

SESSION II.
1923.
NEW ZEALAND:

BRITISH EMPIRE PATENT CONFERENCE, 1922

(REPORT ON), BY REGISTRAR OF PATENTS.

Laid on the Table of both Houses of Parliament by Leave.

The Hon. Sir Francis Bell, K.C.M.G., Minister of Justice.

SIR,—

I have the honour to submit my report on the recent British Empire Patent Conference.

PATENT CONFERENCE.

Origin of Conference.

The Conference was held as the result of a resolution of a special Committee of the Imperial Conference of 1921 :—

“The Committee recommends that a Conference of representatives of the Patent Offices of His Majesty’s Dominions shall be held in London at an early date to consider the practicability of instituting a system of granting patents which should be valid throughout the British Empire.”

This resolution was concurred in by the main Conference, and a meeting of representatives of all the Patent Offices of His Majesty’s dominions (except Newfoundland) took place at London accordingly from the 12th to the 23rd June last.

Steps already taken towards desired object.

The question to be gone into was by no means a new one, and although something had been accomplished in the desired direction by bringing the laws of the various parts of the Empire into line with one another to a considerable extent, and according a certain limited priority for an applicant in one country to apply in others, nothing had been effected for making a grant in one country extend to others.

Proposals submitted prior to Conference.

In a memorandum of the Comptroller forwarded under cover of the despatch calling the Conference in accordance with the resolution referred to, two methods are submitted for attaining the desired end :—

- (1.) The abolition of all local offices and the establishment of one Imperial Office :
- (2.) Retention of present offices for receipt of applications, &c., and for local grants, but establishment of one central Patent Office for examining purposes for the whole Kingdom.

In his memorandum the Comptroller recognized that the first proposal was not likely to be entertained, and both proposals were brought up at the Conference merely as a basis of discussion.

Objections to such proposals.

It was soon evident that the proposals, so far as they involved restricting the autonomy of the self-governing dominions, did not commend themselves to the Conference, the representatives of certain countries in particular taking exception to any limitation of their rights in the matter. These countries, with their larger population and greater industries, have been enabled to place their Patent Offices on a better footing than New Zealand has, and to provide to a fair extent for examination into novelty. In New Zealand, South Africa, and other parts of the Empire adequate provision for examination has not yet been made ; and, while concurring that the proposals did not seem feasible, as outlined in the memorandum, I considered it possible that, rather than incur the heavy expense of establishing and maintaining a large examining staff, the Government of this country would prefer to limit its expenditure as far as practicable in this direction by depending to the fullest extent it reasonably could on the examination effected by the English and other offices.

One of such proposals adopted in modified form with New Zealand requirements.

Although the Comptroller’s proposals were formally abandoned, the provisional scheme adopted by the Conference embodies to a certain extent the second proposal with practically all the amend-

ments transmitted with New Zealand despatch of 15th May, 1920, with the addition of provision for search for local anticipations and for opposition and examination by Imperial Patent Office instead of establishment of separate central office.

Extent of this report and proceedings at Conference.

In view of the full report of the Conference, the accompanying minutes, and my former report, it is not necessary that I should do more than now briefly refer to the conclusions arrived at, and indicate the course which I recommend be followed by this country in the matter. The discussion I may mention, was of a more or less informal nature, and was not reported fully, but a longhand note was drawn up each day by the secretary.

Examination of laws—proposed schemes.

As will be seen from the report, the practice in each country was first fully gone into. The various schemes submitted were next examined; those outlined in the Comptroller's memorandum were withdrawn, leaving only two or three from outside sources. None of these, however, appeared to be likely to simplify the procedure and lessen the expense, which the Conference regarded as essential to the adoption of any such proposal.

Scheme recommended for ultimate adoption.

A system of registration of English patents in each Dominion was then proposed; and, though this formed the basis of the scheme the Conference thought most likely to prove successful, it was not adopted without lengthy consideration and extensive amendment. As pointed out, registration of English patents prevails in some of the Crown colonies, and was at one time in force in this country; but the form it is suggested it should now take has several new features with the view to preserving autonomous rights and avoiding loss of revenue in the parts of the Empire concerned. It is proposed that, while retaining the rights of the various dominions to issue patents in their own territories, a Central Patent Office shall be established for receiving and examining applications and issuing patents, and that such patents shall extend to any part of the British dominions (subject to opposition in any part thereof) on registration in the country in which protection is desired. The Central Office is to make a search into the novelty of each invention, covering the ground at present covered by the offices of the United Kingdom and each of the dominions which at present undertake this work. The scheme is to be applicable, with some modifications, to British colonies and protectorates.

Advantages of such scheme.

Such a scheme, as claimed in the report, appears to have the advantage of simplifying the procedure and lessening the cost of obtaining protection, while preserving the autonomy of the self-governing dominions and India, and maintaining the functions of the local Patent Offices in granting patents which will be operative only in the particular dominion or territory.

Expense and other features involved.

The heavy cost of the establishment of such an office might be to some extent avoided by utilizing the buildings, material, and staff of one of the existing offices, and the revenue would probably suffice for working-expenses. It was felt that the search undertaken by the office should be restricted to the ground mentioned, instead of adopting the wider but less thorough search of the United States and some other countries. While the fees charged in the dominions were considered to be generally reasonable, it was thought that a considerable reduction might be made in those payable in the Crown colonies. If this is effected and merely a printed copy of the English specification filed with the application for registration a very marked reduction in cost ought to be the result, without necessarily involving any reduction in fees in the dominions.

Modified or provisional scheme.

It was recognized, however, that the expense involved in connection with such a scheme, and the time required for equipping an office and collecting the material necessary for the more extended search, rendered it desirable to submit a modified scheme which might be put into force until the various parts of the Empire saw their way to the adoption of the other plan. It is accordingly proposed that—

- (1.) The rights of the United Kingdom, self-governing dominions, and India to grant patents in their own territories shall be preserved as now existing and in accordance with the scheme referred to.
- (2.) Instead of the establishment of a Central Office, as proposed, patents obtained after examination in the United Kingdom shall on application be registrable in any of the self-governing dominions and India adopting the scheme, such application to be open to opposition as under the before-mentioned scheme, as well as to any lawful objection which the Patent Office may see fit to raise.
- (3.) The scheme is to be applicable to the colonies and protectorates, with such modifications as may be considered desirable.

