

**JOINT/SELECT
COMMITTEE REPORT
LEGISLATIVE
ASSEMBLY**

1929

Indian Patents and Designs (Amendment) Bill

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1929.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks
1.	The Public Safety Bill.	20.2.29.	
2.	The Workmen's Compensation (Amendment) Bill.	26.2.29.	
3.	The Indian Income-tax (Amendment) Bill (Sec. 2, 23, etc.)	26.2.29.	
4.	The Trade Disputes Bill.	16.3.29.	
5.	The Reservation of the Coastal Traffic of India Bill by Mr. S. N. Haji.	2.4.29.	
6.	The Transfer of Property (Amendment) Bill.	2.9.29.	
7.	The Transfer of Property (Amendment) Supplementary Bill.	2.9.29.	
8.	The Indian Income-tax (Provident Fund Relief) Bill.	16.9.29.	
9.	The Indian Patents and Designs (Amendment) Bill.	25.9.29.	

We, the undersigned Members of the Select Committee to which the Bill further to amend the Indian Patents and Designs Act, 1911, for certain purposes was referred, have considered the Bill Papers Nos. I-IV. and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Clause (3) (a) (iii).—In the new proviso we have substituted the word "other" for the word "additional" to make the meaning clear.

We have also made an amendment of substance, designed to avoid hardship to applicants. Unless the Controller has power to fix later dates, as proposed by us, it may happen that the time for acceptance of additional applications prescribed in sub-section (4) of section 5 will be over before these applications can be properly examined and accepted. We have further provided that the date borne by the application shall for all purposes be deemed to be the date on which it was made. The amendment follows the English practice. At the same time, we consider it advisable that the Controller's discretion in fixing dates should be curtailed, and we recommend that a rule should be made under section 77 restricting the fixing of the date of an additional application to within one month of the date of the original application. If this is found to be insufficient in practice, the period may be extended.

Clause 3 (b).—It has been held that an application under section 5 (4) for extension of time made after the expiry of twelve months from the date of the application cannot be granted inasmuch as the application will already have become void. We understand that it is convenient from the administrative point of view that such applications should be granted, and this sub-clause is designed to permit of this.

Clause 5.—We felt that there was substance in the criticisms of clause 5 on the ground of vagueness, and have preferred simply to substitute an extension from three to four months for the more intricate provision relating to the time requisite for obtaining copies of the specification. We are of opinion that that time is fairly represented by one month, but hope that the operation of this new provision will be carefully watched with a view to ascertaining its adequacy.

Clause 6 (1).—We have introduced some drafting amendments designed to indicate that a direction by the Controller is not a "decision" such as is referred to in section 9 (3) of the Act.

Clause 8 (2) (ii).—We have made an addition necessitated by the fact that various provisions of section 10 of the Act allow various periods for sealing a patent.

Clause 9 (c) is designed to achieve, *mutatis mutandis*, an object similar to that mentioned above in connection with clause 3 (b).

Clause 15.—Opinions received on proposed section 21 disclose some apprehension that irresponsible persons may be permitted to issue written authorisations on behalf of Government departments. We have preferred to revert to the precise wording of the proviso to existing section 21, which does not appear to have caused any inconvenience in practice.

We have also, in deference to opinions received, provided in sub-sections (2) and (3) of proposed section 21 that notice should be given to the inventor or patentee.

The other changes in this clause are of a drafting nature.

Clauses 24 and 27 (c).—We do not consider that the interposition of the Governor General in Council between the Controller and the High Court in the matter of references under proposed section 51A(2) and proposed sub-section (3) of existing section 64 serves any useful purpose. We have therefore omitted this provision in each case.

Clause 28A.—We have extended the period of limitation for appeals under section 70 from two to three months. The shorter period has in practice been found too short for appeals in India and *a fortiori* for overseas appeals.

2. Our attention has been directed by the opinions received to the fact that section 7 of the Statute 7 Edward VII c. 29 contains more elaborate provisions for preliminary examination of an application than those contained in the Indian Act. We have reason to believe that an amplification of the Indian Act on the lines of the British Statute would be conducive to the interests of applicants, who, in existing conditions, possibly suffer loss by being encouraged to expend money on inventions when applications for patents in respect of them have not been summarily rejected. We desire to place on record our opinion that this question deserves careful examination by Government.

