writing, or except by virtue of some other sufficient legal authority:

(4) The section of this Act relating to expenses shall apply with the substitution of "general purposes rate" for "county fund," "royal, parliamentary, or police burgh" for "borough," and "burgh general or police assessment" for "borough fund or borough rate."

Definition.

7. For the purposes of this Act the expression "local authority" means—

(1) Within the city of London, the mayor, aldermen, and commons of that city, in common council assembled:

(2) Within any municipal borough in England, the council of that borough:

(3) Within any royal, parliamentary, or police burgh in Scotland, the town council:

(4) Within any urban district in England containing a population according to the last census for the time being of over ten thousand, and within any urban district in Ireland containing a population according to the last census for the time being of over five thousand, the council of that district:

(5) Elsewhere in England, Scotland, or Ireland, the county council.

Enforcement of byelaws of London County Council.

8. It shall be the duty of every metropolitan borough council to enforce within its own area any byelaws made by the London County Council under paragraph (1) of section two of this Act.

Application to Ireland.

9. In the application of this Act to Ireland the Lord Lieutenant, acting with the advice of the Privy Council, shall be substituted for the Secretary of State, the Public Health (Ireland) Acts, 1878 to 1900, shall be substituted for the Public Health Acts, and any references to a borough shall not have effect.

Penalties.

10. If any person acts in contravention of or fails to comply with any byelaw made under this Act, he shall be liable on summary conviction to a penalty not exceeding five pounds, and to a penalty not exceeding twenty shillings for every day during which the offence is continued after his conviction thereof.

CHAPTER 28.

An Act to amend the Law relating to Patents and Designs. [28th August 1907.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART I.

PATENTS.

Grant of patents to two or more persons.

1. Where, after the commencement of this Act, a patent is granted to two or more persons jointly, they shall, unless otherwise specified in the patent, be treated for the purpose of the devolution of the legal interest therein as joint tenants, but, subject to any contract to the contrary each of such persons shall be entitled to use the invention for his own profit without accounting to the others, but shall not be entitled to grant a licence without their consent, and, if any such person dies, his beneficial interest in the patent shall devolve on his personal representatives as part of his personal estate.

Amendment of 46 & 47 Vict. c. 57. s. 5.

2. Subsections (3) and (4) of section five of the Patents, Designs, and Trade Marks Act, 1883 (which Act, as amended by any subsequent enactment, is herein-after referred to as the principal Act), shall be repealed and in lieu thereof shall be substituted the following :—

"(3) A provisional specification must describe the nature of the invention ;

"(4) A complete specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed ;

"(4A) In the case of any provisional or complete specification where the comptroller deems it desirable he may require that suitable drawings shall be supplied with the specification, or at any time before the acceptance of the same, and such drawings shall be deemed to form part of the said specification."

Deposit of samples in the case of chemical inventions.

3. The following paragraph shall be inserted in section five of the principal Act :—

"(6) Where the invention in respect of which an application is made is a chemical invention, such typical samples and specimens as may be prescribed shall, if in any particular case the comptroller considers it desirable so to require, be furnished before the acceptance of the complete specification."

Supplementary provisional specifications.

4. Where the same applicant has put in two or more provisional specifications for inventions which are cognate or modifications one of the other, and has obtained thereby concurrent provisional protection for the same, and the comptroller is of opinion that the whole of such inventions are such as to constitute a single invention and may properly be included in one patent, he may accept one complete specification in respect of the whole of such applications and grant a single patent thereon. Such patent shall bear the date of the earliest of such applications, but, in considering the validity of the same and for the purposes of section eleven of the principal Act as

modified by this Act, the court or the comptroller, as the case may be, shall have regard to the respective dates of the provisional specifications relating to the several matters claimed therein.

Patents of addition.

5.—(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 on or modification of the invention, he may, if he thinks fit, 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.

(2) Where an application containing such a request is made, a patent (herein-after referred to as a patent of addition) may be granted for such term as aforesaid.

(3) A patent of addition shall remain in force so 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.

(4) 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.

Extension of 2 Edw. 7. c. 34. s. 1 to specifications published subsequently to application.

