ANNO VICESIMO QUINTO & VICESIMO SEXTO

VICTORIÆ REGINÆ.

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C A P. LXXXVIII.

An Act to amend the Law relating to the fraudulent marking of Merchandise.

[7th *August* 1862.]

WHEREAS it is expedient to amend the Laws relating to the fraudulent marking of Merchandise, and to the Sale of Merchandise falsely marked for the Purpose of Fraud: 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:

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, whether constituted according to the Law of this Country or of any of Her Majesty's Colonies or Dominions, or according to the Law of any Foreign Country, and also any Company, Association, or Society of Persons, whether the Members thereof be Subjects of Her Majesty or not, or some of such Persons Subjects of Her Majesty and some of them not, and whether such Body Corporate, Body of the like Nature, Company, Association, or Society be established or carry on Business within Her Majesty's Dominions or elsewhere, or partly within Her Majesty's Dominions Construction of Words.

and partly elsewhere; the Word "Mark" shall include any Name, Signature, Word, Letter, Device, Emblem, Figure, Sign, Seal, Stamp, Diagram, Label, Ticket, or other Mark of any other Description; and the Expression "Trade Mark" shall include any and every such Name, Signature, Word, Letter, Device, Emblem, Figure, Sign, Seal, Stamp, Diagram, Label, Ticket, or other Mark as aforesaid lawfully used by any Person to denote any Chattel, or (in *Scotland*) any Article of Trade, Manufacture, or Merchandise, to be an Article or Thing of the Manufacture, Workmanship, Production, or Merchandise of such Person, or to be an Article or Thing of any peculiar or particular Description made or sold by such Person, and shall also include any Name, Signature, Word, Letter, Number, Figure, Mark, or Sign which in pursuance of any Statute or Statutes for the Time being in force relating to registered Designs is to be put or placed upon or attached to any Chattel or Article during the Existence or Continuance of any Copyright or other sole Right acquired under the Provisions of such Statutes or any of them; the Word "Misdemeanor" shall include Crime and Offence in *Scotland*; and the Word "Court" shall include any Sheriff or Sheriff Substitute in *Scotland*.

Forging a Trade Mark or falsely applying any Trade Mark with Intent to defraud, a Misdemeanor.

2. Every Person who, with Intent to defraud, or to enable another to defraud any Person, shall forge or counterfeit, or cause or procure to be forged or counterfeited, any Trade Mark, or shall apply, or cause or procure to be applied, any Trade Mark or any forged or counterfeited Trade Mark to any Chattel or Article not being the Manufacture, Workmanship, Production, or Merchandise of any Person denoted or intended to be denoted by such Trade Mark, or denoted or intended to be denoted by such forged or counterfeited Trade Mark, or not being the Manufacture, Workmanship, Production, or Merchandise of any Person whose Trade Mark shall be so forged or counterfeited, or shall apply, or cause or procure to be applied, any Trade Mark or any forged or counterfeited Trade Mark to any Chattel or Article, not being the particular or peculiar Description of Manufacture, Workmanship, Production, or Merchandise denoted or intended to be denoted by such Trade Mark or by such forged or counterfeited Trade Mark, shall be guilty of a Misdemeanor, and every Person so committing a Misdemeanor shall also forfeit to Her Majesty every Chattel and Article belonging to such Person to which he shall have so unlawfully applied, or caused or procured to be applied, any such Trade Mark or forged or counterfeited Trade Mark as aforesaid, and every Instrument in the Possession or Power of such Person, and by means of which any such Trade Mark, or forged or counterfeited Trade Mark as aforesaid, shall have been so applied, and every Instrument in the Possession or Power of such Person for applying any such Trade Mark

or

or forged or counterfeit Trade Mark as aforesaid, shall be forfeited to Her Majesty; and the Court before which any such Misdemeanor shall be tried may order such forfeited Articles as aforesaid to be destroyed or otherwise disposed of as such Court shall think fit.

Applying a forged Trade Mark to any Vessel, Case, Wrapper, &c. in or with which any Article is sold or intended to be sold, a Misdemeanor.

