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*Separate paging is given to this Part, in order that it may be filed as a separate compilation.*

## PART VI.

### BILLS OF THE GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 7th January 1887:—

Bill No. 1 of 1887.

#### THE INVENTIONS AND DESIGNS BILL, 1887.

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*A Bill to consolidate and amend the law relating to the Protection of Inventions and Designs.*

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

1. (1) This Act may be called the Inventions and Designs Act, 1887.  
Title, extent and commencement. (2) It shall extend to the whole of British India; and  
(3) It shall come into force on the 1st day of January, 1888.

2. (1) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.

(2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

3. The remainder of this Act is divided into Parts, as follows:—

## PART I.—INVENTIONS.

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## PART I.

## INVENTIONS.

4. In this Part, unless there is something repugnant in the subject or context,—

(1) "invention" includes an improvement:

(2) "inventor" does not include the importer into British India of a new invention unless he is the actual inventor:

(3) "applicant" means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not:

(4) "assign" includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorising others so to do during the term for which the privilege is to continue or may be extended, or for any shorter term:

(5) "inventor," "actual inventor" and "applicant" include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be:

(6) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture:

(7) "write" includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance:

(8) "Secretary" means a Secretary to the Government of India appointed by the Governor General in Council to discharge the functions of the Secretary under this Act, and includes any under-secretary or assistant-secretary to the Government of India to the extent to which he may be authorised by general or special order of the Governor General in Council to discharge any of those functions:

(9) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure: and

[46 &amp; 47 Vic., c. 57, s. 113.]

[L. R. 9 App. Cas. 589.]

[Act XV, 1859, s. 38.]

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- [New.] (10) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure in reference to proceedings against European British subjects.
- [Act XV, 1859, ss. 1 & 18.] 5. (1) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor General in Council for leave to file a specification thereof.
- [Act XV, 1859, ss. 1 & 20.] Application for leave to file specification.
- [Act XV, 1859, s. 2.] (2) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom.
- [Act XV, 1859, ss. 1 & 20.] (3) It must state the name, occupation and address of the applicant, and, where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and be supplemented by such further particulars relating to the invention, and by such drawings or models illustrative thereof, as the Governor General in Council may see fit to require from the applicant.
- [46 & 47 Vic., c. 57, s. 5.] (4) Nothing in this section shall be deemed to preclude an inventor who has applied for a patent in the United Kingdom from applying, while his application for the patent is still pending, for leave to file a specification under this Part.
- [Act XV, 1859, s. 2.] 6. (1) Upon an application under the last foregoing section the Governor General in Council may, after such inquiry as he thinks fit, make an order authorising the applicant to file a specification of the invention.
- [Act XV, 1859, s. 3.] (2) Before making an order under sub-section (1), the Governor General in Council may direct that the application be referred for enquiry and report to any person whom he thinks fit.
- (3) If that person makes the enquiry and report, he shall receive such fee for his services as the Governor General in Council, after considering the report, may determine.
- (4) The fee shall be paid by the applicant, who shall, before the application is sent for enquiry and report to the person appointed under sub-section (2), deposit, in such place and within such time as the Governor General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Governor General in Council, be sufficient to cover the amount of the fee.
- (5) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.
- (6) If the fee as determined by the Governor General in Council exceeds the sum so deposited, an order shall not be made under sub-section (1) until the applicant has paid the balance of the fee.
- (7) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.
7. (1) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor General in Council to be identical or so similar as to be practically identical, the Governor General in Council may, in his discretion, authorise both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.
- [46 & 47 Vic. c. 57, s. 13.] Applications in respect of contemporaneous inventions.
- (2) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorising the filing of his specification.
- [Act XV, 1859, s. 4.] 8. (1) If within six months from the date of an order under section 6, sub-section (1), or within such further time, not exceeding three months, as the Governor General in Council, in his discretion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorising others so to do, for a term of fourteen years from the date of the filing of the specification.
- [46 & 47 Vic. c. 57, s. 17.] (2) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (1), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule, any fee prescribed in that schedule in respect of the continuance of the privilege.
- (3) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay any such fee within the time so limited, he may apply to the Governor General in Council for an enlargement of the time for making the payment.
- (4) Thereupon the Governor General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule and subject to the following conditions, namely:—
- (a) the time for making a payment shall not in any case be enlarged for more than three months; and
- (b) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit, refuse to award or give any damages in respect of the infringement.



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*(Part I.—Inventions.—Sections 9-17.)*