Under the scheme in its modified form the patentee in Great Britain may apply in any self-governing dominion or India within twelve months of his application in Great Britain, and such application shall be accompanied by a certified copy of his English specification, which shall be accepted as complying with all requirements as to lodging of specification or as to sufficiency of description or claims. Such application is to be subject to any action as to amendment or rejection on account of novelty through local anticipations as each country may prescribe, and when accepted

it is to be advertised and be open to opposition. If there is no objection a certificate of registration is to be issued, and such certificate is to have the force of a patent. Provision is made for the protection of those *bona fide* using the invention in the meantime, as well as for the application of the scheme in a modified form to the colonies and protectorates. The fess to be charged, it is suggested, be in the discretion of each country.

Differences between original (or preferred) and modified scheme.

It will be noted that the chief difference between the main (called "preferred") scheme and the modified (termed "provisional") scheme is that one involves the establishment of a Central Office, where it is intended all examination into novelty shall be done, while the modified scheme utilizes the British patent, which is now issued only after a fairly extensive examination into novelty, as the basis of the protection, and, while providing for examination being made in certain respects, only authorizes investigation into novelty by the dominions so far as their local grants are concerned.

While the establishment of a Central Office and relieving the dominions to a great extent of investigating novelty is undoubtedly desirable, especially to a country like New Zealand, the expense involved and other considerations would defer it (if adopted) being put into practice for some time, and it is not necessary for this country to express an opinion concerning this proposal at the present time. It is, however, desirable for it to endorse or otherwise the recommendation of the Conference with regard to the modified or "provisional" scheme.

Desirability of scheme.

The opinion I have already expressed as to the desirability of the scheme has been strengthened by further consideration of it. It is true that it does not effect the grant of an Empire patent in the strict sense of the term, but it certainly appears to go a considerable distance in that direction and to enable protection to be more cheaply and readily obtained.

Exception may be taken to the scheme on the ground that it is inequitable that the other parts of the Empire should provide for the registration of patents granted in Great Britain without that country affording similar protection to them. The answer to this is that the English Office is the only one that has facilities for making anything like an adequate search, and it is therefore intended that it shall, in addition to granting patents for the United Kingdom as at present, perform to some extent the function of the Central Office as proposed in the main scheme until the various countries can see their way to establish such an office. Of course, merely between Great Britain and, say, New Zealand, this country derives no advantage except perhaps by way of fees in registering United Kingdom patents here, while its inventors receive no corresponding benefit in Great Britain; but if, by patenting in Great Britain, a resident of this country can obtain protection by merely registering his patent in Australia, Canada, South Africa, and other countries, he obviously derives very great benefit from the arrangement. The success of the scheme, therefore, depends mainly upon the number of countries taking it up.

Embodies features originally suggested by New Zealand.

I would again point out that it embodies substantially the suggestions originally made by this country in connection with the despatch on the subject. It has for some time past been obvious that much better provision is necessary for examination and searching if it is to be carried out in this country, and although this has to some extent been obviated by some modifications in the law on the subject, the addition to the staff requisite to effectively perform this work will obviously be less than will be the case if a very considerable part of the examination is done in Great Britain.

Limitations suggested.

I am of the opinion that if adopted the scheme should apply only to British subjects and residents of countries adopting the scheme. It would hardly seem to be reasonable that, for instance, the people of another part of the Empire should have facilities afforded them for obtaining protection in New Zealand by registering their English patents here unless they are prepared to grant similar privileges to the people of this country. It also does not seem desirable that the people of foreign countries should derive any benefit under the scheme.

Adoption not involve expense or commit country to further action.

The approval of the scheme, it should be noted, will not commit this country to the adoption of the main or preferred scheme, and will not involve it in any additional expense.

I have not thought it necessary to refer to some details, as they are fully set out in the report, nor to the application of the proposals to the colonies and protectorates, which is also dealt with in the report.

Résumé of anticipated advantages.

Before concluding I would emphasize some of the benefits mentioned in the report which it is anticipated will be derived from the adoption of the proposal:—

- (1.) It will be possible under it to avoid to a great extent repetition of examination in the in the different parts of the Empire.
- (2.) By dispensing with separate specifications and merely requiring printed copy of English specification, procedure will be greatly simplified.
- (3.) Simplifying the procedure will in all probability increase the number of applications.

- (4.) Cost ought to be considerably reduced by—
 (a.) Less amount involved in preparation of documents as set out in (2); reduction of work in other respects.
 (b.) Greatly lessening present heavy fees in Crown colonies.
 (c.) Possibly rather lower fees charged for registration than for other cases in the self-governing dominions and India.
- (5.) Though not referred to in the report, it might if desired be feasible to arrange for extension of examination by English Office.
- (6.) The scheme appears to afford a good basis for further arrangements between different parts of the Empire to facilitate and cheapen the cost of obtaining patents and paving the way to some form of Empire patent.

I have confidence in recommending its adoption, but consider that it should apply only to British subjects and residents of such parts of the Empire affording similar concessions to the people of this country. It is not requisite at present to consider the amount of fee necessary if the scheme is adopted, but I am of the opinion that the charge should be rather lower than for patents in the ordinary course.

Accompanying papers.

I append printed copy of report of Conference, minutes of the meetings, and a few other papers relating to the matter.

I have the honour to be,

Sir,

Your obedient servant,

J. C. LEWIS, Registrar.

4th January, 1923.

REPORT OF THE CONFERENCE.

HELD AT THE PATENT OFFICE, LONDON, FROM THE 12TH JUNE, 1922, TO THE 23RD JUNE, 1922.

REPRESENTATIVES.

UNITED KINGDOM: W. Temple Franks, Esq., C.B., Comptroller-General of Patents, Designs, and Trade-marks (Chairman); A. J. Martin, Esq., O.B.E., Assistant Comptroller.

CANADA: W. J. Lynch, Esq., I.S.O., Chief of Patent Office.

COMMONWEALTH OF AUSTRALIA: R. G. Ferguson, Esq., Commissioner of Patents.

NEW ZEALAND: J. C. Lewis, Esq., Registrar of Patents, Designs, and Trade-marks.

