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MISCELLANEOUS. No. 3 (1888).

CORRESPONDENCE

RELATIVE TO THE

PROTECTION OF INDUSTRIAL PROPERTY.

*Presented to both Houses of Parliament by Command of Her Majesty.
August 1888.*

LONDON:

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Correspondence relative to the Protection of Industrial Property.

No. 1.

M. Catalani to the Earl of Iddesleigh.—(Received August 16.)

(Translation.)

My Lord,

Italian Embassy, London, August 16, 1886.

AS your Lordship is aware, the International Conference for the Protection of Industrial Property, which met at Rome in the month of April last, at its close signed a Protocol containing several Articles additional to the Paris Convention of the 20th March, 1883, as well as a set of Regulations for their execution, and expressing a wish that the States of the Union, and those which may hereafter accede thereto, and such as may not have a law for all branches of industrial property, may complete their legislation on this subject.

The ratification of the Additional Articles above mentioned are to be exchanged at Rome within a year, or earlier if possible.

The meeting afterwards fixed Madrid as the seat of the Conference to meet in 1889.

With respect to the Regulations, it remains understood that the part relating to the International Office should at once come temporarily into force, and the other should not become executory before the approbation of the various Governments shall have been obtained.

The transactions of the Conference of Rome, published by the Italian Ministry of Agriculture, Industry, and Commerce, shall be forwarded by the International Office at Berne to all the States of the Union.

Meantime, it is proper to advert to several explanations respecting the Additional Articles in question, taking them from the *procès-verbaux* of the third and fourth sittings.

Article V of the Paris Convention says:—

“The introduction by the patentee into the country where the patent certificate has been delivered, of objects manufactured in one or other of the States of the Union, will not involve its lapse. The patentee, however, will remain subject to the obligation to work (‘exploiter’) his patent conformably to the laws of the country into which he imports the objects patented.”

Now to this Article the following addition is proposed:—

“It will be for each country to determine the sense in which the term ‘exploiter’ must be used in it.”

During the discussion several Delegates expressed the fear that in adopting a proposal of this kind the legislators and magistrates of each country might have too absolute a liberty in the interpretation of the word “exploiter;” in this connection, however, the President of the Assembly hastened to declare that from the statements of the person himself who had brought forward this question such liberty was not without limits, and these limits were implicitly established by section 1 of Article V, which recognizes the right of an inventor freely to import into the country which has issued the patent products of his invention, manufactured in any other of the countries of the Union.

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It is indeed evident that if the laws and the jurisprudence of a country imposed the obligation of manufacturing in the country itself all the products which can be consumed there, the liberty to import recognized by section 1 of the Article V, and which all parties are agreed to maintain, would be rendered illusory.

The following addendum to Article X was next proposed: "Every product illegally bearing a fictitious indication of origin may be seized upon importation into any of the Contracting States. Seizure may likewise be effected in the country in which the fictitious indication shall have been affixed, as well as in the country into which the product shall have been introduced. The seizure shall take place at the request either of the public Ministry, or of an interested party, whether an individual or a Society, conformably with the domestic legislation of each State. It will be for the Tribunals of each country to decide what are the appellations which, in virtue of their generic character, escape the present provisions. It is not incumbent upon the authorities to effect the seizure of articles when in transit."

In consequence, however, of an exchange of remarks between several Delegates upon the imperative character of such a provision, it was determined that the seizure should not be obligatory for each, as appears from the text itself of the first two paragraphs. With respect to the last three, the form of which would appear more imperative, they shall not be applicable except in the States of which the laws authorize the sequestration of products with false indication of origin.

In other terms, the adoption of this proposal would not oblige any Contracting State to modify its own legislation on the subject.

In communicating the above to your Lordship in pursuance of the instructions which I have received from his Excellency Count Robilant, I have the honour to ask that you would be so good as to furnish the Queen's Representative at Rome with the full powers necessary to proceed, in the same form used by the Convention of Paris, to the exchange of the ratifications.

I have also the honour to request that you would please to take the necessary steps, in communication with the proper Department of Her Majesty's Government, to carry into practice the Regulations voted by the Conference (for which ratification is not requisite), in order that it may come into force, at latest, at the same date as the above Additional Articles.

Receive, &c.
(Signed) T. CATALANI.

No. 2.

The Earl of Iddesleigh to Count Corti.