3. Opinions received also disclose a considerable volume of opinion in favour of registration of trade marks. We understand that the absence of such registration is one of the reasons which prevent India participating in the International Convention for the Protection of Industrial Property and we have reason to believe that India's want of participation in this Convention affects prejudicially the interests of Indian inventors in foreign countries in certain matters. We feel, however, that this subject is not strictly germane to the present Bill and content ourselves with the suggestion that it be examined by Government.

4. The Bill was published as follows:—

IN ENGLISH.		
Gazette.		Date.
Gazette of India ..	..	17th September, 1928.
Fort Saint George Gazette ..	..	2nd October, 1928.
Bombay Government Gazette ..	..	1st November, 1928.
Calcutta Gazette ..	..	25th October, 1928.
United Provinces Gazette ..	..	3rd November, 1928.
Punjab Government Gazette ..	..	23rd November, 1928.
Burma Gazette ..	..	3rd November, 1928.
Central Provinces Gazette ..	..	6th October, 1928.
Assam Gazette ..	..	3rd October, 1928.
Bihar and Orissa Gazette ..	..	10th October, 1928.
Coorg District Gazette ..	..	1st November, 1928.
Noth-West Frontier Gazette ..	..	2nd November, 1928.

IN THE VERNACULARS.		
Province.	Language.	Date.
Madras ..	Tamil ..	1st January, 1929.
	Telugu ..	8th January, 1929.
	Hindustani ..	5th January, 1929.
	Kanarese ..	11th December, 1928.
Bombay ..	Malayalam ..	8th January, 1929.
	Marathi ..	6th November, 1928.
	Gujrathi ..	6th November, 1928.
Coorg ..	Kanarese ..	6th November, 1928.
	Kanarese ..	2nd January, 1929.

5. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

PURSHOTAMDAS THAKURDAS.

B. N. MITRA.

LALCHAND NAVALRAI.

GANGANAND SINHA.

M. ANWAR-UL-AZIM.

The 21st September, 1929.

125

[As amended by the Select Committee.]

[Words printed in italics indicate the amendments suggested by the Committee.]

A

BILL

Further to amend the Indian Patents and Designs Act, 1911, for certain purposes.

WHEREAS it is expedient further to amend the Indian Patents and Designs Act, 1911, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Patents and Designs (Amendment) Act, 1929.

(2) It shall come into force on the 1st day of January, 1930.

2. In section 2 of the Indian Patents and Designs Act, 1911 (hereinafter referred to as the said Act),—

(a) for clause (5) the following clause shall be substituted, namely :—

“(5) ‘design’ means only the features of shape, configuration, pattern or ornament applied to any article by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark as defined in section 478, or property mark as defined in section 479, of the Indian Penal Code :”;

XLV of 1860.

(b) for clause (12) the following clause shall be substituted, namely :—

“(12) ‘patentee’ means the person for the time being entered on the register of patents kept under this Act as the grantee or proprietor of the patent :”;

and
(c) in clause (1A), for the words “new and original” the words “new or original” shall be substituted.

3. In section 5 of the said Act,—

Amendment of section 5, Act II of 1911.

(a) in sub-section (1)—

(i) in clause (b), the words “or relate to more than one invention” shall be omitted;

(ii) after clause (e) the following shall be inserted, namely :—

“or

(f) the specification relates to more than one invention, ”; and

(iii) the following proviso shall be added to the sub-section, namely :—

“Provided that, when a specification comprises more than one invention, the application shall, if the Controller or the applicant so requires, be restricted to one invention and the other inventions may be made the subject-matter of fresh applications; and any such fresh application shall be proceeded with as a substantive

application, but the Controller may, in his discretion, direct that any such fresh application made before the acceptance of the original application shall bear the date of the original application or such later date as he may fix, and the fresh application shall be deemed, for the purposes of this Act, to have been made on the date which it bears in accordance with such direction." ; and

(b) in sub-section (4), for the proviso the following proviso shall be substituted, namely :—

" Provided that where, before, or within three months after, the expiration of the said period of twelve months, a request is made to the Controller for an extension of time by any period not exceeding three months, the application shall, on payment of the prescribed fee, be continued or revived, as the case may be, during, but not beyond, the period of extension so requested."

4. Section 8 of the said Act shall be omitted.

Omission of section 8
from Act II of 1911.

5. In sub-section (1) of section 9 of the said Act, Amendment of section 9, Act II of 1911. for the word " three " the word " four " shall be substituted.

