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No. 14.

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1st Session, 7th Parliament, 25 Victoria, 1862.

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**BILL.**

An Act to repeal certain Acts therein mentioned, and to make other provisions respecting Inventions, Trade Marks and Designs.

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Received and read, first time, Monday, 7th  
April, 1862.

Second Reading, Wednesday, 9th April,  
1862.

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**Mr. DUNKIN.**

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**QUEBEC :**

PRINTED FOR THE CONTRACTORS BY HUNTER,  
ROSE & LEMIEUX, ST. URSULE STREET.

An Act to repeal certain Acts therein mentioned and to make other provision respecting Inventions, Trade Marks and Designs.

**H**ER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

- 1.** The Act chapter 34 of the Consolidated Statutes of Canada, Chapter 34 intituled, "An Act respecting Patents for Inventions," and the Act Con. Stat. 5 24 Vict., chap. 21, intituled, "An Act to amend the Act respecting Can., and 24 Trade Marks and to provide for the Registration of Designs," and all V., c. 21, re- Acts and parts of Acts heretofore passed on these subjects, are hereby repealed. Saving as to or Designs duly registered, previous to the passing of this Act, shall re- things al- 10 main in full force, subject to the provisions hereinafter contained, as if ready done. they had been granted under the provisions of this Act: Provided also, Proviso. that all actions and processes in law or equity, sued out prior to the passing of this Act, shall be prosecuted to final judgment and execution, in the same manner as though this Act had not been passed.
- 2.** There shall be established and attached to the Department of the Patent Bu- 15 President of Committees of the Executive Council, (hereinafter called the reau constitu- President of Council,) a Bureau, to be denominated the "Patent Bureau," ted. the chief officer of which shall be called the Commissioner of Patents, Comissioner- 20 be appointed by the Governor of this Province, and be subordinate cr. to the said President, in like manner as the Auditor and Commis- sioner of Customs are subordinate to the Minister of Finance.
- 3.** The Governor may, by Letters Patent under the Great Seal of Patent Board 25 this Province, constitute and appoint, during pleasure, a Patent Board, constituted. which shall consist of the President of Council, the Attorneys General and Solicitor General for Upper and Lower Canada respectively, and 30 the Commissioner of Patents, any three of whom shall constitute a quorum, which Board shall be under the direction and supervision of the Quorum. President of Council, who shall be Chairman thereof.
- 4.** The said Board shall meet once in every month at the said Patent Meetings. 30 Bureau, which shall be located wherever the seat of the Provincial Government may be.
- 5.** The said Board may cause a seal to be made for the purposes of Seal of Board. 35 this Act, and may from time to time vary such seal, and cause to be sealed therewith, all Letters Patent under this Act, and all Instruments and Copies proceeding from the said Patent Bureau; and all Courts, 40 Judges, and other persons whosoever shall take notice of such Seal, and receive impressions thereof in evidence, in like manner as impressions of the Great Seal of this Province are received in evidence; and shall also Its effect in take notice of, and receive in evidence, without further proof or produc- evidence. tion of the original, all Copies or Extracts, certified under the Seal of

the said Bureau, and signed by the Commissioner, of or from Documents deposited therein; and any person making application therefor, may have certified copies of the Records, Drawings, and other papers deposited in the said Bureau or Office on paying for the written copies the sum of *seven cents* for every one hundred words; and for copies of 5 Drawings, the reasonable expense of making the same.

Fees for copies of Records, &c.

Board to make Registration.

6. The said Board shall, from time to time, make such Rules and Regulations (not inconsistent with the provisions of this Act) respecting the business of the said Bureau, and all matters and things which, under the provisions herein contained, are to be under their control and 10 direction, as may appear to them necessary and expedient for the purposes of this Act; and all such Rules shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the next meeting of Parliament. 15

To be submitted to Parliament.

Officers.

7. The said Board may provide and appoint, from time to time, proper places or buildings for an office or offices for the purposes of this Act.

Clerks and officers of the Board.

8. The said Board may, from time to time, appoint, for the purposes of this Act, an examining clerk, and such clerks and officers (one at least of whom shall be a competent draughtsman,) as they may think 20 proper; and it shall be lawful for the said Board, from time to time, to remove any of the clerks and officers so appointed; The said Board shall be and are hereby authorized to employ temporary clerks, to do any necessary transcribing or copying, whenever the current business of the office requires it: Provided, however, that instead of salary, a compen- 25 sation shall be allowed at a rate not greater than is hereinbefore provided to be paid by applicants for such copies; and the Commissioner, clerks, officers, and every other person appointed and employed in the said office, shall be disqualified and interdicted from acquiring, having, or taking, (except by inheritance,) during the period for which he or they shall hold their appointments respectively, any right or interest, 30 directly or indirectly, in any patent for an invention or discovery, or in any copyright, which has been or may be hereafter granted, or in any Trade Mark which has been or may be hereafter registered; and from demanding or receiving any fee or gratuity, other than the remuneration authorized by this Act, and by the Patent Bureau. 35

Proviso as to compensation: they shall not be interested in Patents.

Commissioner to be sworn.

9. The said Commissioner, and every other person to be appointed in the said office, shall, before he enters upon the duties of his office or appointment, make oath or affirmation truly and faithfully to execute the trust committed to him.

Records and Registers of the Bureau.

10. The said Board shall cause to be kept at the said Bureau a 40 book or books, to be called "The Register of Patents," wherein shall be entered and recorded in chronological order, all Letters Patent of Invention granted under this Act, the deposit or filing of Applications, Specifications, Disclaimers, and memoranda of alterations, filed in respect of such Letters Patent, all Amendments in such Letters Patent and 45 Specifications, all Confirmations and Extensions of such Letters Patent, the Expiry, Vacating or Cancelling of such Letters Patent, with the dates thereof respectively, the names of the Patentees, and all other matters and things affecting the validity of such Letters Patent, as the Board may direct; and such Register, or a copy thereof, shall be open 50 at all convenient times to the inspection of the public, subject to such

Copies.

regulations as the Board may make, and copies thereof shall be from time to time transmitted to the Boards of Arts and Manufacturers for Upper and Lower Canada respectively.

11. There shall also be kept at the said Bureau, a book or books entitled "the Register of Proprietors," wherein shall be entered, in such manner as the Commissioner shall direct, the assignment of any Letters Patent, or of any share or interest therein; any License under Letters Patent, and the district to which such License relates, with the name or names of any person or persons having any share or interest in such Letters Patent or License, the date of his or their acquiring such Letters Patent, share, and interest, and any other matter or thing relating to or affecting the Proprietorship in such Letters Patent or License; and a copy of any entry in such Register, or of any entry in the register mentioned in the preceding section, certified under the Seal of the Bureau, and signed by the Commissioner, shall be given to any person requiring the same, on payment of the fees hereinafter provided; and such copies, so certified, shall be received in evidence in all Courts, and in all proceedings, and shall be *prima facie* proof of the assignment of such Letters Patent, or share or interest therein, or of the License or Proprietorship, as therein expressed: Provided always, that until such entry shall have been made, the grantee or grantees of the Letters Patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such Letters Patent, and of all the licenses and privileges thereby given and granted: that such Register, or a copy thereof, shall be open to the inspection of the public at the Patent Bureau, subject to such regulations as the Commissioner may make; and that certified copies of all entries made in the said Register of proprietors shall be transmitted without delay to the several Boards of Arts and Manufactures of this Province, where the same shall also be open to the inspection of the public.

Register of assignments of Patents, or shares in Patents.

Proviso.

12. If any person shall wilfully make, or cause to be made, any false entry in either of the said Registry Books, or shall wilfully make or forge, or cause to be made or forged, any writing falsely purporting to be a copy of any entry in the said books, or shall produce or tender, or cause to be produced or tendered, in evidence, any such writing, knowing the same to be false or forged, he shall be guilty of a misdemeanor, and shall be punished by fine and imprisonment accordingly.

Penalty for forging Entries, &c.

13. If any person shall deem himself aggrieved by any entry made under color of this Act in the said Register of Proprietors, it shall be lawful for such person to apply by motion to any of the Superior Courts of Law of Lower Canada, or any of the Superior Courts of Law or Equity of Upper Canada in term time, or by petition to a judge of any of the said courts in vacation, for an order that such entry may be expunged, vacated, cancelled or varied; and upon any such application such Court or Judge respectively, may make such order for expunging, vacating, cancelling or varying such entry, and as to the costs of such application, as to such Court or Judge may seem fit: and the officer having the care and custody of such Register, on the production to him of any such order for expunging, vacating, cancelling or varying any such entry, shall expunge, vacate, cancel or vary the same, according to the requisitions of such order.

Remedy to persons aggrieved by entries in Register.

14. It shall be the duty of the Commissioner of Patents to superintend, execute and perform all such acts and things touching and relating to the duties of the Commissioner of Patents.

