CHAPTER clxxxii.

A.D. 1891.

An Act for rendering valid certain Letters Patent granted to Eugène Worms of Paris in the Republic of France and Jean Balé of the same place Engineers for Improved Process and Apparatus for Tanning by aid of Electricity.

[28th July 1891.]

WHEREAS on the fourteenth day of December one thousand eight hundred and eighty-six Eugène Worms and Jean Balé both of Paris in the Republic of France made application for Letters Patent in the said Republic of France for an invention of a process of rapid tanning by rotary drums with the application of electricity:

And whereas in pursuance of the law of the 5th July 1844 and of a statement delivered to the General Secretary's Department of the Prefecture of the Department of the Seine there was delivered to Eugène Worms and Jean Balé both of Paris in the Republic of France herein-after referred to as the Patentees under the seal of the Ministry of Commerce and Industry of the Republic of France bearing date the fourteenth day of December one thousand eight hundred and eighty-six Letters Patent for the term of fifteen years from the said fourteenth day of December one thousand eight hundred and eighty-six for such invention:

And whereas the patentees applied for and in April one thousand eight hundred and eighty-seven obtained Letters Patent in the United States of America for the same invention:

And whereas by section 103 sub-section 1 of the Patents Designs and Trade Marks Act 1883 (herein-after called the Act of 1883) it is enacted (inter alia) that if Her Majesty is pleased to make any arrangement with the Government or Governments of any foreign State or States for mutual protection of inventions then any person who has applied for protection for any invention in any such State shall be entitled to a patent for his invention under this Act in priority to other applicants and such patent shall have the same date

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as the date of the protection obtained in such foreign State provided that his application is made within seven months from his applying for protection in the foreign State with which the arrangement is in force And by sub-section 2 it is enacted that the publication in the United Kingdom or the Isle of Man during the respective periods aforesaid of any description of the invention or the use therein during such period of the invention shall not invalidate the patent which may be granted for the invention And by sub-section 3 it is enacted that the application for the grant of a patent under this section must be made in the same manner as an ordinary application under the said Act:

And whereas an arrangement under sub-section 1 of the Act of 1883 was made with the Republic of France on the twenty-sixth day of June one thousand eight hundred and eighty-four:

And whereas in pursuance of the Act of 1883 and in order to obtain the benefits by such section accorded to inventors who had obtained Letters Patent for their invention in the Republic of France the Patentees made application on the fifth day of July one thousand eight hundred and eighty-seven (being within the prescribed period of seven months from the said fourteenth day of December one thousand eight hundred and eighty-six) for Letters Patent under the seal of the Patent Office in respect of the said invention and in accordance with the Act of 1883 made such application in the same manner as an ordinary application under that Act:

And whereas by Letters Patent under the seal of the Patent Office bearing date the fifth day of July one thousand eight hundred and eighty-seven in the fifty-first year of the reign of Her present Majesty Queen Victoria Her Majesty did give and grant unto the Patentees their executors administrators and assigns Her special license full power sole privilege and authority that they the Patentees their executors administrators and assigns and every of them by themselves or by their deputy or deputies servants or agents or such others as they the said Patentees their executors administrators or assigns should at any time agree with and no other from time to time and at all times thereafter during the term of fourteen years from the date of the said Letters Patent should and lawfully might make use exercise and vend the said invention within the United Kingdom of Great Britain and Ireland and Isle of Man and a copy of the said Letters Patent is set forth in the schedule hereto:

And whereas under the Act of 1883 and the said arrangement with the Republic of France such Letters Patent should have been dated as of the said fourteenth December one thousand eight

hundred and eighty-six but the same were not so dated but were dated as of the fifth day of July one thousand eight hundred and eighty-seven being the day of the application made for the said last-named Letters Patent:

And whereas subsequently to the said fourteenth day of December one thousand eight hundred and eighty-six and before the said fifth day of July one thousand eight hundred and eighty-seven an abridged copy of the Letters Patent granted to the said Eugène Worms and Jean Balé in the United States for their said invention was in accordance with an arrangement made between the Patent Offices in London and Washington received at the Patent Office in London and was published by such copy being placed in the library of that office and such abridged copy set forth the said invention in sufficient detail to constitute a publication of the same within this realm:

And whereas by deed dated the twenty-sixth day of June one thousand eight hundred and eighty-nine the Patentees assigned the British Letters Patent to the British Tanning Company Limited herein-after called the Tanning Company who thereupon obtained a tannery erected the very costly machinery necessary to work the invention and carried on the business of tanners:

