

the validity of such Letters Patent, which shall not be contained in the particulars as aforesaid: Provided always, that the place or places at or in which, and in what manner the invention is alleged to have been used or published prior to the date of the Letters Patent shall be set forth in such particulars: Provided also, That it shall be lawful for any Judge in term or in vacation to allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid, upon such terms as to such Judge shall seem fit: Provided also, that at the trial of any proceeding by *scire facias* to repeal Letters Patent, the defendant shall be entitled to begin and to give evidence in support of such Letters Patent, and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such Letters Patent, the defendant shall be entitled to the reply.

Proviso.

Proviso.

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53. In any action for the infringement of Letters Patent, it shall be lawful for the Court in which such action is pending, if the Court be then sitting, or if the Court be not sitting, then for a Judge of such Court in chambers, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such Court or Judge may seem fit: Provided, however, that from all judgments and decrees of any such Court or Judge rendered in the premises, a writ of error or appeal, as the case may be, shall lie to the Court of Queen's Bench in Lower Canada, and to the Court of Error and Appeal in Upper Canada, in the same manner and under the same circumstances as is now provided by law in other judgments and decrees of such Court or Judge, and in all other cases in which the Court shall deem it reasonable to allow the same..

Certain orders may be made by the Judge.

Proviso for appeals.

54. Whenever there shall be two interfering Patents, or whenever a Patent or application for Patent shall have been refused on an adverse decision of the Patent Board, any person interested in any such Patent, either by assignment or otherwise in the one case, and any such applicant in the other case, may have remedy by bill of equity, if he reside in Upper Canada, or by a petition to the Superior Court in term, or any Judge thereof in vacation if he reside in Lower Canada, which bill of equity or petition shall contain all the reasons of appeal, and the Court or Judge having cognizance thereof, on proof of due notice having been given to all parties interested therein, (which notice shall be with the same delay as in other actions,) and other proceedings had, may adjudge and declare either of the Patents void in whole or in part, according to the interest which the parties to such suit may possess in the Patent or inventions patented; and may also adjudge that such applicant is entitled, according to the principles and provisions of this Act, to have and receive a Patent for his invention, as specified in his claim, or for any part thereof, as the fact of priority of right or invention shall, in any case, be made to appear; and such adjudication, if it be in favor of the right of such applicant, shall authorise the Commissioner to issue such Patent, on such applicant's filing a copy of the adjudication, and otherwise complying with the requisition of this Act; Provided however, that no such judgment or adjudication shall affect the rights of any person, except the parties to the action, and those deriving title from or under them subsequent to the rendition of such judgment; And provided further, that in all cases where there is no opposing party, a copy of the bill or petition as aforesaid, with a sufficient notice of the day on which the same shall be filed or presented, shall be served upon the Commissioner of Patents.

Remedy or appeal in case of interfering Patents, or applications for Patent.

Proviso.

Proviso.