Duties of Commissioner of Patents.

pecting the granting and issuing of Letters Patent of Invention, Copy-rights and the Registration of Trade Marks as are herein provided for, or shall hereafter be by law directed to be done and performed, and he shall have charge and custody of all the books, records, papers, models, machines, and all other things belonging to the said office; and the said Commissioner shall receive the same compensation as is allowed by law to the Auditor, and shall be entitled to send and receive letters and packages relating to the business of the office, by mail, free of postage. 5

Who may obtain a Patent.

**15.** Any person or persons of any condition or country whatever, having made any new discovery, invention or improvement having for its object—

- a, A new product of industry; or,
- b, A new means of production; or,
- c, A new method of production;

not known or used by others before his or their invention or discovery 15. thereof, and not at the time of his or their application for a patent in public use, or on view or described in any printed or written publication, or on sale with his or their knowledge, consent or allowance, as the inventor or discoverer, who shall desire to obtain an exclusive property therein, may make application, in writing, by petition to the Governor 20.

Proviso.

expressing such desire: Provided, however, that no patent shall be granted for preparations of food, beverages, medicines, or for any other discovery, invention or improvement, which cannot be worked reasons of public health, morals or safety, or as being contrary to the general interest of the Province, according to existing regulations: 25.

Proviso.

Provided also, that scientific principles, or purely scientific theorems, cannot be patented, even if the principle or theorem admit of a direct application to industrial objects: Provided, however, that Patents may be granted for every new application of such principles or theorems as

Proviso.

lead to the creation of a new industrial product, a new means or a new 30. method of production: Provided further, that two or several discoveries, inventions or improvements that are different from each other may only be united into one Patent, if those discoveries, inventions or improve-

Proviso.

ments relate to one and the same object, as component parts or operative means: Provided further, that each applicant shall at the time of mak- 35.

Proviso.

ing such application as herein aforesaid, furnish the said Board with a solemn declaration, and with a written description and specification and drawings illustrative thereof: Provided further, that if such applicant be an alien, or not resident in this Province, he shall be held to commence the manufacture within this Province, of the thing so patented, within 40.

Proviso.

one year from the date of his application for a Patent therefor: Provided, however, that the Patent Board shall have power to extend the period of such delay, if good and valid reasons be shewn therefor, on

Proviso.

payment of the fee hereinafter provided: Provided further also, that before any such extension shall be granted as aforesaid, the Commis- 45. sioner shall cause due notice of the said application for extension of delay to manufacture, to be published, as is hereinafter provided for in cases of application for prolongation of term of Letters Patent, at least one month previous to the expiry of the delay first granted, and that such further delay shall in no case exceed the term of six months. 50

Forms.

**16.** The Petition and the solemn declaration shall be in the forms in the Schedule, as the case may be.

**17.** The Specification and Description shall consist of—First, a short Specification, description of the Invention; second, the Specification; third, the Mode or Modes of operation; fourth, the Claim.

**18.** The Drawings shall fully exhibit all parts of the invention and Drawings. shall consist of four figures, viz.:—No. 1, Elevation; No. 2, Plan; No. 3, Longitudinal Section; No. 4, Transverse Section; each drawing shall bear the name of the invention of which it is illustrative, with written references to correspond with the specification, and a certificate that it is the drawing referred to in the accompanying specification and description; Provided, however, that the Commissioner shall have power to require any greater number of drawings, or to dispense with any of those herein prescribed, if he sees fit so to do. Proviso.

**19.** The drawings and specifications shall be in duplicate; the solemn declaration, drawings and specifications shall be signed by the Inventor in the presence of a Justice of the Peace, or Commissioner for taking affidavits; each Inventor shall, moreover, deliver to the Commissioner of Patents a neat working model of his invention, of a convenient size, to exhibit advantageously its several parts, provided such invention admits of a model: Provided, however, that where the nature of the invention or discovery will not admit of drawings and models, the Commissioner shall be furnished with specimens of the ingredients, or of the composition of matter, sufficient in quantity for the purpose of experiment. Duplicate drawings, &c. Models. Proviso.

**20.** At the time of making every such application for a Patent, the applicant therefor shall pay to the Commissioner the fee or fees hereinafter provided, on receipt of which the Commissioner shall make or cause to be made, an examination of the alleged new invention or discovery; and if on such examination, it shall appear to the Commissioner that the facts contained in the applicant's declaration are correct, he shall report the same to the Board, who shall, if satisfied of the correctness thereof, order the issuing of Letters Patent to the applicant for his Invention. Fees to be paid on application for Patent.

**21.** If, however, it shall appear to the Commissioner, that the facts are not wholly in accordance with the applicant's declaration, or that the description is defective or insufficient, he shall notify the applicant thereof, giving him briefly such information and references as may be useful in judging of the propriety of renewing or withdrawing his application, or of altering his specification to embrace only that part of the invention or discovery which is new. Provided, however, that should the applicant in such case persist in his claim for a Patent, with or without any alteration of his specification, he may on appeal, and upon request in writing, have the decision of the Board thereon, who shall have the right to call in the aid of such skilled persons or *experts*, as they may think fit, or such Board may, unless otherwise desired by such applicant, before proceeding to adjudicate upon such appeal to grant or refuse a Patent, refer the said application, reasons of refusal and reasons of appeal to *experts* to be named for that purpose by the Board of Arts and Manufactures nearest the residence of the applicant, if he reside in Canada, or by either of such Boards of Arts and Manufactures, if the applicant be a non-resident in the Province, each of which *experts* shall receive *five dollars* a day for such reasonable time as they may be occupied in such examination, and they shall, without delay, report thereon to the Patent Board; and if upon examination, such re- If the Commissioner is not satisfied as to applicant's right to a Patent. Proviso: for appeal to the Board and reference to experts.

port be found to be in accordance with the law and the facts, such Patent shall be issued or refused according to the recommendations thereof. **5**

**Proviso.** Provided, however, that no opinion or decision of the said Patent Board, or *experts* shall preclude any person interested in favor of or against the validity of any Patent which has been or may hereafter be granted, from the right to contest the same in any Judicial Court, in any action in which its validity may come in question. **5**

**Proviso.** Provided also, that before such appeal shall be entertained, the applicant shall deposit in the hands of the Commissioner such sum as the Board shall consider sufficient to cover the expenses thereof, which sum shall be returned to the applicant **10** in case his appeal be maintained.

**Approval of Crown Land officer.**

**22.** No application for a Patent shall be granted unless the recommendation therefor by the Commissioner be approved of by one or more of the Law Officers of the Crown.

**Summoning witnesses before the Board, &c.**

**23.** The Commissioner, or any member of the Board may, on behalf **15** thereof, apply in term or in vacation, to any Judge of the Superior Court for Lower Canada, or of either of the Superior Courts of Law or Equity in Upper Canada, for an order that a Subpœna or Subpœnas be issued from the said Court, commanding any person therein named to appear before the Commissioner or the said Board, or the *experts* named **20** by the said Board of Arts and Manufactures, at the time and place mentioned in such Subpœna, and then and there to testify to all matters within his knowledge relative to any application for a Patent submitted to the Commissioner or the said Board, and) if the Commissioner or any member of the Board so desire) to bring with him, and produce to the **25** Commissioner or to the Board, any drawing, book, document, paper or thing which he may have in his possession relative to any such application as aforesaid; and such Subpœna shall issue accordingly upon the order of such Judge; and any such witness may be summoned from any part of this Province, whether within or without the ordinary jurisdiction **30** of the Court issuing the Subpœna, in like manner as witnesses may be so summoned in civil suits; and witnesses in such cases shall be allowed the same compensation as is allowed to witnesses attending the Superior Courts of this Province; and the said Commissioner and the said Board or such *experts* shall have full power to administer to every **35** such witness such oath or affirmation as is usually administered to witnesses in causes before any of the Courts of this Province; and if any person summoned, in the manner hereinbefore provided, to attend before the said Commissioner, or the said Board, or the said *experts*, shall, without valid excuse, fail to attend accordingly, or, being commanded **40** to produce any drawing, book, document or paper or thing in his possession, shall fail to produce the same, or shall refuse to be sworn or to answer any lawful and pertinent question put to him by such Commissioner, or by the Board, or by the said *experts*, such person shall, for each such offence, forfeit the sum of \$100.00 to the Crown, for the public **45** uses of the Province, to be recovered in any manner in which debts due to the Crown can be recovered, and may likewise be dealt with by the Court out of which the Subpœna issued, as having refused to obey the process of such Court, and as being guilty of a contempt thereof.

