

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1834.* Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1834.

4 William IV – Chapter 27

**An Act for granting Patents for useful Inventions. Passed 22d March 1834.**

Be it enacted by the Lieutenant Governor, Council and Assembly, That from and after the Publication of this Act, whenever any Person or Persons who shall then be an Inhabitant or Inhabitants of this Province, or who shall have resided therein for One Year previous thereto, shall apply to the Lieutenant Governor or Commander in Chief for the Time being, and shall allege that he, she or they have invented or discovered any new or useful Art, Machine, Manufacture, or Composition of Matter, or any new or useful Improvement on any Art, Machine, Manufacture, or Composition of Matter, not before known and used, and shall, by Petition to the Lieutenant Governor or Commander in Chief for the Time being, signify, his, her or their desire to obtain an exclusive Property in such new Invention and Discovery, and shall pray that a Patent may be granted for the same, it shall and may be lawful for the Lieutenant Governor or Commander in Chief for the Time being, to cause and direct Letters Patent, under the Great Seal of this Province, to be issued; which said Letters Patent shall recite the Allegations and Suggestions of the said Petition so to be preferred as aforesaid, and shall therein give a short Description of the said Invention and Discovery, and thereupon shall grant to the said Person or Persons so applying for the same, his, her or their Executors, Administrators and Assigns, for a Term not exceeding Ten Years, the full and exclusive Right and Liberty of making, constructing, using, and vending to others to be used, the said new Invention or Discovery; which Letters Patent shall be good and available to the Grantee or Grantees therein named, by force of this Act, and shall be recorded in the Office of the Secretary of this Province in a Book to be kept for that Purpose, and shall be delivered to the Patentee or Patentees: Provided always, that before the Great Seal of this Province shall be affixed to any such Letters Patent, or the same shall be issued and signed as aforesaid, such Letters Patent shall be delivered to His Majesty's Attorney General of this Province, who shall examine the same, and shall, if he find the same con-formable to this Act, certify accordingly, and return the same within Thirty Days into the Office of the Secretary of the Province, to be issued and signed.

II. And be it enacted, That where any Letters Patent shall be obtained by any Person or Persons in Manner aforesaid, for any new and useful Invention and Discovery in any Art, Machine, or Composition of Matter, and thereafter any other Person or Persons shall discover any Improvement in the Principle or Process of any such Art, Machine, or Composition of Matter, for which such Patent hath been granted, and shall make Application for and obtain Letters Patent under this Act, for the exclusive Right of such Improvement, it shall not be lawful for the Person or Persons who shall obtain and procure Letters Patent for any such Improvement, to make, use or vend the original Invention or Discovery nor for the Person or Persons who shall have procured Letters Patent for the original Invention or Discovery to make, use, or vend any such Improvements.

III. Provided always, and it is hereby declared and enacted, That simply changing the Form or the Proportions of any Machine or Composition of Matter in any Degree, shall not be deemed a Discovery or Improvement within the meaning of this Act.

IV. And be it enacted, That it shall and may be lawful for any Person or Persons to obtain and receive from the Office of the Secretary of the Province, any Copy or Copies of any such Letters Patent, or of the Petition whereon the same were granted and issued, or of any Paper connected therewith, or any drawing relating to the same.

V. And be it enacted, That before any Person or Persons shall obtain or receive any Letters Patent under this Act, such Person or Persons, or some or One of them, shall make Oath, or if a Quaker shall make solemn Affirmation, in Writing, before some One of His Majesty's Justices of the Supreme Court of the Province, or some Commissioner for taking Affidavits in the said Court, that he, she or they do verily believe that he, she or they is or are the true Inventor or Inventors, Discoverer or Discoverers of the Art, Machine, Composition of Matter or Improvement, for which he, she or they solicit Letters Patent, and that such Invention or Discovery hath not, to the best of his, her or their Knowledge or Belief, been known or used in this Province, or in any other Country; which Oath or Affirmation shall be delivered in with the Petition for such Letters Patent.

