so certified to the President, who shall cause the seal of the United States to be thereto affixed, and the same shall be good and available to the grantee or grantees by force of this act, to all and every intent and purpose herein contained, and shall be recorded in a book to be kept for that purpose in the office of the Secretary of State, and delivered to the patentee or his agent, and the delivery thereof shall be entered on the record and endorsed on the patent by the said Secretary at the time of granting the same.

SEC. 2. *And be it further enacted*, That the grantee or grantees of each patent shall, at the time of granting the same, deliver to the Secretary of State a specification in writing, containing a description, accompanied with drafts or models, and explanations and models (if the nature of the invention or discovery will admit of a model) of the thing or things, by him or them invented or discovered, and described as aforesaid, in the said patents; which specification shall be so particular, and said models so exact, as not only to distinguish the invention or discovery from other things before known and used, but also to enable a workman or other person skilled in the art or manufacture, whereof it is a branch, or wherewith it may be nearest connected, to make, construct, or use the same, to the end that the public may have the full benefit thereof, after the expiration of the patent term; which specification shall be filed in the office of the said Secretary, and certified copies

1 Gallis. C. C. R. 429. Gray and Osgood v. James, Peters' C. C. R. 394. Sawin et al. v. Guild, 1 Gallis. C. C. R. 485. Lowell v. Lewis, 1 Mason's C. C. R. 182. Kneass v. The Schuylkill Bank, 4 Wash. C. C. R. 106. Barret et al. v. Hall et al., 1 Mason's C. C. R. 447. Boston Manufacturing Company v. Fiske et al., 2 Mason's C. C. R. 119. Dawson v. Follen, 2 Wash. C. C. R. 311. Evans v. Weiss, 2 Wash. C. C. R. 342. Parke v. Little et al., 3 Wash. C. C. R. 196. Evans v. Eaton, Peters' C. C. R. 322. The Philadelphia and Trenton Railroad Company v. Stimpson, 14 Peters, 448.

*Proceedings and Pleadings for Violation of Patent Rights.*—Ex parte Wood and Brundage, 9 Wheat. 603; 5 Cond. Rep. 702. Grant v. Raymond, 6 Peters, 218. Whittemore v. Cutter, 1 Gallis. C. C. R. 429. Stearns v. Barrett, 1 Mason's C. C. R. 153. Sullivan v. Redfield et al., Paine's C. C. R. 441. Executors of Fulton v. Meyers, 4 Wash. C. C. R. 220. Pettibone v. Derringer, 4 Wash. C. C. R. 215. Kneass v. The Schuylkill Bank, 4 Wash. C. C. R. 106. Dixon v. Moyer, 4 Wash. C. C. R. 68. Isaacs v. Cooper, 4 Wash. C. C. R. 259. Evans v. Kremer, Peters' C. C. R. 215. Ames v. Howard, 1 Sumner's C. C. R. 482.

*Evidence in Actions for the Violation of Patent Rights.*—Evans v. Eaton, 3 Wheat. 454; 4 Cond. Rep. 291. Evans v. Hettick, 7 Wheat. 453; 5 Cond. Rep. 317. Whittemore v. Cutter, 1 Gallis' C. C. R. 478. Odiorne v. Winkley, 2 Gallis. C. C. R. 51. Stearns v. Barrett, 1 Mason's C. C. R. 153. Kneass v. The Schuylkill Bank, 4 Wash. C. C. R. 106. Dixon v. Moyer, 4 Wash. C. C. R. 68. Evans v. Eaton, Peters' C. C. R. 322.

*Surrender and Repeal of Patents.*—Ex parte Wood and Brundage, 9 Wheat. 603; 5 Cond. Rep. 702. The Philadelphia and Trenton Railroad Company v. Stimpson, 14 Peters, 448. Shaw v. Cooper, 7 Peters, 292. Grant v. Raymond, 6 Peters, 218. Delano v. Scott, Gilpin's C. C. R. 489. Stearns v. Barrett, 1 Mason's C. C. R. 153. Morris v. Huntingdon, Paine's C. C. R. 345. See post 318.

See also Peters' Digest, *Patents for useful inventions*,

thereof, shall be competent evidence in all courts and before all jurisdictions, where any matter or thing, touching or concerning such patent, right, or privilege, shall come in question.

SEC. 3. *And be it further enacted,* That upon the application of any person to the Secretary of State, for a copy of any such specification, and for permission to have similar model or models made, it shall be the duty of the Secretary to give such copy, and to permit the person so applying for a similar model or models, to take, or make, or cause the same to be taken or made, at the expense of such applicant.

SEC. 4. *And be it further enacted,* That if any person or persons shall devise, make, construct, use, employ, or vend within these United States, any art, manufacture, engine, machine or device, or any invention or improvement upon, or in any art, manufacture, engine, machine or device, the sole and exclusive right of which shall be so as aforesaid granted by patent to any person or persons, by virtue and in pursuance of this act, without the consent of the patentee or patentees, their executors, administrators or assigns, first had and obtained in writing, every person so offending, shall forfeit and pay to the said patentee or patentees, his, her or their executors, administrators or assigns such damages as shall be assessed by a jury, and moreover shall forfeit to the person aggrieved, the thing or things so devised, made, constructed, used, employed or vended, contrary to the true intent of this act, which may be recovered in an action on the case founded on this act.

