CAP. XXXVII.

An Act to amend an Act of the Fifty-fourth Year of King *George* the Third, Chapter One hundred and twenty-three, to prevent Frauds and Abuses in the Trade of Hops. [11th *June* 1866.]

54 G. 3. c. 123.

48 G. 3. c. 134.

'WHEREAS by an Act of Parliament made in the Fifty-fourth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to amend an Act of the Thirty-ninth and Fortieth Years of His present Majesty to prevent Frauds and Abuses in the Trade of Hops*, after reciting that by the said last-mentioned Act it was, among other things, enacted that every Owner, Planter, or Grower of Hops, before he should begin to put any Hops into any Bag or Pocket, should mark or cause to be marked on the Outside thereof his Name and Place of Abode, and that by an Act made in the Forty-eighth Year of the Reign of His said late Majesty, intituled *An Act to amend the Laws relating to the marking of Bags and Pockets of Hops*, it was enacted that every Owner, Planter, or Grower of Hops should also mark on the Outside of every Bag or Pocket of Hops the Name of the Parish and of the County in which the Hops put into such Bag or Pocket should be grown, and that many Persons not only marked their own Names, and the Parishes and Counties in which the Hops were grown, on such Bags or Pockets, but also, in addition thereto, the Name and Symbol of other Counties, to the great Injury of such Owners or Growers whose Description they so used, as well as to the Dealers in Hops and of the Public, it was by the said first-mentioned Act enacted, that from and after the Fifth Day of *July* One thousand eight hundred and fourteen every Owner, Planter, or Grower of Hops, before he, she, or they should begin to put any Hops into any Bag or Pocket, should mark or cause to be marked on the Outside of each and every such Bag or Bags, in plain and legible Letters of Four Inches in Length at the least, and Half an Inch in Breadth, and on the Outside of every such Pocket, in large, plain, and legible Letters of Three Inches in Length and Half an Inch in Breadth at the least, with durable Ink or Paint, his, her, or their Name or Names, and the Parish and County in which the said Hops to be packed therein were actually grown; and that if any Owner, Planter, or Grower of Hops, or any other Person or Persons, should put any Hops into any Bag or Pocket without having marked or caused to be marked thereon, in manner therein-before directed, the several Matters and Things therein-before required and prescribed, or should, before or at any future Time after such Hops had been packed, mark or cause to be marked thereon the Name of any other Person, Parish, or County than as was therein-before directed or prescribed, or the Symbol appertaining to or anything denoting to be the Symbol of any other County or Place, every such Owner, Planter, or Grower, or other Person or Persons so offending, should for every such Offence forfeit and pay the Sum of Twenty Pounds for every such Bag or Pocket, to be recovered and applied in manner directed by the said therein recited Act; and further, that if any Owner, Planter, or Grower of Hops should knowingly put or suffer to be put any Hops of different Qualities and Value in the same Bag or Pocket, every such Owner, Planter, or Grower should forfeit and pay the Sum of Twenty Pounds for every such Bag or Pocket, to be recovered and applied in manner therein-before directed:

'And whereas the said Acts have been found ineffectual for preventing Frauds and Abuses in the Trade of Hops, and it is expedient to amend the same:'

Be it therefore enacted by the Queen'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, as follows:

Construction of Terms.

1. In the Construction of this Act the Word "Person" shall include any Person, whether a Subject of Her Majesty or not, and any Body Corporate or Body of the like Nature; the Words "Trade Mark" or "Symbol" shall include any Arms or Coat of Arms of any County, City, Borough, Town, or District, or any Name, Signature, Word, Letter, Device, Emblem, Figure, Sign, Seal, Stamp, or other Work of any other Description, lawfully used by any Person to denote that the Hops in any Bag or Pocket were grown

grown or produced by such Person in any particular Parish, County, or Place, or to denote the said Hops to be of a particular Quality or Description; the Words "Bag" or "Pocket" shall include any Package used for containing Hops, or in which Hops are packed and sent from the Grower or Producer to any Factor, Merchant, or Brewer, or other Person, either before or after a Sale thereof.

