

claimed as new, the Court may discriminate, and the judgment may be rendered accordingly.

Defence in such cases.

25. The defendant in any such action may specially plead as matter of defence any fact or default which by this Act or by law would render the Patent void; and the Court shall take cognizance of that special pleading and of the facts connected therewith, and shall decide the case accordingly. 5

NULLITY, IMPEACHMENT AND VOIDANCE OF PATENTS.

Patent to be void in certain cases or only valid for part.

26. A Patent shall be void, if any material allegation in the petition or declaration of the applicant be untrue, or if the specification and drawings contain more or less than is necessary for obtaining the end for which they purport to be made, such omission or addition being wilfully made for the purpose, of misleading; but if it shall appear to the Court that such omission or addition is simply an involuntary error, and it is proved that the Patentee is entitled to the remainder of his Patent *pro tanto*, the Court shall render a judgment in accordance with the facts, and determine as to costs, and the Patent shall be held valid for such part of the invention described, and two office copies of such judgment shall be furnished to the Patent Office by the Patentee, one to be registered and to remain of record in the office, and the other to be attached to the Patent and made a part of it by a reference. 10 15 20

Patents to be conditioned on manufacture in Canada of thing patented.

27. Every Patent granted under this Act shall be subject and expressed to be subject to the condition that such Patent and all the rights and privileges thereby granted shall cease and determine and the Patent shall be null and void, at the end of three years from the date thereof, unless the Patentee shall, within that period, have commenced and carried on in Canada the construction or manufacture of the invention patented, in such manner that any person desiring to use it may obtain it or cause it to be made for him at a reasonable price at some manufactory or establishment for making or constructing it, in Canada, and that such patent shall be void if after the expiration of eighteen months from the granting thereof, the patentee or his assignee or assignees for the whole or a part of his interest in the Patent, imports or causes to be imported into Canada, the invention for which the Patent is granted. 25 30 35

Proceedings for impeachment of patent.

28. Any person desiring to impeach any Patent issued under this Act, may obtain a sealed and certified copy of the Patent and of the petition, declaration, drawings and specification thereunto relating, and may have the same filed in the Office of the Prothonotary or Clerk of the Superior Court for the Province of Quebec, or of the Court of Queen's Bench or Common Pleas for the Province of Ontario, or of the Supreme Court in the Province of Nova Scotia, or of the Court of Queen's Bench in the Province of New Brunswick, according to the domicile elected by the Patentee as aforesaid; which Courts shall adjudicate on the matter and decide as to costs. The Patent and documents aforesaid shall then be held as of record in such Court, so that a Writ of *Scire Facias* under the Seal of the Court grounded upon such record may issue for the repeal of the Patent, for legal cause as aforesaid, if upon proceedings had upon the Writ in accordance with the meaning of this Act the Patent be adjudged to be void. 35 40 45 50

Certificate of judgment voiding patent to be entered.

29. A certificate of the judgment voiding any Patent, shall, at the request of any person or party filing it to be of record in the Patent Office, be entered on the margin of the enrolment of the 55