M. l'Ambassadeur,

Foreign Office, November 2, 1886.

I HAVE had under my consideration, in communication with the Board of Trade, the note which M. Catalani was good enough to address to me on the 16th August last concerning the recommendations which, in the shape of a Protocol signed on the 11th May last, were submitted for the approval of the various Governments concerned by their Representatives at the International Conference of the Union for the Protection of Industrial Property lately held at Rome.

Before Her Majesty's Government are in a position to offer any observations on the questions of principle touched upon in this communication, which it is presumed has also in the same or a similar shape been addressed to the Governments of the other States represented at the Conference, it is desirable that a point of form should, in the first instance, be made clear.

At the present moment the Additional Articles to Articles V and X of the Convention of the 20th March, 1883, exist only in the shape of recommendations made by Delegates, some of whom at least had no full powers to sign anything definitively, and some of whose Governments may possibly feel themselves unable to sign the Additional Articles, or to accept the principles contained in them.

Her Majesty's Government are of opinion that, before the question of ratification can be considered, it will be desirable to ascertain which of the Governments are prepared to authorize their Plenipotentiaries to sign the Additional Articles in question, together with the Règlement recommended by the Conference, and thus, before actual ratification takes place, to signify their acceptance of the principles enunciated therein.

When the definitive signature has taken place, Her Majesty's Government

consider that it may be desirable for the Governments who may have signed to come to an understanding before the actual exchange of ratifications upon the question of the proper steps to be taken to give effect to the principles so accepted by them.

I should feel much obliged, M. l'Ambassadeur, if, in bringing the above observations to the notice of your Government, your Excellency would have the goodness to suggest that they would also obtain an expression of opinion thereon from the Governments represented at the Conference.

I have, &c.
(Signed) IDDESLEIGH.

No. 3.

Board of Trade to Foreign Office—(Received November 24.)

Sir,

Board of Trade, London, November 23, 1886.

I AM directed by the Board of Trade to refer to Mr. Calcraft's letter of the 17th March* on the subject of the fraudulent marking of goods, in which letter the Board of Trade suggested the expediency of communicating with the German Government as to the probability of the accession of Germany to the Industrial Property Union.

Since the date of that letter the Board of Trade have been in continued correspondence with the Sheffield Cutlers' Company on the subject, and with especial reference to the steps to be taken in regard to the addition to Article X of the Industrial Property Convention, which was recommended for adoption at the Conference held at Rome in April last.

A copy of an extract from a letter from the Company, dated the 3rd November, 1886, is inclosed for Lord Iddesleigh's information, and I am to state that the Board of Trade desire to suggest, for his Lordship's consideration, the desirability of ascertaining confidentially whether the Governments of Germany and America would be prepared to become parties to the Convention, or, if not, whether they would be willing to enter into separate negotiations with this country with the view of taking steps to put an end to the fraudulent practices complained of by the Sheffield Company, from which there is reason to suppose that the trades of Germany and America, as well as the trade of England, suffer.

I have, &c.
(Signed) COURTENAY BOYLE.

Inclosure in No. 3.

Cutlers' Company of Sheffield to Board of Trade.

(Extract.)

Cutlers' Hall, Sheffield, November 3, 1886.

I AM glad to know also that the Board of Trade are in communication with the Foreign Office with reference to the ratification of the Additional Articles of the Convention, but I may say that my letter pointed out that something beyond this was necessary.

It is not only a question of the ratification of the Articles by the States parties to the Convention, but also attempt to bring in great countries like Germany and America, who were represented at the Conference, but who were not parties to the Convention.

This was a matter to which we understood the attention of the Foreign Office was brought by the Board of Trade, and we shall be very glad indeed to know how far their efforts have been successful, and my Company will feel greatly obliged if you would kindly give them some further information upon this head.

No. 4.

Foreign Office to Board of Trade.

Sir,

Foreign Office, November 26, 1886.

IN reply to your letter of the 23rd instant, I am directed by the Earl of Iddesleigh to transmit to you drafts of despatches which his Lordship would propose to address to Her Majesty's Representatives at Berlin and Washington on the subject of fraudulent indications of origin of goods;* and I am to request that the Board of Trade will inform his Lordship whether they concur in the terms of the proposed instructions.

I am, &c.
(Signed) JAMES FERGUSSON.

No. 5.

Board of Trade to Foreign Office.—(Received December 4.)