**Proviso.** Provided, however, that no witness shall be deemed guilty of contempt **50** for refusing to disclose any secret invention made or owned by him, or entrusted to him. And provided, that at the time of every service of Subpœna, there shall be tendered to every such witness, such fee or sum as shall defray his travelling expenses to and from, and at least one day's attendance at the place of examination. **55**

**Compensation to witnesses.**

**Penalty for refusal to attend, or answer.**

**Proviso.**

**Proviso.**



**24.** Whenever an application shall be made for a Patent, which, in the opinion of the Commissioner, would interfere with any other Patent for which an application may be pending, or with any unexpired Patent which shall have been granted, it shall be the duty of the Commissioner to give notice thereof to such applicants and Patentees as the case may be, and if either shall be dissatisfied with the decision of the Commissioner on the question of priority of invention, on a hearing thereof, he or they may appeal from such decision on the like terms and conditions as are provided in the twenty-third Section of this Act, and the like proceedings shall be had to determine which, or whether either of the parties is entitled to receive or hold a Patent.

Notice in case of interfering applications, and proceedings in each case.

**25.** Every applicant for the grant of Letters Patent of Invention, desirous of protecting his right till he shall have matured his invention, before proceeding to take out such Letters Patent, may, on payment of the fee hereafter provided, file at the Patent Bureau a provisional specification which shall contain a description of the nature of the Invention, setting forth the design and purposes thereof, and its principal and distinguishing characteristics, and every such provisional specification shall be filed in the confidential archives of the Bureau and preserved in secrecy, and the day and hour of the delivery of every such provisional specification shall be recorded at the said Bureau and endorsed on the said provisional specification, and a certificate thereof given to such applicant; and every such application shall be duly registered in the Register provided for by Section *ten* of this Act, and every such protection shall be termed Provisional Protection.

Protection for maturing invention.

**26.** Every such application shall be referred to the Patent Board, subject to the same examination and to the same provisions respecting *experts* or other assistants as are hereinbefore made for completed applications, and if such Board be satisfied that such provisional specification describes the nature of the Invention, they shall allow the same and give a certificate of their allowance, and such certificate shall be filed at the Patent Bureau, and thereupon the Invention therein referred to, may, during the term of six months from the date of filing such certificate, be used and published without prejudice to any Letters Patent to be granted for the same. Provided always, That in case the title of the Invention or the provisional specification be too large or insufficient, it shall be lawful for the Board to allow or require the same to be amended. And provided, that in case any applicant should require an extension of the time for completing such application, the Board may extend the said term for such period not exceeding three months longer, as to the said Board may seem fit, on sufficient cause being shewn by every such applicant.

Application to be referred to the Board.

Term of protection.

Proviso.

Proviso.

**27.** And if application be made by any other person during the term of provisional protection provided for in the two preceding sections, for a Patent for any invention in any way interfering with the invention so protected, it shall be the duty of the Commissioner to deposit the description, specification, drawing, and model of this latter application in the Confidential Archives of the Bureau, and to give notice (by mail) to the person to whom the provisional protection was granted of such application, who shall within the period to be fixed and set forth in the said notice by the Commissioner, after receiving the notice, if he would avail himself of the benefit of his provisional protection, file his completed application and model, and if in the opinion of the Board the specification of claim interfere with each other, like proceedings may be had in

Notice of interfering application to be given.

all respects as are in this Act provided for in the case of interfering applications.

Longer temporary protection to resident subjects.

**28.** Every applicant for Letters Patent of Invention, not an alien or non resident, may, if he think proper, on payment of the fee hereinafter provided, lodge or deposit with the Commissioner a complete specification, description, drawings and model of his invention, subject in every respect to the provisions hereinbefore provided for applications for grants of Patents, and such deposit shall entitle the applicant to protection, called temporary protection, for a term not exceeding three years, at the termination of which period, or at any time previous thereto, the applicant may on payment of the further fee hereinafter provided, obtain Letters Patent for the term of fourteen years from the date of application for such protection.

True first inventor not to be injured by such application.

**29.** In case of any application for provisional or temporary protection, or for a Patent, and the obtaining upon such application of provisional or temporary protection or a Patent for such invention, in fraud of the first and true inventor, any protection or Letters Patent granted to the true and first inventor of such invention, shall not be invalidated by reason of such application, or of such protection, or of such Letters Patent, or of any use or publication of the invention prior to such application, provided that such use or publication was not with the consent of the true inventor.

Public notice of protection.

**30.** Where any invention is protected under this Act, whether by the deposit of a provisional or a complete specification as aforesaid, the Commissioner shall cause such protection as aforesaid to be advertised in the "*Canada Gazette*" and in such other manner as he may see fit.

Security for costs.

**31.** In case of a conflict of applications for a Patent, the Commissioner may require sufficient and satisfactory security for costs of such conflict or contestation from each of the applicants.

Certificate of Board for Patent.

**32.** The certificate of the Patent Board of their approval of an application for a Patent, shall be filed in the Patent Bureau, and its receipt shall empower the Commissioner to issue the Letters Patent, and all Letters Patent so to be issued shall be issued without delay and be sealed and bear date as of the day of the granting of the same: Provided, however, that no Letters Patent (save those issued in lieu of others destroyed or lost), shall be issued or be of any force or effect, unless the same be applied for previous to the expiry of the provisional or temporary protection hereinbefore provided: Provided also, that when the applicant for such Letters Patent dies during the continuance of the protection, provisional or temporary, as the case may be, such Letters Patent may be granted to the executors or administrators of such applicant during the continuance of such protection, or at any time within three months after the death of such applicant, notwithstanding the expiration of the term of such protection, and the Letters Patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such protection.

Proviso.

Proviso.

Form of Patents.

**33.** All Patents issuing from the said Bureau, shall be issued in the name of Her Majesty, and under the seal of said Patent Bureau, and shall be signed by the Governor and countersigned by the Commissioner, and shall be recorded together with the descriptions, specifications and drawings, in the said Bureau, in the register hereinbefore provided.

**34.** All such Letters Patent shall recite briefly the substance of the petition upon which they are granted, and shall contain a short description of the invention or discovery for which they are granted, referring for a fuller description thereof, and for more ample details to the specification and drawings thereof, thereunto to be annexed, and shall grant to the petitioner, his administrators, assigns and legal representatives for the period of fourteen years from the date thereof, the full and exclusive right and liberty of making, constructing, using and vending to others to be used, the said invention or discovery; and such Letters Patent shall be good and available to the grantee after they shall have been recorded as aforesaid, and shall, when so recorded, be delivered by the proper Officer to the Patentee or his order, and such Letters Patent shall extend to the whole of Canada.

Contents of Patents.

Term of years.

**35.** Every Patent shall be assignable in law, either as to the whole interest or any undivided part thereof, by an instrument in writing, which assignment shall be recorded in the Patent Bureau on payment of the fees hereinafter provided, in the Register of proprietors hereinbefore provided, within thirty days from the execution thereof; otherwise such assignment shall not be valid.

Assignment of Patent right.

**36.** Every Patent hereafter to be issued, may be made and issued to the assignee or assignees of the inventor or discoverer, or to both assignee or assignees and inventor or discoverer conjointly, the assignment thereof being first entered as aforesaid, and the application therefor being duly made by the said inventor.

Issue of Patent to assignee.

**37.** Every Patentee or his assignee may grant and convey an exclusive right under any Patent to make, use, and vend, and to grant to others to make, use, and vend the thing patented within and throughout this Province, or any part thereof, for the unexpired term thereof, or any part thereof; which exclusive grant and conveyance shall be called a license, and shall be recorded in the same manner and within the same delay as assignments of Patents.

Grant of right to use thing Patent.

**38.** Whenever any Patent, which has heretofore been granted, or which may hereafter be granted, shall be inoperative or invalid by reason of a defective or insufficient description or specification, or by reason of the Patentee claiming in his specification as his own invention, more than he had or shall have a right to claim as new, if the error has or shall have arisen by inadvertency, accident or mistake, without any fraudulent or deceptive intention, it shall be lawful for the Commissioner, upon the surrender to him of such Patent, and the payment of the further fee hereinafter provided, to cause a new Patent to be issued to the said inventor for the same invention, for the residue of the period then unexpired for which the original Patent was granted, in accordance with the Patentee's corrected description and specification; and in case of his death or any assignment by him made of the original Patent, a similar right shall vest in his executors, administrators or assigns, and the Patent so re-issued, together with the corrected descriptions and specifications, shall have the same effect and operation in law, on the trial of all actions thereafter commenced for causes subsequently accruing, as though the same had been originally filed in such corrected form before the issuing of the original Patent.

If a Patent be invalid by reasons of defective description, &c.

Surrender and new Patent.

**39.** Whenever a Patent shall be returned for correction and re-issue, and the Patentee shall claim several Patents to be issued for distinct

Separate Patents for parts

of the same thing. and separate parts of the thing patented, the same shall be applied for and be dealt with in the same manner as separate original Patents.

When the specification has by mistake been made too broad.