SEC. 5. *And be it further enacted,* That upon oath or affirmation made before the judge of the district court, where the defendant resides, that any patent which shall be issued in pursuance of this act, was obtained surreptitiously by, or upon false suggestion, and motion made to the said court, within one year after issuing the said patent, but not afterwards, it shall and may be lawful to and for the judge of the said district court, if the matter alleged shall appear to him to be sufficient, to grant a rule that the patentee or patentees, his, her, or their executors, administrators or assigns, show cause why process should not issue against him, her, or them, to repeal such patents; and if sufficient cause shall not be shown to the contrary, the rule shall be made absolute, and thereupon the said judge shall order process to be issued as aforesaid, against such patentee or patentees, his, her, or their executors, administrators, or assigns. And in case no sufficient cause shall be shown to the contrary, or if it shall appear that the patentee was not the first and true inventor or discoverer, judgment shall be rendered by such court for the repeal of such patent or patents; and if the party at whose complaint the process issued, shall have judgment given against him, he shall pay all such costs as the defendant shall be put to in defending the suit, to be taxed by the court, and recovered in such manner as costs expended by defendants, shall be recovered in due course of law.

SEC. 6. *And be it further enacted,* That in all actions to be brought by such patentee or patentees, his, her, or their executors, administrators or assigns, for any penalty incurred by virtue of this act, the said patents or specifications shall be *prima facie* evidence, that the said patentee or patentees was or were the first and true inventor or inventors, discoverer or discoverers of the thing so specified, and that the same is truly specified; but that nevertheless the defendant or defendants may plead the general issue, and give this act, and any special matter whereof notice in writing shall have been given to the plaintiff, or his attorney, thirty days before the trial, in evidence, tending to prove that the specification filed by the plaintiff does not contain the whole of the truth concerning his invention or discovery; or that it contains more than is necessary to produce the effect described; and if the concealment of part, or the addition of more than is necessary, shall appear to have been intended to

Certified copies in what cases to be evidence.

Copies of specification, and models may be taken.

Penalty for making, &c. any art, &c. for which a patent has been granted.

Damages to be assessed by a jury.

Patents surreptitiously obtained,

how to be repealed.

In actions for penalty, patents to be deemed *prima facie* evidence of the first discovery; but special matter may be given in evidence; and to what effect.

mislead, or shall actually mislead the public, so as the effect described cannot be produced by the means specified, then, and in such cases, the verdict and judgment shall be for the defendant.

Sec. 7. *And be it further enacted*, That such patentee as aforesaid, shall, before he receives his patent, pay the following fees to the several officers employed in making out and perfecting the same, to wit: For receiving and filing the petition, fifty cents; for filing specifications, per copy-sheet containing one hundred words, ten cents; for making out patent, two dollars; for affixing great seal, one dollar; for indorsing the day of delivering the same to the patentee, including all intermediate services, twenty cents.

APPROVED, April 10, 1790.

STATUTE II.

April 15, 1790.

CHAP. VIII.—*An Act further to suspend part of an act intituled "An act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares and merchandises imported into the United States," and to amend the said act.*

Repealed. Act of Aug. 4, 1790, chap. 35, sec. 74.

Restriction by a former act, on vessels bound up the Potomac, suspended until first May, 1791. Act of July 31, 1789, ch. 5.

Additional ports of delivery in Connecticut.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That so much of an act, intituled, "An act to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares and merchandises imported into the United States," as obliges ships or vessels bound up the river Potomac to come to, and deposit manifests of their cargoes with the officers at Saint Mary's and Yeocomico, before they proceed to their port of delivery, shall be and is hereby further suspended, from the first day of May next, to the first of May in the year one thousand seven hundred and ninety-one.

Sec. 2. *And be it further enacted, by the authority aforesaid*, That the landing places in Windsor and East Windsor, in the State of Connecticut, shall be ports of delivery, and be included in the district of New London.

APPROVED, April 15, 1790.

STATUTE II.

April 30, 1790.

CHAP. IX.—*An Act for the Punishment of certain Crimes against the United States.*

Act of April 2, 1792, ch. 16, sec. 19. Act of May 27, 1796, ch. 36, sec. 7. Jan. 30, 1799, ch. 1. Act of April 24, 1800, ch. 35. Act of March 26, 1804, ch. 40. Act of March 3, 1825, ch. 65.

What cases shall be adjudged treason. How proved and punished.

Misprision of treason.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any person or persons, owing allegiance to the United States of America, shall levy war against them, or shall adhere to their enemies, giving them aid and comfort within the United States or elsewhere, and shall be thereof convicted, on confession in open court, or on the testimony of two witnesses to the same overt act of the treason whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death. (a)

Sec. 2. *And be it [further] enacted*, That if any person or persons, having knowledge of the commission of any of the treasons aforesaid, shall conceal and not as soon as may be disclose and make known the same to the President of the United States, or some one of the judges thereof, or to the president or governor of a particular state, or some one of the judges or justices thereof, such person or persons on conviction shall be adjudged guilty of misprision of treason, and shall be imprisoned not exceeding seven years, and fined not exceeding one thousand dollars.

(a) *Treason*.—To constitute a levying of war, there must be an assemblage of persons for the purpose of effecting by force, a treasonable purpose. *Ex parte Bollman and Swartwout*, 4 Cranch, 75; 2 Cond. Rep. 33. *The United States v. Vigol*, 2 Dall. 346. *The United States v. Vilatto*, 2 Dall. 370. *The United States v. The Insurgents of Pennsylvania*, 2 Dall. 335. *The United States v. Mitchell*, 2 Dall. 348. *The United States v. Stuart*, 2 Dall. 343; 1 Burr's Trial, 14; 2 Burr's Trial, 401.