3. Every Person who, with Intent to defraud, or to enable another to defraud, any Person, shall apply or cause or procure to be applied any Trade Mark or any forged or counterfeited Trade Mark to any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing in, on, or with which any Chattel or Article shall be intended to be sold or shall be sold or uttered or exposed for Sale, or intended for any Purpose of Trade or Manufacture, or shall enclose or place any Chattel or Article, or cause or procure any Chattel or Article to be enclosed or placed, in, upon, under, or with any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing to which any Trade Mark shall have been falsely applied, or to which any forged or counterfeited Trade Mark shall have been applied, or shall apply or attach or cause or procure to be applied or attached to any Chattel or Article any Case, Cover, Reel, Ticket, Label, or other Thing to which any Trade Mark shall have been falsely applied, or to which any forged or counterfeited Trade Mark shall have been applied, or shall enclose, place, or attach any Chattel or Article, or cause or procure any Chattel or Article to be enclosed, placed, or attached, in, upon, under, with, or to any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing having thereon any Trade Mark of any other Person, shall be guilty of a Misdemeanor, and every Person so committing a Misdemeanor shall also forfeit to Her Majesty every such Chattel and Article, and also every such Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing as aforesaid in the Possession or Power of such Person; and every other similar Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing made to be used in like Manner as aforesaid, and every Instrument in the Possession or Power of such Person, and by means of which any such Trade Mark or forged or counterfeited Trade Mark as aforesaid shall have been applied, and also every Instrument in the Possession or Power of such Person for applying any such Trade Mark or forged or counterfeit Trade Mark as aforesaid, shall be forfeited to Her Majesty; and the Court before which any such Misdemeanor shall be tried may order such forfeited Articles as aforesaid to be destroyed or otherwise disposed of as such Court shall think fit.

Selling Articles with forged or

4. Every Person who, after the Thirty-first Day of *December* One thousand eight hundred and sixty-three, shall sell, utter, or expose

false Trade Marks after 31st December 1863, Penalty equal to Value of Article sold, and a Sum not exceeding 5*l.* nor less than 10*s.*

expose either for Sale or for any Purpose of Trade or Manufacture, or cause or procure to be sold, uttered, or exposed for Sale or other Purpose as aforesaid, any Chattel or Article, together with any forged or counterfeited Trade Mark, which he shall know to be forged or counterfeited, or together with the Trade Mark of any other Person applied or used falsely or wrongfully or without lawful Authority or Excuse, knowing such Trade Mark of another Person to have been so applied or used as aforesaid, and that whether any such Trade Mark or forged or counterfeited Trade Mark as aforesaid, together with which any such Chattel or Article shall be sold, uttered, or exposed for Sale or other Purpose as aforesaid, shall be in, upon, about, or with such Chattel or Article, or in, upon, about, or with any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing in, upon, about, or with which such Chattel or Article shall be so sold or uttered or exposed for Sale or other Purpose as aforesaid, shall for every such Offence forfeit and pay to Her Majesty a Sum of Money equal to the Value of the Chattel or Article so sold, uttered, offered, or exposed for Sale or other Purpose as aforesaid, and a further Sum not exceeding Five Pounds and not less than Ten Shillings.

Additions to and Alterations of Trade Marks made with Intent to defraud to be deemed Forgeries.

5. Every Addition to and every Alteration of, and also every Imitation of any Trade Mark which shall be made, applied, or used with Intent to defraud, or to enable any other Person to defraud, or which shall cause a Trade Mark with such Alteration or Addition, or shall cause such Imitation of a Trade Mark to resemble any genuine Trade Mark so or in such Manner as to be calculated or likely to deceive, shall be and be deemed to be a false, forged, and counterfeited Trade Mark within the Meaning of this Act; and every Act of making, applying, or otherwise using any such Addition to or Alteration of a Trade Mark or any such Imitation of a Trade Mark as aforesaid done by any Person with Intent to defraud, or to enable any other Person to defraud, shall be and be deemed to be forging and counterfeiting a Trade Mark within the Meaning of this Act.

Any Person who, after 31st December 1863, shall have sold an Article having a false Trade Mark to be bound to give Information where he procured it;

6. Where any Person who, at any Time after the Thirty-first Day of *December* One thousand eight hundred and sixty-three, shall have sold, uttered, or exposed for Sale or other Purpose as aforesaid, or shall have caused or procured to be sold, uttered, or exposed for Sale or other Purpose as aforesaid, any Chattel or Article, together with any forged or counterfeited Trade Mark, or together with the Trade Mark of any other Person used without lawful Authority or Excuse as aforesaid, and that whether any such Trade Mark, or such forged or counterfeited Trade Mark as aforesaid, be in, upon, about, or with such Chattel or Article, or in, upon, about, or with any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper,

