

from specially pleading the matter of defence to the said action, specified and detailed in the said Acts:—And further, provided, that whenever it shall satisfactorily appear that the Patentee at the time of making his application for the Patent, believed himself to be the first inventor, discoverer or importer of the thing patented, the same shall not be held to be void on account of the invention or discovery or part thereof, having been before known or used in a foreign country, it not appearing that the same or any material or substantial part thereof, had before been patented or described in any printed publication; And provided also, that whenever the Plaintiff shall fail to sustain his action, on the ground that in his specification of claim is embraced more than that of which he was the first inventor, discoverer or importer, or if it shall appear that the Defendant had used or violated any part of the invention, justly and truly specified and claimed as new, it shall be in the power of the Court to adjudge and award as to costs, as may appear to be just and equitable.

Proviso — Patent not void, if the discovery was known in a foreign country, and patentee believed himself the first inventor.

Proviso. Court may adjudge as to costs when Plaintiff fails in his action;

III. And be it enacted, That when any person, an inhabitant of the said Province as aforesaid, hath made or shall have made any new invention, discovery or improvement, or imported the same as aforesaid, on account of which a Patent might, by virtue of the said recited Acts or of this Act, be granted, and such person shall die before any Patent shall be granted therefor, the right of applying for and obtaining such Patent shall devolve on the Executor or Administrator of such person in trust for the heir at law of the deceased, in case he shall have died intestate, or on his legal representative in any other case, in as full and ample a manner, and under the same conditions, limitations and restrictions, as the same was held or might have been claimed or enjoyed by the deceased in his lifetime; and when the application shall be made by such executor, administrator or re-

Right of obtaining a Patent to devolve on the legal representative, in case of the inventor's decease before a Patent is granted.