

(III.) *Other Schemes.*

The Conference then considered a scheme which had been put forward from private sources. In this scheme it was proposed that, at any rate in each self-governing dominion and India, there should be a Patent Office equipped for the issue of British Empire patents. This would necessitate each office being provided with all the registers and material available in the other Empire offices, and that the practice as regards search for novelty should be on substantially similar lines. A patent issued by any one of such offices would be operative throughout the British Empire.

On this scheme the Conference came to the conclusion that it was wholly impracticable. It would be difficult if not impossible to multiply the material for search and examination and distribute it to the various offices, and the expense entailed would make it impossible to lessen the cost of obtaining a patent throughout the Empire. There was also the objection that differences of practice might occur and different decisions be given in the various offices, and questions would arise as to the respective value of the patents so granted. It would be impossible to get harmonious decisions in all the various offices in which patents operative throughout the British Empire could be obtained. It was resolved, therefore, that—

“ Having considered a scheme in which there should be separate offices for the receipt of applications for British Empire patents in different parts of the British Empire, whose duty in the examination of applications should include a search through all the patents of the Empire, and in view of the expense and difficulty of setting up the necessary offices, and the uncertainty as to the quality and value of the patent so granted, the Conference could not recommend the scheme for adoption.”

Another scheme was suggested by the representative of India, following the analogy of the International Postal Convention, by which letters duly stamped and posted in one country are transmitted to others for delivery without further expense to the sender. Under this proposal the initial search on any local application might be reduced to a minimum, and the patent to be granted locally would, subject possibly to registration, have Imperial effect. Prior, however, to the institution anywhere of an action for infringement, a thorough search at a Central Office would be required, followed by publication of the result of the search.

This scheme, after discussion, was rejected, as well as various other schemes, as they did not appear to afford either diminution of expense or simplification of procedure, or to be consistent with the resolutions already passed.

(IV.) *Preferred Scheme.*

The Conference then turned to the question of the possibility of devising some scheme in which, while local offices would be preserved for the issue of local patents, a Central Office might be established for the grant of patents which could be accepted by every part of His Majesty's dominions without the necessity for separate applications in each part or separate examination as to novelty. The first proposal, made by Mr. Seth, was that a United Kingdom patent, having regard to the extent and value of the examination and search made in the United Kingdom Patent Office, should be registered in the dominions and colonies without further examination or investigation. The representatives of Australia and Canada at once pointed out that such a proposal would give an applicant in the United Kingdom Patent Office an advantage over local inventors in their dominions, inasmuch as his application would not have to undergo a search for anticipation among the locally granted patents, and would not be met by the objections of prior user or publication which were available against ordinary applications in such dominions. The proposal could hardly, therefore, be acceptable to those dominions where an examination for novelty was conducted, and would in any case create in such dominions a class of patents whose value would of necessity be considered doubtful. The Conference felt the force of these objections, and it was agreed that the proposal for a Central Office for patents could only be accepted if the Central Office, in examining applications for patents submitted to it, made a search co-extensive with the field at present covered by the searches now made, not only in the United Kingdom, but also in the self-governing dominions and India collectively. Further, the Conference thought that an application for registration of a patent so granted must be open to opposition in such parts of the Empire. On the other hand, the Conference was of opinion that such a patent should be accepted by the colonies and protectorates without any right of opposition to the registration, leaving it to the local Courts to declare on any proper grounds that an exclusive privilege had not been secured in the territories within their jurisdiction.

Finally, after a lengthy discussion, the following scheme was drawn up and adopted :—

- (a.) The existing rights of the United Kingdom, the self-governing dominions, and India to grant patents in accordance with their laws and within their own territories to be maintained in full.
- (b.) The establishment of a Central Patent Office for the reception and examination of applications for, and the grant of, patents which shall extend to the United Kingdom, or to any of the self-governing dominions, or to India, upon registration in the particular territory in which protection is desired. The application for registration to be open to opposition before registration is actually effected.
- (c.) The Central Patent Office, in examining applications submitted to it, to make a search co-extensive with the field at present covered by the searches now made in the United Kingdom, the self-governing dominions, and India collectively.