Growers, &c. to mark each Bag or Pocket with Year when Hops were actually grown, the true progressive Number and gross Weight thereof.

2. From and after the Twenty-first Day of *August* in the Year One thousand eight hundred and sixty-six, every Owner, Planter, or Grower of Hops shall, within One Month after the said Hops shall have been packed in any Bag or Pocket, mark or cause to be marked with durable Ink or Paint on the Outside of each and every Bag containing Hops, in plain and legible Figures of Four Inches in Length at the least, and Half an Inch in Breadth, and on the Outside of each and every Pocket containing Hops, in plain and legible Figures of Three Inches in Length at the least, and Half an Inch in Breadth, in addition to his Name, and in addition to the Name of the Parish and of the County in which the Hops put into any such Bag or Pocket shall be grown, as required by the recited Acts, the Year in which such Hops were actually grown, the true progressive Number of each and every such Bag or Pocket according to the Numbers of the Bags or Pockets of Hops grown and weighed by such Owner, Planter, or Grower of Hops during the then current Year, and the true gross Weight, in Hundredweights, Quarters, and Pounds, of each and every such Bag or Pocket.

Growers, &c. not marking Bags or Pockets as directed by the said recited Acts and this Act subject to a Penalty.

3. If after the Twenty-first Day of *August* in the Year One thousand eight hundred and sixty-six any Owner, Planter, or Grower of Hops, or any other Person, shall not mark or cause to be marked on such Bag or Pocket, in manner directed by the said recited Acts, and by the last preceding Section of this Act, the several Matters and Things required and prescribed, every such Owner, Planter, Grower, or other Person so offending shall for every such Offence forfeit and pay the Sum of Twenty Pounds for every such Bag or Pocket.

Growers, &c. marking false Description, Symbol, or Trade Mark, subject to Penalty.

4. If after the said Twenty-first Day of *August* One thousand eight hundred and sixty-six any Owner, Planter, or Grower of Hops, or any Person to whom any Hops shall have been consigned for Sale or otherwise, or any other Person, shall mark or cause to be marked on any Bag or Pocket, either before or at any Time after any Hops shall have been packed therein, the Name of any Person, Parish, or County other than the Name of the Planter or Grower of such Hops, and the Parish and County in which the said Hops shall have been actually grown, or if such Owner, Planter, Grower, Consignee, or other Person shall at any Time mark or cause to be marked on any such Bag or Pocket containing Hops the Symbol appertaining to any County or Place, or any Imitation thereof, other than that in which the said Hops shall have been actually grown, or any Year other than that in which the said Hops shall have been actually grown, or any Weight other than the true gross Weight of every such Bag or Pocket of Hops, or any Trade Mark not being the Trade Mark of the Owner, Planter, or Grower of the Hops therein contained, and by him usually used to denote the real Owner, Planter, or Grower of, and the Parish, County, or Place in which such Hops were actually grown, every such Owner, Planter, Grower, Consignee, or other Person so offending shall for every such Offence forfeit and pay the Sum of Twenty Pounds for every such Bag or Pocket.

Penalty on Growers, &c. mixing Hops of different Qualities and Value.

5. Every Person who shall put or suffer to be put any Hops of different Qualities or Value in the same Bag or Pocket, so that a Sample shall not correspond with and truly represent the Bulk, or who shall sell or expose for Sale, or cause to be sold or exposed for Sale, any such Hops in such Bag or Pocket, shall forfeit and pay for every such Bag or Pocket the Sum of Twenty Pounds: Provided always, that no Person shall be liable to the aforesaid Penalty or Forfeiture who shall prove that he did the Act or Acts charged against him and mentioned in this Section *bonâ fide*, and without Intent to defraud.

Penalties on Persons selling or exposing for Sale,

6. Every Person who after the Twenty-first Day of *August* One thousand eight hundred and sixty-six shall sell or expose for Sale, or cause or procure to be sold or exposed for

Sale Hops in Bags or Pockets not marked or improperly marked.