Sir,

Board of Trade, London, December 3, 1886.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 26th ultimo, transmitting drafts of despatches which Lord Iddesleigh proposes to address to Her Majesty's Representatives at Berlin and Washington on the subject of fraudulent indications of origin of goods; and, in reply, to state, for the information of his Lordship, that the Board of Trade fully concur in the terms of the proposed instructions.

I have, &c.
(Signed) COURTENAY BOYLE.

No. 6.

The Town Clerk of Sheffield to the Earl of Iddesleigh.—(Received December 4.)

My Lord,

Town Clerk's Office, Sheffield, December 3, 1886.

I AM directed by the Sheffield Town Council to forward to you the inclosed copy of a Report of a Committee appointed by them with reference to German cutlery and false marking of cutlery, steel, and other articles in Sheffield, which Report was adopted by the Council on the 17th ultimo.

I am, &c.
(Signed) JOHN GERMAN, *Town Clerk.*

Inclosure in No. 6.

*BOROUGH OF SHEFFIELD.—TRADES ENQUIRY COMMITTEE.**Report.*

THE Committee, in submitting the summary of the evidence taken by them, beg to report that, in their judgment, the four allegations as to foreign-made goods and Nos. 1 and 4 of the allegations regarding Sheffield-made goods have been fully proved.

In the judgment of this Committee, whilst the objectionable practices upon which it has had to report exist to a considerable extent, they do not exist amongst the respectable manufacturers of Sheffield.

That, in the judgment of this Committee, the practice of putting labels on goods manufactured in Germany intimating that the same are from or manufactured by Sheffield firms exists to a large extent, and whilst it may not deceive some shopkeepers, it may deceive those who have not a technical knowledge, and particularly the general public, into believing such goods are of Sheffield manufacture; and, as such goods are generally of inferior workmanship, the practice has a natural tendency to bring

* See Nos. 9 and 10.

Sheffield wares into disrepute, and if the present law is not sufficiently strong to prevent such practices it ought to be amended.

The practice of putting labels on parcels of Sheffield goods, denoting them to be of a different description and quality to what they really are, exists to a considerable extent, and is doing much injury to the trade of Sheffield, and the Committee are of opinion that such practices should be put a stop to, and that it should be an offence to falsely label goods as well as to falsely mark them as to the description and quality.

In numerous cases in which corporate or trade marks have been granted by the Cutlers' Company, such marks have been sold by the persons to whom they were originally granted, and are now used by the purchasers for the passing off of German goods of inferior quality. The use of these corporate marks in this manner is calculated to deceive persons into the belief that such goods are of Sheffield manufacture. The Committee are of opinion that such marks were originally granted for the sole purpose of being struck and used on goods and labels for Sheffield-made goods, or goods made within the limits of the jurisdiction of the Cutlers' Company, and that it should be made illegal to stamp or use such corporate or trade marks on any goods not produced or made in England, or of a description distinctly different from that of the goods for which the mark was originally granted or registered. In the judgment of the Committee, better defined, more stringent, and, in some points, new legislative enactments are necessary.

The late President of the Board of Trade (the Right Honourable A. J. Mundella, M.P.) prepared, with his well-known knowledge of commercial cases, and with the due regard which he has ever shown to the true mercantile requirements of Sheffield, a Bill with this object.

Although the Bill, in consequence of the dissolution of Parliament, was not passed, the Committee are of opinion that the Council should take into careful consideration the details of this Bill, and do all in its power, by Petition and otherwise, to get a suitable Bill passed by the Legislature as early as possible.

(Signed) W. J. CLEGG, *Chairman.*

Sheffield, August 17, 1886.

Summary of Evidence.

The Committee appointed by the Town Council of the borough of Sheffield on the 24th day of March, 1886, to consider the letter addressed by the editor of the "Sheffield and Rotherham Independent" to his Worship the Mayor of Sheffield in reference to German cutlery and false marking of cutlery, steel, and other articles, have held meetings and had them before Mr. Robert E. Leader, one of the editors of the "Sheffield and Rotherham Independent," two of his reporters, and other persons, in support of the statements contained in the letter referred to the Committee; and the Committee also heard all the persons whose names were mentioned, and who desired to attend before them.