- [Act XV, 1859, s. 6.] 9. A specification of an invention filed under this Part must be in writing signed by the applicant, and must particularly describe and ascertain the nature of the invention and in what manner it is to be performed.
- Form and contents of specification.
- [Act XV, 1859, s. 7.] 10. Every application for leave to file a specification, and every specification filed under this Part, must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.
- Mode of filing application and specification.
- [Act XV, 1859, s. 10.] 11. (1) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be delivered or sent to the Secretary three copies thereof, of which—
- Delivery and distribution of copies of specification.
- (a) one shall be sent to and filed by the Government of Fort St. George ;
- (b) one shall be sent to and filed by the Government of Bombay ; and
- (c) one shall be retained by the Secretary.
- (2) The copies of the specification which are sent under sub-section (1) to the Governments of Fort St. George and Bombay shall be open to the inspection of any person at all reasonable times at places to be appointed by those Governments.
- [Act XV, 1859, s. 11.] 12. (1) A book, to be called the register of inventions, shall be kept in the office of the Secretary wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application, every specification filed and every proceeding relating to the invention therein mentioned.
- Register of inventions.
- (2) Every specification shall be numbered according to the order in which it is entered in the register of inventions, and a reference shall be made in that register, in the margin of the entry of each specification, to every order relating to the invention and to every application, memorandum or amended specification which may be filed under this Part.
- [Act XV, 1859, s. 11.] 12. (1) A book, to be called the register of inventions, shall be kept in the office of the Secretary wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application, every specification filed and every proceeding relating to the invention therein mentioned.
- Register of inventions.
- (2) Every specification shall be numbered according to the order in which it is entered in the register of inventions, and a reference shall be made in that register, in the margin of the entry of each specification, to every order relating to the invention and to every application, memorandum or amended specification which may be filed under this Part.
- [Act XV, 1859, s. 35.] 13. (1) Another book, to be called the address-book, shall be kept in the office of the Secretary wherein any person filing a specification under this Part, or any person in whom an exclusive privilege acquired under this Part, or any share or interest therein, may become vested, may from time to time cause to be stated some place in British India where notice of any rule or proceeding relating to the exclusive privilege may be served on him.
- Address-book.
- (2) A reference to each entry in the address-book shall be made in the register of inventions in the margin of the entry of the specification in that register.
- [Act XV, 1859, s. 12.] 14. (1) An entry in the register of inventions or address-book shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document, and the register and book, or copies thereof, shall be open to the inspection of any person at all reasonable times at the office of the Secretary.
- Imposition of conditions with respect to exclusive privilege.
- (2) The books kept under section 11 and section 35 of Act No. XV of 1859 (*an Act for granting exclusive Privileges to Inventors*) shall be deemed to be parts of the register of inventions and address-book respectively.
- [46 & 47 Vic., c. 57, s. 114.]
- [Act XV, 1859, s. 4, and 46 & 47 Vic., c. 57, s. 25.] 15. (1) The inventor of a new manufacture may, at any time not more than one year and not less than six months before the time limited for the expiration of an exclusive privilege acquired under section 8, apply to the Governor General in Council for an extension of the privilege for a further term.
- Extension of exclusive privilege.
- (2) When an application is made under sub-section (1), the Governor General in Council may, if he thinks fit, refer it to a High Court for report.
- (3) The Court to which the petition is referred shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made by the inventor as such, and to all the circumstances of the case.
- (4) The procedure on the reference shall be such as the Court thinks fit.
- (5) If the Governor General in Council is of opinion, or, where a reference has been made under sub-section (2), if the Court reports, that the inventor has been inadequately remunerated by his exclusive privilege, the Governor General in Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the privilege for a further term not exceeding seven or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.
- [Act XV, 1859, s. 5.] 16. An order under section 6, sub-section (1), authorizing the filing of a specification, or under section 15, sub-section (5), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor General in Council thinks expedient.
- Imposition of conditions with respect to exclusive privilege.
- [46 & 47 Vic., c. 57, s. 27.] 17. (1) Subject to any conditions imposed under the last foregoing section—
- Exclusive privilege to bind the Government.
- (a) with respect to the filing, by a person employed in the service of Her Majesty in India, of the specification of a manufacture invented by him in the course of his employment, or
- (b) with respect to the extension, in favour of any person, of the term of an exclusive privilege,
- an exclusive privilege acquired under this Part shall have to all intents the like effect as against Her Majesty as it has against a subject.
- (2) But the officers or authorities administering any department of the service of Her Majesty may, by themselves, their agents, contractors or others, at any time after the delivery or receipt of the application for leave to file the specification of an invention, use the invention for the services of the Government on



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terms to be before or after the use thereof agreed on, with the approval of the Governor General in Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor General in Council.

18. (1) If, after the filing of the specification, the applicant has reason to believe that through mistake or inadvertence he has erroneously made

Application for leave to file memorandum or amended specification.

any mis-statement in his application or specification, or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the Governor General in Council for leave to file a memorandum pointing out the error, defect or insufficiency, and disclaiming any part of the alleged invention, or, in case of any defect or insufficiency of the specification, asking for leave to file an amended specification.

(2) The application must be in writing signed by the applicant, and must state how the error, defect or insufficiency occurred and that it was not fraudulently intended.

(3) Upon the application the Governor General in Council may make an order allowing the memorandum or amended specification to be filed.

(4) The provisions of sections 11, 12 and 14 with respect to specifications shall be applicable to the applications, orders, memoranda and amended specifications referred to in this section.

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed:

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

20. A person shall not be entitled to an exclusive privilege under this Part—

- (a) if the invention is of no utility, or
- (b) if the invention, at the date of the delivery or receipt of the application for leave to file the specification, was not a new invention within the meaning of this Part, or
- (c) if the applicant is not the inventor thereof, or
- (d) if the specification filed or the amended specification, if any, does not particularly describe and ascertain the nature of the invention and in what manner it is to be performed, or
- (e) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not, before the date of the delivery or receipt of the application for leave to file the specification, been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any part of British India or of the United Kingdom by means of a written publication. [Act XV, 1859, s. 19.]