6. (1) After sub-section (1) of section 10 of the said Act the following sub-section shall be inserted, Amendment of section 10, Act II of 1911. namely :—

" (1d) Notwithstanding anything contained in sub-section (1), where—

(a) an applicant has agreed in writing that on the grant to him of a patent he will assign it to another party or to a joint applicant and refuses to proceed with the application, or

(b) disputes arise between joint applicants as to proceeding with an application,

the Controller, if he is satisfied of the existence of such agreement or, in any other case, that any joint applicant or applicants ought to be allowed to proceed alone, may direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them, as the case may be :

Provided that—

(i) the Controller shall not give any such direction until every party interested has had an opportunity of being heard by him, and

(ii) an appeal from any such direction shall lie to the Governor General in Council."

(2) In sub-section (2) of the same section,—

(i) in clause (b) of the proviso, the words " or by a reference under section 8," shall be omitted ; and

(ii) in clause (d), for the words " in consequence of the neglect or failure of the applicant to pay any fee " the words " for any reason " shall be substituted ; after

the words " allowed by " the words " any of the foregoing provisions of " shall be inserted : and for the words " to such an extent as may be prescribed " the words " to the extent applied for but not exceeding three months " shall be substituted.

7. In section 11 of the said Act, for the words
 Amendment of section " publication of the speci-
 11, Act II of 1911. fication " the words " ad-
 vertisement of the acceptance of the application " shall be substituted.

8. For sub-section (2) of section 13 of the said
 Amendment of section Act the following sub-
 13, Act II of 1911. section shall be substi-
 tuted, namely :—

" (2) Where a patent has been revoked by the High Court on the ground that it has been obtained in fraud of the true and first inventor, or where the grant of a patent has been refused by the Controller under section 9 on the ground stated in clause (a) of sub-section (1) of that section, the Controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked or, in the case of a patent the grant of which has been refused, the same date as would have been borne by the patent if it had been granted :

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted."

9. In section 14 of the said Act,—
 Amendment of section
 14, Act II of 1911.

(a) in sub-section (1), for the word " four-
 teen " the word " sixteen " shall be substituted ;

(b) after the same sub-section the following sub-sections shall be inserted, namely :—

" (1A) Any patent the original term of which had not expired on or before the 1st day of January, 1930, shall have effect as if the term mentioned therein was sixteen years instead of fourteen years, and any license existing at that date which has been granted for the term of the patent shall be treated as having been granted for the term as so extended if the licensee so desires.

(1B) Where any party to a contract with the patentee or any other person entered into before the 1st day of January, 1930, is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may determine in what manner and by which parties such loss or liability shall be borne."; and

(c) in sub-section (2), for the proviso the following proviso shall be substituted, namely :—

" Provided that where the patentee, before, or within three months after, the expiration of the time for payment, applies to

the Controller for an extension of time by any period not exceeding three months, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived, as the case may be, during, but not beyond, the period of extension applied for."

10. In section 15 of the said Act,—

Amendment of section
15, Act II of 1911.

- (a) in sub-section (1), the words " after advertising in the prescribed manner his intention to do so," shall be omitted ; and after the words " prescribed fee " the following shall be added, namely :—
" and must be advertised by the patentee within the prescribed time and in the prescribed manner";
- (b) in sub-section (2), after the word " may " the words " within such time as may be prescribed and on payment of the prescribed fee," shall be inserted ; and
- c) in sub-section (5), for the words " seven " and " fourteen " the words " five " and " ten " shall be substituted, respectively.

11. After section 15 of the said Act the following section shall be inserted, namely :—

Insertion of new section
15A in Act II of 1911.

" 15A. (1) Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and, if he does so, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(2) Save as otherwise expressly provided by this Act, a patent of addition shall remain in force as long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition no fees shall be payable for renewal :

Provided that if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable, and the dates when they become payable, shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention.

(3) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent."

12. In section 18 of the said Act, after the word " disclaimer " the

Amendment of section
18, Act II of 1911.

words " correction or explanation " shall be inserted.

13. In section 19 of the said Act, for the words "before the disclaimer,"
 Amendment of section 19, Act II of 1911. correction or explanation "the words "before the date of the decision allowing the amendment" shall be substituted.

14. In sub-section (4) of section 20 of the said Act, the words "and, unless such copies have been so supplied, such deeds, licenses or other documents shall not be received as evidence of any transaction affecting a patent" shall be omitted.
 Amendment of section 20, Act II of 1911.

