



# Judicial Committee Act 1844

## 1844 CHAPTER 69

An Act for amending an Act passed in the Fourth Year of the Reign of His late Majesty, intituled *An Act for the better Administration of Justice in His Majesty's Privy Council*; and to extend its Jurisdiction and Powers. [6th August 1844]

WHEREAS the Act passed in the Fourth Year of the Reign of His late Majesty, intituled *An Act for the better Administration of Justice in His Majesty's Privy Council*, hath been found beneficial to the due Administration of Justice: And whereas another Act, passed in the Sixth Year of the said Reign, intituled *An Act to amend the Law touching Letters Patent for Inventions*, hath been also found advantageous to Inventors and to the Public: And whereas the Judicial Committee acting under the Authority of the said Acts hath been found to answer well the Purposes for which it was so established by Parliament, but it is found necessary to improve its Proceedings in some respects, for the better Despatch of Business, and expedient also to extend its Jurisdiction and Powers: And whereas by the Laws now in force in certain of Her Majesty's Colonies and Possessions abroad no Appeals can be brought to Her Majesty in Council for the Reversal of the Judgments, Sentences, Decrees, and Orders of any Courts of Justice within such Colonies, save only of the Courts of Error or Courts of Appeal within the same, and it is expedient that Her Majesty in Council should be authorized to provide for the Admission of Appeals from other Courts of Justice within such Colonies or Possessions:

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,

**Her Majesty, by Order in Council, may provide for the Admission of an Appeal from any Colony, although there shall not be a Court of Error or of Appeal in such Colony ; and may revoke such Orders.**

That it shall be competent to Her Majesty, by any Order or Orders to be from Time to Time for that Purpose made with the Advice of Her Privy Council, to provide for the Admission of any Appeal or Appeals to Her Majesty in Council from any Judgments, Sentences, Decrees, or Orders of any Court of Justice within any British Colony or Possession abroad, although such Court shall not be a Court of Errors or a Court of Appeal within such Colony or Possession; and it shall also be competent to Her Majesty,

by any such Order or Orders as aforesaid, to make all such Provisions as to Her Majesty in Council shall seem meet for the instituting and prosecuting any such Appeals, and for carrying into effect any such Decisions or Sentences as Her Majesty in Council shall pronounce thereon :

**Orders may be either general or specific.**

Provided always, that it shall be competent to Her Majesty in Council to revoke, alter, and amend any such Order or Orders as aforesaid as to Her Majesty in Council shall seem meet :

**General Orders to be published.**

Provided also, that any such Order as aforesaid may be either general and extending to all Appeals to be brought from any such Court of Justice as aforesaid, or special and extending only to any Appeal to be brought in any particular Case :

**Nothing herein to affect the present Powers for regulating Appeals from the Colonies.**

Provided also, that every such general Order in Council as aforesaid shall be published in the *London Gazette* within One Calendar Month next after the making thereof: Provided also, that nothing herein contained shall be construed to extend to take away or diminish any Power now by Law vested in Her Majesty for regulating Appeals to Her Majesty in Council from the Judgments, Sentences, Decrees, or Orders of any Courts of Justice within any of Her Majesty's Colonies or Possessions abroad.

## **II On Petition, Her Majesty may grant an Extension of Patent Term in certain Cases.**

And whereas it is expedient, for the further Encouragement of Inventions in the useful Arts, to enable the Time of Monopoly in Patents to be extended in Cases in which it can be satisfactorily shown that the Expence of the Invention hath been greater than the Time now limited by Law will suffice to reimburse ; be it enacted, That if any Person, having obtained a Patent for any Invention, shall before the Expiration thereof present a Petition to Her Majesty in Council, setting forth that he has been unable to obtain a due Remuneration for his Expence and Labour in perfecting such Invention, and that an exclusive Right of using and vending the same for the further Period of Seven Years, in addition to the Term in such Patent mentioned, will not suffice for his Reimbursement and Remuneration, then, if the Matter of such Petition shall be by Her Majesty referred to the Judicial Committee of the Privy Council, the said Committee shall proceed to consider the same after the Manner and in the usual Course of its Proceedings touching Patents, and if the said Committee shall be of opinion, and shall so report to Her Majesty, that a further Period greater than Seven Years Extension of the said Patent Term ought to be granted to the Petitioner, it shall be lawful for Her Majesty, if She shall so think fit, to grant an Extension thereof for any Time not exceeding Fourteen Years, in like Manner and subject to the same Rules as the Extension for a Term not exceeding Seven Years is now granted under the Powers of the said Act of the Sixth Year of the Reign of His late Majesty.