Sale, any Hops contained in any Bag or Pocket, not having marked thereon in manner before directed the several Matters and Things by the said recited Acts and by this Act prescribed, or which shall, at the Time of the said Sale or Exposure for Sale, have marked thereon the Name of any other Person, Parish, or County than is directed and prescribed as aforesaid, or any Symbol or Trade Mark appertaining to any County or Place other than that in which the said Hops shall have been actually grown, or any Imitation thereof, and not being the Trade Mark of the Owner, Planter, or Grower of the Hops therein contained, and by him usually used to denote the real Owner, Planter, or Grower of, and the County or Place in which such Hops were actually grown, or any Year other than that in which the said Hops shall have been actually grown, or any Weight other than the true gross Weight of any such Bag or Pocket of Hops, shall for every such Offence forfeit and pay a Sum of Money equal to the then Market Value of the Bag or Bags, Pocket or Pockets of Hops so sold or exposed for Sale, and a further Sum of Money not exceeding Ten Pounds and not less than Five Pounds: Provided always, that no Person shall be liable to the aforesaid Forfeitures or Penalties, or any of them, in respect of any false Description, Trade Mark or Symbol, or Imitation thereof, marked on any Bag or Pocket, who shall *bonâ fide* sell or expose for Sale any Hops as in this Section aforesaid, who shall *bonâ fide* believe, and having good Reason for believing (Proof whereof shall be upon such Person), that the Description, Trade Marks, and Symbols, or Imitations thereof, at the Time of such Sale or Exposure for Sale, marked on the Bag or Bags, Pocket or Pockets, so sold or exposed for Sale were genuine and in accordance with the Provisions of this and the said recited Acts.

Proviso in favour of Persons selling, &c. bonâ fide under Belief that Bags or Pockets were duly marked.

Penalty on re-bagging Foreign Hops in British Bags.

7. No Person whatsoever shall after the Twenty-first Day of *August* One thousand eight hundred and sixty-six take or suffer to be taken any Hops of Foreign Growth out of the Bags in which they are imported, and re-bag the same in *British* Bags or Pockets, in order to sell, dispose of, or export the same as *British* Hops, under the Penalty of Ten Pounds for every Hundredweight, and after that Rate for a greater or lesser Quantity.

Penalty on Persons wilfully altering Marks.

8. Every Person who shall wilfully deface or obliterate, add to or alter, any or either of the Matters or Things directed to be marked by this Act, and marked on any Bag or Pocket containing Hops, or who shall wilfully deface, obliterate, add to, or alter any Trade Mark or Symbol marked on any Bag or Pocket containing Hops, or who shall cause or procure any of the aforesaid Matters or Things, or any such Trade Mark or Symbol as aforesaid, to be defaced, obliterated, added to, or altered, or who shall connive at any such Matter or Thing, Trade Mark or Symbol, being so defaced, obliterated, added to, or altered, with Intent to represent, or to cause it to be believed, or as shall be calculated or likely to cause it to be believed, that any Hops contained in any Bag or Pocket were grown by any Person or in any County or Place other than the real Person, County, or Place by and in which the same were grown, shall for every such Defacement, Obliteration, Addition, or Alteration forfeit and pay the Sum of Twenty Pounds for and in respect of each Bag or Pocket whereon any such Defacement, Obliteration, Alteration, or Addition shall be made.

Vendors selling Hops falsely marked to give Information as to Persons from whom he purchased or obtained the Hops.