Novelty of invention dependent on public use or knowledge thereof before application to file specification.

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification shall not be deemed a public use or knowledge within the meaning of this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor or has been communicated to the public in fraud of the inventor or in breach of confidence: [Act XV, 1859, s. 19.]

Effect of public use or knowledge of invention in fraud of inventor.

Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

23. The use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification, shall not be deemed a public use thereof within the meaning of this Part. [Act XV, 1859, s. 19.]

Effect of public use of invention by inventor for purpose of experiment or trial.

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part to be delivered or received by the Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification. [Act XV, 1859, s. 20.]

Effect of public use or knowledge of patented invention between application for patent and application to file specification.

25. If an inventor applies for leave to file a specification under this Part while his application for a patent is pending in the United Kingdom, and the interval between the date of his application for the patent and the date of the delivery or receipt of his application under this Part does not exceed twelve months, the invention shall not be deemed to have been publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification. [New. Cl. 46 & 47 Vic., c. 57, ss. 103 and 104.]

Effect of like public use or knowledge of unpatented invention.

[Act XV, 1859, s. 14.]

[Act XV, 1859, s. 14.]

[Act XV, 1859, s. 15.]



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used, or made publicly known, within the meaning of this Part, by reason only of the invention having been used, or a description thereof having been published, in any part of British India or of the United Kingdom during the interval.

[46 & 47 Vic.,  
c. 57, s. 39,  
and Act XVI  
of 1883.]

26. If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for leave to file a specification of the invention to be delivered to or received by the Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having at any time after its admission into the exhibition been publicly used or made publicly known.

27. (1) An exclusive privilege acquired under this Part shall cease if the Governor General in Council declares the privilege, or the mode in which it is exercised, to be mischievous to the State, or generally prejudicial to the public.

(2) It shall also cease if a breach of any condition on which the applicant was authorised to file a specification, or on which the term of the exclusive privilege was extended, is proved to the satisfaction of a High Court, and if the Governor General in Council thereupon declares the privilege to have ceased.

28. An exclusive privilege acquired under this Part in respect of an invention for which a patent has been obtained in the United Kingdom shall cease if the patent for the invention is revoked.

29. (1) An inventor may institute a suit in the District Court against any person who, during the continuance of an exclusive privilege acquired by him under this Part in respect of an invention, makes, sells or uses the invention without his license, or counterfeits or imitates it.

(2) The suit shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or upon the ground that the invention is of no utility:

(3) Nor shall it be defended upon the ground that the plaintiff was not the inventor unless the defendant shows that he himself is the actual inventor or has obtained from the actual inventor a right to make, sell or use the invention, or to counterfeit or imitate it, as the case may be:

(4) Nor shall it be defended upon the ground that the invention was not new unless the de-

fendant, or some person through whom he claims, has, before the date of the delivery or receipt of the application for leave to file the specification, publicly or actually used in some part of British India or of the United Kingdom the invention or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

30. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention to be specified in the rule has not been acquired under this Part by reason of all or any of the objections following (to be specified in the rule), that is to say:—

- (a) that the invention is of no utility, or
- (b) that the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor thereof, or
- (d) that the specification or the amended specification, if any, does not particularly describe and ascertain the nature of the invention, or in what manner it is to be performed, or
- (e) that the applicant has knowingly or fraudulently included in the application or specification or amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or
- (f) that the original or any subsequent application relating to the invention, or the specification or amended specification, contains a wilful or fraudulent mis-statement, or
- (g) that some part of the invention, or the manner in which that part is to be performed, as described in the specification or amended specification, is not thereby sufficiently described and ascertained, and that this insufficiency was fraudulent and is injurious to the public.

31. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of any part of an invention to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule), that is to say:—

- (a) that that part of the invention is wholly distinct from the other part thereof and is of no utility, or
- (b) that that part of the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or

[Act XV,  
1859, s. 16.]

[Act XV,  
1859, s. 20.]

[Act XV,  
1859, s. 22.]

[Act XV,  
1859, s. 23.]

[Act XV,  
1859, s. 24.]

[Act XV,  
1859, s. 25.]



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- (c) that the applicant was not the inventor of that part of the invention, or
- (d) that that part of the invention, and the manner in which it is to be performed, are not sufficiently described and ascertained in the specification or the amended specification, if any, and that this insufficiency is injurious to the public.

32. (1) Any person authorised by the Governor General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which the leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor General in Council, depend, should not be tried in the form of an issue directed by the Court.

(2) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor General in Council.

33. (1) Notice of any rule obtained or proceeding taken under either of the last three foregoing sections shall be served on all persons appearing from the address-book to be proprietors of the exclusive privilege, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other persons.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering the copy to any person resident at or in charge of the place, or, if there is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

34. (1) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court, or any District Court, of any question of fact arising upon an application under section 30, section 31 or section 32, and the issue shall be tried accordingly.

(2) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon either act upon the finding of the District Court or direct a new trial as it thinks fit.

35. (1) If it appears to the High Court at the hearing of an application under section 30 or section 31, that, by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

(2) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the description of his invention in the application for leave to file the specification, or in the specification or amended specification, if any, included something which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect or insufficiency was not fraudulently intended, the Court may adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect or insufficiency :

(3) If it appears to the High Court that the error, defect or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may, upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective or insufficient, and thereupon the applicant shall, within a time to be limited by the Court for the purpose, file a specification amended according to the order :

Provided that nothing in the amended specification shall be construed to extend or enlarge the exclusive privilege before acquired.

