

*The Provincial Statutes of Lower-Canada, Being the second session of the fifteenth Provincial Parliament of Lower-Canada.* Quebec: John Carleton Fisher & William Kemble, Law Printer to the King's Most Excellent Majesty, 1836.

6 William IV – Chapter 34

**An Act to repeal certain Acts therein mentioned, and to consolidate the provisions therein made for the encouragement of useful Arts in this Province. (21st March, 1836.)**

Whereas it is expedient for the encouragement of Genius and of Arts in this Province, to secure an exclusive right to the inventor or first introducer of any new and useful art, machine, manufacture and composition, and to consolidate the divers Acts passed by the Provincial Legislature for that purpose: Be it therefore enacted by King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' And to make further provision for the Government of the said Province;" and it is hereby enacted by the authority of the same, that a certain Act passed in the first year of His Majesty's Reign, chapter twenty-four, intituled, "An Act for the encouragement of the useful Arts in this Province," and a certain other Act passed in the ninth year of His late Majesty's Reign, Chapter forty-seven, intituled, "An Act to revise and amend an Act for the promotion of useful Arts in this Province," and a certain other Act passed in the fourth year, of His said late Majesty's Reign, Chapter twenty-five, intituled, "An Act to promote the progress of useful Arts in this Province," shall be and the said Acts are and each of them is hereby repealed: Provided always, that any Patent heretofore issued under the said Acts, or any of them, shall have the same force and effect as if the said Acts were not so repealed.

II. And be it further enacted by the authority aforesaid, that when any subject of His Majesty, being an inhabitant of this Province, shall allege that he has invented any new or useful art, machine, manufacture, or composition of matter, not known or used before his application, and shall present a Petition to the Governor, Lieutenant Governor, or Person administering the Government of the Province for the time being, signifying the desire of obtaining an exclusive property in the same, and praying that a Patent may be granted therefor, it shall and may be lawful to the Governor Lieutenant Governor, or person administering the Government of this Province for the time being, to cause Letters Patent of His Majesty to be made out, bearing test by the Governor, Lieutenant Governor, or person administering the Government of this Province for the time being, containing a summary of the said Petition, and giving a short description of the said invention or discovery, and therefor granting to the Petitioner or Petitioners, his or their heirs or assigns, or their legal representatives, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing, using and vending to others to be used the said invention or

discovery; which Letters Patent shall be delivered to His Majesty's Attorney, (or in his absence, to His Majesty's Solicitor) General, in this Province, to be examined, who shall, within fifteen days of such delivery, if he find the same conformable to this Act, certify accordingly at the foot thereof, and return the same to the Secretary of the Province, who or whose Deputy, or person appointed to do the duty of that office, shall present the Letters Patent thus certified, to the Governor, Lieutenant Governor, or person administering the Government of the Province for the time being, to be signed, and shall cause the Great Seal of the Province to be thereunto affixed, and the same shall be good and available to the Grantee or Grantees by force of this Act, and shall be recorded in a book to be kept for that purpose in the office of the said Secretary of the Province, and delivered to the Patentee or his order.

III. Provided always, and be it further enacted by the authority aforesaid, that any person who shall have discovered an improvement in the principle of any machine or composition of matter, 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 discovery, but the improvement only; nor shall the first inventor be at liberty to use the improvement. And it is hereby enacted and declared, that simply changing the form or the proportion of any machine or composition in any degree, shall not be deemed a discovery.

IV. And be it further enacted by the authority aforesaid, that every inventor before he can receive a patent, shall swear, (or being a Quaker shall affirm,) that he does verily believe that he is the true inventor or discoverer of the art, machine, or improvement for which he solicits a Patent, (which oath or affirmation may be made before any Justice of the Peace,) and shall deliver a written description of his invention or improvement, and of the manner or process of compounding the same, in such full, clear, and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science of which it is a branch, or with which it is most clearly connected, to make, compound and use the same; and in the case of any machine, he shall fully explain the principle and the several modes in which he has contemplated the application of that principle or character by which it may be distinguished from other inventions; and he shall accompany the whole with drawings and written references where the nature of the case admits of drawings, or with specimens of the ingredients, or of the composition of matter, sufficient in quantity for the purpose of experiment; which description, signed by himself, and attested by two witnesses, shall be filed in the office of the Secretary of the Province, and certified copies thereof shall be competent evidence in all Courts where any matter or thing touching Patent right, shall come in question: such inventor shall moreover deliver a model of the machine by him invented, provided the Secretary shall deem such model to be necessary.

V. And be it further enacted by the authority aforesaid, that it shall be lawful for any inventor, his heirs or other lawful representatives, to assign the title and interest in the said invention at anytime; and the assignee, having recorded the said assignment in the office of

the said Secretary of the Province, shall thereafter, stand in the place of the first inventor, as well with regard to his rights as to his responsibility, and so the assignee or assigns to any degree.