## **III Her Majesty may grant Extension for a lesser Term than that prayed.**

Provided always, and be it enacted, That nothing herein contained shall prevent the said Judicial Committee from reporting that an Extension for any Period not exceeding Seven Years should be granted, or prevent Her Majesty from granting an Extension for such lesser Term than the Petition shall have prayed.

**IV As to Extension of Term where Patentees have assigned their Patent Rights.**

And whereas Doubts have arisen touching the Power given by the said recited Act of the Sixth Year of the Reign of His late Majesty in Cases where the Patentees have wholly or in part assigned their Right; be it enacted, That it shall be lawful for Her Majesty, on the Report of the Judicial Committee, to grant such Extension as is authorized by the said Act and by this Act, either to an Assignee or Assignees or to the original Patentee or Patentees, or to an Assignee or Assignees and original Patentee or Patentees conjointly.

**V Disclaimer and Memorandum of Alteration under 5 & 6 W.4 c.83 may be made notwithstanding original Patentee may have assigned his Patent Right.**

And be it enacted, That in case the original Patentee or Patentees hath or have departed with his or their Whole or any Part of his or their Interest by Assignment to any other Person or Persons, it shall be lawful for such Patentee, together with such Assignee or Assignees if Part only hath been assigned, and for the Assignee or Assignees if the whole hath been assigned, to enter a Disclaimer and Memorandum of Alteration under the Powers of the said recited Act; and such Disclaimer and Memorandum of such Alteration, having been so entered and filed as in the said recited Act mentioned, shall be valid and effectual in favour of any Person or Persons in whom the Rights under the said Letters Patent may then be or thereafter become legally vested; and no Objection shall be made in any Proceeding whatsoever on the Ground that the Party making such Disclaimer or Memorandum of such Alteration had not sufficient Authority in that Behalf.

**VI Disclaimer and Memorandum of Alteration already made to be deemed valid.**

And be it enacted, That any Disclaimer or Memorandum of Alteration before the passing of this Act, or by virtue of the said recited Act, by such Patentee with such Assignee or by such Assignee as aforesaid, shall be valid and effectual to bind any Person or Persons in whom the said Letters Patent might then be or have since become vested; and no Objection shall be made in any Proceeding whatsoever that the Party making such Disclaimer or Memorandum of Alteration had not Authority in that Behalf.

**VII New Letters Patent granted under 5 & 6 W.4 to Assignees before passing of this Act declared valid. Proviso.**

And be it enacted, That any new Letters Patent which before the passing of this Act may have been granted, under the Provisions of the above-recited Act of the Sixth Year of the Reign of His late Majesty, to an Assignee or Assignees, shall be as valid and effectual as if the said Letters Patent had been made after the passing of this Act, and the Title of any Party to such new Letters Patent shall not be invalidated by reason of the same having been granted to an Assignee or Assignees: Provided always, that nothing herein contained shall give any Validity or Effect to any Letters Patent heretofore granted to any Assignee or Assignees where any Action or Proceeding in Scire facias or Suit in Equity shall have been commenced at any Time before the passing of this Act, wherein the Validity of such Letters Patent shall have been or may be questioned.

**VIII Judicial Committee may appoint Clerk of Privy Council to take Proofs in Matters referred to them.**

Provided always, and be it enacted, That in the Case of any Matter or Thing being referred to the Judicial Committee, it shall be lawful for the said Committee to appoint one or other of the Clerks of the Privy Council to take any formal Proofs required to be taken in dealing with the Matter or Thing so referred, and shall, if they so think fit, proceed upon such Clerk's Report to them as if such formal Proofs had been taken by and before the said Judicial Committee.