6.—(1) An investigation under section one of the Patents Act, 1902, shall extend to specifications published after the date of the application in respect of which the investigation is made, and being specifications which have been deposited pursuant to prior applications; and that section shall, subject to rules under the principal Act, have effect accordingly.

(2) Where, on such an extended investigation, it appears that the invention claimed in the specification deposited pursuant to an application is wholly or in part claimed in any published specification deposited pursuant to a prior application, the applicant shall, whether or not his specification has been accepted or a patent granted to him, be afforded such facilities as may be prescribed for amending his specification, and in the event of his failing to do so the comptroller shall, in accordance with such procedure as may be prescribed, determine what reference, if any, to other specifications ought to be made in his specification by way of notice to the public.

(3) For the purposes of this section an application shall be deemed to be prior to another application if the patent applied for when granted would be of prior date to the patent granted pursuant to that other application.

(4) This section shall come into operation at such date as the Board of Trade may by order direct, and shall apply only to applications made after that date, and the order shall be laid before both Houses of Parliament.

Amendment of 2 Edw. 7. c. 34. s. 1 (6).

7. The following proviso shall be added to subsection (6) of section one of the Patents Act, 1902:—

"Provided that the comptroller, if satisfied that the invention claimed has been wholly and specifically claimed in any specification to which the investigation has extended, may, in lieu of requiring references to be made in the applicant's specification as aforesaid, refuse to grant a patent."

Power to post-date application in cases of disconformity.

8. The following subsection shall be added after subsection (3) of section nine of the principal Act, which relates to the comparison of provisional with complete specifications:—

"(3A) If the examiner reports that the invention described in the complete specification is not substantially the same as that which is described in the provisional specification, the comptroller may, with the consent of the applicant, instead of refusing to accept the complete specification, cancel the provisional specification and treat the application as having been made on the date at which the complete specification was left, and the application shall have effect as if made on that date:

"Provided that where the complete specification includes an invention not included in the provisional specification, the comptroller may allow the original application to proceed so far as the invention included both in the provisional and in the complete specification is concerned, and treat the claim for the additional invention included in the complete specification as an application for that invention made on the date at which the complete specification was left."

Disconformity.

9. A patent shall not be held invalid on the ground that the complete specification claims a further or different invention to that contained in the provisional, if the invention therein claimed, so far as it is not contained in the provisional, was novel at the date when the complete specification was put in, and the applicant was the first and true inventor thereof.

Grounds of opposition.

10. In subsection (1) of section eleven of the principal Act (which relates to the grounds on which the grant of a patent may be opposed), for the words "on the ground that the "invention has been patented in this country on an application "of prior date" there shall be substituted the words "on the "ground that the invention has been claimed in any complete "specification for a British patent which is or will be of prior "date to the patent the grant of which is opposed, other than a "specification deposited pursuant to an application made more "than fifty years before the date of the application for such "last-mentioned patent, or on the ground that the nature of "the invention or the manner in which it is to be performed is "not sufficiently or fairly described and ascertained in the "complete specification."

Extension of period for sealing patents in certain cases.

11.—(1) Where in consequence of the neglect or failure of the applicant to pay any fee a patent cannot be sealed within

the period allowed by section twelve of the principal Act, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to such an extent as may be prescribed.

(2) In such cases as may be prescribed and subject to the prescribed conditions this section shall apply where the period allowed for the sealing of the patent has expired before the commencement of this Act.

Applications for extension of time for payment of fees, &c.

48 & 49 Vict. c. 63.

12. Where an application is made for an extension of time under section seventeen of the principal Act, it shall not be necessary for the patentee to allege or prove the cause of his failure to pay the prescribed fee within the prescribed time, and where under that section or under section three of the Patents, Designs, and Trade Marks (Amendment) Act, 1885, an application is made for an extension of time, the comptroller shall, on payment of the prescribed fee, grant an extension of time to the full amount applied for, not exceeding the amount which he is entitled to grant under those sections.

Amendment of specification by disclaimers.

13. The following section shall be substituted for section nineteen of the principal Act:—

"In any action for infringement of a patent or proceedings before the court for the revocation of a patent, the court may by order allow the patentee to amend his specification by way of disclaimer in such manner and subject to such terms as to costs, advertisement, or otherwise, as the court may think fit:

"Provided that no amendment shall be so allowed that would make the specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as it stood before the amendment, and where an application for such an order is made to the court, notice of the application shall be given to the comptroller, and the comptroller shall have the right to appear and be heard, and shall appear if so directed by the court."