Disclaimer, its form and effect.

Right to the remainder of the invention.

Provido.

Patent returned for revision.

Additions to the original invention.

40. Whenever, by mistake, accident or inadvertence, and without any wilful default or intent to defraud or mislead the public, any Patentee shall have made his specification of claim too broad, claiming more than that of which he was the original or first inventor, some material and substantial part of the thing patented being truly and justly his own, or shall have, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the first and original inventor, and shall have no legal or just right to claim the same, in every such case the said Patentee, his executor, administrator, legal representative or assigns, whether of the whole or of a fractional interest thereof, may, on payment of the fee hereinafter provided, make disclaimer of such parts as he or they shall not claim to hold by virtue of the Patent or assignment thereof, stating in the said disclaimer the extent of his or their interest in such Patent; and such disclaimer shall be in writing, attested by a Justice of the Peace or Commissioner for taking affidavits, and recorded in the Office of the Commissioner of Patents, and shall be thereafter taken and considered as part of the original specification, to the extent of the interest possessed in the Patent or right secured thereby by the disclaimant, or by those claiming by or under him subsequent to the entry thereof; but such disclaimer shall not affect any action pending at the time of its entry, except so far as may relate to the question of unreasonable neglect or delay in filing the same; and the Patent shall be deemed good and valid for so much of the invention or discovery as shall be truly and *bona fide* his own, or not disclaimed, provided it shall be a material and substantial part of the thing patented, and be definitely distinguished from other parts so claimed without right as aforesaid; and such patentee, his executor, administrator, or legal representative and assigns, whether of the whole or a fractional interest as aforesaid, shall be entitled to maintain a suit at law, or in equity, on such Patent, for any infringement of so much of the invention or discovery as shall be *bona fide* his own as aforesaid; and in case of judgment on verdict in his favor, he shall not be entitled to recover costs against the defendant unless he shall have entered as aforesaid, in the Patent Bureau, the said disclaimer of all that part of the thing patented so claimed without right: Provided also, that no person bringing such suit shall be entitled to the benefits contained in this section, who shall have unreasonably neglected or delayed to enter in the said Bureau the disclaimer as aforesaid.

41. Whenever a Patent shall be returned for correction and re-issue, the specification annexed to every such Patent shall be subject to revision and examination in the same manner as original applications for Patents, and such re-issue shall not be allowed until the applicant shall have entered a disclaimer in accordance with the revision and restriction thereon.

42. And whenever the original Patentee shall be desirous of adding the description and specification of any new improvement of the original invention or discovery, which shall have been invented or discovered by him subsequent to the date of his Patent, he may, like proceedings being had in all respects as in the case of original applications, and on the payment of the fee hereinafter provided, have the same annexed to the ori-

ginal description and specification; and the Commissioner shall certify, on the margin of the annexed description and specification, the time of its being annexed and recorded; and the same shall thereafter have the same effect in law, to all intents and purposes, as though it had been embraced in the original description and specification: Provided, how- Proviso.  
 ever, that in every such application for an improvement, the Commissioner shall not add any such improvement to the Patent granted, until the applicant shall have altered his specification of claim in accordance with the decision of the Commissioner, *experts* or Board; and in all such cases, the applicant, if dissatisfied with such decision, shall have the same remedy, and be entitled to the benefit of the same privileges and proceedings, as are provided by law in the case of original applications for Patents: Provided always, that any person other than the ori- Proviso.  
 ginal inventor or his assigns, who shall have discovered an improvement in any thing which shall have been patented, and shall have obtained a Patent for such improvement, shall not be at liberty to make, use or vend the original invention, but the improvement only; and the first inventor shall not be at liberty to use the improvement: And it is Proviso.  
 hereby enacted and declared, that simply changing the form or proportion of any machine or composition in any degree shall not be deemed a discovery.

**43.** Nothing herein contained shall be construed to deprive an original and true inventor, of the right to a Patent for his invention by reason of his having previously taken out Letters Patent therefor in a foreign country, and of the same having been published at any time previous to the filing of his application in this Province as required by this Act. Right of inventor not affected by his having taken a Patent in a foreign country.

**44.** Every such application shall be subject to the provisions hereinbefore made respecting applications for Letters Patent, save that such Patents shall only be granted for the term of the unexpired foreign Patent. Subject to this Act.

**45.** Every person or corporation established in this Province, who has or shall have purchased, constructed, invented or discovered any new machine, manufacture or composition of matter prior to the application for a Patent therefor, by any other person claiming to be the inventor or discoverer thereof, shall be held to possess the right to use, and vend to others to be used, the specific machine, manufacture or composition of matter so made, purchased or introduced, without liability therefor to the Patentee or any other person interested in such invention; and no Patent shall be held to be invalid by reason of such purchase, sale or use prior to the application for such Patent as aforesaid, except on proof of abandonment of such invention to the public, or that the Patentee was aware of such purchase, sale or use at the time of or prior to the application for a Patent. Rights of persons purchasing machine, &c., before the Patent.

**46.** All Patentees and assignees of Patents hereafter to be granted, shall stamp, engrave, or cause to be stamped or engraved, on each article which will admit of stamping or engraving, and upon each wrapper or vessel containing articles which will not admit of stamping or engraving, vended or offered for sale, the name of each Patentee and the date of the Patent thereof; and any patentee or assignee neglecting to do shall be deemed to have committed a misdemeanor, and shall be liable therefor in the same penalties as are provided in the following section. Patented articles to be marked as such. Penalty for default.

Punishment  
of persons  
counterfeiting  
such marks.

47. If any person or persons shall write, paint, print, mould, cast, carve, engrave or stamp upon any thing made, used or sold by him, or upon any package or vessel containing the same, for the sole making or selling of which he hath not or shall not have obtained Letters Patent, the name or any imitation of the name of any Patentee for the sole making or vending of such thing, without the consent, in writing, of such Patentee, or of his assigns or legal representatives, or if any person, upon any such thing not purchased from the Patentee, or from his assigns or representatives, or from a vendee, under him or them, or not having his license or consent in writing, shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise make or affix the word or words "Patent," "Letters Patent," by the "Queen's Patent," "Patentee," or any word or words of like kind, meaning, or import, with a view or intent of imitating or counterfeiting any stamp, mark, or other device of like import, on any unpatented article, for the purpose of deceiving the public, he shall be deemed to have committed a misdemeanor, and shall be punished by fine, or by imprisonment in the Common Jail of the District or County in which the offender is brought to trial, or by both fine and imprisonment, at the discretion of the Court trying the same: Provided, however, that no such fine shall exceed the sum of \$200 in amount and no such imprisonment shall exceed six months in duration.

Proviso.

Proceedings  
for repeal of  
patents sur-  
reptitiously  
or fraudulent-  
ly obtained.

48. And whereas it is necessary that a similar and convenient remedy should be had for this Province in general, for the repeal of Letters Patent issued under the authority of any Acts in force previous to the passing of this Act, or issued under the authority of this Act, and fraudulently or surreptitiously obtained, issued improvidently, or upon false suggestion: therefore, from and after the passing of this Act, it shall and may be lawful for any person or persons desirous of impeaching such Letters Patent for any such cause as aforesaid, to obtain an exemplification under the seal of the Patent Bureau, of such Patent, and of the petition or application of the petitioner therefor, or Patentee thereof, or his assigns, executor, administrator, or legal representative as aforesaid, and of the drawings and specifications aforesaid, and to have the same filed in the office of the Prothonotary of the Superior Court for Lower Canada, or with the Clerk of any Superior Court of Law or Equity in Upper Canada, as the case may be, in which such repeal shall be sought, and thereupon the Letters Patent, the petition and application, drawings and specifications aforesaid, so exemplified, shall be considered and held by the said Court as remaining of record in the said Court, so that a writ of *scire facias*, under the seal of the said Court, may issue grounded upon the said record, for the purpose of repealing the same for legal cause as aforesaid; and if upon the proceedings which shall be had upon the said writ of *scire facias*, according to the law and practice of the Court of Queen's Bench in England, and under the provisions of this Act, the said Letters Patent so sought to be repealed shall be judged and declared void, a certificate of the said judgment shall, at the request of any person or party, be entered upon the margin of the enrolment of such Patent, in the office of the Commissioner of Patents, whereupon the said Patent shall be considered to be cancelled and made void from the entry thereof.

Patents to be  
void unless  
patented arti-  
cle, &c. man-  
ufactured in  
the Province  
within a cer-  
tain time.

