8 English Statute of Monopolies of 1623, 21 Jac. 1, c. 3, The Original Source of the Anglo-American Patent Law

An Act concerning Monopolies and Dispensations with Penal Laws, and the Forfeitures thereof (*z*). _____[A.D. 1623

"Forasmuch as your most excellent majesty in your royal judgment, and of your blessed disposition to the weal and quiet of your subjects, did in the year of our Lord God 1610 publish in print to the whole realm, and to all posterity, that all grants of monopolies, and of the benefit of any penal laws, or of power to dispense with the law, or to compound for the forfeiture, are contrary to your majesty's laws, which your majesty's declaration is truly consonant, and agreeable to the ancient and fundamental laws of this your realm: and whereas your majesty was further graciously pleased expressly to command that no suitor should presume to move your majesty for matters of that nature; yet, nevertheless, upon misinformations and untrue pretences of public good many such grants have been unduly obtained and unlawfully put in execution, to the great grievance and inconvenience of your majesty's subjects, contrary to the laws of this your realm, and contrary to your majesty's royal and blessed intention, so published as aforesaid:" for avoiding whereof and preventing of the like in time to come, BE IT ENACTED, that all monopolies and all commissions, grants, licenses, charters, and letters patents heretofore made or granted, or hereafter to be made or granted to any person or persons, bodies politic or corporate whatsoever, of or for the sole buying, selling, making, working, or using of anything within this realm or the dominion of Wales, or of any other monopolies, or of power, liberty, or faculty, to dispense with any others, or to give licence or toleration to do, use, or exercise anything against the tenor or purport of any law or statute; or to give or make any warrant for any such dispensation, licence, or toleration to be had or made; or to agree or compound with any others for any penalty or forfeitures limited by any statute; or of any grant or promise of the benefit, profit, or commodity of any forfeiture, penalty, or sum of money that is or shall be due by any statute before judgment thereupon had; and all proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things whatsoever, any way tending to the instituting, erecting, strengthening, furthering, or countenancing of the same, or any of them, are altogether contrary to the laws of this realm, and so are and shall be utterly void and of none effect, and in no wise to be put in ure or execution.

2. And all monopolies, and all such commissions, grants, licences, charters, letters patents, proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things tending as aforesaid, and the force and validity of them, and every of them, ought to be, and shall be for ever hereafter examined, heard, tried, and determined, by and according to the common laws of this realm, and not otherwise.

3. And all person and persons, bodies politic and corporate whatsoever, which now are or hereafter shall be, shall stand and be disabled, and uncapable to have, use, exercise, or put in ure any monopoly, or any such commission, grant, license, charter, letters patents, proclamation, inhibition, restraint, warrant of assistance, or other matter or thing tending as aforesaid, or any liberty, power, or faculty grounded or pretended to be grounded upon them, or any of them.

4. And if any person or persons at any time after the end of forty days next after the end of this present session of parliament shall be hindered, grieved, disturbed, or disquieted, or his or their goods or chattels any way seized, attached, distrained, taken, carried away, or detained by occasion or pretext of any monopoly, or of any such commission, grant, license, power, liberty, faculty, letters patents, proclamation, inhibition, restraint, warrant of assistance, or other matter or thing tending as aforesaid, and will sue to be relieved in or for any of the premises, that then and in every such case the same person and persons shall and may have his and their remedy for the same at the common law by any action or actions to be grounded upon this statute; the same action and actions to be heard and determined in the courts of king's bench, common pleas, and exchequer, or in any of them, against him or them by whom he or they shall be so hindered, grieved, disturbed, or disquieted, or against him or them by whom his or their goods or chat- tels shall be so seized, attached, distrained, taken, carried away, or detained; wherein all and every such person and persons which shall be so hindered, grieved, disturbed, or disquieted, or whose goods or chattels shall be so seized, attached, distrained, taken, or carried away, or detained, shall recover three times so much as the damages which he or they sustained by means or occasion of being so hindered, grieved, disturbed, or disquieted, or by means of having his or their goods or chattels seized, attached, distrained, taken, carried away, or detained, and double costs: and in such suits or for the staying or

delaying thereof, no essoign, protection, wager of law, aid, prayer, privilege, injunction, or order of restraint, shall be in any wise prayed, granted, admitted, or allowed, nor any more than one imparlance: and if any person or persons shall after notice given that the action depending is grounded upon this statute, cause or procure any action at the common law grounded upon this statute to be stayed or delayed before judgment by colour or means of any order, warrant, power, or authority, save only of the court wherein such action as aforesaid shall be brought and depending, or after judgment had upon such action shall cause or procure the execution of or upon any such judgment to be stayed or delayed by colour or means of any order, warrant, power, or authority, save only by writ of error or attaint, then the said person and persons so offending shall incur and sustain the pains, penalties, and forfeitures ordained and provided by the statute of provision and praemunire made in the sixteenth year of the reign of king Richard the second.

6 (*a*). Provided also, that any declaration before mentioned shall not extend to any letters patents (*b*) and grants of privilege for the term of fourteen years or under, hereafter to be made, of the sole working or making of any manner of new manufactures within this realm (*c*) to the true and first inventor (*d*) and inventors of such manufactures, which others at the time of making such letters patents and grants shall not use (*e*), so as also they be not contrary to the law nor mischievous to the state by raising prices of commodities at home, or hurt of trade, or generally inconvenient (*f*): the same fourteen years to be acccounted from the date of the first letters patents or grant of such privilege hereafter to be made, but that the same shall be of such force as they should be if this act had never been made, and of none other (*g*).

7. Provided also, that this act or anything therein contained shall not in any wise extend or be prejudicial to any grant or privilege, power, or authority whatsoever heretofore made, granted, allowed, or confirmed by any act of parliament now in force, so long as the same shall so continue in force.

8. Provided also, that this act shall not extend to any warrant or privy seal made or directed, or to be made or directed by his majesty, his heirs or successors, to the justices of the courts of the king's bench or common pleas, and barons of the exchequor, justices of assize, justices of oyer and terminer and gaol delivery, justices of the peace, and other justices for the time being, having power to hear and determine offences done against any penal statute, to compound for the forfeitures of any penal statute depending in suit and question before them, or any of them respectively, after plea pleaded by the party defendant.

9. Provided also, that this act or anything therein contained shall not in any wise extend or be prejudicial unto the city of London, or to any city, borough, or town corporate within this realm, for or concerning any grants, charters, or letters patent to them, or any of them made or granted, or for or concerning any custom or customs used by or within them or any of them; or unto any corporations, companies, or fellowships of any art, trade, occupation, or mystery, or to any companies, or societies of merchants within this realm erected for the maintenance, enlargement, or ordering of any trade or merchandise; but that the same charters, customs, corporations, companies, fellowships, and societies, and their liberties, privileges, powers, and immunities, shall be and continue of such force and effect as they were before the making of this act, and of none other; anything before in this act not contained to the contrary in any wise notwithstanding.