



CHAPTER xi.

An Act for rendering valid certain Letters Patent granted to William John Whiting for Improvements in Revolver Firearms. A.D. 1897.
[3rd June 1897.]

WHEREAS by letters patent under the Great Seal of Great Britain bearing date the twenty-fifth day of February one thousand eight hundred and ninety-one being the fifty-fourth year of the reign of Her present Majesty Queen Victoria and numbered 3427 Her Majesty did give and grant unto William John Whiting of 153 Linwood Road Handsworth in the county of Stafford foreman of works together with his executors administrators and assigns or any of them therein referred to as the said patentee Her especial license full power sole privilege and authority that he the said patentee by himself his agents or licensees and no others might at all times thereafter during the term of fourteen years from the date of the said letters patent make use exercise and vend within the United Kingdom of Great Britain and Ireland and Isle of Man an invention therein mentioned for "Improvements in Revolver Firearms":

And whereas the said letters patent contain a proviso making void the said letters patent if the said patentee should not pay all fees by law required to be paid in respect of the grant of the said 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 whereas by section twenty-four of the Patents Designs and Trade Marks Act 1883 certain fees in respect of the said letters patent were payable by ten annual payments which vary in amount spread over a period of thirteen years from the date of the grant of the said letters patent:

And whereas by an indenture dated the 18th day of May 1892 and made between the said William John Whiting of the one part Thomas William Webley and Henry Webley of Weaman Street Birmingham gun and revolver makers (in this Act referred to as "the assignees") of the other part and duly registered in the Patent

A.D. 1897. Office on the 1st day of November 1892 the said William John Whiting for the considerations therein mentioned as beneficial owner granted assigned and confirmed unto the assignees the said letters patent upon the terms and conditions therein mentioned and the said letters patent are now (or were until lately) vested in and belonged to the assignees exclusively as the registered proprietors thereof:

And whereas the assignees are possessed of various other letters patent (including in particular another patent (No. 1923 of 1886) granted to the said William John Whiting) and for about a quarter of a century past have under a contract or arrangement with Messrs. Gedge and Feeny of 60 Queen Victoria Street chartered patent agents (in this Act referred to as "the patent agents"), and their predecessors in business employed the patent agents to pay all fees due in respect of all letters patent owned by them as and when the same became due and from time to time in the ordinary course of their business made them payments to cover the said fees and the patent agents and their predecessors have during the said employment up to the commencement of the year 1896 regularly fulfilled their duties and duly paid and discharged all fees due in respect of all letters patent owned by the assignees in accordance with the terms of such contract or arrangement:

And whereas the said fees payable in respect of the above-mentioned letters patent (including the said Letters Patent Nos. 1923 and 3427) and all other fees payable on and in connexion therewith up to and including the 25th day of February 1895 were from time to time paid on or before the due dates thereof by the patent agents on behalf of the assignees in the ordinary course of their said employment under the said contract or arrangement and the assignees from time to time repaid to the patent agents the amount thereof together with their remuneration due in respect thereof:

And whereas the renewal fees payable during 1896 in respect of the said Letters Patent No. 1923 granted to the said William John Whiting and No. 3427 also granted to the said William John Whiting were respectively due and payable on the 10th and 25th days of February 1896:

And whereas by letter dated and sent on the 8th day of January 1896 the assignees requested the patent agents to renew the patents therein referred to including the said Patents Nos. 1923 and 3427 and to send them an official receipt on each occasion and the particulars of the amount due to them:

And whereas the patent agents entered up in their books particulars of the said patents and the dates and amounts of the fees payable in respect thereof during the first quarter of the said

year 1896 and debited the amounts of the fees payable in respect of five of the said patents to the assignees in account current :

And whereas the clerk of the patent agents whose duty it was to attend to the entering in their books of the payment of the said fees noted as paid the fees in respect of both the said Patents Nos. 1923 and 3427 which were entered in the name of W. J. Whiting whereas the fee in respect of the first-mentioned patent only had in fact been so paid and by reason of such mistake the date for the payment of the renewal fee in respect of the said Patent No. 3427 was allowed to pass :

And whereas the said clerk was at the time when such mistake was made suffering from domestic trouble which entailed great mental anxiety and unfitted him for the proper performance of his duties but had not informed his employers thereof :

And whereas the assignees having omitted to pay the said fee due in respect of the said Letters Patent No. 3427 on the 25th day of February 1896 the said letters patent were announced in the Official Journal dated the 10th day of June 1896 published under the provisions of section 40 of the Patents Designs and Trade Marks Act 1883 to have become void on the 25th day of February 1896 :