(4) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

36. (1) In a suit for the infringement of an exclusive privilege acquired under this Part the plaintiff shall deliver with his particular of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention.

(2) In like manner, upon an application to a High Court under section 30, section 31 or section 32, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in support of any alleged infringement.

[Act XV, 1859, s. 26.]

[Act XV, 1859, s. 29.]

Application on breach of condition.

[Act XV, 1859, s. 30.]

[Act XV, 1859, s. 27.]

Notice of proceedings to persons interested.

[Act XV, 1859, s. 35.]

[Act XV, 1859, s. 23.]

Framing issue for trial before other Court.

[Act XV, 1859, s. 31.]

[Act XV, 1859, s. 34.]



*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 37-42.)*

ment or of any objection or ground impeaching the validity of the exclusive privilege which is not contained in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

37. If in a suit instituted in the District

[Act XV,  
1859, s. 33.]

Title of actual inventor to exclusive privilege in case of fraud.

file a specification, the actual inventor proves to the satisfaction of the Court that the applicant was not the actual inventor, and that at the time of the application for leave to file the specification he knew or had reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to the other provisions of this Part, in the actual inventor for a term of fourteen years from the date of the filing of the specification, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention.

[Now.]

38. A Court making a decree in a suit under

Transmission of copies of decrees and orders to Secretary.

shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof to be made in the register of inventions and against any entry in the address-book affected thereby.

Registration of cessation of exclusive privilege.

39. In the following cases, namely—

- (a) when an exclusive privilege acquired under this Part has ceased under section 8 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period within which an order might have been made for enlarging the time for the making of the payment has expired;

- (b) when an exclusive privilege acquired under this Part has been declared by

the Governor General in Council under section 27 to have ceased;

- (c) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation of a patent;

- (d) when the whole or any part of an exclusive privilege acquired under this Part has ceased under section 35 in consequence of an order under that section;

- (e) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 37;

- (f) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired;

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions, and a reference to that entry to be made in the margin of the entry of the specification in that register.

40. (1) If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for an order for the rectification of the register or book, and the Court may make such order on the application as it thinks fit. [46 & 47 Vic., c. 57, s. 90.]

Rectification of register of inventions or address-book.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of inventions and against any entry in the address-book affected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

41. A High Court to which an application has been made under section 30, section 31, section 32 or section 40 may stay proceedings on, or dismiss certain applications.

Power to High Court to stay proceedings on or dismiss certain applications. [Act X, 1865, s. 241.]

42. If on the petition of any person interested it is proved to the Governor General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part failing to grant licenses on reasonable terms,—

Power for Governor General in Council to require grant of licenses. [46 & 47 Vic., c. 57, s. 22.]

(a) the exclusive privilege is not being worked in British India, or

- (b) the reasonable requirements of the public with respect to the invention cannot be supplied, or

- (c) any person is prevented from working or using to the best advantage an invention of which he is possessed,



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*(Part I.—Inventions.—Sections 43-46.)*

*Part II.—Designs.—Sections 47-52.)*

the Governor General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor General in Council having regard to the nature of the invention and the circumstances of the case, may deem just.

(2) "copyright" means the exclusive right to apply a design to an article:

(3) the author of any new and original design shall be considered the "proprietor" thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the "proprietor," and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to an article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the right to the application thereof shall devolve, shall be considered the "proprietor" of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise:

(4) "Secretary," "District Court" and "High Court" have the same meanings as in Part I.

[Act XV, 1859, s. 1.]

43. If an applicant is absent from British India, an application for leave to file a specification, memorandum or amended specification may, instead of being signed by the applicant under section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorised by him in writing in that behalf.

48. (1) Any person claiming to be the proprietor of any new and original design not previously published in British India may apply to the Governor General in Council for an order for the registration of the design.

[46 & 47 Vic., c. 57, ss. 47 & 48.]

[Act XV, 1859, ss. 7 & 14.]

44. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

Application for order for registration of design.

(2) If that person is absent from British India the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief, and that as to those matters he believes them to be true.

(2) The application must contain a statement of the nature of the design, and be accompanied by not fewer than three copies of drawings, photographs or tracings of the design, and must be left with, or sent by post to, the Secretary.

(3) The date of the delivery or receipt of the application in the office of the Secretary shall be endorsed thereon and recorded in that office.

[Act I, 1879, Schedule I, Article 48, and 46 and 47 Vic., c. 57, s. 24.]

45. (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

Fees.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council directs.

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

49. (1) Upon the application the Governor General in Council may, after such inquiry as he thinks fit, make an order authorizing the registration of the design.

[Act XV, 1859, s. 2.]

(2) When an order has been made under subsection (1), the Secretary shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

(3) The date of registration shall be recorded in the register.

[New.]

46. (1) The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend either of the forms in the second and third schedules.

Rules and forms.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof.

50. When a design is registered, the proprietor of the design shall, subject to the other provisions of this Part, have copyright in the design during five years from the date of registration.

[46 & 47 Vic., c. 57, s. 50, and Act XIII, 1872, s. 3.]

[46 & 47 Vic., c. 57, s. 100.]