Wrapper, Band, Reel, Ticket, Label, or other Thing in, upon, about, or with which such Chattel or Article shall have been sold or exposed for Sale, such Person shall be bound upon Demand in Writing delivered to him or left for him at his last known Dwelling House or at the Place of Sale or Exposure for Sale by or on the Behalf of any Person whose Trade Mark shall have been so forged or counterfeited, or used without lawful Authority or Excuse as aforesaid, to give to 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 such Chattel or Article, and of the Time when he obtained the same; and it shall be lawful for any Justice of the Peace, on Information on 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 to comply with such Order shall for every such Offence forfeit and pay to Her Majesty the Sum of Five Pounds, and such Refusal or Neglect shall be *primâ facie* Evidence that the Person so refusing or neglecting had full Knowledge that the Trade Mark, together with which such Chattel or Article was sold, uttered, or exposed for Sale or other Purpose as aforesaid, at the Time of such selling, uttering, or exposing was a forged, counterfeited, and false Trade Mark, or was the Trade Mark of a Person which had been used without lawful Authority or Excuse, as the Case may be.

Power to Justices to summon Parties refusing to give Information.

Penalty for Refusal 5*l.*

7. Every Person who, with Intent to defraud or to enable another to defraud, shall put or cause or procure to be put upon any Chattel or Article, or upon any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing, together with which any Chattel or Article shall be intended to be or shall be sold or uttered or exposed for Sale, or for any Purpose of Trade or Manufacture, or upon any Case, Frame, or other Thing in or by means of which any Chattel or Article shall be intended to be or shall be exposed for Sale, any false Description, Statement, or other Indication of or respecting the Number, Quantity, Measure, or Weight of such Chattel or Article, or any Part thereof, or of the Place or Country in which such Chattel or Article shall have been made, manufactured, or produced, or shall put or cause or procure to be put upon any such Chattel or Article, Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or Thing as aforesaid, any Word, Letter, Figure, Signature, or Mark for the Purpose of falsely indicating such Chattel or Article, or the Mode

Marking any false Indication of Quantity, &c. upon an Article with Intent to defraud, Penalty a Sum equal to the Value of the Article and the further Sum not exceeding 5*l.* and not less than 10*s*

of manufacturing or producing the same, or the Ornamentation, Shape, or Configuration thereof, to be the Subject of any existing Patent, Privilege, or Copyright, shall for every such Offence forfeit and pay to Her Majesty a Sum of Money equal to the Value of the Chattel or Article so sold or uttered or exposed for Sale, and a further Sum not exceeding Five Pounds and not less than Ten Shillings.

Selling or exposing for Sale after the 31st December 1863 Articles with false Statement of Quantities, &c., Penalty not more than 5*l.* or less than 5*s.*

8. Every Person who, after the Thirty-first Day of *December* One thousand eight hundred and sixty-three, shall sell, utter, or expose for Sale or for any Purpose of Trade or Manufacture, or shall cause or procure to be sold, uttered, or exposed for Sale or other Purpose as aforesaid, any Chattel or Article upon which shall have been, to his Knowledge, put, or upon any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing together with which such Chattel or Article shall be sold or uttered or exposed for Sale or other Purpose as aforesaid, shall have been so put, or upon any Case, Frame, or other Thing used or employed to expose or exhibit such Chattel or Article for Sale shall have been so put, any false Description, Statement, or other Indication of or respecting the Number, Quantity, Measure, or Weight of such Chattel or Article or any Part thereof, or the Place or Country in which such Chattel or Article shall have been made, manufactured, or produced, shall for every such Offence forfeit and pay to Her Majesty a Sum not exceeding Five Pounds and not less than Five Shillings.

Proviso that it shall not be an Offence to apply Names or Words known to be used for indicating particular Classes of Manufactures.

9. Provided always, That the Provisions of this Act shall not be construed so as to make it any Offence for any Person to apply to any Chattel or Article, or to any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing with which such Chattel or Article shall be sold or intended to be sold, any Name, Word, or Expression generally used for indicating such Chattel or Article to be of some particular Class or Description of Manufacture only, or so as to make it any Offence for any Person to sell, utter, or offer or expose for Sale any Chattel or Article to which, or to any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing sold therewith, any such generally used Name, Word, or Expression as aforesaid shall have been applied.

