

Enclosures.

Industrial Property Department, Board of Trade,
25 Southampton Buildings, London W.C. 2, 31st December, 1919.

SIR,—

I am directed by the Board of Trade to say that from time to time representations have been made to them as to the desirability of instituting a patent which should be valid throughout the British Empire.

This subject has recently again become prominent in connection with suggestions for amendments of the patent laws, and the Board are of opinion that the time has now come when the proposal for an Empire patent should be examined in detail in order to ascertain how far such a patent is practicable.

It is thought that the quickest and best method of dealing with the matter would be to submit the proposal to a special conference of representatives of the Patent Offices of His Majesty's dominions at an early date.

I am accordingly to transmit herewith, for the information of the Secretary of State, copies of a memorandum by the Comptroller-General of Patents upon the subject, and to suggest that, if Lord Milner approves, this memorandum should be circulated to the various Governments of His Majesty's dominions, who should at the same time be invited to send a representative from each of their respective Patent Offices to a conference on the matter to be held in London in the spring or early summer of 1920.

I have, &c.,

The Under-Secretary of State, Colonial Office.

W. TEMPLE FRANKS, Comptroller.

BRITISH EMPIRE PATENT.—NOTE BY THE COMPTROLLER OF THE PATENT OFFICE, LONDON.

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 Crown 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 claims. The United Kingdom cannot accept a Canadian or Australian specification without the examination required by the Patents Acts, 1907-19, 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 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. Alternately, 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.

3. 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 should 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 examinations 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