Power of comptroller to revoke patents on certain grounds.

14.—(1) Any person who would have been entitled to oppose the grant of a patent, or is the successor in interest of a person who was so entitled, may, within two years from the date of the patent, in the prescribed manner apply to the comptroller for an order revoking the patent on any one or more of the grounds on which the grant of the patent might have been opposed:

Provided that when an action for infringement or proceedings for the revocation of the patent are pending in any court, an application under this section shall not be made except with the leave of the Court.

(2) The comptroller shall give notice of the application to the patentee, and after hearing the parties, if desirous of being heard, may make an order revoking the patent or requiring the specification relating thereto to be amended by disclaimer,

correction, or explanation, or dismissing the application; but the comptroller shall not make an order revoking the patent unless the circumstances are such as would have justified him in refusing to grant the patent had the proceedings been proceedings in an opposition to the grant of a patent.

(3) A patentee may at any time by giving notice in the prescribed manner to the comptroller offer to surrender his patent, and the comptroller may, if after giving notice of the offer and hearing all parties who desire to be heard he thinks fit, accept the offer, and thereupon make an order for the revocation of the patent.

(4) Any decision of the comptroller under this section shall be subject to appeal to the court.

Revocation of patents worked outside the United Kingdom.

15.—(1) At any time not less than four years after the date of a patent, and not less than one year after the passing of this Act, any person may apply to the comptroller for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside the United Kingdom.

(2) The comptroller shall consider the application, and, if after inquiry he is satisfied that the allegations contained therein are correct, then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in the United Kingdom, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the comptroller may make an order revoking the patent either—

(*a*) forthwith; or

(*b*) after such reasonable interval as may be specified in the order, unless in the meantime it is shown to his satisfaction that the patented article or process is manufactured or carried on within the United Kingdom to an adequate extent:

Provided that no such order shall be made which is at variance with any treaty, convention, arrangement, or engagement with any foreign country or British possession.

(3) If within the time limited in the order the patented article or process is not manufactured or carried on within the United Kingdom to an adequate extent, but the patentee gives satisfactory reasons why it is not so manufactured or carried on, the comptroller may extend the period mentioned in the previous order for such period not exceeding twelve months as may be specified in the subsequent order.

(4) Any decision of the comptroller under this section shall be subject to appeal to the court, and on any such appeal the law officer, or such other counsel as he may appoint, shall be entitled to appear and be heard.

Compulsory licences.

16.—(1) Petitions for the grant of a compulsory licence or for the revocation of a patent under section three of the Patents

Act, 1902, shall be referred by the Board of Trade to the court instead of to the Judicial Committee of the Privy Council, and accordingly in that section for references to the Judicial Committee there shall be substituted references to the court, and for references to Orders in Council there shall be substituted references to orders of the court, and subsections (8), (9) and (10) of that section shall be repealed.

(2) In lieu of subsections (5) and (6) of the same section the following subsection shall be substituted :—

"(5) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied—

"(*a*) if by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article, or any parts thereof which are necessary for its efficient working, or to carry on the patented process to an adequate extent or to grant licences on reasonable terms, any existing trade or industry, or the establishment of any new trade or industry, in the United Kingdom is unfairly prejudiced, or the demand for the patented article or the article produced by the patented process is not reasonably met; or

"(*b*) if any trade or industry in the United Kingdom is unfairly prejudiced by the conditions attached by the patentee before or after the passing of this Act to the purchase, hire, or use of the patented article or to the using or working the patented process."

Procedure on petitions for extension of term of patent.

17. The following section shall be substituted for section twenty-five of the principal Act :—

"(1) A patentee may, after advertising in manner provided by rules of the Supreme Court his intention to do so, present a petition to the court praying that his patent may be extended for a further term, but such petition must be presented at least six months before the time limited for the expiration of the patent;

"(2) Any person may give notice to the court of objection to the extension;

"(3) On the hearing of any petition under this section, the patentee and any person who has given such notice of objection shall be made parties to the proceeding, and the comptroller shall be entitled to appear and be heard, and shall appear if so directed by the court;

"(4) The court, in considering its decision, shall have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case;

"(5) If it appears to the court that the patentee has been inadequately remunerated by his patent, the court may by order extend the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen years, or may order the grant of a new patent for such term as may be specified in the order and containing any restriction, conditions, and provisions the court may think fit."

