

The general view was that a patent so granted might properly be accepted forthwith by the colonies and protectorates whatever provision their present laws now made as regards opposition or examination, for the reason that, apart from the general objection to the multiplication of examinations and other proceedings in respect of the same invention, there appeared to be in the majority of those territories no adequate machinery for the efficient performance of such duties or for the review of a patent granted in the United Kingdom. Although a certain number of colonies and protectorates at the present time make provision for the registration of United Kingdom patents in addition to the grant of local patents, in the majority of cases application for a patent entails the preparation of new documents, and thereby throws an undue burden of expense on the applicant.

Paragraphs 1 and 2 of the procedure are similar to those of the procedure for the dominions, except that the time within which application for registration may be made is three years instead of one year. This amendment was not made without reluctance, but appeared to be required for the following reasons: In the first place, the difficulties of communication with the outlying parts of the Empire call for greater consideration in the matter of time; and, secondly, the extended period will be an advantage to the inventor in enabling him to form an estimate of the value of his invention and the advisability of its protection in any given colony, and to obtain the necessary funds for payment of fees or for the exploitation of the invention. The Conference further recognized that the laws of the colonies and protectorates which now provide for the registration of the United Kingdom patents do not impose any limitation of time within which such registration may be effected, but, on the other hand, the protection given in such colonies and protectorates only commences from the date of registration. Having regard to these considerations, it was felt that some compromise such as has been agreed to in paragraphs 1 and 4 was desirable—that is to say, application must be made within three years of the date of issue of the United Kingdom patent, but that no action for infringement committed before the date of registration in the colony or protectorate will lie.

Paragraph 3 makes it compulsory for the colonies and protectorates to register a United Kingdom patent upon application, and to give the inventor under the certificate of registration all the privileges of a patentee.

The omission of provision for opposition and for objection on the part of the local authorities is thought to be fully justified for the reasons set out above.

Paragraph 5 provides that the registration fee shall be a uniform fee of £1, since the duties consist simply of registering the United Kingdom patent, and that no renewal fees shall be payable. It may be pointed out that if registration is effected in each of the colonies and protectorates under the scheme the fees will still amount to at least £40, a considerable sum for an inventor who has not been able to get any substantial financial backing. The Conference hesitated to make a suggestion to abridge or curtail the powers at present possessed by a number of the colonies and protectorates with regard to the grant of local patents, but it felt that if all the colonies and protectorates now granting independent patents accept the provisional scheme it will be unnecessary for these powers to be retained in many cases.

Advantages of the Provisional Scheme.—It will be seen that the provisional scheme, while not possessing the full advantages of the “preferred” scheme, will still be a great advance in simplicity and cheapness over the present system. It will equally prevent overlapping of duties of the various offices and multiplicity of machinery, and may be expected to encourage and multiply applications in the various parts of the Empire.

It is thought that the number of objections which are likely to be raised by the authorities in the self-governing dominions upon an application for the registration of a United Kingdom patent will in practice be very few. On the other hand, the elimination of the necessity for preparing separate specifications for every application, the diminution of agency fees and expenses which should ensue, and the substantial reduction of fees in the colonies and protectorates which is contemplated will confer a great benefit on inventors who desire protection throughout the Empire.

The procedure under the provisional scheme will apply substantially to the “preferred” scheme whenever it may be put into operation, and the experience gained in the working of the provisional scheme will undoubtedly be of value.

As regards the powers to revoke any registration of a United Kingdom patent it was thought that these should, as regards the colonies and protectorates, be vested in the Courts alone, and in any case should not include power to revoke on the ground of non-working of the invention in the particular colony or protectorate, the appropriate remedy being the grant of compulsory licenses.

D.—UNIFORMITY OF LAWS.

The Conference was of opinion that, whether or not the schemes suggested for a British Empire patent were found to be practicable, it was of the highest importance that both the procedure and practice in respect of the grant of patents should be uniform throughout the British Empire. A substantial uniformity had been obtained in many matters, but there was still room for further assimilation in many important points of law and procedure. The following points were specially noted and formed the subject of discussion:—

- (1.) Revocation for non-working and compulsory licenses.
- (2.) Particularity of the description or specification.
- (3.) Claims for products.
- (4.) Registration of assignments and other documents affecting title.
- (5.) Duration of patents.
- (6.) Opposition, and grounds of opposition.
- (7.) “Importer” as an inventor.