

been used by the proprietor of such trade mark,—or shall knowingly sell or offer for sale any article marked with such trade mark, or with any part thereof, with intent to deceive and to induce persons to believe that such article was manufactured, produced, compounded, packed or sold by the proprietor of such trade mark, he shall be guilty of a misdemeanor, and, on conviction thereof, shall forfeit, for each offence, the sum of not less than *twenty* dollars and not exceeding one hundred dollars, which amount shall be paid to the proprietor of such trade mark, together with costs incurred in enforcing and recovering the same: Provided, always, that every complaint under this section shall be made by the proprietor of such trade mark, or by some one acting on his behalf, and duly authorized thereto.

Misdemeanor.

Proviso.

95. If any person shall, knowingly and wilfully register as his own any trade mark, the property of a person not resident in this Province, he shall be guilty of a misdemeanor, and shall be subject and liable to the penalty mentioned in the preceding section; And the entry of every such trade mark in the Trade Mark Register, shall be cancelled by the said Commissioner, on receipt of a certificate signed by the Clerk of the Court, or the Justices of the Peace before whom the conviction was had, of any such conviction; and one-half of every such penalty shall be paid to the party prosecuting, and the other half to the Crown.

Penalty for registering Trade Mark of another.

Cancelling registry.

Recovery of penalty.

96. If any person shall counterfeit or use the unregistered trade mark of any person, not resident within this Province, with intent to deceive the public and lead to the belief that the articles or package so marked was manufactured or put up by the owner of such trade mark, he shall, on conviction thereof, forfeit a sum of not less than ten dollars nor more than fifty dollars for each offence, with costs, one-half of which penalty shall be paid to the complainant and the other half to the Crown.

Penalty for counterfeiting unregistered Trade Mark.

97. Complaints under either of the two next preceding sections may be brought by any party or person whatever, and the penalties mentioned in the three next preceding sections shall be enforced and recovered in the same manner, and subject to the same provisions as are provided in the sections of this Act respecting the registration and protection of designs.

Complaints, and suits for recovery of penalties.

98. The use of any trade mark either identical with that of any manufacturer, producer, packer or vender, or so closely resembling it as to be calculated to be taken for it by ordinary purchasers, shall be held to be a use of such trade mark.

Close resemblance of Trade Mark.

99. Notwithstanding anything in the preceding sections contained, a suit may be maintained by any proprietor of a trade mark against any person using his registered trade mark, or any fraudulent imitation thereof, or selling articles bearing such trade mark, or any such imitation thereof, or contained in packages being or purporting to be his, contrary to the provisions of this Act.

Remedies by action saved.

100. Copies of all registered trade marks shall be forwarded with the least possible delay, from time to time, to the Board of Arts and Manufactures for Upper and Lower Canada, respectively; and the same shall be open to the inspection of the public in the offices of such Boards, during the usual office hours of each day, free of charge.

Copies to Boards of Arts.