VI. And be it enacted, That together with such Petition and Oath or Affirmation, before any Person or Persons shall receive or obtain any Letters Patent as aforesaid, such Person or Persons shall also deliver into the Office of the Secretary of the Province, a written Description of his Invention, and of the Manner of using 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 closely connected, to make, compound, and use the same, shall explain the Principle and the several Modes in which such Person or Persons have or hath contemplated the Application of that Principle or Character, by which it may be distinguished from other Inventions, and shall accompany the Whole, with Drawings and written References, where the Nature of the Case admits of Drawings, or with Specimens of the Ingredients, and of the Composition of Matter, sufficient in Quantity for the Purpose of Experiment, when the Invention is a Composition of Matter; which Description signed by such Person or Persons so applying for such Letters Patent, and attested by Two Witnesses, shall be filed in the Office of the Secretary of the Province, and Copies thereof certified under the Hand of the Secretary or Deputy Secretary of the Province, shall be Competent Evidence in all Courts where any Matter or Thing touching or concerning the said Letters Patent shall or may come in Question.

VII. And be enacted, That any Patentee, his Executors or Administrators, may assign and transfer all his Right, Title and Interest in the said Invention and Discovery, in the Letters Patent to him granted, to any Person or Persons whomsoever; and the Assignee or Assignees thereof having recorded the said Assignment in the Office of the Secretary of the Province, shall thereafter stand in the Place or Stead of the original Patentee, as well as to all Right, Privilege and Advantage, as also in Respect of all Liability and Responsibility as to the said Letters Patent and the Invention and Discovery thereby secured; and in like Manner shall the Assignee or Assignees of any such

Assignee or Assignees stand and be considered to be in the Place and Stead of the original Patentee or Inventor.

VIII. And be it enacted, That whenever, in any Case, any Letters Patent shall be or shall or may have been granted to any Person or Persons under and by virtue of this Act, and any Person or Persons, without the Consent of the Patentee or Patentees, his, her or their Executors, Administrators or Assigns, First had and obtained in Writing, shall make, devise, use, or sell the Things, Invention or Discovery whereof the exclusive Right is secured to the said Patentee or Patentees by such Letters Patent, such Person or Persons so offending shall forfeit and pay to the said Patentee or Patentees, his, her or their Executors, Administrators or Assigns, a Sum equal to Three Times the actual Damage sustained by such Patentee or Patentees, his, her or their Executors, Administrators or Assigns, for or by reason of such Offence; which Sum shall and may be recoverable, together with Costs of Suit, by Action on the Case founded on this Act in the Supreme Court of this Province.

IX. Provided always, and be it enacted, That the Defendant or Defendants in such Action shall be permitted to plead the general Issue, and give this Act and any special Matter in Evidence, tending to prove that the Specification filed by the Patentee or Patentees does not contain the whole Truth relative to the Invention or Discovery therein alleged to have been made by the said Patentee or Patentees, or that it contains more than is necessary to produce the described Effect (which Concealment in addition shall fully appear to have been made for the Purpose of deceiving the Public), or that the Thing, Invention, or Discovery thus secured by Letters Patent as aforesaid, was not originally discovered by the Patentee or Patentees, but had been in Use, or had been described in some public Work, anterior to the supposed Invention or Discovery of the said Patentee or Patentees, or that the said Patentee or Patentees had surreptitiously obtained Letters Patent as aforesaid, for the Invention or Discovery of some other Person or Persons; in either of which Cases, upon sufficient and legal Proof thereof, a Verdict shall be returned, and Judgment shall be entered for the said Defendant or Defendants with Costs; and the said Letters Patent shall thereupon be and become, and shall by the said Court be adjudged, void and of no Effect.

X. Provided also, and be it enacted, That no action shall be brought against any Person or Persons whomsoever, for any Offence committed against the Provisions of this Act, unless the same be commenced within the Space of Six Calendar Months next after the Discovery of every such Offence committed.