

Council. R. S. C., c. 22, sec. 4; R. S. C., c. 55, secs. 4 & 5, discussed. *Wood v. The Queen*, 7 Can. S. C. R. 631; *St. John Water Commissioners v. The Queen*, 19 Can. S. C. R. 125, and *Hall v. The Queen*, 3 Ex. C. R. 373, referred to.

G. C. Stuart, Q.C., for suppliants.

W. D. Hogg, Q.C., for respondent.

June 26, 1893.

Coram BURBIDGE, J.

CARTER et al. v. HAMILTON.

Patent — “*The Paragon Black-leaf Cheque Book*” — *Validity* —
Want of novelty—*Infringement*.

The plaintiffs obtained letters-patent on the 15th February, 1882 (registered in the patent office at Ottawa as No. 14182), for “The Paragon Black-leaf Cheque book composed of double leaves, one-half of which is bound together while the other half folds in as fly leaves, both being perforated across so that they can readily be torn out; the combination of the black-leaf bound into the book next to the cover, and provided with the tape bound across its end, the said black-leaf having the transferring composition on one of its sides only.” The objects of the invention, as stated in the specification, were to provide a check-book in which the black-leaf used for transferring writing from one page to another need not be handled and would not have a tendency to curl up after a number of leaves have been torn out. The first of such objects was to be obtained by the use of the tape which enabled “the black-leaf to be folded back or raised without soiling the fingers,” and the second by binding the black-leaf in with the other leaves but next to the cover, in which position there “would be less likelihood of the black-leaf becoming crumpled up than if it were placed in the centre and the leaves removed from the stub on either side.”

The defendants had a patent for and manufactured a counter-check-book in which a margin was left on the carbon leaf by which it could be turned over without soiling the fingers. With the exception of the tape for turning the leaf it was established that the plaintiffs' patent had been anticipated, and it was also proved that prior to the issue of the plaintiffs' patent, a patent had been granted in the United States for the process of manu-