UNION OF SOUTH AFRICA: C. W. T. B. Juta, Esq., Registrar of Patents, Designs, and Trade-marks.

INDIA: H. G. Graves, Esq., Late Controller of Patents and Designs.

COLONIES AND PROTECTORATES: G. Seth, Esq., Solicitor-General of the Straits Settlements.

NEWFOUNDLAND was not represented.

Secretaries:—

B. G. Crewe, Esq., Patent Office (Secretary); G. H. Creasy, Esq., Colonial Office (Assistant Secretary).

1. ORIGIN OF CONFERENCE.

In December, 1919, a memorandum on the subject of a British Empire patent was drawn up by the Comptroller of the Patent Office, London (Appendix A), and in January, 1920, this memorandum was circulated to the Governments of the self-governing dominions and India. A brief *résumé* of the memorandum and of the ensuing correspondence was later submitted to the Conference of Prime Ministers and Representatives of the United Kingdom, Dominions, and India held in June, July, and August, 1921, and was considered by a Special Committee under the Chairmanship of the Secretary of State for the Colonies. As a result, the following recommendation, which was concurred in by the main Conference, was agreed to:—

“The Committee recommends that a Conference of representatives of the Patent Offices of His Majesty's Dominions shall be held in London at an early date to consider the practicability of instituting a system of granting patents which should be valid throughout the British Empire.”

In pursuance of this recommendation, invitations were addressed by His Majesty's Government to the various Governments, and delegates were nominated by all the self-governing dominions (except Newfoundland) and India. There was, in addition, a delegate representing the colonies and protectorates, nominated by the Secretary of State for the Colonies.

2. MEETINGS OF CONFERENCE.

The meetings of the Conference, which were held at the Patent Office, London, commenced on the 12th June, 1922, and terminated on the 23rd June, 1922. There were ten meetings in all.

3. ORAL EVIDENCE.

Before opening the discussion on the first day the representatives considered the desirability of admitting oral evidence from outside bodies, and decided that no useful purpose would be served by hearing such evidence, unless in the course of the discussion the Conference itself found it necessary to call expert evidence on any particular point.

No witnesses were in fact called during the meetings, but the Conference had before it particulars and data as regards applications for patents in the Empire compiled in the Patent Office, London (see Appendices B, C, and D), and important information as to the practice and procedure in the dominions and colonies was supplied by the representatives themselves.

4. HEADS OF DISCUSSION.

The Conference agreed that the problem before them could most conveniently be discussed under the following heads :—

- A.—The present situation in regard to applications for patents in the British Empire.
- B.—The desirability of a British Empire patent.
- C.—The various schemes for such a patent which had been, or might be, suggested, and their practicability, having regard to the legislative and administrative difficulties.
- D.—If no acceptable scheme could be suggested, or in any case if time permitted, the possibility of any further action as regards uniformity of patent law and practice in the British Empire.

A.—PRESENT SITUATION.

From data supplied to the Conference, and from information derived from the delegates themselves, the present situation may be summarized as follows :—

Applications for Patents and Fees payable.

At present, in order to obtain patent protection throughout the British Empire, separate applications must be made in the United Kingdom, in each of the self-governing dominions and India, and in all the colonies and protectorates. Omitting the Native States in India, certain protected territories in the Malay Peninsula, and some other small territories where it is not clear that any provision exists for the protection of inventions, the separate applications necessary would appear to number at least forty-six. On all such applications fees are payable, and the initial payments amount to £5 in the United Kingdom, to £32 in the self-governing dominions and India collectively, and to about £250 for all the colonies and protectorates. For the maintenance of the patents granted on such applications renewal fees are payable in the United Kingdom, and three of the self-governing dominions and in India, and also in the majority of the colonies and protectorates. These renewal fees amount to £126 in the United Kingdom, to £84 in the self-governing dominions and India collectively, and to approximately £1,000 for the colonies and protectorates. A complete list of the sums payable on application for and renewal of a patent, so far as such figures can be definitely ascertained, is given in Appendix B.

Treatment of Applications.

In the United Kingdom, the self-governing dominions, and India all specifications accompanying applications are subjected to examination for formalities, and also in respect of sufficiency of description and clearness and succinctness of claims. In many of the colonies and protectorates the power to make such examination is given by legislation, but appears to be rarely exercised, for reasons which will be explained in a later part of the report.

Examination for Novelty.

(i.) *United Kingdom.*—An investigation is made for the purpose of ascertaining whether the invention claimed has been wholly or in part claimed or described in any specification published before the date of application and left pursuant to any application for a patent made in the United Kingdom within the previous fifty years.

(ii.) *Self-governing Dominions and India.*—In all the self-governing dominions except the Union of South Africa and in India there is an examination for anticipation into all locally-granted patents; and, further, in some of the Dominions there is power to consider and cite any anticipation by publication or otherwise which would affect the novelty of the invention for which protection is sought. In New Zealand the examination authorized by law is at present somewhat limited by the existing resources of the office.

(iii.) *Colonies and Protectorates.*—There is substantially no examination for novelty, though in some cases powers to make such an investigation are given by the law.

Opposition to Grant.

(i.) *United Kingdom.*—Opposition is allowed, which can be based on various grounds, including the publication of the invention not only in prior specifications but also in any document previously published in the United Kingdom.

(ii.) *Self-governing Dominions and India.*—With the exception of Canada, provision is made for opposition based not only upon anticipation in specifications of patents previously granted in the dominion, but also in respect of prior user and publication within the dominion. In the Commonwealth of Australia, New Zealand, and India the opposition is decided by the head of the Patent Office, while in the Union of South Africa such cases are heard by the Court.

(iii.) *Colonies and Protectorates.*—While opposition is provided for by legislation in many of the colonies and protectorates, it is apparently seldom, if ever, utilized. In the majority of cases there is no effective machinery for opposition.

From this survey of the position as regards the application for and grant of patents throughout the Empire, the general position appeared to be by no means satisfactory. To obtain protection throughout the Empire requires numerous applications at considerable expense, and the fees for maintenance are very onerous in many of the colonies and protectorates. While the chief principles of patent law are substantially the same, there is considerable divergence of practice and procedure, and there is no certainty that an invention for which a patent has been secured in any part of His Majesty's dominions will necessarily receive the same protection in any other part of those dominions.