Date of patent substituted for patent obtained by fraud.

18. A patent granted under subsection (8) of section twenty-six of the principal Act to an inventor in lieu of a patent revoked on the ground of fraud shall bear the same date as the revoked patent, and accordingly in that subsection the words "the date of revocation of," and the words "but the "patent so granted shall cease on the expiration of the term "for which the revoked patent was granted," shall be repealed:

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

Repeal of provisions as to procedure.

19. Rules of the Supreme Court may be made for regulating the matters dealt with in subsections (5), (6), and (7) of section twenty-six and in section twenty-nine of the principal Act, which relate to the particulars to be delivered and the procedure to be adopted in proceedings upon petition for the revocation of a patent and in an action for infringement, and on the coming into operation of any rules of court made for that purpose the said enactments shall be repealed.

Time for applications by representatives of deceased inventors.

20. In section thirty-four of the principal Act (which relates to the grant of a patent on the application of representatives of a deceased inventor) the words "must be made within six months of the decease of such person and" are hereby repealed.

Secret patents.

21.—(1) Section forty-four of the principal Act (which relates to secret patents) shall apply to the Admiralty in like manner as it applies to the Secretary of State for War.

(2) Rules may be made under the principal Act, after consultation with the Secretary of State and the Admiralty, for the purpose of ensuring secrecy with respect to patents to which the said section as so extended applies, and those rules may modify any of the provisions of the principal Act in their application to such patents as aforesaid so far as may appear necessary for the purpose aforesaid.

Anticipation.

22. A patent shall not be held to be invalid by reason only of the invention, in respect of which the patent was granted, or any part thereof having been published prior to the date of the patent, if the patentee proves to the satisfaction of the court that the publication was made without his knowledge and consent, and that the matter published was derived or obtained

from him, and, if he learnt of the publication before the date of his application for the patent, that he applied for and obtained protection for his invention with all reasonable diligence after learning of the publication.

Restoration of lapsed patents.

23. When any patent has become void owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the comptroller in the prescribed manner for an order for the restoration of the patent. Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the said prescribed fee. If it appears from such statement that the omission was unintentional and that no undue delay has occurred in making the application, the comptroller shall advertise the application in the prescribed manner, and within such time as may be prescribed any person may give notice of opposition at the Patent Office. Where such notice is given the comptroller shall notify the applicant thereof. After the expiration of the prescribed period the comptroller shall hear the case and, subject to an appeal to the court, issue an order either restoring the patent or dismissing the application: Provided that, in every order under this section restoring a patent, such provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent, after the patent had been announced as void in the illustrated official journal.

Avoidance of certain conditions attached to the sale, &c. of patented articles.

24.—(1) It shall not be lawful in any contract made after the passing of this Act in relation to the sale or lease of, or licence to use or work, any article or process protected by a patent to insert a condition the effect of which will be—

(*a*) to prohibit or restrict the purchaser, lessee, or licensee from using any article or class of articles, whether patented or not, or any patented process, supplied or owned by any person other than the seller, lessor, or licensor, or his nominees; or

(*b*) to require the purchaser, lessee, or licensee to acquire from the seller, lessor, or licensor, or his nominees, any article or class of articles not protected by the patent;

and any such condition shall be null and void, as being in restraint of trade and contrary to public policy: Provided that this subsection shall not apply if—

(i) the seller, lessor, or licensor proves that at the time the contract was entered into the purchaser, lessee, or licensee had the option of purchasing the article or obtaining a lease or licence on reasonable terms, without such conditions as aforesaid; and

(ii) the contract entitles the purchaser, lessee, or licensee to relieve himself of his liability to observe any such condition on giving the other party three months notice in writing, and on payment in compensation for

such relief in the case of a purchase of such sum, or in the case of a lease or licence of such rent or royalty for the residue of the term of the contract, as may be fixed by an arbitrator appointed by the Board of Trade.

