

National Treatment.—The Conference agreed that an arrangement of this nature ought to be treated as a domestic matter, affecting only the relations of the various parts of the British Empire *inter se*, and that, as a dominion in accepting such a scheme might desire to confine the advantages and privileges to persons who are British subjects and those who are under British protection, it would be unfortunate if any obstacle existed to the exercise of its discretion upon this point.

Uniformity of Law and Practice.—The Conference further agreed that the successful working of such a scheme would also depend upon uniformity of law and practice throughout the British Empire. In particular it would appear to be necessary to have an agreement on the definition of the word “inventor,” and the rights of importers to obtain a patent. On both these points there was at present a divergence of practice between the United Kingdom and some of the dominions.

(V.) *Provisional Scheme.*

While the Conference accepted the scheme described above as the scheme which would have the greatest chance of success and acceptance throughout the Empire, the delegates felt that, in view of the difficulty of equipping a Central Office with all the necessary material for the extended examination and of the time and expense which would necessarily be involved, it would be desirable to consider the possibility of some provisional scheme which might be put into force until such time as the “preferred” scheme became capable of realization.

It was therefore proposed, as a temporary measure, and by way of modification of Mr. Seth’s original proposal that, provided the Dominion Patent Offices retained the right to raise an objection before registration on the ground of anticipation in locally granted patents or of prior local publication or user, patents as at present granted by the Patent Office of the United Kingdom should be accepted for registration throughout the Empire. The other conditions as to registration, such as opposition, would remain as in the “preferred” scheme.

The main differences between the two schemes are: (1) the retention in the provisional scheme of the power of the head of any office in the dominions or India to raise against an application for registration all local objections as to novelty, prior use, or publication of the invention which he is empowered to make in the case of an ordinary application in the dominions or India; and (2) the search in the United Kingdom will be limited, as at present, to British specifications.

This proposal was adopted, and the provisional scheme as drafted and accepted is as follows:—

- (a.) Existing rights of the United Kingdom, self-governing dominions, and India to grant patents in accordance with their laws and within their own territory to be maintained in full.
- (b.) The patent obtained by examination and grant in the United Kingdom Patent Office to extend 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, and to any lawful objection which the head of the Patent Office where registration is applied for may think fit to raise, before registration is actually effected.
- (c.) The scheme suggested above to be applicable to any of the colonies and protectorates, with such modifications as may be suitable to local requirements and administrative machinery.

Procedure under Provisional Scheme.—The Conference then discussed the main details of procedure which would be necessary to carry out the provisional scheme, and the following outlines of procedure (1) applicable to the self-governing dominions and India, and (2) applicable to the colonies and protectorates, were formulated and adopted:—

(1.) *Self-governing Dominions and India.*

1. Where a patent has been issued in the United Kingdom and registration thereof is desired in any self-governing dominion or India, the grantee or any person deriving his right from the grantee by assignment, transmission, or other operation of law must apply within one year from the issue of the patent to have such patent registered. Where any partial assignment or transmission has been made by the grantee, all proper parties shall be joined to the application for registration.

2. The application for registration to be accompanied by a certified copy or copies of the United Kingdom specification and a certificate of the Comptroller-General of the United Kingdom Patent Office giving full particulars of the issue of the patent on such specification. Such certified copies of the United Kingdom specification to be accepted as complying with any requirement as to the lodgment of specifications accompanying ordinary applications for patents in the self-governing dominions or India, or as to the sufficiency of the description and claims.

3. An application for registration to be advertised and to be open to opposition for a period of two months from the date of the advertisement, or for such further time as may be provided.

4. If no opposition or no lawful objection on the part of the authorities is lodged or made, or, in case of opposition or objection, if the determination of the proper tribunal or the authorities is in favour of registration, a certificate of registration to be issued, and thereupon the applicant to enjoy like privileges and rights subject to all conditions established by law as though a patent had been issued in the particular dominion or India where protection is sought.

5. Privileges and rights so granted to date from the date of the patent in the United Kingdom, but not to abridge or otherwise affect the right of any person ordinarily resident in the particular dominion or India, his agent or successor in business to continue any *bona fide* manufacture, use, or sale commenced before the date of the publication by the United Kingdom Patent Office of the specification of the patent, and the continued manufacture, use, or sale by such person, or the use or sale of devices resulting from such manufacture or use, not to constitute an infringement of the privileges and rights enjoyed under the certificate of registration.