15. For section 21 of the said Act the following sections shall be substituted, namely :—
 Substitution of new sections for section 21, Act II of 1911.

" 21. (1) Subject to the other provisions of this section, a patent shall have to all intents the like effect as against His Majesty the King as it has against a subject.
 Patent to bind Crown.

(2) *The officers or authorities administering any department of the service of His Majesty may, by themselves or by such of their agents, contractors or others as may be authorised in writing by them, at any time after the application, and after giving notice to the applicant or patentee, make, use or exercise the invention for the service of the Crown on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Governor General in Council, between such officers or authorities and the applicant or patentee, or, in default of agreement, as may be settled in the manner hereinafter provided. And the terms of any agreement or license concluded between the applicant or patentee and any person other than such officers or authorities, shall be inoperative so far as concerns the making, use or exercise of the invention for the service of the Crown.*

(3) Where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, *the officers or authorities administering any department of the service of His Majesty* (such invention not having been communicated directly or indirectly by the applicant or patentee), *such officers or authorities*, or such of *their agents, contractors, or others*, as may be authorised in writing by *them*, may, *after giving notice to the applicant or patentee*, make, use or exercise the invention so recorded or tried for the service of the Crown, free of any royalty or other payment to the applicant or patentee, notwithstanding the existence of the patent. If in the opinion of *such officers or authorities*, the disclosure to the applicant or patentee, as the case may be, of the document recording the invention, or the evidence of the trial thereof, if required, would be detrimental to the public interest, it may be made confidentially to counsel on behalf of the applicant or patentee, or to any independent expert mutually agreed upon.

(4) In the event of any dispute as to the making, use or exercise of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial as aforesaid, the matter shall be referred to the High Court for

decision, who shall have power to refer the whole matter or any question or issue of fact arising thereon to be tried before a special or official referee or an arbitrator upon such terms as it may direct. The Court, referee or arbitrator, as the case may be, may, with the consent of the parties, take into consideration the validity of the patent for the purposes only of the reference and for the determination of the issues between the *applicant or patentee* and *such officers or authorities*. The Court, referee, or arbitrator, further, in settling the terms as aforesaid, shall be entitled to take into consideration any benefit or compensation which the *applicant or patentee*, or any other person interested in the patent, may have received directly or indirectly from the Crown or from *such officers or authorities* in respect of such patent :

Provided that, if the inventor or patentee is a Government servant and the subject-matter of the invention is certified by the Governor General in Council or Local Government to be connected with work done in the course of such service, any such dispute shall be settled by the Governor General in Council after hearing the *applicant or patentee* and any other person having an interest in the invention or patent.

(5) The right to use an invention for the services of the Crown under the provisions of this section, or any provisions for which this section is substituted, shall include, and shall be deemed always to have included, the power to sell any articles made in pursuance of such right which are no longer required for the services of the Crown.

(6) Nothing in this section shall affect the right of the Crown or of any person deriving title directly or indirectly from the Crown to sell or use any articles forfeited under any law for the time being in force relating to customs or excise.

21A. (1) The inventor of any improvement in instruments or munitions of war may (either for or without valuable consideration) assign to the Secretary of State for India in Council on behalf of His Majesty all the benefit of the invention and of any patent obtained or to be obtained for the invention ; and the Secretary of State for India in Council may be a party to the assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the Secretary of State for India in Council on behalf of His Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by or on behalf of the Secretary of State for India in Council.

(3) Where any such assignment has been made, the Governor General in Council may, at any time before the publication of the specification, certify to the Controller that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the Governor General in Council so certify, the application and specifications, with

the drawings (if any) and any amendment of the specification and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the Controller in a packet sealed by authority of the Governor General in Council.

(5) The packet shall, until the expiration of the term during which a patent for the invention may be in force, be kept sealed by the Controller, and shall not be opened save under the authority of an order of the Governor General in Council.

(6) The sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by the Governor General in Council to receive it, and shall if returned to the Controller be again kept sealed by him.

(7) On the expiration of the term of the patent, the sealed packet shall be delivered to the Governor General in Council.

(8) Where the Governor General in Council certifies as aforesaid after an application for a patent has been left at the Patent Office but before the publication of the specification, the application and specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the Controller, and the packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Governor General in Council.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which a certificate has been given by the Governor General in Council as aforesaid.