And whereas Mr. Justice Romer on the sixteenth day of January one thousand eight hundred and ninety-one in an action brought by the Tanning Company to restrain an alleged infringement of the said patent decided that the Letters Patent not having been dated as of the said fourteenth day of December one thousand eight hundred and eighty-six the Patentees could not claim the benefit of section 103 of the Act of 1883 and that their said Letters Patent were invalidated by reason of the abridged copy of the specification of their American patent having arrived in England and been published as aforesaid prior to the date of their application for Letters Patent in the United Kingdom:

And whereas the said Patentees made their application in England at the date in question in the manner prescribed by section 103 of the Act of 1883 and with the expectation and intention of receiving the benefit of the provisions of that section as from the date of the protection obtained in the Republic of France and received their said Letters Patent under the belief that they had obtained protection as from that date:

And whereas regulations have been made by rules of the Patent Office since the date of the said application by which the possibility of such mistakes in future is prevented but no similar regulations existed at the date of the said application:

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And whereas on the decision being given by Mr. Justice Romer as aforesaid the Tanning Company without loss of time introduced the Bill for this Act into Parliament:

And whereas the present is a case of peculiar hardship arising from the implicit obedience of the Patentees to the directions of section 103 of the Act of 1883 and from the arrangement made as aforesaid between the Patent Offices in London and Washington by reason whereof the patent obtained for the Patentees invention in the United Kingdom and the Isle of Man was invalidated by the publication in England of the Patentees patent for the same invention obtained in the United States the Tanning Company humbly trust that as the present difficulty and threatened loss arise from an accident and not from a wilful disobedience to the law of the United Kingdom of Great Britain they may have the relief now humbly asked for:

And whereas under the circumstances aforesaid it is reasonable that the said Letters Patent should be dated as of the fourteenth day of December one thousand eight hundred and eighty-six but the purposes aforesaid cannot be effect without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it 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:—

Short title.

1. This Act may be cited as Worms and Balé's Patent Act 1891.

Power to Comptroller-General of Patents, &c. to antedate Letters Patent.

2. Within one month from the passing of this Act and on payment to the Comptroller-General of Patents Designs and Trade Marks of the fourth year's renewal fee (which fee he is hereby empowered and required to accept) it shall be lawful for the said Comptroller-General upon the application of the Tanning Company to date the said Letters Patent a copy whereof is set forth in the schedule hereto as of the fourteenth day of December one thousand eight hundred and eighty-six being the date of the application for the Letters Patent which were granted to the Patentees in the Republic of France instead of the fifth day of July one thousand eight hundred and eighty-seven and the said Comptroller-General shall so date the same and shall endorse on the said Letters Patent or a duplicate thereof a certificate that he has so dated the same under the authority given to him by this Act and also shall enter a like certificate upon the Register of Patents kept in the Patent Office.

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Letters Patent confirmed.

3. From and after the time that the said Comptroller-General has so dated the said Letters Patent as of the fourteenth day of December one thousand eight hundred and eighty-six the same shall be deemed for all purposes to be the date of the said Letters Patent and the said Letters Patent shall be deemed and taken to be as good and valid and effectual to all intents and purposes as if the said Letters Patent had been so dated under the provisions of section 3 of the Act of 1883.

For protection of persons who may have availed themselves of subject-matter of patent after it has been declared void.

4. No action or other proceeding shall be commenced or prosecuted nor any damage recovered—

(1) In respect of any infringement of the said patent which shall have taken place after the sixteenth day of January one thousand eight hundred and ninety-one (the day on which the patent was declared to be void by Mr. Justice Romer) and before the passing of this Act;

(2) In respect of the use or employment at any time hereafter of any machine machinery process or operation actually made or carried on within the United Kingdom and the Isle of Man or of the use or sale of any article manufactured or made in infringement of the said patent after the said sixteenth day of January one thousand eight hundred and ninety-one and before the passing of this Act Provided that such use sale or employment is by the person or corporation by or for whom such machine or machinery or article was bonâ fide manufactured or made or such process or operation was bonâ fide carried on his or their executors administrators successors or vendees or his or their assigns;

(3) In respect of the use employment or sale at any time hereafter by any person or corporation entitled for the time being under the preceding subsection to use or employ any machine machinery process or operation of any improved or additional machine or machinery or any improved extended or developed process or operation or of any article manufactured or made by any of the means aforesaid in infringement of the said patent Provided that the use or employment of any such improved or additional machine or machinery or of any such improved extended or developed process or operation shall be limited to the buildings works or premises of the person or corporation by or for whom such machine or machinery was manufactured or such process or operation was carried on within the meaning of the preceding subsection his or their executors administrators successors or assigns:

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If any person shall within one year after the passing of this Act make an application to the Board of Trade for compensation in respect of money time or labour expended by the applicant upon the subject matter of the said patent in the bonâ fide belief that such patent had become and continued to be void it shall be lawful for the said Board after hearing the parties concerned or their agents to assess the amount of such compensation if in their opinion the application ought to be granted and to specify the party by whom and the day on which such compensation shall be paid and if default shall be made in payment of the sum awarded then the said patent shall by virtue of this Act become void but the sum awarded shall not in that case be recoverable as a debt or damages.

Costs of Act.

5. The costs of and incidental to the obtaining of this Act shall be paid by the Tanning Company.

SCHEDULE.

S.
1887.
No. 9515.

VICTORIA by the grace of God of the United Kingdom of Great Britain and Ireland Queen Defender of the Faith To all to whom these presents shall come greeting:

WHEREAS Eugène Worms and Jean Balé both of 2 Rue du Faubourg Poissonnière Paris in the Republic of France merchants have represented unto us that they are in possession of an invention for "improved process and apparatus for tanning by aid of electricity" that they are the true and first inventors thereof and that the same is not in use by any other person to the best of their knowledge and belief:

And whereas the said inventors have humbly prayed that we would be graciously pleased to grant unto them (herein-after together with their executors administrators and assigns or any of them referred to as the said patentees) our Royal Letters Patent for the sole use and advantage of their said invention:

And whereas the said inventors have by and in their complete specification particularly described the nature of their invention:

And whereas we being willing to encourage all inventions which may be for the public good are graciously pleased to condescend to their request:

Know ye therefore that we of our special grace certain knowledge and mere motion do by these presents for us our heirs and successors give and grant unto the said Patentees our especial license full power sole privilege and authority that the said Patentees by themselves their agents or licensees and no others may at all times hereafter during the term of years herein mentioned make use exercise and vend the said invention within our United Kingdom of Great Britain and Ireland and Isle of Man in such manner as to them may seem meet and that the said Patentees shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention during the term of fourteen years from the date hereunder written of these presents And to the end that the said Patentees may have and enjoy the sole use and exercise and the full benefit of the said invention we do by these presents for us our heirs and successors strictly command all our subjects whatsoever within our United Kingdom of Great Britain and Ireland and the Isle of Man that they do not at any time during the continuance of the said term of fourteen years either directly or indirectly make use of or put in practice the said invention or any other part of the same nor in anywise imitate the same nor make or cause to be made any addition thereto or subtraction therefrom whereby to pretend themselves the inventors thereof without the consent license or agreement of the said Patentees in writing under their hands and seals on pain of incurring such penalties as may be justly inflicted on such

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offenders for their contempt of this our royal command and of being answerable to the Patentees according to law for their damages thereby occasioned:

Provided that these our Letters Patent are on this condition that if at any time during the said term it be made to appear to us our heirs or successors or any six or more of our Privy Council that this our grant is contrary to law or prejudicial or inconvenient to our subjects in general or that the said invention is not a new invention as to the public use and exercise thereof within our United Kingdom of Great Britain and Ireland and Isle of Man or that the said Patentees are not the first and true inventors thereof within this realm as aforesaid these our Letters Patent shall forthwith determine and be void to all intents and purposes notwithstanding anything herein-before contained Provided also that if the said Patentees shall not pay all fees by law required to be paid in respect of the grant of these Letters Patent or in respect of any matter relating thereto at the time or times and in manner for the time being by law provided and also if the said Patentees shall not supply or cause to be supplied for our service all such articles of the said invention as may be required by the officers or commissioners administering any department of our service in such manner at such times and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided then and in any of the said cases these our Letters Patent and all privileges and advantages whatever hereby granted shall determine and become void notwithstanding anything herein-before contained Provided also that nothing herein contained shall prevent the granting of licenses in such manner and for such consideration as they may by law be granted And lastly we do by these presents for us our heirs and successors grant unto the said Patentees that these our Letters Patent shall be construed in the most beneficial sense for the advantage of the said Patentees.

In witness whereof we have caused these our letters to be made patent this fifth day of July one thousand eight hundred and eighty-seven and to be sealed as of the fifth day of July one thousand eight hundred and eighty-seven.

The Seal of the Patent Office.

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FOR

T. Digby Pigott, Esq., C.B., the Queen's Printer of Acts of Parliament.

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