

ANNO QUINTO & SEXTO

GULIELMI IV. REGIS.

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CAP. LXXXIII.

An Act to amend the Law touching Letters Patent for Inventions. [10th *September* 1835.]

WHEREAS it is expedient to make certain Additions to and Alterations in the present Law touching Letters Patent for Inventions, as well for the better protecting of Patentees in the Rights intended to be secured by such Letters Patent, as for the more ample Benefit of the Public from the same: Be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That any Person who, as Grantee, Assignee, or otherwise, hath obtained or who shall hereafter obtain Letters Patent, for the sole making, exercising, vending, or using of any Invention, may, if he think fit, enter with the Clerk of the Patents of *England*, *Scotland*, or *Ireland*, respectively, as the Case may be, having first obtained the Leave of His Majesty's Attorney General or Solicitor General in case of an *English* Patent, of the Lord Advocate or Solicitor General of *Scotland* in the Case of a *Scotch* Patent, or of His Majesty's Attorney General or Solicitor General for *Ireland* in the Case of an *Irish* Patent, certified by his Fiat and Signature, a Disclaimer of any Part of either the Title of the Invention or of the Specification, stating the Reason for such Disclaimer, or may, with such Leave as aforesaid, enter a Memorandum of any Alteration in the said Title or Specification, not being such Disclaimer or such Alteration as shall extend the exclusive Right granted by the said Letters Patent; and such Disclaimer or Memorandum of Alteration, being filed by the said Clerk of the Patents, and enrolled with the

Any Person having obtained Letters Patent for any Invention may enter a Disclaimer of any Part of his Specification, or a Memorandum of any Alteration therein, which, when filed, to be deemed Part of such Specification.

Specification, shall be deemed and taken to be Part of such Letters Patent or such Specification in all Courts whatever: Provided always, that any Person may enter a Caveat, in like Manner as Caveats are now used to be entered, against such Disclaimer or Alteration; which Caveat being so entered shall give the Party entering the same a Right to have Notice of the Application being heard by the Attorney General or Solicitor General or Lord Advocate respectively: Provided also, that no such Disclaimer or Alteration shall be receivable in Evidence in any Action or Suit (save and except in any Proceeding by Scire facias) pending at the Time when such Disclaimer or Alteration was enrolled, but in every such Action or Suit the original Title and Specification alone shall be given in Evidence, and deemed and taken to be the Title and Specification of the Invention for which the Letters Patent have been or shall have been granted: Provided also, that it shall be lawful for the Attorney General or Solicitor General or Lord Advocate, before granting such Fiat, to require the Party applying for the same to advertise his Disclaimer or Alteration in such Manner as to such Attorney General or Solicitor General or Lord Advocate shall seem right, and shall, if he so require such Advertisement, certify in his Fiat that the same has been duly made.

Caveat may be entered as heretofore.

Disclaimer not to affect Actions pending at the Time.

Attorney General may require the Party to advertise his Disclaimer.

II. And be it enacted, That if in any Suit or Action it shall be proved or specially found by the Verdict of a Jury that any Person who shall have obtained Letters Patent for any Invention or supposed Invention was not the first Inventor thereof, or of some Part thereof, by reason of some other Person or Persons having invented or used the same, or some Part thereof, before the Date of such Letters Patent, or if such Patentee or his Assigns shall discover that some other Person had, unknown to such Patentee, invented or used the same, or some Part thereof, before the Date of such Letters Patent, it shall and may be lawful for such Patentee or his Assigns to petition His Majesty in Council to confirm the said Letters Patent or to grant new Letters Patent, the Matter of which Petition shall be heard before the Judicial Committee of the Privy Council; and such Committee, upon examining the said Matter, and being satisfied that such Patentee believed himself to be the first and original Inventor, and being satisfied that such Invention or Part thereof had not been publicly and generally used before the Date of such first Letters Patent, may report to His Majesty their Opinion that the Prayer of such Petition ought to be complied with, whereupon His Majesty may, if He think fit, grant such Prayer; and the said Letters Patent shall be available in Law and Equity to give to such Petitioner the sole Right of using, making, and vending such Invention as against all Persons whatsoever, any Law, Usage, or Custom to the contrary thereof notwithstanding: Provided, that any Person opposing such Petition shall be entitled to be heard before the said Judicial Committee: Provided also, that any Person, Party to any former Suit or Action touching such first Letters Patent, shall be entitled to have Notice of such Petition before presenting the same.

Mode of proceeding where Patentee is proved not to be the real Inventor, though he believed himself to be so.