49. All Letters Patent for Inventions granted under the provisions hereinbefore contained, shall be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the end of one year for Inventions patented by either Aliens or non-residents, and three years for Inventions paten-

red by resident British subjects, from the date thereof, unless the said Patentees shall have commenced and carried on the manufacture or cause to be manufactured within the Province, the articles so patented, in reasonable quantities: Provided, however, that the Board shall have Proviso.  
 5 power to extend such delay, on application to that effect being made to the said Board, and sufficient reasons shewn therefor, for a further term not exceeding six months: Provided also, however, that in case of any Patent issued under this act to an Alien or non-resident becoming the sole property of any resident British subject, it shall, after the entry  
 10 thereof as such in the Register of Proprietors, be dealt with in every respect as if it had been issued to a resident British subject.

50. If any person shall make, or manufacture for sale, any article or composition so invented, or shall make or manufacture, or make use of, or sell or cause to be put in use, any instrument or machinery so in-  
 15 vented or specified, the exclusive right of which shall, as aforesaid, have been secured to any person by Patent, without the consent of the Patentee, his assigns, or other lawful representatives, first obtained in writing, every person so infringing such Patent shall be liable to an action in damages for the same, and in every such action, the issue shall  
 20 be tried by a Jury, and if a verdict be rendered for the plaintiff in such action, it shall be in the power of the Court to render judgment for any sum above the amount found by such verdict as the actual damages sustained by the Plaintiff, according to the circumstances of the case; the party injured shall also recover treble costs, to be taxed according  
 25 to the course and practice of the Court in which the action shall have been brought, and such judgment shall be enforced and recovered in the same manner and by the same proceedings at law as are used and in practice in that part of this Province in which the action shall be brought, as to any other judgment for damages. Treble costs.

30 51. The defendant in any such action shall be permitted to plead the general issue, and to give this Act and any special matter in evidence, tending to prove—that the description and specification filed by the Plaintiff does not contain the whole truth relative to his invention or  
 35 discovery,—or that it contains more than is necessary to produce the desired effect, which concealment or addition shall fully appear to have been made for the purpose of deceiving the public—or that the Patentee was not the original and first inventor or discoverer of the thing patented—or of a substantial and material part thereof, claimed as new—or that it  
 40 has been described in some printed publication anterior to the supposed discovery thereof by the Patentee—or had been in public use, or on sale with the allowance of the Patentee before his application for a patent,—or that he had surreptitiously or unjustly obtained the Patent for that which  
 45 was in fact invented or discovered by another who was using reasonable diligence in adapting and perfecting the same—or that the Patentee, if an Alien or non-resident, had failed or neglected, for the space of one year, or if a resident British subject, for the space of three years, to commence and continue the manufacture of the article so patented  
 50 within the Province, according to the demand therefor—And whenever the Defendant relies in his defence on the fact of a previous invention, If a previous invention is relied on.  
 knowledge or use of the thing patented, he shall state in his notice of special matter, which notice is hereinafter provided, the names and places of residence of those whom he intends to prove to have possessed a prior knowledge of the thing, and where the same had been used, in  
 55 either of which cases judgment shall be rendered for the Defendant with costs: Provided, however, that whenever it shall satisfactorily appear Proviso: if

the Patentee honestly believed himself the inventor.

that the Patentee, at the time of making his application for the patent, believed himself to be the first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been before known or used, it not appearing that the same, or any 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 and claim is embraced more than that of which he was the first inventor, 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 just and equitable: Provided also, that in cases where the Patentee, having made his specification too broad, had filed a disclaimer in the Patent Bureau, of all that part of the thing patented which was so claimed without right, every such Patentee, his executors, administrators and assigns, whether of a whole or a fractional interest therein, shall be entitled to maintain a suit at law, or in equity, on such patent, for any infringement of such part of the invention or discovery as shall be *bona fide* his own as aforesaid, (notwithstanding the specification may embrace more than he shall have any legal right to claim.) as if the same had been originally filed in such corrected form before the issuing of the original Patent: Provided, however, that no person bringing any such suit shall be entitled to the benefits and provisions contained in this section who shall have unreasonably neglected or delayed to enter at the Patent Bureau a disclaimer as aforesaid: Provided always, and be it understood, that if at the trial in any such action it shall be made apparent, to the satisfaction of the Court, (the Defendant having specially pleaded the same), that the specification filed by the Patentee does not contain the whole truth relative to the invention or discovery to which it refers, or that it contains more than is necessary to produce the desired effect (such concealment or addition fully appearing to have been made for the purpose of deceiving the public), or that the thing thus secured by Patent was not originally discovered by the Patentee, or party claiming to be the Inventor or discoverer in the specification referred to in the Patent, but had been in use, or had been described in some printed publication, anterior to the supposed discovery of the Patentee, or that he had surreptitiously obtained a Patent for the invention or discovery of another person—in either of the said cases judgment shall be rendered for the Defendant, with costs, and the Patent shall be declared void, and in every such case he shall be deemed to have committed a misdemeanor, and shall be punished by fine, or by imprisonment in the Common Gaol for the District or County in which the offender is brought to trial, or by both fine and imprisonment, at the discretion of the Court trying the same: provided that the fine do not exceed \$200 in amount, and the imprisonment do not exceed nine months in duration.

If the specification embraced more than the Patentee intended.

If a disclaimer was filed.

Proviso.

If the specification does not contain the whole truth, &c.

Patent may be declared void, and Patentee liable to punishment.

Particulars of breaches, &c., to be delivered.

**52.** In any action for the infringement of Letters Patent as aforesaid, the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action, and the defendant in pleading thereto shall deliver with his pleas, and the prosecutor in any proceedings by *scire facias* to repeal Letters Patent, shall deliver with his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas to the said action or to the suggestions of the said declaration in the proceedings by *scire facias* respectively; and at the trial of such action or proceeding by *scire facias*, no evidence shall be given in support of any alleged infringement or of any objection impeaching



the validity of such Letters Patent, which shall not be contained in the particulars as aforesaid: Provided always, that the place or places at or in which, and in what manner the invention is alleged to have been used or published prior to the date of the Letters Patent shall be set forth in such particulars: Provided also, That it shall be lawful for any Judge in term or in vacation to allow such plaintiff or defendant or prosecutor respectively to amend the particulars delivered as aforesaid, upon such terms as to such Judge shall seem fit: Provided also, that at the trial of any proceeding by *scire facias* to repeal Letters Patent, the defendant shall be entitled to begin and to give evidence in support of such Letters Patent, and in case evidence shall be adduced on the part of the prosecutor impeaching the validity of such Letters Patent, the defendant shall be entitled to the reply.

Proviso.

Proviso.

Proviso.

**53.** In any action for the infringement of Letters Patent, it shall be lawful for the Court in which such action is pending, if the Court be then sitting, or if the Court be not sitting, then for a Judge of such Court in chambers, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such Court or Judge may seem fit: Provided, however, that from all judgments and decrees of any such Court or Judge rendered in the premises, a writ of error or appeal, as the case may be, shall lie to the Court of Queen's Bench in Lower Canada, and to the Court of Error and Appeal in Upper Canada, in the same manner and under the same circumstances as is now provided by law in other judgments and decrees of such Court or Judge, and in all other cases in which the Court shall deem it reasonable to allow the same.

Certain orders may be made by the Judge.

Proviso for appeals.

**54.** Whenever there shall be two interfering Patents, or whenever a Patent or application for Patent shall have been refused on an adverse decision of the Patent Board, any person interested in any such Patent, either by assignment or otherwise in the one case, and any such applicant in the other case, may have remedy by bill of equity, if he reside in Upper Canada, or by a petition to the Superior Court in term, or any Judge thereof in vacation if he reside in Lower Canada, which bill of equity or petition shall contain all the reasons of appeal, and the Court or Judge having cognizance thereof, on proof of due notice having been given to all parties interested therein, (which notice shall be with the same delay as in other actions,) and other proceedings had, may adjudge and declare either of the Patents void in whole or in part, according to the interest which the parties to such suit may possess in the Patent or inventions patented; and may also adjudge that such applicant is entitled, according to the principles and provisions of this Act, to have and receive a Patent for his invention, as specified in his claim, or for any part thereof, as the fact of priority of right or invention shall, in any case, be made to appear; and such adjudication, if it be in favor of the right of such applicant, shall authorise the Commissioner to issue such Patent, on such applicant's filing a copy of the adjudication, and otherwise complying with the requisition of this Act; Provided however, that no such judgment or adjudication shall affect the rights of any person, except the parties to the action, and those deriving title from or under them subsequent to the rendition of such judgment; And provided further, that in all cases where there is no opposing party, a copy of the bill or petition as aforesaid, with a sufficient notice of the day on which the same shall be filed or presented, shall be served upon the Commissioner of Patents.

Remedy or appeal in case of interfering Patents, or applications for Patent.

Proviso.

Proviso.

Security to  
be given.

Proviso.

**55.** In all such appeals the opposing party shall be held to give good and valid security for the payment of the costs and expenses of the proceedings; provided that in cases where there is no opposing party, and the notice required by the preceding section has been duly served upon the Commissioner, the whole of such expenses shall be borne and paid 5 by the applicant or his surety whether the final decision shall be in favor or otherwise.