51. (1) Before delivery on sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word "registered" either in full or in an abbreviated form.

[46 & 47 Vic., c. 57, s. 51.]

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

52. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor General in Council, causes an applica-

[46 & 47 Vic., c. 57, s. 57.]

PART II.

DESIGNS.

47. In this Part, unless there is something repugnant in the subject or context,—

Definitions.

(1) "design" means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article, but not the article itself:

Effect of exhibiting un-registered designs at exhibitions.

[Brice on 46 & 47 Vic., s. 47.]



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(Part II.—*Designs.*—Sections 53-60. *The First Schedule.*—*Enactments repealed.*  
*The Second Schedule.*—*Application where Patent has not been obtained.*)

tion for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed not to be new or original within the meaning of section 48 by reason only of the design having been exhibited at the exhibition.

[46 & 47 Vic.,  
c. 57, s. 59.]

53. (1) The proprietor of a registered design may institute a suit in the District Court for the recovery of any damages arising from the application of the design, or of any fraudulent or obvious imitation thereof, for the purpose of sale by any person to any article, or from the publication, sale or exposure for sale by any person of any article to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an entry thereof to be made in the register of designs.

[Act XV,  
1859, s. 36.]

54. Any person in whom the copyright in a design, or any share or interest therein, has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, or of a share or interest therein, and the Secretary may, if he sees fit, cause the entry to be made.

[New.]

55. (1) When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

[46 & 47 Vic.,  
c. 57, s. 90.]

56. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of designs.

(4) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

[Act X, 1865,  
s. 241.]

57. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss, the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

58. An entry in the register of designs shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document, and the register or a copy thereof shall be open to the inspection of any person at all reasonable times.

[46 & 47 Vic.,  
c. 57, s. 52.]

59. (1) There shall be paid in respect of the several proceedings specified in the fifth schedule the fees in that schedule prescribed.

[46 & 47 Vic.,  
c. 57, s. 56.]

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council may direct.

(4) A proceeding in respect of which a fee is payable under the fifth schedule shall be of no effect unless the fee has been paid.

60. The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part.

[46 & 47 Vic.,  
c. 57, s. 117.]

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
XV of 1859 ..	For granting exclusive Privileges to Inventors.	So much as has not been repealed.
XIII of 1872 ...	Patterns and Designs Protection Act, 1872.	So much as has not been repealed.
XVI of 1883 ...	Protection of Inventions Act, 1883.	The whole.
I of 1879 ...	Indian Stamp Act, 1872	Article 48, Schedule I.

THE SECOND SCHEDULE.

APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

(See sections 5 and 46.)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I. of the Inventions and Designs Act, 1887.

1. The applicant is in possession of an invention for (*state the title of the invention*) which invention he believes will be of public utility; he is the inventor thereof (*or, as the case may be, the executor, administrator or assign of the inventor*); and the invention is not publicly used or known in any part of British India or of the United Kingdom to the best of his knowledge and belief.



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(The Third Schedule.—Application where Patent has been obtained. The Fourth Schedule.—Fees (Inventions). The Fifth Schedule.—Fees (Designs).)

2. The following is a description of the invention (*here describe it*).

3. The applicant therefore prays for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1887. (Signature and verification.)

THE THIRD SCHEDULE.

APPLICATION WHERE PATENT HAS BEEN OBTAINED.

(See sections 5 and 46.)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1887.

1. The applicant (*or, as the case may be, A. B. of whom the applicant is the executor, administrator or assign*) has obtained a patent in the United Kingdom dated and sealed as of the day of , and actually sealed on the day of , for (*state the title of the invention*).

2. The applicant believes that the invention was not publicly used or known in any part of British India at or before the date of the application for the patent.

3. The following is a description of the invention (*here describe it*).

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1887.

(Signature and verification.)

THE FOURTH SCHEDULE.

FEEs (Inventions).

(See sections 8, 15, 39 and 45.)

	Rs. a. p.
(1) in respect of an application for leave to file a specification (section 5) ...	10 0 0
(2) in respect of the filing of a specification (section 8) ... ..	30 0 0
(3) in respect of an extension of the time for filing a specification (section 8) ...	20 0 0
(4) in respect of the continuance of an exclusive privilege (section 8)—	
(a) after the filing of the specification and before the expiration of the second year from the date of the filing thereof.	75 0 0
(b) after the expiration of the second year and before the expiration of the fourth year from that date ... ..	75 0 0
(c) after the expiration of the fourth year and before the expiration of the sixth year from that date ... ..	100 0 0

	Rs. a. p.
(d) after the expiration of the sixth year and before the expiration of the eighth year from that date ... ..	100 0 0
(e) after the expiration of the eighth year and before the expiration of the tenth year from that date ... ..	150 0 0

Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.