Description of Trade Marks and forged Trade

10. In every Indictment, Pleading, Proceeding, and Document whatsoever in which any Trade Mark shall be intended to be mentioned it shall be sufficient to mention or state the same to be a Trade Mark

Mark without further or otherwise describing such Trade Mark, or setting forth any Copy or Fac-simile thereof; and in every Indictment, Pleading, Proceeding, and Document whatsoever in which it shall be intended to mention any forged or counterfeit Trade Mark it shall be sufficient to mention or state the same to be a forged or counterfeit Trade Mark without further or otherwise describing such forged or counterfeit Trade Mark, or setting forth any Copy or Fac-simile thereof. Marks in Indictments, &c.

11. The Provisions in this Act contained of or concerning any Act, or any Proceeding, Judgment, or Conviction for any Act hereby declared to be a Misdemeanor or Offence, shall not nor shall any of them take away, diminish, or prejudicially affect any Suit, Process, Proceeding, Right, or Remedy which any Person aggrieved by such Act may be entitled to at Law, in Equity, or otherwise, and shall not nor shall any of them 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 Indictment for a Misdemeanor at Common Law or otherwise, or of any Proceeding under the Provisions of this Act. Conviction not to affect any Right or Civil Remedy.

12. In every Indictment, Information, Conviction, Pleading, and Proceeding against any Person for any Misdemeanor or other Offence against the Provisions of this Act in which it shall be necessary to allege or mention an Intent to defraud, or to enable another to defraud, it shall be sufficient to allege or mention that the Person accused of having done any Act which is hereby made a Misdemeanor or other Offence did such Act with Intent to defraud, or with Intent to enable some other Person to defraud, without alleging or mentioning an Intent to defraud any particular Person; and on the Trial of any such Indictment or Information for any such Misdemeanor, and on the Hearing of any Information or Charge of or for any such other Offence as aforesaid, and on the Trial of any Action against any Person to recover a Penalty for any such other Offence as aforesaid, it shall not be necessary to prove an Intent to defraud any particular Person, or an Intent to enable any particular Person to defraud any particular Person, but it shall be sufficient to prove with respect to every such Misdemeanor and Offence that the Person accused did the Act charged with Intent to defraud, or with Intent to enable some other Person to defraud, or with the Intent that any other Person might be enabled to defraud. Intent to defraud, &c. any particular Person need not be alleged in an Indictment, &c. or proved.

13. Every

Persons who aid in the Commission of a Misdemeanor to be also guilty.

13. Every Person who shall aid, abet, counsel, or procure the Commission of any Offence which is by this Act made a Misdemeanor shall also be guilty of a Misdemeanor.

Punishment for Misdemeanor under this Act.

14. Every Person who shall be convicted or found guilty of any Offence which is by this Act made a Misdemeanor shall be liable, at the Discretion of the Court and as the Court shall award, to suffer such Punishment by Imprisonment for not more than Two Years, with or without Hard Labour, or by Fine, or both by Imprisonment with or without Hard Labour and Fine, and also by Imprisonment until the Fine (if any) shall have been paid and satisfied.

Recovery of Penalties.

15. In every Case in which any Person shall have committed or done any Offence or Act whereby he shall have forfeited or become liable to pay to Her Majesty any of the Penalties or Sums of Money mentioned in the Provisions of this Act, every such Penalty or Sum of Money shall or may be recovered in *England*, *Wales*, or *Ireland* in an Action of Debt, which any Person may as Plaintiff for and on behalf of Her Majesty commence and prosecute to Judgment in any Court of Record, and the Amount of every such Penalty or Sum of Money to be recovered in any such Action shall or may be determined by the Jury (if any) sworn to try any Issue in such Action, and if there shall be no such Jury then by the Court or some other Jury, as the Court shall think fit, or instead of any such Action being commenced such Penalty or Sum of Money shall or may in *England* or *Wales* be recovered by a summary Proceeding before Two Justices of the Peace having Jurisdiction in the County or Place where the Party offending shall reside or have any Place of Business, or in the County or Place in which the Offence shall have been committed; and shall or may in *Ireland* be recovered in like Manner by Civil Bill in the Civil Bill Court of the County or Place in which the Offence was committed, or in which the Offender shall reside or have any Place of Business; and shall or may in *Scotland* be recovered by Action before the Court of Session in ordinary Form or by summary Action before the Sheriff of the County where the Offence shall have been committed or the Offender may reside or have any Place of Business, which Sheriff, upon Proof of the Offence, either by the Confession of the Person offending or by the Oath or Affirmation of One or more credible Witnesses, shall convict the Offender, and find him liable in the Penalty or Penalties aforesaid as also in Expenses; and it shall be lawful for the Sheriff in pronouncing such Judgment for the Penalty or Penalties and Costs to insert in such Judgment a Warrant in the event of such Penalty or Penalties and Costs not being paid to levy and recover the Amount of the same by Poinding: Provided always, that it shall be lawful to the Sheriff, in the event of his dismissing the Action and assoilzing the Defender, to find the Complainer liable