(2) Any contract relating to the lease of, or licence to use or work, any patented article or patented process, whether made before or after the passing of this Act, may at any time after the patent or all the patents, by which the article or process was protected at the time of the making of the contract, has or have ceased to be in force, and notwithstanding anything in the same or in any other contract to the contrary, be determined by either party on giving three months' notice in writing to the other party; but, where any such notice is given determining any contract made before the passing of this Act, the party giving the notice shall be liable to pay such compensation as, failing agreement, may be awarded by an arbitrator appointed by the Board of Trade.

(3) Any contract made before the passing of this Act relating to the lease of, or licence to use or work, any patented article or process and containing any condition which, had the contract been made after the passing of this Act, would by virtue of this section have been null and void may, at any time before the contract is determinable under the last preceding subsection, and, notwithstanding anything in the same or any other contract to the contrary, be determined by either party on giving three months' notice in writing to the other party, but, where any such notice is given, the party giving the notice shall be liable to pay such compensation as, failing agreement, may be awarded by an arbitrator appointed by the Board of Trade.

(4) The insertion by the patentee in a contract, made after the passing of this Act, of any condition which by virtue of this section is null and void shall be available as a defence to an action for infringement of the patent, to which the contract relates, brought while that contract is in force.

(5) Nothing in this section shall—

(*a*) affect any condition in a contract whereby a person is prohibited from selling any goods other than those of a particular person; or

(*b*) be construed as validating any contract which would, apart from this section, be invalid; or

(*c*) affect any right of determining a contract or condition in a contract exerciseable independently of this section; or

(*d*) affect any condition in a contract for the lease of or licence to use a patented article, whereby the lessor or licensor reserves to himself or his nominees the right to supply such new parts of the patented article as may be required to put or keep it in repair.

Defences to actions for infringement, &c.

25. Any ground on which a patent may be revoked under this Act or as an alternative to the grant of a compulsory licence under section three of the Patents Act, 1902, as amended by this Act, shall be available by way of a defence to an action for infringement, and shall also be a ground of revocation under section twenty-six of the principal Act.

Power to counterclaim for revocation in an action for infringement.

26. A defendant in an action for infringement of a patent, if entitled to present a petition to the court for the revocation of the patent, may, without presenting such a petition, apply in accordance with the rules of the Supreme Court by way of counter-claim in the action for the revocation of the patent.

Exemption of innocent infringer from liability for damages.

27. A patentee shall not be entitled to recover any damages in respect of any infringement of a patent, granted after the commencement of this Act, from any defendant who proves that at the date of such infringement he was not aware, nor had reasonable means of making himself aware, of the existence of the patent, and the marking of an article with the word "patent," "patented" or any word or words expressing or implying that a patent has been obtained for the article, stamped, engraved, impressed on, or otherwise applied to the article, shall not be deemed to constitute notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent:

Provided that nothing in this section shall affect any proceedings for an injunction.

Provisions as to appeals and references to the court.

28. Where by virtue of this Act a decision of the comptroller is subject to an appeal to the court, or a petition may be referred or presented to the court, the appeal shall, subject to and in accordance with rules of the Supreme Court, be made and the petition referred or presented to such judge of the High Court as the Lord Chancellor may select for the purpose, and the decision of that judge shall be final, except in the case of an appeal from a decision of the comptroller revoking a patent on any ground on which the grant of such patent might have been opposed.

PART II.

DESIGNS.

Application for the registration of designs.

29. The following subsections shall be inserted at the end of section forty-seven of the principal Act (which relates to applications for the registration of designs):—

"(8) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.

"(9) Where an application has been abandoned or refused, the application and any drawings, photographs,

tracings, representations, or specimens left in connexion with the application shall not at any time be open to public inspection or be published by the comptroller.

"(10) A design when registered shall be registered as of the date of the application for registration."

Rules as to applications for registration of designs.

30. Rules may be made under the principal Act for regulating the matters dealt with in subsections two and three of section forty-seven and in section forty-eight of the principal Act, which relate to the form and manner in which applications for the registration of designs are to be made, and on the coming into operation of any such rules the said enactments shall be repealed.

Copyright in designs.