(5) in respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 8)—	
(i) if the enlargement does not exceed one month ... ..	10 0 0
(ii) if the enlargement exceeds one month, but does not exceed two months ... ..	25 0 0
(iii) if the enlargement exceeds two months ... ..	50 0 0
(6) in respect of an application for an extension of an exclusive privilege for a further term (section 16) ...	50 0 0
(7) in respect of an order extending the term of an exclusive privilege (section 15) ... ..	200 0 0
(8) in respect of an application for leave to file a memorandum or amended specification (section 18) ... ..	20 0 0
(9) in respect of a petition to the Governor General in Council for a compulsory license (section 42) ...	50 0 0
(10) for the inspection of any book or other document which is open to inspection under Part I ... ..	1 0 0
(11) for copies—	
(a) when the number of words copied does not exceed four hundred ... ..	1 0 0
(b) for every hundred words in excess of four hundred ... ..	0 4 0
(c) of drawings ... ..	...cost according to agreement.
(12) for certifying copies—	
for every hundred words ... ..	0 2 0

THE FIFTH SCHEDULE.

FEEs (Designs).

(See section 59.)

	Rs. a. p.
(1) in respect of an application for an order for the registration of a design (section 48) ... ..	10 0 0
(2) in respect of a mutation of names in the register of designs (section 54) ...	5 0 0
(3) for the inspection of any book or other document which is open to inspection under Part II... ..	1 0 0
(4) for copies—	
(a) when the number of words copied does not exceed four hundred... ..	1 0 0
(b) for every hundred words in excess of four hundred ... ..	0 4 0
(c) of drawings ... ..	...cost according to agreement.
(5) for certifying copies—	
for every hundred words ... ..	0 2 0



## STATEMENT OF OBJECTS AND REASONS.

The Act for granting exclusive Privileges to Inventors in India, No. XV of 1859, was framed by Sir Barnes Peacock and Sir James Colville, who, when the question of providing protection for inventors came under consideration in the years 1856-59, had to create both a substantive law and a law of procedure. Instead of following the English law, they took a different course. As regards the substantive law, while following for the most part the main lines of the English law, they did not hesitate to introduce important variations where they thought it desirable to do so. As regards the procedure for obtaining an exclusive privilege, it was altogether different from the English procedure. On petition and leave given to file a specification, and on the specification being filed within the prescribed period, the exclusive privilege sprang into existence by mere operation of law, provided, of course, that the claim was well founded in substance—a matter of which the claimant, as in England, took the risk. The procedure was thus of the simplest description.

During the period, exceeding a quarter of a century, for which the Act of 1859 has been in operation, it has worked on the whole satisfactorily. Difficulties have, however, from time to time arisen, and the increasing resort to the Act has of late brought them into greater prominence; and though these difficulties are not of such a kind as to require, in the opinion of the Government of India, any alteration which would affect the main principles of the Act, still their removal is very desirable. It has been decided, therefore, after communication with the Secretary of State and the Board of Trade, to introduce this Bill and to incorporate in it certain provisions suggested by the Patents, Designs and Trade Marks Act, 1883 (46 & 47 Vic., c. 57, as amended by 48 & 49 Vic., c. 63).

2. The following are the provisions of the Bill which seem to call for remark:—

- (1) *Section 3.*—The Bill is divided into two Parts, the one relating to Inventions and the other to Designs. The former Part reproduces the Act of 1859 with certain modifications: the latter Part is an adaptation of the essential provisions of Part III of the English Act of 1883.
- (2) *Section 4, clause (8).*—The constitution of an Inventions Office under the superintendence of the Secretary to the Government of India in the Revenue and Agricultural Department, and the transfer to him of the functions exercised under Act XV of 1859 by the Secretary to the Government of India in the Home Department, have been under the consideration of the Government.
- (3) *Section 4, clause (10).*—It is proposed to confer the jurisdiction of a High Court under the Bill on the High Courts at Fort William, Madras, Bombay and Allahabad, the Chief Court of the Panjáb and the Recorder of Rangoon.
- (4) *Section 5, sub-section (3).*—The petition for leave to file a specification of an invention, presented under section 1 of the Act of 1859, not infrequently furnishes only a vague description of the invention which it is sought to protect, and, when a fuller and clearer description is called for, it is at times only supplied under protest. If such particulars as section 5, sub-section (3), of the Bill is intended to enable the Governor General in Council to call for are not forthcoming, the purposes of section 3 of the Act respecting references to experts may be defeated. In authorising drawings to be called for, the Bill follows 46 & 47 Vic., c. 57, section 5, sub-section (3).
- (5) *Section 5, sub-section (4), and section 25.*—A question has recently arisen as to whether a person is precluded under the existing law from proceeding to acquire concurrently a patent under the English Act and an exclusive privilege under the Indian Act; and it has been held, on the advice of the Hon'ble the Advocate General of Bengal, that he is not so precluded provided he can truly state at the time of applying for leave to file his specification in India that his invention is not publicly used or known in the United Kingdom. It is proposed therefore to provide in the Bill, on the analogy of the provisions of sections 103 and 104 of the English Act, that if an inventor applies for leave to file a specification in India within one year from the date of his application for a patent in England, his invention shall not be deemed to have been publicly used or made publicly known within the meaning of the Indian Act by reason only of the invention having been used, or a description thereof having been published, in any part of India or of the United Kingdom during the interval between his application for the patent and his application for leave to file the specification.
- (6) *Section 6.*—It is proposed by this section to make it clear that the nature and extent of the enquiry into the merits of an application are matters in the discretion of the Governor General in Council. Successive Advocates General have advised that the existing law imposes upon the Government the duty of making enquiry to an extent which must at times seriously delay the progress of an application without producing any commensurate advantages. It is proposed to leave to the Government, instead of to the High Court, the settlement of the fee to be paid to an expert to whom an application is referred for enquiry and report.
- (7) *Section 7.*—This section provides for the case of concurrent applications in respect of contemporaneous inventions, and follows generally the rule obtaining in England (*In re Dering*, 13 Ch. D. 393).
- (8) *Section 8, sub-section (1).*—Cases of hardship have occurred owing to there being no provision for extending the period of six months within which section 4 of the Act of 1859 requires a specification to be filed after an order authorising the filing of it has been made. It is pro-



posed, therefore, to empower the Governor General in Council, on cause shown to his satisfaction, to extend the period from six to nine months.

