

ings in the action, as the Court or Judge may see fit;—but, from Appeal such order, an appeal shall lie under the same circumstances and allowed. to the same Court, as from other judgments or orders of the Court in which the order was made.

25. Whenever the plaintiff fails to sustain his action, because his specification and claim embrace more than that of which he was the first inventor, and it appears that the defendant used or infringed any part of the invention, justly and truly specified and claimed as new, the court may discriminate, and the judgment may be rendered accordingly. Court may discriminate in certain cases.

26. 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. Defence in actions for infringement.

NULLITY, IMPEACHMENT AND AVOIDANCE OF PATENTS.

27. A patent shall be void, if any material allegation in the petition or declaration of the applicant be untrue, or if the specifications 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. Patent may be declared void in certain cases, or valid only for part. Copy of judgment to be sent to Patent Office.

28. 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 two years from the date thereof, unless the patentee, or his assignee or assignees, shall, within that period have commenced, and shall, after such commencement, continuously carry on in Canada the construction or manufacture of the invention or discovery 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 twelve 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 Patents to be conditional for the manufacture in Canada of the thing patented; And of the patentee's not importing it into Canada.