

Aggregate of penalties limited.

or by the oath of one or more credible witnesses, (to be administered by the justices,) they may convict the offender, for each offence, in the penalty aforesaid—the aggregate amount of the penalties up to the time of the institution of the proceedings not to exceed \$400.00 against one person.

5.

Levying penalty if not paid.

**80.** If the amount of the penalty and the costs attending the conviction are not paid, then the amount of the penalty, costs, and the costs of distress and sale shall be levied by distress upon the goods, chattels and effects of the offender, wherever they may happen to be in this Province, and the justices before whom the conviction was had, or any two justices acting for any county or district wherein the goods of the offender may happen to be, may grant a warrant of distress and sale; Provided, however, that where the penalty has been sought to be recoverable by proceedings as in an action of debt, a writ of execution shall issue from the Court wherein the judgment on such action shall have been obtained; and provided that any surplus shall be delivered to the offender on demand.

Proviso.

Penalty for fraudulently marking an article as registered.

**81.** That every person placing the words "registered," or the letters "Rd." upon any unregistered article, or upon any article the copyright of which has run out, or advertising the same for sale as a registered article, or unlawfully selling, publishing, or exposing for sale such article, knowing the same to have been fraudulently stamped, or that the copyright thereof had expired, shall forfeit for every offence a sum not less than \$4, and not exceeding \$30, to be recovered in the same manner as penalties under the preceding section, and that by any person whatever, who shall receive one half the amount of the said last mentioned penalty, on the recovery of the amount which the offender may have been condemned to pay.

Action in damages for infringement.

**82.** The proprietor of any design may bring an action for the damages he has sustained by the application or imitation of the design for the purpose of sale, against any person so offending, he (the offender) knowing that the proprietor of the design had not given his consent to such application. Every such action shall be tried by a jury, provided the amount of the action exceed \$200: Provided further, that nothing herein contained shall be construed to limit any proprietor to make option of proceedings, but that he shall have the right to proceed against every offender according to the provisions of the five preceding sections, and to those of this section, at the same time.

Proviso: option of owner of copyright.

Recourse of true owner, if designs be registered in favor of another.

**83.** If any person, not being the lawful proprietor of a design, be registered as proprietor thereof, the rightful owner may present a petition to any judge of the Superior Court, Lower Canada, in term or in vacation, or institute a suit in equity in Upper Canada, and the Court or judge having cognizance of such suit, may, if it appear to him that the design has been registered in the name of a wrong person, in his discretion either direct the registration to be cancelled, or direct that the name of the lawful proprietor shall be substituted for the name in the register, and shall adjudge as to costs as he may think fit.

Correction of register.

**84.** The Commissioner of Patents, after due service of such order and payment of the fee hereinafter provided, shall make such alteration in the Register as shall in the said order be directed.

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