The Conference recognized, however, that the specifications forming the search material in the United Kingdom would undoubtedly include a large majority of the more important inventions patented not only in the British Empire but throughout the world, and consequently the patent issued by the United Kingdom Patent Office would have relatively a high value.

In the absence of a delegate for Newfoundland the Conference did not have the advantage of ascertaining the practice and procedure in that territory. Consequently, it was unable to comment on the present situation there.

B.—DESIRABILITY OF A BRITISH EMPIRE PATENT.

Upon this head the Conference agreed that a British Empire patent—or, in other words, a patent which would be operative throughout the Empire—would be desirable, provided it in no way affected the autonomy of the self-governing dominions and India or the rights and facilities which an inventor at present enjoyed in those territories of obtaining a patent *prima facie* locally valid and locally operative; and the following resolution was passed:—

“The Conference unanimously adopts the view that, provided that the autonomy of the self-governing dominions and India is preserved, and that the rights and facilities at present enjoyed by an inventor throughout the British Empire are not affected, the institution of a British Empire patent is desirable as a means of cheapening the cost and simplifying the procedure of obtaining protection for inventions throughout the Empire.”

C.—SCHEMES.

The Conference then proceeded to the examination of various schemes which had been brought to their notice, taking as a basis the memorandum of December, 1919, by the Comptroller of the Patent Office, London (Appendix A). It was decided that the main essentials of any successful scheme must comprise simplification of procedure and reduction of expense, and that, unless these objects are obtained, any alteration of the present system would not appear to be practicable or desirable.

(I.) *One Central Patent Office.*

This was the first proposal outlined in the Comptroller's memorandum. It was agreed that the establishment of a Central Patent Office for the grant of patents throughout the Empire would not necessarily affect the autonomous rights of the dominions if it were voluntarily accepted and its authority recognized by their domestic legislation, inasmuch as the grant of a patent was a franchise conferred under the prerogative of the Crown. This is illustrated by the form of letters patent issued in all cases. It was clear, however, that the establishment of any such office would in the dominions and India affect the rights and facilities at present enjoyed by an inventor who desired only to obtain a patent *prima facie* locally valid and locally operative. It was further agreed that at the present time such a proposal was not feasible or practicable, having regard to the distances from one another of the various parts of the British Empire, and the consequent loss of time which must occur in the communication of specifications, in dealing with any citations or objections made, and in making the necessary amendments as a result. There would, further, be a loss of time and great expense in determining any opposition or other proceedings in connection with the grant of a patent before a central tribunal.

Accordingly the following resolution was passed:—

“Having examined a proposal whereby all local Patent Offices within the British Empire would be abolished and one Imperial Patent Office established, this Conference considers that such a proposal, if voluntarily adopted by convention or agreement between all the dominions, would not appear to infringe any autonomous rights now enjoyed by those dominions; nevertheless, it is of opinion that, having regard to the practical difficulties in the way of such a scheme and the necessity for preserving the right of an inventor to obtain a patent limited to that part of the dominions in which he is resident, the proposal is not one which they are able to recommend.”

(II.) *Second Scheme.*

The second scheme, as explained and discussed in the Comptroller's memorandum, was next examined, and it appeared that as this scheme entailed the abolition of a search for novelty in the various local Patent Offices of the British Empire, it would not commend itself to the self-governing dominions or India, and would be inconsistent with the resolutions already passed by the Conference. It was agreed, therefore, that, so far as this scheme required the abandonment by the dominion offices of the examination for novelty and of the power to demand amendment as a result, it would not be acceptable.

The entire abolition of such an examination in all Patent Offices was considered by the Conference, but it was recognized that some such examination by an office before the grant of a patent was, apart from its actual value, a practical necessity in view of the action taken by other countries. It was consequently not possible at this stage to advocate the complete abolition by all offices of examination for novelty before a patent was granted, but it was, in the opinion of the Conference, highly desirable to prevent the further multiplication of offices or the extension of the functions at present exercised, provided that in the latter case an efficient system of examination, which could be generally accepted, were established by a central organization.

(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.

(d.) The scheme suggested above to be equally applicable to all the colonies and protectorates, subject to the qualification that the application for registration shall not be open to opposition unless the existing law makes provision for the hearing of opposition to the grant of patents; but in any case the local Courts to be empowered to declare that an exclusive privilege has not been secured in the territories within their jurisdiction.

(e.) The fees for registration to be of such amount as would result in a considerable reduction in the total cost of obtaining patents throughout the Empire at the present time.

This scheme, it is thought, conforms to the required conditions of ensuring a simplified procedure and lessening the cost of obtaining a patent operative throughout the British Empire, while preserving the autonomy of the self-governing dominions and India, and maintaining the functions of the local Patent Offices in granting patents which will be operative only in the particular dominion or territory.

Advantages.—Such a scheme presents the following great advantages in comparison with the present system :—

- (a.) One application and one specification only will be necessary for obtaining the grant of a patent throughout the British Empire.
- (b.) There will be one examination in respect of formalities, the sufficiency of the documents, and the novelty of the invention, and consequently after the application in the Central Office has been accepted there will be less uncertainty as to the fate of the application throughout the British Empire.
- (c.) There will, in consequence, be a very great diminution of expense, both in regard to the preparation, supply, and printing of documents, and as a result of the abolition of the local examination on each application. If registration fees are small, a still greater diminution of expense will be effected.
- (d.) There will probably be a very considerable diminution in agency fees. (It was not possible for the Conference to obtain reliable figures upon this point, but the general opinion was that the agency fees at the present time for obtaining a patent throughout the British Empire were considerably greater than the fees actually charged by the various Patent Offices. On the other hand, the increase of business which may be anticipated should substantially benefit the agents' business.)
- (e.) A patent so granted and registered will have a considerably greater commercial value than any individual patent at present issued in the British Empire, by reason of the wider search which will be made in the Central Office.
- (f.) The establishment of such a system will undoubtedly encourage applications in the other parts of the Empire, and particularly so if the expenses are diminished. The Canadian and South African representatives pointed out that decreases in patent fees in their dominions had led to a very large increase in applications and in the gross amount of fees obtained.
- (g.) It will reduce the overlapping of functions in the various offices, and tend to prevent the multiplication of expensive machinery for examination into novelty.
- (h.) Finally, the establishment of any such Imperial system will create a further bond of union between the various parts of the British Empire.