31.—(1) At the end of subsection (1) of section fifty of the principal Act (which relates to the term of copyright in a registered design) the following paragraph shall be added:—

"If within the prescribed time before the expiration of the said five years application for the extension of the period of copyright is made to the comptroller in the prescribed manner, the comptroller shall, on payment of the prescribed fee, extend the period of copyright for a second period of five years from the expiration of the original period of five years. If within the prescribed time before the expiration of such second period of five years application for the extension of the period of copyright is made to the comptroller in the prescribed manner, the comptroller may, subject to any rules under the principal Act, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years."

(2) The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person other than the proprietor of the design, and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

Marking of registered designs.

32.—(1) So much of section fifty-one of the principal Act as provides that the copyright in a registered design shall cease if the proprietor fails to comply with the requirements of that section with respect to the marking of articles to which the design has been applied is hereby repealed; but, in the event of any failure to comply with any such requirements, the proprietor of the design shall not be entitled to recover any penalty

or damages in respect of any infringement of his copyright in the design, unless he shows that he took all proper steps to ensure the marking of the articles, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of copyright in the design.

(2) Where a representation is made to the Board of Trade by or on behalf of any trade or industry that in the interests of the trade or industry it is expedient to dispense with or modify, as regards any class or description of articles, any of the requirements of the said section fifty-one as to marking, the Board may, if they think fit, by rule under the principal Act dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as they think fit.

Registration of designs.

33. Where a design has been registered in one or more classes of goods the application of the proprietor of the design to register it in some one or more other classes shall not be refused nor shall the registration thereof be invalidated—

(*a*) on the ground of the design not being a new and original design by reason only that it was so previously registered; or

(*b*) on the ground of the design having been previously published in the United Kingdom by reason only that it has been applied to goods of any class in which it was so previously registered.

Inspection of registered designs.

34.—(1) In section fifty-two of the principal Act (which prohibits the inspection of a design during the existence of the copyright in the design) after the words "during the existence of copyright in a design" there shall be inserted the words "or "such shorter period, not being less than two years from the "registration of a design as may be prescribed," and for the words "when the copyright in a design has ceased" there shall be substituted the words "after the expiration of the copyright "in the design or such shorter period as aforesaid."

(2) At the end of the same section the following subsection shall be added:—

"(3) Different periods may be prescribed under this section for different classes of goods."

Cancellation of registration of designs used wholly or mainly abroad.

35. At any time after the registration of a design any person may apply to the comptroller for the cancellation of the registration on the ground that the design is used for manufacture exclusively or mainly outside the United Kingdom, and where such an application is made the provisions of this Act with respect to the revocation of patents worked outside the United Kingdom including those relating to costs shall apply with the necessary modifications, except that there shall be no

appeal from the decision of the comptroller. Such ground as aforesaid shall be available by way of a defence to an action for infringement of the copyright in the design.

Penalty and damages in respect of piracy of registered design.

36.—(1) In section fifty-eight of the principal Act (which imposes penalties on the piracy of registered designs), at the end of paragraph (*a*) there shall be inserted the words "or to do anything with a view to enabling the design to be so applied."

(2) In the same section, after the words "publish or expose" there shall be inserted the words "or cause to be published or exposed."

(3) The following shall be substituted for section fifty-nine of the principal Act (which relates to actions for damages for infringement of registered designs):—

"Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the registered proprietor of any design may, if he elects to do so, bring an action for the recovery of any damages arising from any acts to which a penalty is attached by this Act, and for an injunction against the repetition thereof."

Application of sections 31 and 32 of principal Act to designs.

37. Section thirty-one of the principal Act (which relates to the certificates of validity of a patent) and section thirty-two of the same Act (which relates to the remedy in case of groundless threats of legal proceedings) shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention.

PART III.

GENERAL.

Rules as to branch offices.

38. Rules under the principal Act may provide for the establishment of branch offices for designs at Manchester or elsewhere, and for any document or thing, required by the principal Act to be sent to or done at the Patent Office, being sent to or done at any branch office which may be established.

Entries in registers.

39. In section eighty-seven of the principal Act (which relates to entries in registers of patents and designs) the following paragraph shall be inserted after the words "as the case may be," where they first occur:—

"When any person becomes entitled as mortgagee, licensee, or otherwise to any interest in a patent or design, the comptroller shall, on request 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."

