

No. 23.

(Circular.)

SIR,—

Downing Street, 16th October, 1896.

I have the honour to transmit to you, for the information of your Government, a copy of a letter from the War Office enclosing copies of the opinions of the Law Officers of the Crown on questions submitted to them regarding the position of the War Department in providing stores covered by patent for the use of the Governments of India and the colonies; and also as to the application generally of section 27 (2) of "The Patents, Designs, and Trade-marks Act, 1883," to supplies of stores made to the Governments of India and the colonies.

I have, &amp;c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

## Enclosure.

SIR,—

War Office, London, S.W., 6th October, 1896.

I am directed by the Secretary of State for War to acquaint you, for the information of the Secretary of State for the Colonies, that it has been considered desirable to ascertain the opinion of the Law Officers of the Crown regarding the position of this department in providing stores covered by patents for the use of the Governments of India and the colonies, and also as to the application generally of section 27 (2) of the Patents, &c., Act, 1883, to supplies of stores made to the Governments of India and the colonies, either directly by this department—by contract made on their behalf by this department—or by manufacture in the ordnance factories.

I am to enclose for Mr. Chamberlain's information a copy of the questions upon which the Law Officers were requested to advise, and their opinion thereon; and to request that, should Mr. Chamberlain see no objection, the information therein may be communicated to the colonial authorities.

I am, &amp;c.,

The Under-Secretary of State for the Colonies.

G. LAWSON.

## LAW OFFICERS to WAR OFFICE.

THE Attorney- and Solicitor-General are requested to advise on the following points:—

1. Do the words "officers or authorities administering any department in the service of the Crown," in section 27 of the Patents, &c., Act, of 1883, apply to the Governments of—

(a) India.

(b) Crown colonies.

(c) Self-governing colonies.

2. If the reply to 1 be in the affirmative, are terms settled under section 27 (2) of the Act by the Secretary of State for War for use of patents in the United Kingdom applicable to stores supplied through the agency of the War Office for the use of the Governments above mentioned? or

3. Must the terms for the use of patents in the colonies be made by each of the Governments concerned?

4. If the reply to any portion of 1 be in the negative, then (as regards that portion), where stores covered by patent are ordered to be made in ordnance factories or by contract through the War Office, and no specific terms applicable to supplies for those Governments have been made, would patentees have grounds for action for infringement; and, if so, against whom?

5. If so, and if against the contractor, could the contractor plead that he was acting as an agent of the Secretary of State for War?

6. Have patentees claim for royalty on articles issued from store as in 2 (a) if terms have not been specially arranged in regard to supplies for India or the colonies?

7. If so, against whom would such claim lie?

8. On any points which may occur to the Law Officers on the general question of arrangements with patentees in regard to supplies made through the War Office for the Governments of India or the colonies.

PATENTS, ETC., ACT, 1883.—SUPPLY OF PATENTED ARTICLES TO INDIA AND THE COLONIES.—  
OPINION OF THE LAW OFFICERS OF THE CROWN.

1. We are of opinion that the words "officers or authorities administering any department in the service of the Crown," in section 27 of the Patents, &c., Act, 1883, apply only to departments of the Government in the United Kingdom, and have no application to the Governments of India, of Crown colonies, or of self-governing colonies. But we are of opinion that any department of the Government in the United Kingdom may use the invention in the United Kingdom (to which alone the Patents, &c., Act applies), provided such use is for the service of the Crown, either within the United Kingdom or abroad.

Arms made to the order of the War Office for supplying the Government of India or of a colony are made for the service of the Crown just as much as if they were made for the use of the Home army, inasmuch as Government service is the service of Her Majesty in India and the colonies as much as at Home.