The allegations submitted to the Committee are set forth in such letter under the following heads:—

1. To the selling of common German goods by Sheffield firms as Sheffield made.
2. To the sending out of Sheffield goods of most inferior descriptions, with claims to quality and superiority they do not possess.

Foreign Goods.

As to the foreign goods, the editor alleged that it was stated:—

1. That German cutlery and tools are largely imported into the warehouses of Sheffield manufacturers and merchants.
2. That while these are sent out again by some firms as confessedly of German make, by others they are sent out as Sheffield made, or under circumstances that leave the customer to believe they are Sheffield made.
3. That these false descriptions are given either by stamps on the goods themselves, or by affixing on them Sheffield labels, more or less guaranteeing good quality and Sheffield manufacture; or by displaying the articles on cards setting forth that they are Sheffield goods, or bearing Sheffield trade-marks; or by supplying the articles from Sheffield price lists and catalogues without explanation; or in other ways.
4. That large numbers of retail tradesmen and other consumers buy the German

goods thus sent out under the honest impression that they are Sheffield made, to the most serious detriment of Sheffield's reputation.

Sheffield-made Goods of low Quality.

And as to the Sheffield goods, the editor alleged it was stated :—

1. That table cutlery, made from common Bessemer, is systematically stamped with such marks as "Cast steel," "Shear steel," "Warranted shear steel, Sheffield," "Warranted cast steel, Sheffield," "Warranted silver steel," or with the names and corporate marks of Sheffield firms, or with the Royal arms and V.R., or with "blind" names, with or without the word "Sheffield."

2. That table knives, ostensibly with ivory handles, are made up with composition handles of inflammable material, and ruined by heat.

3. That razors hollow-ground in Sheffield are stamped "Ground in Hamburg" or "German hollow-ground."

4. That pocket-knives, penknives, and scissors, calculated to bring the name of Sheffield into disrepute, are sent out stamped with "blind names" and "Sheffield;" or on cards, or with labels indorsed "Best Sheffield Cutlery, Warranted," or "Celebrated Cutlery, Warranted," or other words of similar meaning.

The examples submitted in support of these allegations were divided into, and summarized under, fifteen heads in the letter referred to, the whole of which will be found at pp. 240 and 241 of the Minutes of the printed proceedings of the Council for the current year.

The following is an epitome of the various examples, and the evidence thereon :—

The first example was—

"German tools of cast metal, sent out in parcels, labelled with the names and trade-marks of Sheffield firms, and bearing on the labels the inscription 'Manufactured by _____, Sheffield. Warranted of superior quality.'"

The evidence adduced by Mr. R. E. Leader in support of the allegation was the production of six parcels of goods marked respectively A 1 to A 6.

A 1 was a parcel containing a pair of German dividers, and had on it two labels, the front one being "From S & S, A, Works, Sheffield," and on another label, "Black spring dividers. Warranted of superior quality."

A 2. A pair of compasses.

A 3. A bench vice.

A 2 and A 3 bore similar labels to No. 1.

A 4. A parcel of flat-nosed pliers.

A 5. A pair of compasses.

Parcels A 4 and A 5 had on them labels stating that the goods were from the same firm, and also had labels on them intimating that the articles were manufactured by the same firm, and were warranted of superior quality.

The Committee call special attention to the labels marked "Manufactured by the firm." Mr. S. when before the Committee stated that the label had been put on in a mistake during the absence of one of the managers, and the rule was not to put this label on foreign goods.

Parcels A 1 and A 3 were purchased in Leeds, A 2 at Canterbury, A 4 in London, and A 5 the purchaser declined to say where they had been bought.

A 6 was a box containing a pair each of callipers, pliers, and black-nosed pliers; on the box was the corporate mark, a word; this mark was granted by the Cutlers' Company a long time ago, and purchased by the present owner.

The testimony of the persons who purchased A 1 at a shop was that the shopkeeper was asked if the articles were of Sheffield make, and the reply was, "They are; I have not a bit of anything else in my shop;" he also stated that he purchased them of Messrs. S & S.

Mr. S when before us clearly showed that the shopkeeper had ordered German goods of that firm, and was deliberately attempting to mislead the purchaser.

As to A 3, the shopkeeper here stated that he had not a bit of German stuff in the place, and he ordered from S & S list, and that he did not know that the article was German until pointed out to him by the person who was with the purchaser.

Mr. S produced to the Committee a letter from the senior partner of the selling firm, showing that whatever the junior partner might know, the senior partner knew they had German goods in their establishment.