Rectification of registers by court.

40. The following section shall be substituted for section ninety of the principal Act (which relates to the rectification of registers of patents and designs by the court):—

"(1) The court may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of patents or designs of any entry, or by any entry made in either such register without sufficient cause, or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register, make such order for making, expunging, or varying such entry as it may think fit.

"(2) The court may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connexion with the rectification of a register.

"(3) The prescribed notice of any application under this section shall be given to the comptroller, who shall have the right to appear and be heard thereon, and shall appear if so directed by the court.

"(4) Any order of the court rectifying a register shall direct that notice of the rectification be served upon the comptroller in the prescribed manner, who shall upon the receipt of such notice rectify the register accordingly."

Correction of clerical errors.

41. The following section shall be substituted for section ninety-one of the principal Act, which relates to the correction of clerical errors:—

"The comptroller may on request in writing accompanied by the prescribed fee—

"(*a*) correct any clerical error in or in connexion with an application for a patent or in any patent or any specification;

"(*b*) cancel the registration of a design either wholly or in respect of any particular goods in connexion with which the design is registered;

"(*c*) correct any clerical error in the representation of a design or in the name or address of the proprietor of any patent or design, or in any other matter which is entered upon the register of patents or the register of designs."

Excluded days.

42. Where the last day fixed by the principal Act for doing anything under that Act falls on any day specified in rules under that Act as an excluded day, the rules may provide for the thing being done on the next following day not being an excluded day, and section ninety-eight of the principal Act is hereby repealed.

Penalties for false representations.

43. The following subsection shall be added to section one hundred and five of the principal Act (which imposes penalties for false representations):—

"(3) Any person who, after the copyright in a design has expired, puts or causes to be put on any article to which the design has been applied the word 'registered,' or any word or words implying that there is a subsisting copyright in the design, shall be liable on summary conviction to a fine not exceeding five pounds."

Royal Arms.

44. The following section shall be substituted for section one hundred and six of the principal Act:—

"(1) The grant of a patent under this Act shall not be deemed to authorise the patentee to use the Royal Arms or to place the Royal Arms on any patented article.

"(2) If any person, without the authority of His Majesty, uses in connexion with any business, trade, calling, or profession the Royal Arms (or arms so nearly resembling them as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised to use the Royal Arms, he shall be liable on summary conviction to a fine not exceeding twenty pounds: Provided that nothing in this section shall be construed as affecting the right, if any, of the proprietor of a trade mark containing such arms to continue to use such trade mark."

Evidence before comptroller.

45.—(1) Subject to rules under the principal Act, in any proceeding under the principal Act or this Act before the comptroller, the evidence shall be given by statutory declaration in the absence of directions to the contrary; but, in any case in which the comptroller thinks it right so to do, he may take evidence vivâ voce in lieu of or in addition to evidence by declaration, or allow any declarant to be cross-examined on his declaration. Any such statutory declaration may in the case of appeal be used before the court in lieu of evidence by affidavit, but, if so used, shall have all the incidents and consequences of evidence by affidavit.

(2) In case any part of the evidence is taken vivâ voce, the comptroller shall, in respect of requiring the attendance of witnesses and taking evidence on oath, be in the same position in all respects as an official referee of the Supreme Court.

Costs and security for costs.

46.—(1) The Comptroller shall, in proceedings relating to an opposition to the grant of a patent or to an application for the amendment of a specification or the revocation of a patent, have power, by order, to award to any party such costs as he may consider reasonable, and to direct how and by what parties

they are to be paid, and any such order may be made a rule of the court.

(2) If a party giving notice of opposition to the grant of a patent or to the amendment of a specification, or applying to the comptroller for the revocation of a patent, or giving notice of appeal from any decision of the comptroller, neither resides nor carries on business in the United Kingdom or the Isle of Man, the comptroller or, in case of appeal to the law officer, the law officer may require such party to give security for costs of the proceedings or appeal, and in default of such security being given may treat the proceedings or appeal as abandoned.

Misuse of title of "Patent Office."

47. If any person uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office," or any other words suggesting that his place of business is officially connected with, or is, the Patent Office, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

Agents for patents.