Commissioner  
to lay original  
papers, &c.,  
before the  
Court.

Decision.  
Proviso.

**56.** In every such appeal, the Commissioner shall lay before the said Court or Judge all the original papers and evidence in the case, together with the grounds of the decision of the Board, fully set forth 10 in writing, touching all the points involved by the reasons of appeal, to which the revision shall be confined; and at the request of any party interested, or at the desire of the Court or Judge, the Commissioner and the experts, if any, as hereinbefore provided, may be examined under oath, in explanation of the principles of the machine, or other thing for 15 which a Patent in such case is prayed for; and it shall be the duty of such Court or Judge, after the hearing of any such case, to return all the papers to the Commissioner, with a certificate of its or his proceedings and decision, which shall be entered of record in the Patent Bureau; and such decision, so certified, shall govern the further proceedings of 20 the Commissioner in such case: Provided however, that no opinion or decision of the Court or Judge in any such case, shall preclude any person interested in favor of or against the validity of any Patent which has been or may be hereafter granted, from the right to contest the same in any Court, in any action in which its validity may come in question. 25

Proceedings  
when the Pa-  
tentee desires  
and extension  
of his term.

Notice.

**57.** Whenever any Patentee shall desire an extension of his Patent beyond the term of its limitation, he may apply therefor by petition, in writing, to the Governor as aforesaid, setting forth the grounds thereof; and the Commissioner shall on receipt of the sum hereinafter provided, order the publication of a notice of such application, by the 30 Patentee, as follows, viz.: in *The Canada Gazette*, and in two other newspapers published respectively in the English and French languages if the Patentee reside in Lower Canada, and in one newspaper if he reside in Upper Canada, in that section of the Province in which he shall at the time of such application reside, and of the time and place 35 when and where the same will be considered, that any person may appear and show cause why the application for an extension should not be granted; and the Patent Board hereinbefore provided shall hear and decide upon the said application and objection thereto, if such there be, who shall sit for that purpose, at the time designated in the published 40 notice thereof, as hereinbefore provided; and the said Patentee shall furnish to the said Board a statement, in writing, under oath, of the ascertained value of the invention, and of his receipts and expenditure, sufficiently in detail to exhibit a true and faithful account of loss and profit in any manner accruing to him from and by reason of the said invention, and if 45 upon a hearing of the matter it shall appear to the Board, having due regard to the public interest therein, that the said term should be extended, by reason of the Patentee, without fault on his part, having failed to attain from the use and sale of his invention a reasonable remuneration for the time, ingenuity and expense bestowed thereon, and 50 the introduction thereof into use, it shall be the duty of the Board to renew and extend the Patent by making a certificate thereon of such extension; and the said extension shall be for a term not exceeding seven

Statement on  
oath by Pa-  
tentee.

Term of ex-  
tension.

years from and after the expiration of the first term, according to the opinion of the said Board; which certificate as aforesaid, shall be 55

entered on record in the Patent Bureau ; and thereupon the said Patent shall have the same effect in law as though it had been originally granted for the term of twenty-one years, or under, as the case may be : Provided always, that no such application for extension shall be entertained, unless notice thereof be given at least six months previous to the expiration of the term for which it was originally granted ; and provided further, that such new Letters Patent shall be sealed and bear date as of the day after the expiration of the term of the original Letters Patent which may first expire. Proviso. Proviso.

10 **58.** And such inventor may assign or dispose of such extended right in the same manner and subject to the same provisions as are here- Assignment of extended right.  
inbefore provided in cases of ordinary Patents.

**59.** The importation into this Province of articles patented under and by virtue of this Act, after the manufacture thereof has been begun Importation of patented articles to be illegal.  
15 and carried on as is herein before provided, is hereby declared illegal, and any person who shall import into this Province, any invention protected by Patent, granted under this Act, shall be liable to the same punishment as is hereinbefore provided for counterfeiting any article so protected by Letters Patent, and all such articles so imported shall, in Forfeiture.  
20 addition to the penalties hereinbefore imposed, be seized and sold, and one half of the proceeds thereof shall be paid to the informant, and the other half to the Crown.

**60]** Nothing herein contained, however, shall extend to prevent Exception as to use by foreign ves- sels.  
25 in any port of this Province, or in any of the waters within the jurisdiction of any of the Courts of this Province, where such invention is not so used for the manufacture of any goods or commodities to be vended within or exported from this Province.

**61.** If any person shall forge or alter, or shall in any way pub- Punishment for forging Letters Pa- tent, &c.  
30 lish, put off or utter as true, knowing the same to be forged or altered, any copy of Letters Patent, or of the enrolment or enregistrement of Letters Patent, or of any certificate thereof, now or hereafter to be made or given, or purporting to be or to have been made or given, by virtue of any statute of Upper Canada or of Lower Canada, or of this Province, Punishment for forging Letters Patent, &c.  
35 every such offender shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court to be kept confined at hard labour in the Provincial Penitentiary for any term not less than three years, nor more than seven years, or to be imprisoned in any Com- mon Goal for any term not more than two years.

40 **62.** And the said Commissioner shall revise and examine all the un- Duty of Com- missioner as to Patents under former Acts.  
expired Patents granted previous to the passing of this Act, and shall notify the holders of all such Patents of all interfering applications, to be dealt with in every respect as though such Patents had been applied for under this Act ; and he shall inform the owners of such Patents of Duty of Com- missioner as to Patents under former Acts.  
45 all inventions made public abroad previous to the date thereof, tending to invalidate such Patent, so soon as he shall ascertain the same.

**63.** There shall be provided for the use of the Patent Bureau, a li- Library for Patent Bu- reau.  
brary of scientific works and periodical publications, both British and Foreign, calculated to facilitate the discharge of the duties hereby re- Library for Patent Bu- reau.  
50 quired of the chief officers therein, to be purchased under the direction of the Patent Board, out of such money as Parliament may hereafter, from time to time, provide for that purpose.

Gallery of  
models, &c.

**64.** It shall be the duty of the Commissioner to cause to be classified and arranged, in such rooms or galleries as may be provided for that purpose, in suitable cases, when necessary for their preservation, and in such manner as shall be conducive to a beneficial and favorable display thereof, the models and specimens of compositions and fabrics, and other manufactures and works of art, patented and unpatented, which have been or shall hereafter be deposited in the said Bureau; and the said rooms and galleries shall be kept open during suitable hours for public inspection. 5

Printing and  
distribution  
of specifica-  
tions, &c.

**65.** The Patent Board shall cause to be printed, published, sold and distributed, at such prices and in such manner as they may think fit, all specifications, disclaimers, and memoranda of alterations deposited or filed under this Act, and such specifications (not being provisional specifications) disclaimers and memoranda respectively, shall be so printed and published as soon as conveniently may be after the filing thereof respectively, and all such provisional specifications shall be so printed and published as soon as conveniently may be after the expiration of the provisional protection obtained in respect thereof; and it shall be lawful for the Board or the Commissioner to present copies of all such publications to such public libraries and museums as they or he may think fit, and to allow the person depositing or filing any such specification, disclaimer, or memorandum of alteration to have such number, not exceeding twenty-five, of the copies thereof so published, without any payment for the same as they or he may think fit. 10 15 20

Presentation  
copies.

Indexes to  
specifications,  
&c., to be  
kept.

**66.** The Commissioner shall cause Indices to all specifications, disclaimers and memoranda of alterations hereinbefore or hereafter enrolled as aforesaid, to be prepared in such form as he may think fit, and such Indices shall be open to the inspection of the public at such place or places as the Commissioner shall appoint, and copies thereof shall be lodged with the Boards of Arts and Manufactures for both sections of the Province, and subject to the Regulations to be made by the Commissioner; and the Commissioner may cause all or any of such Indices to specifications, disclaimers, and memoranda of alterations to be printed, published, and disposed of in such manner and at such prices as he may think fit. 25 30 35

May be  
printed.

Copies of  
specifications,  
&c., to be  
kept open to  
the public,  
and where.

**67.** The Commissioner shall cause true copies of all specifications (other than provisional specifications), disclaimers, and memoranda of alterations filed under or in pursuance of this or any other Act, and of all provisional specifications after the term of the provisional protection of the Invention has expired, to be open to the inspection of the public at the Patent Bureau, and at the offices of the Boards of Arts and Manufactures of this Province respectively, at all reasonable times, subject to such regulations as the Commissioner may direct; and the Commissioner shall cause a copy of the said Letters Patent to be deposited at the said offices for the purposes aforesaid, with the least possible delay. 40 45

Salaries of  
clerks &c.

**68.** The Governor in Council may allow such salaries and payments to any clerks and officers to be appointed under this Act, and such additional salaries and payments to any other clerks and officers in respect of any additional duties imposed on them by this Act, as the Patent Board may recommend. 50

Payment of  
salaries, fees,  
&c.