9. Where any Person who at any Time after the Twenty-first Day of *August* One thousand eight hundred and sixty-six shall have sold Hops contained in any Bag or Pocket marked with any Name, Trade Marks, Symbol, or other Description, contrary to this and the said recited Acts, or not marked according to the Provisions of this Act and the said recited Acts, such Person shall be bound, upon Demand in Writing delivered to him or left for him at his last known Dwelling House, Counting-house, Office of Business, or Place of Abode, by or on behalf of the Person to whom the said Hops shall have been sold, or of any other Person who may have afterwards purchased the same, to give the Person requiring the same, or his Attorney or Agent, within Forty-eight Hours after such Demand, full Information in Writing of the Name and Address of the Person from whom he shall have purchased or obtained the said Hops, and of the Time when he purchased or obtained the same; and it shall be lawful for any Justice of the Peace, upon Information upon Oath of such Demand and Refusal, to summon before him the Party refusing, and, on being satisfied that such Demand ought to be complied with, to order such Information to be given within a certain Time to be appointed by him; and any such Party who shall refuse or neglect

neglect to comply with such Order shall for every such Offence forfeit and pay the Sum of Five Pounds, and such Refusal or Neglect shall be deemed conclusive Evidence as against the Person so refusing that he sold the said Hops with full Knowledge that the said Name, Trade Mark, Symbol, or other Description was contrary to the said recited Acts and this Act.

Power of Justice to order Search for Bags or Pockets improperly marked.

10. If after the Twenty-first Day of *August* One thousand eight hundred and sixty-six it shall be made appear to any Justice of the Peace, upon Information upon Oath, that Hops contained in any Bag or Pocket, or any Bag or Bags, Pocket or Pockets, are in the Care or Custody of any Person, which Bag or Bags, Pocket or Pockets, there is good Reason to believe, is or are not marked as required by, or has or have thereon any Mark contrary to this Act and the said recited Acts, it shall be lawful for such Justice to issue his Warrant to any Constable or Constables empowering or requiring him or them to enter upon any Place or Places where such Hops, Bag or Bags, Pocket or Pockets, may be, and to take with him or them all necessary Persons, and there to search for the said Hops, Bag or Bags, Pocket or Pockets, and if he or they shall find there any Hops in any Bag or Pocket, or any Bag or Bags, Pocket or Pockets, which he shall *bonâ fide* believe to be marked contrary to, or not to be marked as by the said Acts and this Act required, to seize the said Hops, Bag or Bags, and Pocket or Pockets, and to detain the same for a Space of Time not exceeding One Month, or such further Time as any Justice of the Peace may order.

Description, Trade Mark, or Symbol may be described generally.

11. In every Proceeding and Document whatsoever in which any Description, Trade Mark, or Symbol, or Imitation thereof, marked on any Bag or Pocket, or any Part or Parts thereof, shall be intended to be mentioned, it shall not be necessary to set forth any Copy or Facsimile thereof, and it shall be sufficient to describe the same generally as being a Description, Trade Mark, or Symbol, in Imitation thereof, contrary to the said recited Acts and this Act.

Conviction not to affect any Right or Civil Remedy.

12. No Proceeding under this Act or the recited Acts shall take away, diminish, or prejudicially affect any Civil Remedy which the Person aggrieved may be entitled to at Law or in Equity or otherwise, or exempt or excuse any Person from answering or making Discovery upon Examination as a Witness, or upon Interrogatories or otherwise, in any Suit or other Civil Proceeding: Provided always, that no Evidence, Statement, or Discovery which any Person shall be compelled to give or make shall be admissible in Evidence against such Person in support of any Proceeding under this Act or the said recited Acts.

Recovery of Penalties.

13. Where any Person shall have committed any Offence under this Act or the said recited Acts, whereby he shall have forfeited or become liable to pay any Sum of Money, every such Penalty or Sum of Money may be recovered in manner provided by the Fifteenth Section of "The Merchandise Marks Act, 1862."

Summary Proceedings before Justices to be within 11 & 12 Vict. c. 43.

14. In every Case in which any Penalty or Sum of Money forfeited as herein-before mentioned shall be sought to be recovered by a summary Proceeding before Two Justices of the Peace, the Offence or Act by the committing or doing of which such Penalty or Sum of Money shall have been so forfeited shall be and be deemed to be an Offence and Act within the Meaning of a Statute passed in the Twelfth Year of the Reign of Her present Majesty, intituled *An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions, within* England *and* Wales, *with respect to Summary Convictions and Orders;* and the Information, Conviction of the Offender, and other Proceedings for the Recovery of the Penalty or Sum so forfeited shall be had according to the Provisions of the said Act.