48.—(1) Rules under the principal Act may authorise the comptroller to refuse to recognise as agent in respect of any business under that Act any person whose name has been erased from the register of patent agents, or who is proved to the satisfaction of the Board of Trade, after being given an opportunity of being heard, to have been convicted of such an offence or to have been guilty of such misconduct as would have rendered him liable, if his name had been on the register of patent agents, to have his name erased therefrom, and may authorise the comptroller to refuse to recognise as agent in respect of any business under the principal Act any company which, if it had been an individual, the comptroller could refuse to recognise as such agent.

(2) Where a company or firm acts as agent, such rules as aforesaid may authorise the comptroller to refuse to recognise the company or firm as agent, if any person whom the comptroller could refuse to recognise as an agent acts as director or manager of the company or is a partner in the firm.

(3) The comptroller shall refuse to recognise as agent in respect of any business under the principal Act any person who neither resides nor has a place of business in the United Kingdom or the Isle of Man.

Construction.

49. Except where otherwise expressly provided this Act shall apply to patents granted, designs registered, and to applications made as well before as after the commencement of this Act.

Application of Act to Scotland.

***50.** The expression "Rules of the Supreme Court" shall in this Act, except in section twenty-eight, as applying to Scotland mean Act of Sederunt; and notwithstanding anything contained in the Patents, Designs, and Trade Marks Acts, 1883 to 1902, or in this Act, The expression "Court" in section sixteen of this

Act shall, in reference to petitions which are referred by the Board of Trade to the Court in Scotland, mean any Lord Ordinary of the Court of Session, and in section seventeen of this Act shall in reference to proceedings in Scotland mean such Lord Ordinary.

Short title, commencement, and repeal.

51.—(1) This Act may be cited as the Patents and Designs (Amendment) Act, 1907, and may be cited, and shall be construed as one, with the Patents, Designs, and Trade Marks Acts, 1883 to 1902.

(2) This Act shall, save as otherwise expressly provided, come into operation on the first of January one thousand nine hundred and eight.

(3) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
46 & 47 Vict. c. 57.	The Patents, Designs, and Trade Marks Act, 1883.	In section seventeen, the words "by accident, mistake, or inadvertence," and the words "if satisfied that the failure has arisen from any of the above-mentioned causes." Section nineteen. Section twenty-five. In section twenty-six, subsections (5), (6) and (7) as from the date when rules of the Supreme Court dealing with the like matters come into force. In subsection (8) of section twenty-six, the words "the date of revocation of" and the words "but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted." Section twenty-nine, as from the date when rules of the Supreme Court dealing with the like matters come into force. In section thirty-four, the words "must be made within six months of the decease of such person and," subsections (2) and (3) of section forty-seven; and section forty-eight from the date when rules under the principal Act dealing with the like matters come in force. In section 50, subsection (2).

Session and Chapter.	Short Title.	Extent of Repeal.
46 & 47 Vict. c. 57—*cont.*	The Patents, Designs, and Trade Marks, Act, 1883.	Section fifty-one, from "and if he fails" to the end of the section. Section fifty-four. Section fifty-nine. Section ninety. Section ninety-one. Section ninety-eight. Section one hundred and six.
51 & 52 Vict. c. 50.	The Patents, Designs, and Trade Marks Act, 1888.	Section twenty-four.
2 Edw. 7. c. 4.	The Patents Act, 1902	In section three, the subsections numbered (5), (6), (8), (9) and (10).

CHAPTER 29.

An Act to consolidate the enactments relating to Patents for Inventions and the Registration of Designs and certain enactments relating to Trade Marks.

[28th August 1907.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART I. PATENTS.

PART I.

PATENTS.

Application for and Grant of Patent.

Application.

1.—(1) An application for a patent may be made by any person who claims to be the true and first inventor of an invention, whether he is a British subject or not, and whether alone or jointly with any other person.

(2) The application must be made in the prescribed form, and must be left at, or sent by post to, the patent office in the prescribed manner.

(3) The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants, claims to be the true and first inventor, and for which he desires to obtain a patent, and must be accompanied by either a provisional or complete specification.

(4) The declaration required by this section may be either a statutory declaration or not, as may be prescribed.

Specifications.

2.—(1) A provisional specification must describe the nature of the invention.