**IX Judicial Committee may proceed to hearing of Appeals without special Order of Reference. Proviso.**

And be it enacted, That in case any Petition of Appeal whatever shall be presented, addressed to Her Majesty in Council, and such Petition shall be duly lodged with the Clerk of the Privy Council, it shall be lawful for the said Judicial Committee to proceed in hearing and reporting upon such Appeal, without any special Order in Council referring the same to them, provided that Her Majesty in Council shall have, by an Order in Council in the Month of November, directed that all Appeals shall be referred to the said Judicial Committee on which Petitions may be presented to Her Majesty in Council during the Twelve Months next after the making of such Order; and that the said Judicial Committee shall proceed to hear and report upon all such Appeals in like Manner as if each such Appeal had been referred to the said Judicial Committee by a special Order of Her Majesty in Council: Provided always, that it shall be lawful for Her Majesty in Council at any Time to rescind any general Order so made; and in case of such Order being so rescinded all Petitions of Appeal shall in the first instance be preferred to Her Majesty in Council, and shall not be proceeded with by said Judicial Committee without a special Order of Reference.

**X Judicial Committee may require Notes of Evidence taken in the Courts of any Colony, &c. of the Crown.**

And be it enacted, That it shall be lawful for the said Judicial Committee to make an Order or Orders on any Court in any Colony or Foreign Settlement, or Foreign Dominion of the Crown, requiring the Judge or Judges of such Court to transmit to the Clerk of the Privy Council a Copy of the Notes of Evidence in any Cause tried before such Court, and of the Reasons given by the Judge or Judges for the Judgment pronounced in any Case brought by Appeal or by Writ of Error before the said Judicial Committee.

**XI Judicial Committee may make Rules to be binding upon such Courts requiring Judges Notes of Evidence, &c.**

And be it enacted, That it shall and may be lawful for the said Judicial Committee to make any general Rule or Regulation, to be binding upon all Courts in the Colonies and other Foreign Settlements of the Crown, requiring the Judges Notes of the Evidence taken before such Court on any Cause appealed, and of the Reasons given by the Judges of such Court, or by any of them, for or against the Judgment pronounced by such Court; which Notes of Evidence and Reasons shall by such Court be transmitted to the Clerk of the Privy Council within One Calendar Month next after the Leave given by such Court to prosecute any Appeal to Her Majesty in Council; and such Order of the said Committee shall be binding upon all Judges of such Courts in the Colonies or Foreign Settlements of the Crown.

**XII In Cases of Neglect to comply with Order of Council Persons so neglecting may be punished as for Contempt.**

And be it enacted, That in all Causes of Appeal to Her Majesty in Council from Ecclesiastical Courts, and from Admiralty or Vice Admiralty Courts, which now are or may hereafter be depending, in which any Person duly monished or cited or requested to comply with any lawful Order or Decree of Her Majesty in Council, or of the Judicial Committee of the Privy Council or their Surrogates, made before or after the passing of this Act, shall neglect or refuse to pay Obedience to such lawful Order or Decree, or shall commit any Contempt of the Process under the Seal of Her Majesty in Ecclesiastical and Maritime Causes, it shall be lawful for the said Judicial Committee or their Surrogates to pronounce such Person to be contumacious and in contempt, and, after he or she shall have been so pronounced contumacious and in contempt, to cause Process of Sequestration to issue under the said Seal of Her Majesty against the Real and Personal Estate, Goods, Chattels, and Effects, wheresoever lying within the Dominions of Her Majesty, of the Person against or upon whom such Order or Decree shall have been made, in order to enforce Obedience to the same and Payment of the Expences attending such Sequestration, and all Proceedings consequent thereon, and to make such further Order in respect of or consequent on such Sequestration, and in respect to such Real and Personal Estates, Goods, Chattels, and Effects sequestrated thereby, as may be necessary, or for Payment of Monies arising from the same to the Person to whom the same may be due, or into the Registry of the High Court of Admiralty and Appeals, for the Benefit of those who may be ultimately entitled thereto.

**XIII Act may be repealed, &c. this Session.**

And be it enacted, That this Act may be repealed or amended during this Session of Parliament,