- (9) *Section 8, sub-sections (2), (3) and (4).*—These sub-sections follow section 17, sub-sections (2), (3) and (4), of the English Act of 1883, and are rendered necessary by the change to be presently noticed which it is proposed to make in the system of levying fees.
- (10) *Section 11.*—It does not seem necessary to have copies of specifications filed in the offices of the Secretaries to the Governments of Bengal and the North-Western Provinces. The office of the Secretaries to the Government of Bengal is in Calcutta, where specifications are open to inspection at the office of the Home Department of the Government of India. As regards the North-Western Provinces, communication is much easier now than in 1859, and inconvenience has not, it is believed, been found to result from the law not requiring copies to be sent to and filed by the Secretary to the Government of the Punjab.
- (11) *Section 15.*—This section is based on section 25 of the English Act, and empowers the Governor General in Council to refer to the High Court for report an application for an extension of the term of an exclusive privilege. Following the English Act, it also makes an extension of the term for so long a period as fourteen years permissible in exceptional cases only.
- (12) *Section 17.*—This section follows section 27 of the English Act in making an exclusive privilege have the same effect against the Crown as it has against a subject. But it authorises officers of the Crown to use the invention for the services of the Crown on terms to be before or after the use thereof agreed on with the approval of the Governor General in Council or, in default of agreement, on terms to be settled by the Governor General in Council.
- As regards the attaching of conditions to an order authorizing the filing of a specification by a public servant, it seems to be fair and just to adopt such reasonable precautions as will prevent him from using to the prejudice of the Government experience acquired in the course of his employment.
- (13) *Section 24.*—Under section 13 of the English Act of 1883, patents must be dated and sealed as of the day of the application, and under sections 8, 9 and 12 of that Act as amended by 48 & 49 Vic., c. 63, a period of nineteen months, or even a longer period may elapse between the application for, and the sealing of, the patent. If, therefore, section 20 of the Indian Act of 1859, which limits to twelve months from the date of the patent the time for applying to the Governor General in Council for leave to file a specification of an invention patented in England, is literally construed, it may have the effect of precluding an inventor from securing an exclusive privilege in India. In order to avert the injustice or disappointment which may thus be the result of working section 20 of the Indian Act in connection with the English Act, it is proposed to permit the holder of a patent obtained in England to apply to the Governor General in Council within twelve months from the date on which the patent was actually sealed. The date of actual sealing stated in the application can be verified by reference to the Official Journal of the Patent Office.
- (14) *Section 26.*—This section covers the Protection of Inventions Act, XVI of 1883, which is scheduled for repeal. But it is proposed to protect inventions not from the date of the opening of an exhibition but from the date of their admission into the exhibition. The English Act is about to be amended in this respect.
- (15) *Section 28.*—It is proposed, on the advice of the Board of Trade, to abolish the rule of section 20 of the Act of 1859, that, where a patent for an invention has been obtained in the United Kingdom, an exclusive privilege in respect of the invention in India is not to extend beyond the term granted by the patent.
- (16) *Section 42.*—This section reproduces the substance of section 22 of the English Act, and provides for the grant of compulsory licenses where an inventor who has acquired an exclusive privilege does not make his invention accessible.
- (17) *Section 45.*—This section and the fourth schedule are based on section 24 and the second schedule of the English Act, and on the first schedule to the Patent Rules, 1883, made by the Board of Trade under the Act. Light-fees are proposed to be levied in respect of applications for leave to file specifications and in respect of the filing of specifications, and increasingly heavy fees periodically in respect of the continuance of an exclusive privilege. Under section 8 of the Bill an exclusive privilege will cease if any fee in respect of its continuance is not paid within the time limited for the payment.
- (18) Part II of the Bill, relating to Designs, is, as already stated, a mere adaptation of Part III of the English Act of 1883. It extends from three to five years the period during which copyright in a design is to continue.

(Signed) ANDREW R. SCOBLE,

The 7th January, 1887.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the Indian Companies Act, 1882, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 7th January, 1887:—



We, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Companies Act, 1882, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