liable in Expenses, and any Judgment so to be pronounced by the Sheriff in such summary Action shall be final and conclusive, and not subject to Review by Advocation, Suspension, Reduction, or otherwise.

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

16. In every Case in which any such Penalty or Sum of Money forfeited to Her Majesty 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.

In Actions Penalties to be accounted for in like Manner as other Monies payable to the Crown, and Plaintiffs to recover full Costs of Suit.

17. In every Case in which Judgment shall be obtained in any such Action as aforesaid for the Amount of any such Penalty or Sum of Money forfeited to Her Majesty, the Amount thereof shall be paid by the Defendant to the Sheriff or the Officer of the Court, who shall account for the same in like Manner as other Monies payable to Her Majesty, and, if it be not paid, 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 the Plaintiff suing on behalf of Her Majesty, upon obtaining Judgment, shall be entitled to recover and have Execution for all his 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.

Limitations of Actions, &c.

18. No Person shall commence any Action or Proceeding for the Recovery of any Penalty, or procuring the Conviction of any Offender in manner herein-before provided, after the Expiration of Three Years next after the committing of the Offence, or One Year next after the first Discovery thereof by the Person proceeding.

After 31st December 1863 Vendor of an Article with a Trade Mark to be deemed to contract that the Mark is genuine.

19. In every Case in which at any Time after the Thirty-first Day of *December* One thousand eight hundred and sixty-three any Person shall sell or contract to sell (whether by Writing or not) to any other Person any Chattel or Article with any Trade Mark thereon, or upon any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing together with which such Chattel or Article

Article shall be sold or contracted to be sold, the Sale or Contract to sell shall in every such Case be deemed to have been made with a Warranty or Contract by the Vendor to or with the Vendee that every Trade Mark upon such Chattel or Article, or upon any such Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing as aforesaid, was genuine and true, and not forged or counterfeit, and not wrongfully used, unless the contrary shall be expressed in some Writing signed by or on behalf of the Vendor, and delivered to and accepted by the Vendee.

After 31st December 1863 Vendor of an Article with Description upon it of its Quantity to be deemed to contract that the Description was true.

20. In every Case in which at any Time after the Thirty-first Day of *December* One thousand eight hundred and sixty-three any Person shall sell or contract to sell (whether by Writing or not) to any other Person any Chattel or Article upon which, or upon any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing together with which such Chattel or Article shall be sold or contracted to be sold, any Description, Statement, or other Indication of or respecting the Number, Quantity, Measure, or Weight of such Chattel or Article, or the Place or Country in which such Chattel or Article shall have been made, manufactured, or produced, the Sale or Contract to sell shall in every such Case be deemed to have been made with a Warranty or Contract by the Vendor to or with the Vendee that no such Description, Statement, or other Indication was in any material respect false or untrue, unless the contrary shall be expressed in some Writing signed by or on behalf of the Vendor, and delivered to and accepted by the Vendee.

In Suits at Law or in Equity against Persons for using forged Trade Marks, Court may order Article to be destroyed, and may award Injunction, &c.

21. In every Case in any Suit at Law or in Equity against any Person for forging or counterfeiting any Trade Mark, or for fraudulently applying any Trade Mark, to any Chattel or Article, or for selling, exposing for Sale, or uttering any Chattel or Article with any Trade Mark falsely or wrongfully applied thereto, or with any forged or counterfeit Trade Mark applied thereto, or for preventing the Repetition or Continuance of any such wrongful Act, or the Committal of any similar Act, in which the Plaintiff shall obtain a Judgment or Decree against the Defendant, the Court shall have Power to direct every such Chattel and Article to be destroyed or otherwise disposed of; and in every such Suit in a Court of Law the Court shall or may upon giving Judgment for the Plaintiff award a Writ of Injunction or Injunctions to the Defendant commanding him to forbear from committing and not by himself or otherwise to repeat or commit any Offence or wrongful Act of the like Nature as that of which he shall or may have been convicted by such Judgment, and any Disobedience of any such Writ of Injunction or Injunctions shall be punished as a Contempt of Court; and in every such Suit