How Penalties recovered by Action are to be disposed of.

15. In every Case in which Judgment shall be obtained in any Action for the Amount of any Penalty or Sum of Money forfeited as aforesaid, the Amount of such Penalty or Sum of Money in respect of which such Judgment was so recovered as aforesaid shall be paid by the Defendant to the Sheriff or Officer entitled to levy, demand, or receive the same, who shall account for one Moiety thereof in like Manner as other Monies payable to Her Majesty, and shall pay the other Moiety to the Plaintiff; and, if it be not

not paid, the said Penalty or Sum of Money may be recovered, or the Amount thereof levied, or the Payment thereof enforced by Execution or other proper Proceeding as Money due to Her Majesty; and any Plaintiff suing on behalf of Her Majesty upon obtaining Judgment shall be entitled to recover and have Execution for all the Costs of Suit, which shall include a full Indemnity for all Costs and Charges which he shall or may have expended or incurred in, about, or for the Purposes of the Action, unless the Court or a Judge thereof shall direct that Costs of the ordinary Amount only shall be allowed.

Plaintiff entitled to Costs.

How Penalties recovered by summary Proceedings disposed of.

16. One Moiety of any Penalty or Sum of Money recovered by summary Proceeding as aforesaid shall be deemed Money payable to Her Majesty, and the other Moiety shall be paid by the Justices to the Complainant.

Limitation of Action.

17. No Person shall commence any Action or Proceeding for the Recovery of any Penalty after the Expiration of Three Years next after the committing of the Offence, or should Discovery thereof not be made within the said Three Years, then no Person shall commence any Action or Proceeding for the Recovery of any Penalties after the Expiration of One Year next after the said Discovery of the Offence.

Vendor to be deemed to contract that Description, &c. is genuine.

18. Every Person who after the Twenty-first Day of *August* One thousand eight hundred and sixty-six shall sell any Hops in any Bag or Pocket having marked thereon any Name, Description, Date, Trade Mark, or Symbol intended to indicate the Name of the Person by whom, or the Parish, County, or Place where, or the Year when the said Hops were grown, shall be deemed to contract that the said Description, Date, Trade Mark, and Symbol were genuine and true, and that such Description, Date, Trade Mark, and Symbol were in accordance with this and the said recited Acts.

Party aggrieved may recover Damages.

19. In every Case in which any Person shall do or cause to be done any Act contrary to this or the said recited Acts, every Person aggrieved by any such wrongful Act shall be entitled to maintain an Action or Suit for Damages in respect thereof against the Person who shall be guilty of having done such Act, or causing or procuring the same to be done.

Provisions of 25 & 26 Vict. c. 88. incorporated.

20. The Provisions of the Twenty-third and Twenty-fourth Sections of "The Merchandise Marks Act, 1862," shall be considered as incorporated in this Act as fully as if the same were here set forth and re-enacted at Length.

From 21st Aug. 1866, s. 2. of 54 G. 3. c. 123. repealed.

21. From and after the Twenty-first Day of *August* One thousand eight hundred and sixty-six the Provisions of the Second Section of the Act passed in the Fifty-fourth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to amend an Act of the Thirty-ninth and Fortieth Years of His then present Majesty to prevent Frauds and Abuses in the Trade of Hops*, shall be and is hereby repealed.

Short Title.

22. The Expression "The Hop (Prevention of Frauds) Act, 1866," shall be a sufficient Description of this Act.

CAP. XXXVIII.

An Act to enable Boards of Guardians in *Ireland* to provide Coffins and Shrouds for the Burial of poor Persons who at the Time of their Death were not in receipt of Relief from the Poor Rates. [11th *June* 1866.]

'WHEREAS it is expedient that Provision shall be made for the decent Burial of poor Persons in *Ireland* whose Relatives may be unable to provide Means for such Purpose, although such deceased Persons may not at the Time of their Death have been