(10) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, save as otherwise provided in this section, the provisions of this Act shall apply in respect of any such invention and patent as aforesaid.

(11) The Governor General in Council may at any time waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State for India in Council or the Governor General in Council or to any person or persons authorised by the Secretary of State for India in Council or the Governor General in Council to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.

16. In section 22 of the said Act,—

Amendment of section
22, Act II of 1911.

(a) in sub-section (1), for the words "the reasonable requirements of the public with respect to a patented invention have not been satisfied" the words "the demand for a patented

M314LAD

article in British India is not being met to an adequate extent and on reasonable terms" shall be substituted;

(b) in sub-section (4), for the words "the reasonable requirements of the public with reference to the patented invention have not been satisfied" the words "the demand for the patented article in British India is not being met to an adequate extent and on reasonable terms" shall be substituted; and for the words "the reasonable requirements of the public will not be satisfied" the words "the demand will not be adequately met" shall be substituted;

(c) in sub-section (5),—

(i) for the words "the reasonable requirements of the public shall not be deemed to have been satisfied" the words "the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms" shall be substituted;

(ii) in clause (a), the words "or the demand for the patented article or the article produced by the patented process is not reasonably met" shall be omitted; and

(iii) in clause (b), the words "before or after the commencement of this Act" shall be omitted; and

(d) sub-section (6) shall be omitted.

17. In section 23 of the said Act,—

Amendment of section 23, Act II of 1911.

(a) in sub-section (1), for the words "for the revocation of the patent" the words "for relief under this section" shall be substituted; and

(b) in sub-section (2), after the words "may make an order" the letter and brackets "(a)" shall be inserted, and after clause (ii) the following shall be added, namely:—

" or

(b) ordering the patentee to grant a license to the applicant which may be a license exclusive to him or otherwise as the Governor General in Council may direct."

18. After section 23 of the said Act the following section shall be inserted, namely:—

Insertion of new section 23A in Act II of 1911.

" 23A. An order of the High Court under section 22 of the Governor General in Council under section 22 or section 23 directing the grant of any license shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a license and executed by the patentee and all other necessary parties."

19. In clause (g) of sub-section (1) of section 26 of the said Act, for the words "a part", in both places where they occur, the words "the whole or a part" shall be substituted.

20. In sub-section (1) of section 35 of the said Act, for the words "either of" the word "all" shall be substituted.

Amendment of section 35, Act II of 1911.

21. After section 35 of the said Act the following section shall be inserted, namely :—

Insertion of new section 35A in Act II of 1911.

“ 35A. Notwithstanding anything contained in section 19, if the Court in any action for infringement of a patent finds that any one or more of the claims in the specification in respect of which the infringement is alleged are valid, it may, subject to its discretion as to costs and as to the date from which damages should be reckoned and to such terms as to amendment as it may deem desirable, grant relief in respect of any of such claims which are infringed without regard to the invalidity of any other claim in the specification. In exercising such discretion the Court may take into consideration the conduct of the parties in inserting such invalid claims in the specification or permitting them to remain there.”

22. In section 36 of the said Act,—

Amendment of section 36, Act II of 1911.

(1) for the words “ to be the patentee of an invention ” the words “ to have an interest in a patent ” shall be substituted ;

(2) for the words “ any legal rights of the person making such threats ” the words “ the patent ” shall be substituted ; and

(3) for the proviso the following shall be substituted, namely :—

“ Provided that this section shall not apply if an action for infringement of the patent is commenced and prosecuted with due diligence.”

23. In section 44 of the said Act,—

Amendment of section 44, Act II of 1911.

(1) in clause (a), for the words “ new and original design ” the words “ new or original design ” shall be substituted ; and

(2) after clause (b) the following proviso shall be added, namely :—

“ Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration.”

24. After section 51 of the said Act the following sections shall be inserted, namely :—

Insertion of new sections 51A and 51B in Act II of 1911.

“ 51A. (1) Any person interested may present a petition for the cancellation of the registration of a design—

(a) at any time after the registration of the design to the High Court on any of the following grounds, namely :—

(i) that the design has been previously registered in British India ; or

(ii) that it has been published in British India prior to the date of registration ; or

(iii) that the design is not a new or original design ; or

(b) within one year from the date of the registration, to the Controller on either of the grounds specified in sub-clauses (i) and (ii) of clause (a).

(2) An appeal shall lie from any order of the Controller under this section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.