And whereas the assignees first learnt of the omission by the patent agents to pay the prescribed fee to the Comptroller-General of Patents Designs and Trade Marks (in this Act called "the Comptroller") on receipt of a letter written to them by the patent agents on the 27th day of June 1896 informing them of such omission :

And whereas the time prescribed by section seventeen of the Patents Designs and Trade Marks Act 1883 during which the Comptroller is empowered to enlarge the time for such payments had expired on the twenty-fifth day of May one thousand eight hundred and ninety-six :

And whereas the assignees thereupon gave the requisite instructions for an application to Parliament for power to pay the said prescribed fee and to renew the said letters patent :

And whereas much time has been devoted and considerable sums of money have been expended by the assignees in acquiring and developing the said invention for which no adequate and sufficient return has hitherto been received :

And whereas the omission to pay the said prescribed fee or to apply to the Comptroller within the prescribed period for an enlargement of the time for paying the same arose solely from the mistake of the said clerk owing to the circumstances aforesaid and not from any negligence or misconduct on the part of the assignees :

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And whereas the said prescribed fee has now been paid and the total amount of fees (including the prescribed fee for enlargement) due and to become due upon the said letters patent has been deposited with the Comptroller and the certificate of the Comptroller to that effect has been lodged in the Office of the Clerk of the Parliaments:

And whereas it is expedient that the said letters patent should be rendered valid in manner herein-after mentioned:

And whereas the purposes aforesaid cannot be effected 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 (that is to say):—

Letters
patent
confirmed.

1. Upon the passing of this Act the said letters patent (a true copy of which is set forth in the schedule to this Act annexed) or a duplicate thereof certified by the Comptroller for the purposes of this Act shall be considered deemed and taken to be and to have been as good valid and effectual to all intents and purposes as if all the payments prescribed by the Patents Designs and Trade Marks Act 1883 to be made in respect of the said letters patent either before or after the passing of this Act had been duly made or satisfied.

Saving
rights.

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

(1) In respect of any infringement of the said letters patent which shall have taken place after the date on which the said letters patent were officially declared to be void and before the passing of this Act:

(2) In respect of the use or employment at any time hereafter of any mechanism machine machinery process or any 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 letters patent after the said 25th day of February 1896 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 article was bonâ fide manufactured or made or such mechanism machine machinery process or operation was bonâ fide made or carried on his or their executors administrators successors or vendees or his or their assigns respectively:

(3) In respect of the use or employment at any time hereafter by the person or corporation entitled for the time being under the

preceding subsection to use or employ any machine machinery mechanism process or operation of any improved extended or developed machine machinery mechanism process or operation or of the use or sale of any article thereby manufactured or made in infringement of the said letters patent Provided that the use or employment of such improved extended or developed machine machinery mechanism process or operation shall be limited to the buildings works or premises of the person or corporation by or for whom such machine machinery or mechanism was manufactured or such process or operation was made or 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 letters patent on a bonâ fide belief that such letters 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 letters 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.

3. This Act may be cited as *Whiting's Patent Act 1897.*

Short title.

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The SCHEDULE referred to in the foregoing Act.

1891 No. 3427.

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 William John Whiting of 153 Linwood Road Handsworth in the county of Stafford foreman of works hath represented unto us that he is in possession of an invention for "improvements in revolver firearms" that he is the true and first inventor thereof and that the same is not in use by any other person to the best of his knowledge and belief :

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

And whereas the said inventor hath by and in his complete specification particularly described the nature of his invention :

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

Know ye therefore that we of our especial grace certain knowledge and mere motion do by these presents for us our heirs and successors give and grant unto the said patentee our especial license full power sole privilege and authority that the said patentee by himself his 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 him or them may seem meet and that the said patentee 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 patentee 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 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 patentee in writing under his hand and seal on pain of incurring such penalties as may be justly inflicted on such

offenders for their contempt of this our Royal command and of being answerable to the patentee according to law for his damages thereby occasioned: A.D. 1897.

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 patentee is not the first and true inventor 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 patentee 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 patentee 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 considerations as they may by law be granted And lastly we do by these presents for us our heirs and successors grant unto the said patentee that these our letters patent shall be construed in the most beneficial sense for the advantage of the said patentee.

IN WITNESS whereof we have caused these our letters to be made patent this twenty-fifth day of February one thousand eight hundred and ninety-one and to be sealed as of the twenty-fifth day of February one thousand eight hundred and ninety-one.

L.S.

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