III. And be it enacted, That if any Action at Law or any Suit in Equity for an Account shall be brought in respect of any alleged

If in any Action or Suit a Ver-

Infringement of such Letters Patent heretofore or hereafter granted, or any Scire facias to repeal such Letters Patent, and if a Verdict shall pass for the Patentee or his Assigns, or if a final Decree or decretal Order shall be made for him or them, upon the Merits of the Suit, it shall be lawful for the Judge before whom such Action shall be tried to certify on the Record, or the Judge who shall make such Decree or Order to give a Certificate under his Hand, that the Validity of the Patent came in question before him, which Record or Certificate being given in Evidence in any other Suit or Action whatever touching such Patent, if a Verdict shall pass, or Decree or decretal Order be made, in favour of such Patentee or his Assigns, he or they shall receive Treble Costs in such Suit or Action, to be taxed at Three Times the taxed Costs, unless the Judge making such Second or other Decree or Order, or trying such Second or other Action, shall certify that he ought not to have such Treble Costs.

dict or Decree shall pass for the Patentee, the Judge may grant a Certificate, which being given in Evidence in any other Suit shall entitle the Patentee, upon a Verdict in his Favour, to receive Treble Costs.

IV. And be it further enacted, That if any Person who now hath or shall hereafter obtain any Letters Patent as aforesaid shall advertise in the *London Gazette* Three Times, and in Three *London* Papers, and Three Times in some Country Paper published in the Town where or near to which he carried on any Manufacture of any Thing made according to his Specification, or near to or in which he resides in case he carried on no such Manufacture, or published in the County where he carries on such Manufacture or where he lives in case there shall not be any Paper published in such Town, that he intends to apply to His Majesty in Council for a Prolongation of his Term of sole using and vending his Invention, and shall petition His Majesty in Council to that Effect, it shall be lawful for any Person to enter a Caveat at the Council Office; and if His Majesty shall refer the Consideration of such Petition to the Judicial Committee of the Privy Council, and Notice shall first be by him given to any Person or Persons who shall have entered such Caveats, the Petitioner shall be heard by his Counsel and Witnesses to prove his Case, and the Persons entering Caveats shall likewise be heard by their Counsel and Witnesses; whereupon, and upon hearing and inquiring of the whole Matter, the Judicial Committee may report to His Majesty that a further Extension of the Term in the said Letters Patent should be granted, not exceeding Seven Years; and His Majesty is hereby authorized and empowered, if He shall think fit, to grant new Letters Patent for the said Invention for a Term not exceeding Seven Years after the Expiration of the first Term, any Law, Custom, or Usage to the contrary in anywise notwithstanding: Provided that no such Extension shall be granted if the Application by Petition shall not be made and prosecuted with Effect before the Expiration of the Term originally granted in such Letters Patent.

Mode of proceeding in case of Application for the Prolongation of the Term of a Patent.

V. And be it enacted, That in any Action brought against any Person for infringing any Letters Patent the Defendant on pleading thereto shall give to the Plaintiff, and in any Scire facias to repeal such Letters Patent the Plaintiff shall file with his Declaration, a Notice of any Objections on which he means to rely at the Trial of such Action, and no Objection shall be allowed to be made in behalf

In case of Action, &c. Notice of Objections to be given.

behalf of such Defendant or Plaintiff respectively at such Trial unless he prove the Objections stated in such Notice: Provided always, that it shall and may be lawful for any Judge at Chambers, on Summons served by such Defendant or Plaintiff on such Plaintiff or Defendant respectively to show Cause why he should not be allowed to offer other Objections whereof Notice shall not have been given as aforesaid, to give Leave to offer such Objections, on such Terms as to such Judge shall seem fit.

As to Costs in Actions for infringing Letters Patent.

VI. And be it enacted, That in any Action brought for infringing the Right granted by any Letters Patent, in taxing the Costs thereof Regard shall be had to the Part of such Case which has been proved at the Trial, which shall be certified by the Judge before whom the same shall be had, and the Costs of each Part of the Case shall be given according as either Party has succeeded or failed therein, Regard being had to the Notice of Objections, as well as the Counts in the Declaration, and without Regard to the general Result of the Trial.

Penalty for using, unauthorized, the Name of a Patentee, &c.

VII. And be it enacted, That if any Person shall write, paint, or print, or mould, cast, or carve, or engrave or stamp, upon any Thing made, used, or sold by him, 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 other Person who hath or shall have obtained Letters Patent for the sole making and vending of such Thing, without Leave in Writing of such Patentee or his Assigns, or if any Person shall upon such Thing, not having been purchased from the Patentee or some Person who purchased it from or under such Patentee, or not having had the Licence or Consent in Writing of such Patentee or his Assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the Word "Patent," the Words "Letters Patent," or the Words "By the King's Patent," or any Words of the like Kind, Meaning, or Import, with a view of imitating or counterfeiting the Stamp, Mark, or other Device of the Patentee, or shall in any other Manner imitate or counterfeit the Stamp or Mark or other Device of the Patentee, he shall for every such Offence be liable to a Penalty of Fifty Pounds, to be recovered by Action of Debt, Bill, Plaint, Process, or Information in any of His Majesty's Courts of Record at *Westminster* or in *Ireland*, or in the Court of Session in *Scotland*, one Half to His Majesty, His Heirs and Successors, and the other to any Person who shall sue for the same: Provided always, that nothing herein contained shall be construed to extend to subject any Person to any Penalty in respect of stamping or in any way marking the Word "Patent" upon any Thing made, for the sole making or vending of which a Patent before obtained shall have expired.

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