VI. And be it further enacted by the authority aforesaid, that if any person shall make or manufacture for sale, any article or composition so invented, or shall make or manufacture, or make use of any instrument or machinery so invented 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 heirs and assigns, or other lawful representatives, first obtained in writing, every person so offending, shall forfeit and pay to the Patentee, his heirs or assigns, or lawful representatives, a sum that shall be at least equal to three times the price for which the Patentee, his heirs or assigns or lawful representatives, have usually sold or licenced, or might have sold or licenced to other persons the use of the said invention, which may be recovered in an action in any Court of competent jurisdiction.

VII. Provided always, and be it further enacted by the authority aforesaid, 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 Plaintiff does not contain the whole truth, relative to his discovery, 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, but had been in use, or had been described in some public work anterior to the supposed discovery of the Patentee, or that he had surreptitiously obtained a Patent for the 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.

VIII. And be it further enacted by the authority aforesaid, that in case of interfering applications, the same shall be submitted to the arbitration of three persons, one of whom shall be chosen by each of the applicants, and the third person shall be chosen by the said Secretary of the Province, or by his Deputy, or person appointed to do the duty of that office; and the decision or award of such Arbitrators, delivered to the Secretary in writing, and subscribed by them, or any two of them, shall be final, as far as respects the granting of the Patent: and if either of the applicants shall refuse, or fail to chose an Arbitrator, the Patent shall issue to the opposite party; and when there shall be more than two interfering applications, and the parties applying shall not all unite in appointing three Arbitrators, it shall be in the power of the said Secretary of the Province, or his Deputy, or person appointed to do the duty of that office, to appoint three Arbitrators for the purposes aforesaid.

IX. And be it further enacted by the authority aforesaid, that upon oath or affirmation being made before any Judge of the Court of King's Bench of the District where the Patentee, his heirs and assigns, or other legal representatives reside, that any Patent which

shall be issued in pursuance of this Act, was obtained surreptitiously, or upon false suggestion, on motion made to the said Court, within three years after the issuing of the said Patent, but not afterwards, it shall and may be lawful for the Court aforesaid, if the matter alleged shall appear to be sufficient, to grant a rule that the Patentee, or his heirs, assigns or other legal representatives, show cause why process should not issue to repeal such Patent, and if sufficient cause shall not be shown to the contrary, the rule shall be made absolute, and thereupon the said Court shall order process to issue against such Patentee, his heirs, assigns or other legal representatives, with costs of suit; and in case no sufficient cause shall be shown to the contrary, or if it shall appear that the Patentee was not the true inventor or discoverer, Judgment shall be rendered by such Court, for the repeal of such Patent, and if the party at whose complaint the process issues, shall have judgment given against him, he shall pay such costs to the Defendant as shall be taxed by the Court, which shall be recovered in the usual and customary manner.

X. And be it further enacted by the authority aforesaid, that every Inventor as aforesaid, presenting a Petition, and signifying his desire to obtain a Patent, pursuant to this Act, shall pay into the hands of the Secretary of the Province, or his Deputy, or person appointed to do the duty of that office, the fee of two pounds currency, which shall be in full of all fees due and payable by any such person petitioning for a Patent as aforesaid, with respect to such Patent, and for all services by whomsoever performed in relation thereto, whether by such Secretary or others: Provided always that for every copy which may be required at the office of the said Secretary, of or respecting any such Patent that shall have been granted, the person obtaining such copy shall pay at the usual rate by Law authorised for copies in the said office; and for every copy of any drawing relating to such Patent, the party entitled to, and obtaining the same, shall be liable to pay five shillings currency, and no more.

XI. Provided always and be it further enacted by the authority aforesaid, that the privileges, clauses, provisions, powers, and legal remedies, intended and mentioned by this Act which are secured to, imposed upon and apply to the Inventor and Discoverer of any new and useful art, machine, manufacture, or composition of matter for which he or she shall make application for a Patent, shall be construed to extend to, and to include, and are hereby declared to extend to, and include any subject of His Majesty, being an inhabitant of this Province, who shall on his or her travels in any foreign Country, have discovered or obtained a knowledge of, and be desirous of introducing in this Province, any new and useful art, machine, manufacture, or composition of matter, not known or not in use in this Province before his other application for the same: Provided nevertheless, that nothing herein contained, shall extend to inventions or discoveries of any new and useful art, machine, manufacture, or composition of matter, made, discovered, or used in the United States of America, or in any part of His Majesty's Dominions in in America, or be construed to prevent the free importation thereof into this Province, for sale, by any person or persons, or for their use or otherwise, from the said United States, or His Majesty's said Dominions.

XII. Provided always, and be it further enacted by the authority aforesaid, that such person so desirous of introducing into this Province any invention, art, machine, manufacture, or composition of matter, which he or she shall have discovered, or obtained a knowledge of in any foreign Country, shall, previous to obtaining a Patent, for the same, in the manner prescribed in this Act, as to Inventors and Discoverers, make oath, or (in case he or she be a Quaker,) affirm, that he or she believes himself or herself to be first introducer or publisher of such Invention, art, machine, manufacture, or composition of matter, in this Province.

XIII. And be it further enacted by the authority aforesaid, that this Act shall be and remain in force until the first day of May, one thousand eight hundred and forty, and no longer.