

*Laws of Her Majesty's Province of Newfoundland, passed in the year 1851.*

14 Victoria – Chapter 9

**An Act for the granting of Patents for Useful Inventions. (Passed 31st May, 1851.)**

Be it enacted, by the Governor, Council and Assembly, in Legislative Session convened, That from and after the publication of this Act, whenever any Person or Persons, being British Subjects, shall apply to the Governor, or Administrator of the Government for the time being, and shall allege that he, she or they have invented and discovered any new and useful Art, Machine, Manufacture, or Composition of Matter, not theretofore known or used, and shall, by Petition to the said Governor, or Administrator of the Government 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 be granted for the same, it shall and may be lawful for the Governor, or Administrator of the Government for the time being, by and with the advice and consent of Her Majesty's Council, to cause and direct Letters Patent, under the Great Seal of the Island, 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 Heirs, Executors, Administrators, or Assigns, for a Term not exceeding Fourteen Years, the full and exclusive right and liberty of making, constructing and 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 Colonial Secretary of this Island 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 Island 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 Her Majesty's Attorney General of this Island, who shall examine the same, and shall, if he finds the same conformable to this Act, certify accordingly, and return the same within Fifteen Days into the Office of the Colonial Secretary, to be issued and signed.

II. And be it further 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 Improvement: Provided always, 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.

III. And be it further enacted, That it shall and may be lawful for any Person or Persons to obtain and receive from the Office of the Colonial Secretary 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, on payment, for such copy or copies, of such Fees as are now payable at the Office of the Colonial Secretary for copies of other documents.

IV. And be it further 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 the Justices of Her Majesty's Supreme 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 Island or in any other Country, which Oath or Affirmation shall be delivered in with the Petition for such Letters Patent.

V. And be it further 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 Colonial Secretary 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 nearly connected, to make, compound and use the same; and, in case of any Machine, shall deliver a Model thereof into the Office of the Colonial Secretary, and 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, where the Invention is of 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 Colonial Secretary, and copies thereof, certified under his hand, shall be competent evidence in all Courts where any matter or thing, touching or concerning the said Letters Patent, shall or may come into question: Provided nevertheless, that where, from the complicated nature of any Machinery, the Cost of a Model thereof may be so great as to prevent any ingenious but poor Persons from obtaining Patents for their useful Inventions, it shall and may be lawful for the Governor, or Person Administering the Government, by and with the advice and consent of the Council, if they shall see fit and proper under all the circumstances so to do, to dispense with the delivery of such Model into the Office of the Colonial Secretary previous to the granting any such Patent; and in such case, the requisitions of said Act being in all other respects complied with, the Person or Persons applying for any Patent shall be entitled thereto, in the same manner as if such Model had been so lodged as aforesaid.

VI. And be it further 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 Colonial Secretary, shall thereafter stand in the place and 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.

VII. And be it further 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 filing, 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, from 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 Island.

VIII. Provided always, and be it further enacted, That the Defendant or Defendants in such action, shall be permitted to plead the general issue, and give in evidence this Act, and any special matter tending to prove that the Specification filed by the Plaintiff or Plaintiffs does not contain the whole truth relative to the Invention or Discovery therein alleged to have been made by the said Plaintiff or Plaintiffs, or that it contains more than is necessary to produce the described effect, (which concealment or 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.

IX. And be it further enacted, That any Letters Patent which may be taken out under or by virtue of this Act, and which shall not have been put into operation within One Year next ensuing from and after the date thereof, such Letters Patent shall, at the expiration of the said period of One Year, be deemed to be forfeited, and shall thence be and become void and of no effect.

X. And be it further enacted, That any Person or Persons who may take out Letters Patent under or by virtue of this Act, shall pay for the same such Fees as Documents issued under the Great Seal of this Island are now liable to pay, and shall, in addition, deposit with the Colonial Secretary the Sum of Five Pounds, to be by him paid into the Colonial Treasury for the public uses of the Colony.