Cost of Establishment.—Unless one of the existing offices is selected for this purpose, the cost of equipping and establishing such an office would undoubtedly be great, but it might be hoped that the revenue would meet the current expenses of working. If any existing office were selected the cost would be greatly diminished, and would be incurred only in the supply of the new material required and the necessary staff and buildings.

Universal Search.—In connection with this scheme the Conference had before it the question of the extension of the search made by such Central Office to include all publications throughout the world. Such a search was professed to be undertaken by the Patent Offices of Germany and the United States of America, and it appeared to be the case that an additional commercial value was placed upon any patent which had been examined and issued by those offices, notwithstanding the fact that many of the patents granted in Germany and the United States were subsequently found by the Courts to be invalid. The Conference was of opinion that to undertake a really efficient search of this magnitude was impracticable, having regard to the extent of the material which would be necessary and the expense involved. In view, however, of the feeling of the commercial community upon this point, they considered that the question of the establishment of a search on the lines of the German and United States of America offices might well be reconsidered later if experience of the wider search proposed in the scheme recommended above showed such further extension of the search to be in any way feasible or practicable.

Fees.—The Conference considered it to be essential to the success of the scheme that the fees for the registration and maintenance of patents should, if possible, be small, and appreciably less than the fees at present charged. The present initial fees in the self-governing dominions and India are not unreasonable, but they amount in the case of the colonies to a very considerable sum, and the renewal fees at present levied in the colonies and protectorates are excessive and in many cases prohibitive. The Conference thought, in consequence, that at any rate in the case of the colonies and protectorates, renewal fees in respect of patents registered under the scheme should not be charged, and that the registration fee might well be fixed at a nominal sum—say, £1.

Voluntary Acceptance.—The acceptance of such a scheme would be voluntary in the case of the dominions and India, and it was not therefore necessary that before the scheme could be put into operation it should be accepted by all the dominions and by India. It was obvious, however, that unless the scheme was accepted by a substantial majority of the dominions its utility and effectiveness would be seriously impaired. In the case of the colonies and protectorates, the Conference thought that it would be advisable for His Majesty's Government to recommend its adoption in every case.

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.

6. The fees to be charged upon an application for registration to be left to the discretion of the various self-governing dominions and India.

(2.) *Colonies and Protectorates.*

1. Where a patent has been issued in the United Kingdom and registration thereof is desired in any colony or protectorate, the grantee or any person deriving his right from the grantee by assignment, transmission, or other operation of law must apply within three years 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 colonies and protectorates, or as to the sufficiency of the description and claims.

3. Upon such application being received, and the necessary formalities complied with, 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 the patent had been issued with an extension thereof to the colony or protectorate.

4. Privileges and rights so granted to date from the date of the patent in the United Kingdom, and to continue in force only so long as the patent in the United Kingdom remains in force, provided that no action for infringement shall be entertained in respect of any manufacture, use, or sale of the invention prior to the date of issue of the certificate of registration of the patent in the particular colony or protectorate.

5. The registration fee to be a uniform fee of £1, and no renewal fees to be payable.

Procedure in Self-governing Dominions and India.—Dealing first with the procedure relating to the self-governing dominions and India, paragraph 1 provides that the proprietor of any United Kingdom patent, or his assignee, may apply within one year from the issue of the patent to have such patent registered in any of the other parts of His Majesty's dominions where he may desire protection. Provision is also made for application by the partial assignee jointly with all proper parties.

Paragraph 2 stipulates that the application shall be accompanied by one or more certified copies of the specification of the United Kingdom patent and the Comptroller's certificate giving details of the issue of patent. The suggested form of certificate is given in Appendix E. The Conference agreed that it would be highly desirable that the form of application for registration should be identical in all the dominions and India.

The latter part of paragraph 2 contains a most important provision whereby certified copies of the specification of the United Kingdom patent are to be accepted as complying with all the provisions of the local law as to lodgment of specifications and as to sufficiency of description and claims. This undoubtedly represents a great advance. It was felt that the thorough examination which is given to specifications in the United Kingdom might properly be accepted by any of the dominions as substantially equivalent to any examination in these respects which is at present made by local offices. The preparation of a specification for a local application though in many cases it is substantially identical with the specification lodged in the United Kingdom Patent Office—at present entails considerable expense, and therefore the provision should result in a substantial saving in this respect.

Paragraph 3 makes provision for opposition to the application within two months or such further time as may be allowed.

Paragraph 4 provides in effect that the holder of a certificate of registration shall be entitled to the like privileges and rights as if he had obtained a patent.

Some difficulty was experienced as regards paragraph 5, which relates to the protection of previously acquired rights, and to the date before which such rights might properly be protected. A uniform definition of these rights was felt to be advisable, and the present form was adopted as the best that could be suggested. The intention is to protect only *bona fide* rights which were actually in existence by manufacture, use, or sale; and, after discussion of the various questions as to date, &c., connected with this subject, the Conference agreed that protection should only be given to such rights actually acquired before the date of publication in the United Kingdom of the specification of the United Kingdom patent. The recognition of these rights was not, however, of itself to prevent the issue of a certificate of registration.

As regards paragraph 6, the fees at present charged by the self-governing dominions and India for obtaining local patents were thought to be not unreasonable, and, while the Conference would have preferred to recommend the institution of a uniform fee for registration, it was decided to leave the question to the discretion of each dominion.

Procedure in Colonies and Protectorates.—In considering the procedure for the colonies and protectorates, the Conference was strongly influenced by the following facts:—

A patent granted by the United Kingdom Patent Office has been subjected to—

- (1.) A thorough investigation as to sufficiency of description and claims, and to a search for anticipation in published United Kingdom specifications of the previous fifty years:
- (2.) The possibility of opposition, not only upon grounds of publication in prior British specifications, but also upon publication in text-books or proceedings of learned societies or any foreign or dominion specification published in the United Kingdom (for this purpose the placing of copies on the shelves of the Patent Office Library is regarded as publication).

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.