- From Secretary to Chief Commissioner, Assam, No. 1657, dated 14th August, 1886 [Paper No. 1].
- From Registrar, High Court, Calcutta, No. 2097, dated 25th August, 1886 [Paper No. 2].
- From Secretary for Berar to Resident, Hyderabad, No. 290 G., dated 25th August, 1886 [Paper No. 3].
- From Under Secretary to Chief Commissioner, Central Provinces, No. 3980-233, dated 31st August, 1886 [Paper No. 4].
- From Secretary to Chief Commissioner, Burma, No. 810-22 L., dated 31st August, 1886 [Paper No. 5].
- From Chief Commissioner, Ajmere-Merwara, No. 1055-690-II, dated 14th September, 1886 [Paper No. 6].
- From Secretary to Chief Commissioner, Coorg, No. 1670-3256, dated 14th September, 1886 [Paper No. 7].
- From Chief Secretary to Government, Madras, No. 2546, dated 23rd September, 1886, and enclosures [Papers No. 8].
- From Secretary to Government, North-Western Provinces and Oudh, No. 767-VII-323-10, dated 2nd October, 1886 [Paper No. 9].
- From Acting Under Secretary to Government, Bombay, No. 5813, dated 11th October, 1886, and enclosures [Papers No. 10].
- Endorsement by Acting Chief Secretary to Government, Madras, No. 2863, dated 23rd October, 1886, and enclosures [Papers No. 11].
- From Chief Secretary to Government, Bengal, No. 3322 J., dated 19th November, 1886, and enclosures [Papers No. 12].

2. Having regard to the priority which it is proposed by the Indian Bankruptcy Bill to

give in express terms to fiscal debts due from a bankrupt to the Crown, we deem it desirable to give priority in similar terms to like debts due to the Crown from a Company which is being wound up. This saving may not be absolutely necessary in the case of debts due to the Crown (L. R. 9 Ch. D. 469 and 5 Bom. H. C. R. 23); but it is proposed, as in the Bankruptcy Bill, to give to rates and taxes payable to local authorities the same priority as to Crown debts, and in the case of some at least of those rates and taxes an express declaration of their priority will be necessary.

3. The salaries of clerks and servants being paid monthly in this country, we consider it will be sufficient to give priority to those salaries for the same time, namely, two months, as priority is given to wages of labourers and workmen by the Companies Act, 1883 (46 and 47 Vic., c. 28). But we agree with the Bengal Chamber of Commerce, the Calcutta Trades Association and other authorities that in this country it is proper to give priority to the salary of a clerk or servant for a larger sum than in England, and we have proposed to raise to Rs. 1,000 the limit up to which the salary of a clerk or servant is to have priority.

As regards the priority to be given to the wages of labourers and workmen, we propose to follow the Companies Act, 1883, in limiting it to wages in respect of services rendered during the two months before the commencement of the winding up.

4. The publication ordered by the Council has been made as follows:—

*In English.*

Gazette.				Date.	
Gazette of India	...	...	...	7th, 14th and 31st July, 1886.	
Fort Saint George Gazette	...	...	...	6th August, 1886.	
Bombay Government Gazette	...	...	...	22nd July, 1886.	
Calcutta Gazette	...	...	...	23th July, and 4th and 11th August, 1886.	
North-Western Provinces and Oudh Gazette	...	...	Government	24th and 31st July, and 7th August, 1886.	
Punjab Government Gazette	...	...	...	22nd and 29th July, and 5th August, 1886.	
Central Provinces Gazette	...	...	...	24th and 31st July, and 7th August, 1886.	
Burma Gazette	...	...	...	7th, 14th and 21st August, 1886.	
Assam Gazette	...	...	...	7th, 14th and 28th August, 1886.	
Coorg District Gazette	...	...	...	1st September, 1886.	

*In the Vernaculars.*

Province.	Language.			Date.
Bombay	...	...	Maráthi	19th August, 1886.
	...	...	Gujaráthi	19th August, 1886.
Bengal	...	...	Bengali	24th and 31st August, 1886.
	...	...	Hindi	2nd, 14th, 21st and 28th September, 1886.
	...	...	Uriya	2nd, 14th, 21st and 28th September, 1886.
North-Western Provinces and Oudh.	...	...	Urdu	21st and 28th August, and 4th September, 1886.
Central Provinces	...	..	Maráthi	1st, 8th and 15th September 1886.
Burma	...	...	Burmese	4th, 11th and 18th September, 1886.

5. We are of opinion that the Bill should be re-published, and that it should not be further proceeded with till the expiration of one month from the date of the presentation of this Report.

(Signed) ANDREW R. SCOBLE.  
 „ J. B. PEILE.  
 „ W. W. HUNTER.

The 7th January, 1887.



## No. II.

*A Bill to amend the Indian Companies Act, 1882.*

VI of 1882. WHEREAS it is expedient to amend the Indian Companies Act, 1882, in manner hereinafter appearing; It is hereby enacted as follows:—

VI of 1882. 1. After section 200 of the Indian Companies Act, 1882, the following section shall be inserted, namely:—

Insertion of new section after section 200.

“200A. (1) In the distribution of the assets of any company being wound up under this Act, there shall be paid in priority to all other debts—

“(a) all revenue, taxes, cesses and rates, whether payable to Her Majesty or to a local authority, due from the company at the date of the commencement of the winding-up, and having become due and payable within the twelve months next before that date;

“(b) all wages or salary of any clerk or servant in respect of services rendered to the company within the two months next

before the commencement of the winding-up, not exceeding one thousand rupees for each clerk or servant; and

“(c) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the company within the two months next before the commencement of the winding-up.

“(2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions among themselves.

“(3) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or official liquidator.”

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*

[46 & 47 Vic., c. 28, s. 4.]

[Indian Bankruptcy Bill, s. 33, sub-section (1), cls. (a), (b) and (c): 55 Law J. Rep. Q. B. 288.]

[46 & 47 Vic., c. 28, s. 6.]