As to A 2, it was purchased by calling at a shop in Canterbury; the shopkeeper said nothing about the article being of German manufacture.



A 4 was purchased by Mr. Leader in London, and he asked for Sheffield goods, and the shopkeeper supplied him with this article.

The whole of these five lots were supplied by Messrs. S & S, and with the exception of A 4 were declared by the experts who came before the Committee to be of German manufacture, and when shown to Mr. S he frankly admitted this to be so, and stated that A 4 was made at Birmingham.

Mr. S attended before the Committee and produced a price-list, in which his firm were stated to be "Importers of Foreign Tools and Hardware." The firm also had a special price-list of foreign goods, but there is nothing in the books to indicate which goods are of German make. Mr. S also produced a business card in which the firm were described as "Importers and Exporters of American, German, and English Tools and Hardware." The firm's instructions to their travellers were to tell their customers the goods were German, and he read letters from three of his firm's travellers. One of these travellers, in reply to his employer's application, said, "Whenever I receive samples from you of other than English make, you have declared what manufacture it was. I have done so to my customers. Indeed, it would require more ingenuity than I care to practise to pass off German goods for home-made upon country customers."

Another of the travellers denies that he has offered or sold German goods as English made, and he adds, "It would be a great folly on my or any other person's part to offer German-made tools to dealers who are in the habit of buying German tools, and represent them to be Sheffield made, as they are so well acquainted with the style and finish of German goods that they have not the least difficulty in distinguishing them from Sheffield-made goods." The other traveller also wrote to the same effect.

As to No. 6, the goods were purchased from Mr. A, and on the box containing the articles was the corporate mark before referred to.

The evidence of the experts who came before the Committee was that these goods were German, and when the seller was before the Committee he frankly admitted that the goods were of German manufacture, and that the labels on the box were printed in Germany.

The labels are of the same kind of print as Messrs. S & S.

No. 2. Statement in the letter is—

"German tools sold as Sheffield goods—carded with Sheffield corporate marks, but without the name 'Sheffield.'"

The evidence in support of this allegation consists of—

B 1. A set of six brace-bits on a card bearing the trade word of the firm and "Set of brace-bits."

B 2. A set of fret-work tools on a card with the words "Complete set of fret-work tools," with trade-mark and name, and also stamped on the card the name of the shopkeeper from whom they were purchased in Sheffield.

B 1 was purchased at a shop at Tunbridge Wells, and the shopkeeper did not know whether they were of Sheffield or German make. The expert who examined them before the Committee said they were German make. This lot also came from Messrs. S & S, whose representative admitted it was of German make.

B 2 is also of German make, and was from the same place, and Mr. S admitted this to be German, and it was stated the goods could not be got of English make. Mr. S produced a letter from the shopkeeper who sold them, stating that they were well aware that they were of foreign manufacture; but whilst they might know this they said nothing to the purchaser as to their origin.

No. 3. Statement in the letter is—

"German tools stamped with the initial of a Sheffield firm, and sold as Sheffield goods."

The evidence in support of this is—

C 1, a brace-bit marked with the initials of the firm of S & S, and was purchased at Edinburgh. The person who bought it said he saw seven dozen of them in parcels, on which were the labels with trade-mark of Messrs. S & S, with the words "Manufactured by," &c.

The bit is German.

Mr. S admitted this to be German, and that it was sold by his firm, and was marked in order that if it turned out bad it might be replaced.

No. 4. Statement in letter is—

"Cast metal case-hardened German scissors marked 'Warranted quality,' 'Cast steel,' &c., sold under labels bearing the trade-marks of Sheffield firms, and the

inscription 's celebrated cutlery, warranted Sheffield manufacture; or manufactured by , Sheffield, with trade-mark."

The evidence in support of this statement is D 1 to D 5.

D 1 comprises a number of pairs of nail scissors, nine pairs of which are marked "Warranted quality," one pair marked "Cast steel," and one pair marked with the name of a Sheffield firm. They are in a parcel marked with a device or trade-mark, and a label with a name of a Sheffield manufacturer, and "Warranted of Sheffield manufacture." The expert who appeared before the Committee stated them to be of German manufacture.

D 2 is two parcels containing scissors, with labels on which is printed, "street works," trade-mark a flower, Sheffield, "Warranted scissors manufactured by Y & Co." The scissors being marked with the name of the firm and warranted; also two other pairs of scissors bearing the same mark.