Upon (1) the Conference agreed that, while it should be left to the United Kingdom and self-governing dominions and India to determine the conditions under which revocation of patents on the ground of non-working should be enforced, a system whereby compulsory licenses might be granted on proper application being made would meet the requirements both of the public and of trade and industry. Any such system should be as simple and inexpensive as possible, and in this connection the carefully considered clauses of the United Kingdom Act of 1919 might be adopted as a guide by the dominions and India in framing new legislation. So far as the colonies and protectorates are concerned, any existing provision for revocation on the ground of non-working might be abolished, as it would be sufficient for those territories to rely upon a system of compulsory licenses.

As regards (2), the Conference was impressed with the necessity of strengthening the existing laws so as to ensure that the inventor should disclose the real invention and the best practical methods of carrying it out, and was of opinion that the possibility of amending the laws in this direction might be further explored when opportunity arose. In this connection it was noted that the Canadian and Indian laws alone contained provisions authorizing the patent authorities to call for models of an invention where it was considered desirable.

As regards (3), "claims for products," the Conference agreed that the provisions of the United Kingdom and New Zealand laws in reference to claims for products were useful, and might with advantage be adopted throughout the Empire.

On (4), relating to the registration of assignments, &c., the Conference appreciated the difficulties in the way of invalidating unregistered documents relating to patent rights, but agreed that some penalty should be fixed for non-registration, and that the provision now in force in the United Kingdom might well be adopted in those dominions and colonies which did not already possess similar legislation.

With regard to (5), "duration of patents," it was agreed that the term of a patent throughout the Empire should be, as far as possible, sixteen years, but that it should be within the discretion of any dominion to grant a longer term if so desired.

On (6), "opposition and grounds of opposition," the Conference resolved that opposition was an invaluable protection against the issue of invalid patents in the United Kingdom, the self-governing dominions, and India, and that the grounds of opposition should be as uniform and as wide as possible. As regards the colonies and protectorates, it was thought that, as in many instances the local official machinery was inadequate to deal with very technical matters which arise in cases of opposition, any questions in reference to the grant of a patent or to its validity after grant should be dealt with by the Courts. In view of the existing legislation of Canada, the Canadian representative was not prepared to associate himself formally with this resolution.

On the difficult question (7), whether an "importer" might properly be regarded as a "true and first inventor," there appeared to be a divergency of practice in the Empire, but it was generally agreed that the matter was not now of so great importance as formerly, in view of the rights granted under the Industrial Property Convention and similar arrangements, and of the facilities of publication and communication between the various countries.

It was, however, agreed by the majority of the delegates that the old doctrine that a person merely introducing an invention without the consent or approval of the real inventor is entitled to patent protection might now be profitably reconsidered. The doctrine undoubtedly led in some instances to an importation being made in fraud of the real inventor, and a valid patent being obtained thereon.

CONCLUSION.

In conclusion, the Conference desires to put on record its recognition of the great advantages which have been derived from the present meeting of delegates. The Conference was, in fact, the first meeting which has ever been held of the experts or representatives of the various Patent Offices of His Majesty's dominions; and, apart from any practical conclusions at which they have been able to arrive, the Conference has enabled the delegates to discuss with one another the differences in law and practice and procedure throughout the British Empire, and to understand and appreciate the different conditions and the different problems which affect the various parts of the Empire.

The representatives also desire to express their very high appreciation of the valuable services that have been rendered to them by their secretary, Mr. B. G. Crewe, both in the preparation of papers and data and in the provision of the daily reports of the discussions. In these duties he was ably assisted by the assistant secretary, Mr. G. H. Creasy, and to the efforts of both are due the very admirable arrangements made throughout for the conduct of the business of the Conference.

W. TEMPLE FRANKS (<i>Chairman</i>).	J. C. LEWIS.
A. J. MARTIN.	C. W. T. B. JUTA.
W. J. LYNCH.	H. G. GRAVES.
R. G. FERGUSON.	G. SETH.
B. G. CREWE, G. H. CREASY, <i>Secretaries</i> .	

23rd June, 1922.

APPENDIX A.

BRITISH EMPIRE PATENT.

Note by the Comptroller of the Patent Office, London.

(Circulated to Dominions by the Secretary of State for the Colonies with Dominions Despatch No. 25 of 20th January, 1920.)

It is constantly urged that patents granted in the United Kingdom and the dominions should be valid throughout the Empire. At the present time separate patent rights have to be obtained in India and all the self-governing dominions. In the colonies British patents are for the most part registered, and become valid in the colony by registration. Under the existing system all the self-governing dominions, with the exception of South Africa, make

an examination for novelty before the grant of patent rights. This is in addition to the investigation as to whether or not formalities have been properly observed. It is obvious, therefore, that an Empire patent is practically impossible with the present system, as there is no security that a specification accepted in one country of the Empire will be accepted in another, or that amendment may not be required in each country, modifying the original invention claimed. The United Kingdom cannot accept a Canadian or Australian specification without the examination required by the Patents Act, 1907-1919, and without the necessary amendments which may be required. Equally, the Dominion Patent Offices will not necessarily grant a patent on a specification accepted in the United Kingdom, to which patent rights have been accorded.

If an Empire patent is required, there would appear to be only two practicable methods for attaining the end :—

1. The abolition of all local offices and the establishment of one Imperial Office for the receipt of applications for patents, examination, and grant. The example often cited is the Patent Office at Washington, which grants patents throughout the United States. The chief objections raised to this proposal are—

(a.) That the United Kingdom and self-governing dominions will be reluctant to give up their independent Patent Offices and forego the fees which result from the procedure adopted under their respective laws as at present framed :

(b.) There are practical inconveniences in the proposal.

If London were the seat of the Imperial Office it would entail the sending of specifications from all the dominions, and this would cause considerable delay, while the subsequent correspondence in reference to amendments, &c., which would necessarily ensue might still further increase the difficulties and delay in securing patent rights. Though much can be done by agents on the spot, there are certain matters which must be referred to the inventor himself. It would be difficult to suggest another centre than London, as the United Kingdom patents are at present far more numerous and possibly of greater importance than the others granted in the Empire.

2. Alternatively, the local Patent Offices might be retained, both in the United Kingdom and throughout the Empire, for the receipt of applications, for examination as to formalities, and for the grant of patent rights, but examination for novelty and power to demand amendments as a result would be abolished. The fees for such locally granted patents would be comparatively small.

