

They may be registered. Marks, and may be registered for the exclusive use of the party registering the same in the manner hereinafter provided; and thereafter he shall have the exclusive right to use the same to designate articles manufactured or sold by him.

Commissioner to keep a Trade Marks Register.

In what cases he may register marks.

62. The Commissioner of Patents shall keep at the Patent Office a 5 book or books to be denominated the "Trade Marks Registrar," in which all proprietors of trade marks may cause the same to be registered, by depositing with the said Commissioner a drawing and description in duplicate of such trade mark, together with a declaration that such drawing and description correctly represent the same, and that such 10 trade mark is not in use, to his knowledge, by any other person than himself at the time of his adoption thereof, on application for registration; but if such trade mark will not admit of a drawing, the Commissioner may dispense therewith, and the declaration of the applicant may be varied accordingly; and the said Commissioner on receipt of 15 the fee hereinafter provided, shall examine the said trade mark to ascertain whether it resembles any other trade mark already registered; and if he find that such trade mark is not identical with or does not so closely resemble as to be confounded with any other trade mark already registered, he shall register the same, and shall return to the proprietor 20 thereof one copy of the drawing and description, with his certificate thereto, that the said trade mark has been duly registered in accordance with the provisions of this Act; and he shall further state in such certificate the day, month and year of the entry thereof in the said Trade Marks Registrar; and every such certificate shall be received in 25 all Courts of Law or Equity in Canada, as evidence of the facts therein alleged, without proof of the signature of the said Commissioner or of the seal of the office.

Cancelling registration improperly made.

63. If any person shall make application to register, as his own, any trade mark which has been already registered, the Commissioner 30 shall notify all parties interested therein to appear, in person or by attorney, before him with witnesses, for the purpose of establishing who is the rightful owner of the trade mark, and after having heard the parties and witnesses, he shall order such entry or cancellation, or both, to be made as he shall deem just. 35

Penalty for using another person's trade mark.

Or selling article fraudulently marked

Proviso.

64. If any person, other than the party who has registered the same, shall mark any goods or any article of any description whatever with any trade mark registered under the provisions of this Act, or with any part of such trade mark, whether by applying such trade mark or any part thereof to the article itself or to any package or thing containing such article, or by using any package or thing so marked which 40 has been used by the proprietor of such trade mark,—or shall knowingly sell or offer for sale any article marked with such trade mark, or with any part thereof, with intent to deceive and induce persons to believe that such article was manufactured, produced, compounded, 45 packed or sold by the proprietor of such trade mark, he shall be guilty of a misdemeanor, and, on conviction thereof, shall forfeit, for each offence, the sum of not less than *twenty* dollars and not exceeding one hundred dollars, which amount shall be paid to the proprietor of such trade mark, together with costs incurred in enforcing and recovering 50 the same; and every complaint under this section shall be made by the proprietor of such trade mark, or by some one duly authorized by him.

Punishment of persons registering ano-

65. If any person shall knowingly and wilfully register as his own any trade mark, the property of a person not resident in this Province, he shall be guilty of a misdemeanor, and shall be subject and liable to 55