**69.** The said Governor in Council may allow from time to time the necessary sums for providing offices under this Act, and for the fees, 55

salaries, and payments allowed as aforesaid, and for defraying the current and incidental expenses of such office or offices; and the sums to be so allowed shall be paid out of such monies as may be provided by Parliament for that purpose: and the Commissioner is hereby authorized to draw upon such moneys, from time to time, for such sums as shall be necessary to carry into effect the provisions of this Act, governed, however, by the several limitations herein contained: And it shall be his duty to lay before both Houses of Parliament, in the month of January annually, if Parliament be then sitting, or if Parliament be not then sitting, then within fourteen days after the next meeting of Parliament, a detailed statement of all salaries, fees, allowances, sums and compensations to be appointed, allowed or granted under this Act; and it shall also be his duty to lay before Parliament at the same time, a list of all applications for Protection, Patents, Copyrights and Trade marks which shall have been granted or registered during the preceding year, designating under proper heads the subjects of such protections, patents and copyrights, and furnishing an alphabetical list of all the applicants so protected, and Patentees, and parties who have registered Designs or Trade marks, with their places of residence: and he shall also furnish at the same time a list of all Patents and copyrights which will expire before the next meeting of Parliament, as well as a list of all Patents and copyrights which shall have become public property during the period elapsed since his previous report, together with such other information of the state and condition of the Patent Bureau as may be useful to Parliament or to the public.

Returns to Parliament.

What it must contain.

70. The several forms in the schedule to this Act may be used for and in respect of the several matters therein mentioned, and the Commissioner may, when he thinks fit, vary such forms as occasion may require, and cause to be printed and circulated such other forms as he may think fit to be used for the purposes of this Act.

Forms in schedule may be used.

71. All applications for Patents, pending at the time of the passing of this Act, shall be proceeded with and acted on in the same manner as though filed after the passing hereof.

Pending applications.

72. And with regard to any new and original design, whether such design be applicable to the ornamenting of any article of manufacture, or of any substance, artificial or natural, or partly artificial and partly natural, and that whether such design be so applicable for the pattern, or for the shape, or for the configuration, or for the ornament thereof, or for any two or more such purposes, and by whatever means such design may be so applicable, whether by printing or by painting, or by embroidery, or by weaving, or by sewing, or by modelling, or by casting, or by embossing, or by engraving, or by staining, or by any other means whatsoever, manual, mechanical, or chemical, separate or combined: Be it enacted, that the proprietor of every such design, not previously published or made known, shall have the sole right to apply the same to any article of manufacture, or to any such substances as aforesaid, after having duly registered such design on the conditions hereinafter set forth, provided that such right thus granted shall only exist during the respective terms hereinafter mentioned, to be computed from the time of registration; and every such registration shall be termed a "Copyright."

Copyright for designs of certain kinds.

73. In respect of the application of any such design to ornamenting any article of manufacture contained in the first, second, third,

Duration of copyright.

fourth, sixth, eighth, eleventh or thirteenth of the classes following, the copyright shall continue for the term of seven years :

In respect of the application of any such design to ornamenting any article of manufacture contained in the fifth, seventh, ninth, tenth, twelfth or fourteenth of the classes following, the copyright shall 5 continue for the term of three years :

- CLASS I. Articles of manufacture wholly or chiefly composed of metals or of mixed metals.
- “ II. Articles of manufacture wholly or chiefly composed of wood; or to the ornamenting of ivory, bone, papier 10 maché, and other solid substances not enumerated.
- “ III. Articles of manufacture wholly or chiefly composed of glass.
- “ IV. Articles of manufacture wholly or chiefly composed of earthenware. 15
- “ V. Paperhangings.
- “ VI. Carpets, Floor or Oilcloths.
- “ VII. Shawls, if solely by printing or colors upon tissue or textile fabrics.
- “ VIII. Shawls others than those in class VII. 20
- “ IX. Yarn, Thread or Warp, if the design be applied by printing or other process by which colors are or may be hereafter produced.
- “ X. Woven fabrics, composed of Linen, Cotton, Wool, Silk, or Hair, or of any two or more such materials, if such design 25 be by printing, or by any other process by which colors are or may be hereafter produced upon tissue or textile fabrics, excepting articles included in class XI.
- “ XI. Woven fabrics, composed of Linen, Cotton, Wool, Silk or Hair, or of any two or more such materials, if such design 30 be by printing, or by any other process by which colors are or may be hereafter produced upon tissue or textile fabrics, such woven fabrics being or coming within the description called “furnitures,” and the repeat of the design whereof shall be more than 12 x 8 inches. 35
- “ XII. Woven fabrics not included in any preceding class.
- “ XIII. Lace, and any article of manufacture or substance not comprised in any preceding class.
- “ XIV. Articles of manufacture having reference to some purpose of utility, so far as such design shall be for the shape 40 or configuration of such article, and whether it be for the whole or part of the shape or configuration thereof.

- 74.** Every design to be protected must be registered before publication, and, at the time of the registration, applied to some article in the above mentioned classes, by specifying the number of the class. The name of the person registering must be registered as the proprietor of the design; and after publication, the name of the proprietor shall appear upon the article to which his design applies: if the manufacture be a woven fabric, by printing upon one end; if another substance, at the edge, or upon any convenient parts, the letters R<sup>d</sup> with the number or letter, or number and letter, corresponding with the date of the registration. The mark may be put upon the manufacture by making it on the material itself, or by attaching thereto a label containing the proper marks.
- 75.** The author of the design shall be considered the proprietor thereof, unless he has executed the design for another person, for a good or valuable consideration, then such other person shall be considered the proprietor, and shall alone be entitled to register it; but his right to the property shall only be co-extensive with the right which he may have acquired; for, it may be, he has not the exclusive right, but a right of application in conjunction with another person.
- 76.** The Commissioner of Patents shall keep at the Patent Bureau, a book or books to be called the "Register of Designs," and another or others to be called the "Register of Proprietors," to be kept in a manner similar to those provided for the "Register of Patents," and the "Register of Proprietors," in sections 10 and 11 of this Act.
- 77.** Every design shall be assignable in the same manner as Letters Patent of Invention, and subject to the same conditions.
- 78.** During the existence of the right, (whether it be of the entire or partial use of such design) no person shall, without the license in writing of the registered proprietor, apply such design, or a fraudulent imitation thereof, to the ornamenting of any article of manufacture, &c., for the purposes of sale, or publish, sell, or expose for sale or use any article of manufacture, &c., to which such design, or fraudulent imitation thereof, shall have been applied, under penalty of a sum of not less than twenty dollars, and not exceeding one hundred and twenty dollars to the proprietor of the design, and costs. The penalty may be recovered as follows:—
- By a summary proceeding before two justices having jurisdiction in the district or county wherein the offender resides, or by an action of debt.
- Any Justice or Superintendent of Police acting for the county, district, city or town wherein the offender resides, may act, but he must not be concerned in the sale or manufacture of the article, or in the property of the design. Every offender shall be summoned to answer the *demande* or complaint by a summons appointing a time and place; which time must not be less than one clear day from the date of the summons, and service thereof shall be made on the person, or at the residence of the offender, and one clear day additional shall be allowed for every fifteen miles additional from the place of trial.
- 79.** Whether the party appear or make default, two justices, as above, may hear the complaint, and on proof by the confession of the offender,

Design must be registered before publication and now.

Registered design to be marked.

Who shall own the copy right.

Registers to be kept.

Assignment of copyright.

Penalty for infringing copyright.

How recovered.

Mode of proceeding for penalty.

Conviction of offender.