In addition to the local offices, a Central Office for the whole Empire would be established, where the locally granted patents would be recorded, all patents so recorded to have *prima facie* validity throughout the Empire, but the actual rights and scope of each patent to be determined in the law-courts as and when any dispute arose. The Central Office, however, apart from its duties as a registering office, might be equipped for a search into novelty, and such search would comprise not only the patents of the Empire, but the specifications and publications of all the world. Any inventor who had already obtained a patent in one of the branch offices would have the right, on payment of a substantial fee, to have such search for novelty made in respect of his patent, and the specification amended as a result of the examination reported. In such a case the fact of the search having taken place would be recorded on the patent, and it would probably be advisable to have the new specification printed in a different form.

Such an examination would afford a very considerable security to the inventor and be useful commercially. It would, further, prevent any necessity for having recourse to the German and American Patent Offices, which purport to make universal search. Opposition in the Central Office would also have to be allowed on the part of any prior patentees, &c.

This probably is a more feasible proposal than 1, inasmuch as local rights are not disturbed. Small fees only are payable for an unexamined patent, and a really effective universal search is made for those who desire it on payment of a larger fee.

There is no substantial difference between the procedure and practice in the dominions and that of the United Kingdom in patent matters, although there are a few minor divergencies. The establishment of a Central Office would not in any way affect any special local regulations such as those regarding working, &c., as it would solely be concerned with the examination and search for anticipations, with oppositions, and with the grant of a patent, which would have, in consequence, a strong presumption of validity throughout the Empire.

The real complaints of inventors in the British Empire are—

(1.) The expenses and difficulty of obtaining patent protection throughout the Empire ;

(2.) The uncertainty as to the position and validity of their patents in the various parts of the Empire.

The establishment of a Central Office would go some way to meeting these complaints if the local fees were generally reduced. The Central Office might, indeed, finally become the means of transmitting the necessary documents and receiving the necessary fees for the purpose of obtaining patent rights in the various portions of the Empire.

It seems highly desirable, in view of the demands for a more simple and effective protection of inventions throughout the Empire, that some such scheme, of which but a bare outline is suggested above, should receive the consideration of the technical experts of the various Patent Offices throughout His Majesty's dominions.

23rd December, 1919.

W. TEMPLE FRANKS.

APPENDIX B.

(i) STATUTORY FEES PAYABLE IN CONNECTION WITH THE SECURING AND MAINTAINING OF A PATENT WITHIN (i) THE UNITED KINGDOM AND (ii) THE SELF-GOVERNING DOMINIONS AND INDIA, AND (iii) THE COLONIES AND PROTECTORATES.

(i.) United Kingdom.

	Initial Payments.	Renewal Fees.	Total Fees.
	£ s. d.	£ s. d.	£ s. d.
United Kingdom	5 0 0	126 0 0	131 0 0

(ii.) Self-governing Dominions and India.

	Initial Payments.	Renewal Fees.	Total Fees.
	£ s. d.	£ s. d.	£ s. d.
Canada (at 5 dollars to the £1)	7 0 0	.. .. .	7 0 0
Commonwealth of Australia	8 0 0	5 0 0	13 0 0
New Zealand	4 0 0	9 0 0	13 0 0
Union of South Africa	5 0 0	20 0 0	25 0 0
Newfoundland	5 0 0	.. .. .	5 0 0
India (at 15 rupees to the £1)	2 13 4	50 0 0	52 13 4
Total (ii)	31 13 4	84 0 0	115 13 4

(iii.) Colonies and Protectorates.

	Initial Payments.	Renewal Fees.	Total Fees.
	£ s. d.	£ s. d.	£ s. d.
Bahamas	10 0 0	30 0 0	40 0 0
Barbados	7 3 0	150 0 0	157 3 0
Bermuda	10 0 0	None	10 0 0
British Guiana	8 0 0	20 0 0	28 0 0
British Honduras	8 10 0	31 10 0	40 0 0
British North Borneo	5 0 0	None	5 0 0
Ceylon	8 0 0	75 0 0	83 0 0
Fiji	21 5 0	None	21 5 0
Gambia	7 3 0	150 0 0	157 3 0
Grenada	5 0 0	37 0 0	42 0 0
Jamaica	7 15 0	None	7 15 0
Leeward Islands	13 3 0	60 0 0	73 3 0
Malta	4 0 0	95 0 0	99 0 0
Mauritius	12 0 0	None	12 0 0
*Nigeria	6 0 0	30 0 0	36 0 0
Rhodesia (Northern)	3 0 0	49 10 0	52 10 0
Rhodesia (Southern)	4 0 0	49 10 0	53 10 0
Federated Malay States	5 0 0	5 0 0	10 0 0
St. Lucia	5 0 0	37 0 0	42 0 0
St. Vincent	5 0 0	37 0 0	42 0 0
Seychelles	6 0 0	120 0 0	126 0 0
Straits Settlements	5 0 0	None	5 0 0
Trinidad	10 0 0	None	10 0 0
Channel Islands			
Cyprus			
Falkland Islands			
Gibraltar			
Gilbert and Ellice Islands			
Gold Coast			
Hong Kong			
Kenya			
†Nyasaland			
St. Helena			
Solomon Islands			
Sierra Leone			
Uganda			
‡Zanzibar			
Basutoland			
Buchanaland Protectorate			
<p>In these territories patents are only granted where the inventions have been previously patented in Great Britain, and they expire with the British patents. They may be taken at any time so long as the British patents on which they rest are still in force. No renewal fees are payable. The fees for registration vary, but average about £5 in each case.</p>			
	70 0 0	None	70 0 0
	1 10 0	10 0 0	11 10 0
	1 10 0	10 0 0	11 10 0
Total (iii)	248 19 0	966 10 0	1,245 9 0

* Registers United Kingdom patents only.

† Applications appear to be also entertained for local patents, the provisions of the United Kingdom laws being applied *mutatis mutandis*.

‡ Registers Indian and British Colonial patents as well.

NOTE.—The above table excludes the Native States in India, some protected territories in the Malay Peninsula, and certain small territories where there appears to be no provision for the protection of inventions.

