

a deceased inventor must be made within six months from the death of the inventor. If an applicant dies within six months from the date of application letters patent may be granted to his lawful successors within such six months or at any time within three months from his death.

WHAT INVENTIONS ARE PATENTABLE.

(a) *Definition of "Invention."*

The differences as regards the definition of "invention" are not very material. Most of the Colonies, by a reference to the Statute of Monopolies, adopt the principles of the law of the United Kingdom.

In the Patent Acts of Australia and New Zealand the definition of "invention" is the same as in our own Act, *i.e.*, "invention" means any manner of new manufacture the subject of letters patent and grant of privilege within section 6 of the Statute of Monopolies, and includes an alleged invention. No patent is granted for an invention the use of which would be contrary to law or morality.

In the Canadian Patent Act "invention" is defined as meaning "any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement in any art, machine, manufacture, or composition of matter." No Canadian patent may issue which has an illicit object in view, or for any mere scientific principle or abstract theorem.

Similar provisions to those in the Canadian definition are to be found in the Newfoundland Patent Act.

In the Patent Acts of Cape Colony and Natal "invention" has the same meaning as in our old Act of 1852 (15 & 16 Vict., c. 83). The definition of "invention" in that Act was "any manner of new manufacture the subject of Letters Patent and grant of privilege within the meaning of the Act of the 21st year of the Reign of King James I., chapter 3," (commonly known as the Statute of Monopolies).

In the Patent Act of the Transvaal "invention" is defined as "any new and useful art, process, machine, manufacture or composition of matter or any new and useful improvement thereof capable of being used or applied in trade or industry." No patent will be issued for an invention the use of which is contrary to law, public order, or good morals.

In the Orange River Colony a patent may be granted for "any new industrial invention capable of being exploited as a subject of trade or industry." No patent is granted which is contrary to law, good morals or order.

(b) *Qualifying provisions as to novelty.*

The above definitions of "invention" are in some cases explained or qualified by further provisions.

Under the Canadian Patent Act the invention must not have been in public use or on sale with the consent or allowance of the inventor, for more than one year previously to his application for a patent, and any inventor who elects to obtain a patent for his invention in any foreign country before obtaining a patent for the same invention in Canada, can only obtain a patent in Canada, if the same be applied for within one year from the date of the issue of the first foreign patent for the invention.

The applicant for a patent in Newfoundland is required to "make oath in writing" that the invention "hath not to the best of his knowledge or belief, been known or used in this Colony, or in any other country," but he will not be deprived of his right to a patent by reason of his having previously taken out Letters Patent for the invention in another country, if "such invention shall not have been introduced into public and common use in this Colony prior to the application for a patent therein."

In the Transvaal an invention must not have been known or used by others in the Colony or patented or described in any printed publication in the Colony or any foreign country before the application for a patent in respect of the same, or in public use or on sale in the Colony or any foreign country for more than two years prior to such application unless the same is proved to have been abandoned.

Provisions as to the exhibition of unpatented inventions within a limited period exist in Australia, New Zealand, Cape Colony, the Transvaal, and the Orange River Colony.