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. 10 15

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. 20 25

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. 30 35

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. 40 45

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. 50



- 85.** The Commissioner of Patents shall not register any designs unless he is furnished, in respect of each application, with duplicate drawings of such design, accompanied with the name of the person who shall claim as proprietor, with his place of abode, or place of carrying on business, or other place of address, and the number and class in respect of which the registration is made; he must register all such drawings in the order in which they are received, and on every such drawing affix a number corresponding to such succession. He shall retain and file one drawing, and return the other to him from whom he received it; he shall also class such drawings, and keep an index of them. The size of the sheet on which such drawings shall be made shall not exceed 24 inches by 12 inches; blank space 6 inches by 4 inches, for the Commissioner's certificate: the print or drawings to be on a proper geometric scale, and the parts of the design which are not new shall be set forth.
- 86.** On the copy returned to the person registering, the Commissioner shall certify under the seal of the Patent Bureau that the design has been registered, the date of registration, the name of the registered proprietor, his address, the number of such design, and the number or letter employed to denote or correspond with the registration, which said certificate, in the absence of proof to the contrary, shall be sufficient proof of the design, of the name of the proprietor, of the registration, of the commencement and period of registry of the person named as proprietor being proprietor, of the originality of the design, and of compliance with the provisions of the act; and the writing shall be received as evidence without proof of the signature of the Commissioner, or of the seal of the Bureau.
- 87.** Copies of the index of the titles of the designs and copies of expired copyrights, shall be forwarded with the least possible delay from time to time to the Boards of Arts and Manufactures of the Province respectively.
- 88.** Any person may, on payment of the appointed fee, inspect any design whereof the copyright shall have expired, but no inspection of any unexpired copyright shall be allowed unless by the proprietor of the design. The Commissioner shall, however, on receipt of the fee hereinafter provided, give a certificate to any person producing a design having thereon the registration mark, or producing the registration mark only, stating in such certificate whether any copyright of such design exists, to what particular manufacture such copyright applies, the term of the copyright, the date of the registration, and the name and address of the registered proprietor.
- 89.** The Commissioner shall have power to refuse to register such designs as do not appear to him to be within the provisions of this Act, as of a thing not intended to be applied to an article of manufacture, but only as a wrapper, label or covering, in which an article might be exposed for sale, or when the design is contrary to public morality or order, subject however to the same appeal as is provided for decisions on applications for Patents of Inventions.
- 90.** The Commissioner shall, from time to time, cause to be published in the *Canada Gazette* the titles of the designs registered, and the names and places of abode of the registered proprietors.

Conditions previous to registration.

Drawings, &c., in duplicate.

Certificate on duplicate: return to owner.

Copies of index, &c., to Board of Arts.

Inspection of designs registered.

Commissioner may refuse to register designs not within this Act.

Titles of designs, &c., to be published.

## TRADE MARKS.

What shall be deemed Trade Marks.

**91.** And whereas it is expedient to make provision for the better ascertaining and determining the right of manufacturers or others to enjoy the exclusive use, within this Province, of trade marks claimed by them: Therefore, for the purposes of this Act, all marks, names, brands, labels, packages or other business devices, which may be adopted for use by any person in his trade, business, occupation or calling, for the purpose of distinguishing any manufacture, product or article of any description by him manufactured, produced, compounded, packed or offered for sale, no matter how applied, whether to such manufacture, product or article, or to any package, parcel, case, box or other vessel or receptacle of any description whatever containing the same, shall be considered and known as Trade Marks, and may be registered for the exclusive use of the party registering the same in the manner hereinafter provided; and thereafter he shall have the exclusive right to use the same, to designate articles manufactured or sold by him.

Register of Trade Marks.

**92.** The Commissioner of Patents shall keep, at the said Bureau, a book or books, to be denominated the "Trade Marks Register," in which all proprietors of trade marks may cause the same to be registered, by depositing with the said Commissioner a drawing and description in duplicate of such trade mark, together with a declaration that such drawing and description correctly represent the same, and that such trade mark is not in use, to his knowledge, by any other person than himself at the time of his adoption thereof, on application for registration: Provided however that if such trade mark will not admit of a drawing, the Commissioner is hereby authorized to dispense therewith; and the declaration of the applicant shall be varied accordingly: And the said Commissioner on receipt of the fee hereinafter provided, shall examine the said trade mark to ascertain whether it resembles any other trade mark already registered; and if he find that such trade mark is not identical with or does not so closely resemble as to be confounded with any other trade mark already registered, he shall register the same, and shall return to the proprietor thereof one copy of the drawing and description, with his certificate thereto, that the said trade mark has been duly registered in accordance with the provisions of this Act; And he shall further state in such certificate the day, month and year of the entry thereof in the said Trade Marks Register; and every such certificate shall be received in all Courts of Law or Equity in Canada as evidence of the facts therein alleged, without proof of the signature of the said Commissioner or of the seal of the Bureau.

Provide: as to drawings.

Examination of Trade Mark offered.

Certificate, its form and effect.

Interfering claims to a Trade Mark.

**93.** If any person shall make application to register, as his own, any trade mark which has been already registered, the Commissioner shall notify all parties interested therein to appear, in person or by Attorney, before him with their witnesses, for the purpose of establishing which is the rightful owner of the trade mark, and after having heard the parties and their witnesses, he shall order such entry or cancellation, or both, to be made as he shall deem just.

Penalty on persons illegally using any Trade Mark.

**94.** If any person, other than the party who has registered the same, shall mark any goods or any articles of any description whatever with any trade mark registered under the provisions of this Act, or with any part of such trade mark, whether by applying such trade mark or any part thereof to the article itself or to any package or thing containing such article, or by using any package or thing so marked which has

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.

**Limitation of suits.** **101.** No action, suit or complaint shall be brought against any person for the recovery of any penalty provided for by the sections of this Act respecting designs and trade marks, unless brought within twelve months after the commission of the act complained of.

**Fees not to be refunded, &c.** **102.** No money paid as a fee under any of the provisions of this Act, shall be withdrawn or refunded, nor shall any fee paid on any preliminary proceeding be considered as part of the sum required to be paid on filing a complete application for Letters Patent. 5

**Fees under this Act:** **103.** The following fees shall be payable by every applicant for protection or for Letters Patent, or to register a design or trade mark, that is to say: 10

On each application for provisional protection.....	\$ 5,00	
On each " " temporary " .....	20,00	
On each complete do. for Letters Patent.....	20,00	
On the issue of Letters Patent.....	10,00	15
On every appeal, in addition to security for costs.....	5,00	
On every application for a re-issue.....	10,00	
On filing each disclaimer.....	5,00	
On every application to add an improvement to Letters Patent already issued.....	10,00	20
On every application for an extension of a Patent.....	20,00	
On the issue of such extension.....	20,00	
On every application to register a design or trade mark, including certificate.....	5,00	
On each inspection of any design or trade mark.....	50	25
For each certificate of registration not already provided for	1,00	
For each certified copy of any document or extract from the Registers, per hundred words.....	7	
For each copy of any drawing,—the reasonable expenses of preparing the same.		30
For recording any assignment or other writing of three hundred words or under.....	1,00	
For recording any assignment or other writing above three hundred words, but not exceeding one thousand words	1,50	
For recording any assignment or other writing above one thousand words.....	2,50	35

All of which fees shall be paid over by the person receiving the same to the Receiver General of this Province.

**Act not to be construed as declaratory on certain points.** **104.** Nothing herein contained shall be construed as a declaration that any Act hereby made a misdemeanor, was or was not a misdemeanor before its passing, or that any such suit as aforesaid could or could not heretofore be maintained in either section of the Province; nor shall anything herein prevent any offence being dealt with as forgery, or as a fraud or other offence, if without this act it could be so dealt with. 40

**Interpretation clause.** **105.** In the construction of this Act, the following expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context; that is to say: 45

The expression ["the Governor," shall mean the Governor General or Administrator of the Government of this Province for the time being. 50

The expression "the President of the Council," shall mean the President of the Committees of the Executive Council for the time being.

The expression "the Commissioner," shall mean the Commissioner for the time being, acting in execution of this Act.

5 The expression "the Patent Board," shall mean a quorum of the Board, acting in execution of this Act.

The expression "Law Officer," shall refer to and mean Her Majesty's Attorney General or Solicitor General for either section of this Province.

10 The term "discovery," shall mean the finding out an industrial process that may have been used in former times, but which has since been lost sight of, and remained unknown for at least fifty years.

The term "invention," shall mean the producing a new object by new means, or a new object by means known before, or a known object by 15 means different from those used hitherto for the same object.

The term "improvement," or "alteration," is applied to every apparatus, arrangement or process added to an object known or patented before, and purporting to attain a better result, or a greater saving in the end of the object, or the manner of its manufacture.

20 The term "new," is applied to and shall mean any discovery, invention or improvement that, up to the time of the application for a Patent, has neither been worked nor become known through publication.

The expressions "petition," "declaration," "provisional specification;" "complete specification," "certificate," "disclaimer," and "Letters Patent," respectively, shall mean instruments in the form and to the effect in the schedule hereto annexed, subject to such alterations as may from time to time be made therein under the powers and provisions of this Act.

30 The expression "resident," shall mean permanently settled, or domiciled in any part of the Province of Canada; and the expression "non-resident," shall apply to and mean all persons whether subjects of Great Britain or otherwise, who are not actually and permanently residing in the Province of Canada.

35 The expression "foreign country," shall include any country not under the British dominion and subject to the crown thereof; and the singular number shall include the plural as well as the singular number; and the masculine gender shall include the feminine gender as well as the masculine gender.

40 **106.** In citing this Act in other Acts of Parliament, instruments and Short title. proceedings, it shall be sufficient to use the expression "the Patent Law Act, 1862."

**107.** This Act shall commence and take effect from the First day of Commence-  
July, 1862. ment.

45 **108.** This Act may be amended by any Act to be passed in the pre- Amendment. sent Session of Parliament.