51B. The provisions of section 21 shall apply to registered designs as if those provisions were re-enacted herein and in terms made applicable to registered designs.”

25. In section 62 of the said Act, clause (b) shall be omitted.

Amendment of section 62, Act II of 1911.

26. In section 63 of the said Act,—

Amendment of section 63, Act II of 1911.

(a) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

“(1) Where a person becomes entitled by assignment, transmission or other operation of law to a patent or to the copyright in a registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of such patent or design, and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or other instrument affecting the title.

(2) Where any person becomes entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be, with particulars of the instrument, if any, creating such interest.”; and

(b) after sub-section (3) the following sub-section shall be added, namely :—

“(4) Except in the case of an application made under section 64, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (1) and (2) shall not be admitted in evidence in any Court in proof of the title to a patent or to copyright in a design or to any interest therein, unless the Court, for reasons to be recorded in writing, otherwise directs.”

27. In section 64 of the said Act,—

Amendment of section 64.
Act II of 1911.

(a) in sub-section (1), for the words “A High Court” the words “The Controller”, and for the words “as it may think fit” the words “as he thinks fit and rectify the register accordingly” shall be substituted, respectively;

(b) in sub-section (2), for the word "Court" the word "Controller" shall be substituted;

(c) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) an appeal shall lie to the High Court from any order of the Controller under this section; and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referred."; and

(d) for sub-section (5) the following sub-section shall be substituted, namely:—

"(5) Nothing in this section shall be deemed to empower the Controller—

(a) to rectify the register of patents, or to decide any question relating to a patent, otherwise than for the purpose of correcting a mistake of fact apparent from a reference either to the patent itself or to some order of a competent authority made under any other provision of this Act, or

(b) to make any such order cancelling the registration of a design as is provided for in section 51A."

28. Section 69 of the said Act shall be re-numbered as sub-section (1) of that section, and to that section as so re-numbered the following sub-section shall be added, namely:—

"(2) An appeal shall lie to the Governor General in Council from an order of the Controller under this section."

28A. In section 70 of the said Act, for the word "two", in both places where it occurs, the word "three" shall be substituted.

29. After section 74 of the said Act the following section shall be inserted, namely:—

"74A. Where a person giving notice of opposition under this Act or giving notice to the Court of appeal from any decision of the Controller under this Act, neither resides nor carries on business in British India, the Controller or the Court, as the case may be, may require such person to give security for the payment of all costs incurred and likely to be incurred in the proceedings or appeal, as the case may be, and, in default of such security being given, may disallow the opposition or dismiss the appeal."

30. In section 77 of the said Act,—

Amendment of section 77, Act II of 1911.

(1) after clause (e) of sub-section (1) the following clauses shall be inserted, namely:—

"(ee) for the manner in which fees leviable under this Act may be paid;

(eee) for ensuring secrecy with respect to patents to which section 21A applies;"; and

(2) after sub-section (2) the following sub-section shall be inserted, namely :—

“(2A) Nothing in sub-section (2) shall apply in the case of rules made for the purpose specified in clause (ccc) of sub-section (1) ; and any such rules may modify any of the provisions of this Act so far as may be necessary for that purpose.”

31. In section 78A of the said Act,—

Amendment of section
78A, Act II of 1911.

(1) in clause (a) of the proviso to sub-section (1), for the word “four” the word “six” shall be substituted ; and

(2) in sub-section (4), after the words “His Majesty’s dominions”, where they first occur the words “or of any State in India”, and after those words where they occur for the second time, the words “or in that State, as the case may be”, shall be inserted.

32. In the Schedule to the said Act in the Amendment of the Schedule to Act II of 1911. entry specifying the fee payable before the expiration of the 8th year from the date of a patent, for the figures “50” the figures “100” shall be substituted, and for the last five entries the following shall be substituted, namely :—

	Rs.
“ Before the expiration of the 12th year from the date of the patent	150
Before the expiration of the 13th year from the date of the patent	150
Before the expiration of the 14th year from the date of the patent	150
Before the expiration of the 15th year from the date of the patent	150
Provided that the fees for two or more years may be paid in advance.	
On application to extend the term of a patent	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under section 15	150
On application for registration of a design	3”

137

GOVERNMENT OF INDIA.
LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Select Committee on the Bill
further to amend the Indian Patents
and Designs Act, 1911, for certain
purposes, with the Bill as amended.