APPENDIX C.

APPLICATIONS FOR PATENTS MADE IN UNITED KINGDOM BY AND PATENTS GRANTED TO RESIDENTS IN THE BRITISH EMPIRE DURING 1912-13 AND 1919-21.

Place of Residence.	1912.		1913.		1919.		1920.	1921.
	Applica- tions.	Patents.	Applica- tions.	Patents.	Applica- tions.	Patents.	Applica- tions.	Applica- tions.
United Kingdom	20,174	9,058	20,426	8,128	26,847	11,938	25,377	26,152
Self-governing Dominions—								
Canada	215	188	220	187	198	167	242	198
Commonwealth of Australia	239	161	208	160	193	124	254	215
New Zealand	102	71	88	54	76	55	116	75
Union of South Africa	112	62	137	79	115	67	105	154
Newfoundland	3	2	..	..	1	1	..	..
India	66	36	76	66	70	44	103	54
Other Territories—								
Bermuda	1	..	..	..	..	..	..	..
British Guiana .. .. .	..	..	1	..	..	..	1	..
Burmah .. .. .	..	..	2	..	3	2	..	..
Ceylon	1	1	6	3	2	2	3	4
Gibraltar .. .. .	..	..	..	..	..	..	..	..
Hong Kong	3	3	2	..	..	..	2	..
Malta	2	1	1	1	..	..	..	..
Mauritius .. .. .	..	..	2	2	..	..	6	3
South Africa	17	12	5	2	3	2	2	1
West Africa	7	4	1	..	5	4	2	4
East Africa	5	4	4	1	6	3	2	2
Malay States	5	4	7	5	1	..	5	7
West Indies	12	7	3	..	2	1	4	..
Total British Empire	20,964	9,614	21,189	8,688	27,522	12,410	26,184	26,869
Total all sources, including foreign countries	30,089	16,962	30,077	16,434	32,853	16,856	36,672	35,132

NOTES.

(i) The classification of territories under the heading "Other Territories" is not exact. From the records available it is not possible, without considerable labour, to compile figures for each separately-administered territory.

(ii) The figures for the War years, 1914-18, have been omitted.

(iii) Statistics of patents sealed on applications made in 1920 and 1921 are not yet available.

APPENDIX D.

APPLICATIONS FOR PATENTS IN THE SELF-GOVERNING DOMINIONS, INDIA, AND STRAITS SETTLEMENTS.

Canada.

—	1916.	1917.	1918.	1919.	1920.
(1) Total number of patents granted	7,520	7,233	6,052	9,527	11,152
(2) Number granted to residents in the United Kingdom	352	318	314	678	786
(3) Number granted to residents in other parts of the British Empire (excluding Canada)	108	93	80	154	186
Total of (2) and (3)	460	411	394	832	972

Statistics of *applications* as distinct from *patents granted* are not available. The Canadian year extends from the 1st April to the 31st March.

Commonwealth of Australia.

—	1916.	1917.	1918.	1919.	1920.
Total number of applications received	2,911	3,246	3,544	4,169	5,481

No statistics available as to nationality of applicants.

New Zealand.

—	1916.	1917.	1918.	1919.	1920.
(1) Total number of applications received	1,261	1,329	1,386	1,880	2,193
(2) Number received from United Kingdom residents	110	117	156	276	313
(3) Number received from residents in other parts of the Empire (excluding New Zealand)	193	224	234	254	321
Total of (2) and (3)	303	341	390	530	634

Union of South Africa.

—	1917.	1918.	1919.	1920.
(1) Total number of applications received	876	811	1,105	1,449
(2) Number received from United Kingdom residents ..	351	257	342	..
(3) Number received from residents in other parts of the Empire (excluding the Union of South Africa)	75	65	93	..
Total of (2) and (3)	426	322	435	..

No earlier statistics available for the Union. Nationality figures for 1920 not yet received.

Newfoundland.

—	1916.	1917.	1918.	1919.	1920.
(1) Total number of patents granted	24	19	30	32	75
(2) Number granted to residents in the United Kingdom	14	10	13	15	20
(3) Number granted to residents in other parts of the British Empire (excluding Newfoundland)	..	1	6	2	4
Total of (2) and (3)	14	11	19	17	24

No figures available as regards *applications*.

India.

Received from	1910.	1918.	1919.	1920.
Indians	62	77	113	128
Other residents in India	137	155	200	168
Foreigners	468	412	726	1,041
Total	667	644	1,039	1,337

Straits Settlements.

	1919.	1920.	1921.
(1) Total number of patents granted	32	70	60
(2) Grants to United Kingdom residents	10	20	21
(3) Grants to residents in other British possessions (excluding Straits Settlements)	5	19	8
Totals of (2) and (3)	15	39	29

APPENDIX E.

COPY OF THE CERTIFICATE OF THE COMPTROLLER.
(Royal Arms.)

Patents and Designs Acts, 1967 and 1919.

I, , hereby certify that the annexed are true copies of the provisional specification and complete specification and drawings in connection with application for Patent No. of , 19 , filed on the day of , 19 , as on file at this date [the complete specification having been amended by decision of on the , since the grant of the patent].

It is also certified that, on the day of , 19 , the said complete specification was accepted and the said provisional specification and complete specification and drawing were placed open to public inspection, the application receiving the number .

It is further certified that a patent, numbered , was granted to the said on the day of , 19 , and sealed as of the day of , 19 ; *that no document affecting the proprietorship of the said patent has been entered in the Register of Patents, and that the said patent is still in force.

This certificate is issued for use in applying for registration of the patent in .
[Seal of the Patent Office.]

Witness my hand, this day of , 19 .

* Or, alternatively, "that, under date the , of , was registered as proprietor of the said patent, by virtue of a deed of assignment, dated the , and made between the said of the one part and the said of the other part."

(Copy of printed specification, with seal of Patent Office impressed, to be attached.)

Certificate placed on certified copies of printed specifications.

[Seal of the Patent Office.]

I certify this [including the drawings forming part thereof] to be a true copy.

[Date.]Comptroller.

Approximate Cost of Paper.—Preparation, not given ; printing (525 copies), £18.

By Authority : W. A. G. SKINNER, Government Printer, Wellington.—1923.

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