Suit at Law or in Equity it shall be lawful for the Court or a Judge thereof to make such Order as such Court or Judge shall think fit for the Inspection of every or any Manufacture or Process carried on by the Defendant in which any such forged or counterfeit Trade Mark, or any such Trade Mark as aforesaid, shall be alleged to be used or applied as aforesaid, and of every or any Chattel, Article, and Thing in the Possession or Power of the Defendant alleged to have thereon or in any way attached thereto any forged or counterfeit Trade Mark, or any Trade Mark falsely or wrongfully applied, and every or any Instrument in the Possession or Power of the Defendant used or intended to be or capable of being used for producing or making any forged or counterfeit Trade Mark, or Trade Mark alleged to be forged or counterfeit, or for falsely or wrongfully applying any Trade Mark; and any Person who shall refuse or neglect to obey any such Order shall be guilty of a Contempt of Court.

Persons aggrieved by Forgeries may recover Damages against the guilty Parties.

22. In every Case in which any Person shall do or cause to be done any of the wrongful Acts following; (that is to say,) shall forge or counterfeit any Trade Mark; or for the Purpose of Sale, or for the Purpose of any Manufacture or Trade, shall apply any forged or counterfeit Trade Mark to any Chattel or Article, or to any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or Thing in or with which any Chattel or Article shall be intended to be sold or shall be sold or uttered or exposed for Sale, or for any Purpose of Trade or Manufacture; or shall inclose or place any Chattel or Article in, upon, under, or with any Cask, Bottle, Stopper, Vessel, Case, Cover, Wrapper, Band, Reel, Ticket, Label, or other Thing to which any Trade Mark shall have been falsely applied, or to which any forged or counterfeit Trade Mark shall have been applied; or shall apply or attach to any Chattel or Article any Case, Cover, Reel, Wrapper, Band, Ticket, Label, or other Thing to which any Trade Mark shall have been falsely applied, or to which any forged or counterfeit Trade Mark shall have been applied; or shall inclose, place, or attach any Chattel or Article in, upon, under, with, or to any Cask, Bottle, Stopper, Vessel, Case, Cover, Reel, Wrapper, Band, Ticket, Label, or other Thing having thereon any Trade Mark of any other Person; 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, and for preventing the Repetition or Continuance of the wrongful Act, and the Committal of any similar Act.

23. In

Defendant obtaining a Verdict to have full Indemnity for Costs.

23. In every Action which any Person shall under the Provisions of this Act commence as Plaintiff for or on behalf of Her Majesty for recovering any Penalty or Sum of Money, if the Defendant shall obtain Judgment, he shall be entitled to recover his Costs of Suit, which shall include a full Indemnity for all the Costs, Charges, and Expenses by him 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.

A Plaintiff suing for a Penalty may be compelled to give Security for Costs.

24. In any Action which any Person shall, under the Provisions of this Act, commence as Plaintiff for or on behalf of Her Majesty for recovering any Penalty or Sum of Money, if it shall be shown to the Satisfaction of the Court or a Judge thereof that the Person suing as Plaintiff for or on behalf of Her Majesty has no Ground for alleging that he has been aggrieved by the committing of the alleged Offence in respect of which the Penalty or Sum of Money is alleged to have become payable, and also that the Person so suing as Plaintiff is not resident within the Jurisdiction of the Court, or not a Person of sufficient Property to be able to pay any Costs which the Defendant may recover in the Action, the Court or Judge shall or may order that the Plaintiff shall give Security by the Bond or Recognizance of himself and a Surety, or by the Deposit of a Sum of Money, or otherwise, as the Court or Judge shall think fit, for the Payment to the Defendant of any Costs which he may be entitled to recover in the Action.

Act not to affect the Corporation of Cutlers of Hallamshire, nor to repeal 59 G. 3. c. 7.

25. Nothing in this Act contained shall be construed to affect the Rights and Privileges of the Corporation of Cutlers of the Liberty of *Hallamshire* in the County of *York*, nor shall anything in this Act contained be construed in any way to repeal or make void any of the Provisions contained in the Fifty-ninth *George* Third, Chapter Seven, intituled *An Act to regulate the Cutlery Trade in* England.

Short Title.

26. The Expression "The Merchandise Marks Act, 1862," shall be a sufficient Description of this Act.

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