These were declared by the experts to be of German manufacture. The scissors are stamped in Germany—they are steel, but not of a good quality; they are stamped with a fly and not forged. Some of them were marked before they were ground, and some afterwards.

The persons whose names are on D 1 and D 2 have been invited to attend before the Committee, but have not done so.

D 3 are nickel-plated flower gatherers in a parcel labelled " $\frac{1}{2}$ doz. N.P. Flower gatherers, 5-in., manufactured by S & S, and had a similar label to A 4." These were purchased at Leeds; two persons were present, and they state that the shopkeeper said he used to buy large quantities of S & S, but finding they were sending him German goods, and he (the shopkeeper) had German travellers waiting upon him, he had transferred his orders to them. The experts said these were not of Sheffield make, but of German manufacture; they are made of malleable iron, and cast in one piece.

Mr. S admitted that they were of German manufacture, but stated they were sold as German. He produced a copy of a letter he had sent to the shopkeeper, and the latter's reply, in which the shopkeeper admitted he bought German goods direct, and sometimes from Messrs. S & S, and said their travellers had always been very frank on this point, to their credit and to the credit of their firm, and that two persons called upon him some short time ago and did their utmost to get information regarding German goods, but he did not think it wise to say more than was necessary.

D 4 is two pairs of scissors on a card, on which is printed a description of the scissors with the trade-mark of S and S, and the scissors are marked "Cast steel."

These were said by the experts to be of German manufacture, to be made of malleable iron, moulded, and not forged.

Mr. S admitted these to be of German manufacture, but added that he was now having them made in Sheffield.

D 5 are four pairs of scissors marked "Cast steel," and in a parcel with a label bearing the corporate mark and the name of the firm who sold them, with the word "Sheffield," and when established.

These were stated by the expert not to be of cast steel, not forged, but of German make, and made of malleable iron.

This firm has given no explanation.

D 6 is four pairs of scissors marked "Warranted quality," and in a parcel with a label, "Manufactured by M and L (late R), Sheffield," and their corporate mark.

These were purchased in London, and the expert stated that they were of German manufacture and made of sow metal, and to show the stuff they were made of he easily broke one with his hands.

Mr. L attended before the Committee and admitted the label was not correct, and that it had been put on accidentally—the scissors were German. The practice of labelling German goods "Sheffield" was wrong, and had damaged Sheffield trade, and that since the inquiry had begun his trade had increased, and the Committee were on the right track.

No. 5. Statement in letter is—

"Similar German scissors stamped with the names or initials of Sheffield firms."

The evidence in support of this statement is E 1 and E 2.

E 1 is three pairs of scissors marked respectively with a name, initials of firm, and another name.

The first pair was purchased at a shop in Dublin. The witness stated the shopkeeper said he purchased them believing them to be of Sheffield manufacture, and he sold them as Sheffield-made scissors.

The second pair was purchased at Preston, and the purchaser said to the shopkeeper who sold them, "These are good, I suppose, and of Sheffield make?" The reply was, "Yes." The purchaser bent them, and he was shown several other parcels of dozens of scissors of the same kind, all marked in the same way, and were labelled with the name of a Sheffield firm, and "Superior scissors, Sheffield." These two pairs were purchased about three years ago.

The Committee do not know where the third pair was purchased.

The experts say they are all of German manufacture; two lots were cast, and the other one was thought to be steel filed.

E 2 is a pair of scissors marked "B. & S., N.," and were purchased on the 12th March, 1886. They were hung in the shop window, and the purchaser was assured that they were of Sheffield make.

The experts informed the Committee that the scissors were of German make. One of the witnesses stated that he travelled much about the country, and that shopkeepers were selling German-made scissors as Sheffield make, believing they were genuine Sheffield goods. The screw in some of these scissors had been put in by a scissorsmith, and were not the same as had been in when received from Germany. The mark on these scissors had been struck after they had arrived in England.

No. 6. Statement in letter is—

"Cast metal German scissors, marked with the words 'Sheffield made—good quality.'"

The goods referring to this statement are F 1 and F 2 and G 1.

F 1 is a pair of scissors marked on one side "Sheffield made," and on the other "Good quality."

One expert was of opinion they were Sheffield make, but not of good quality; another expert declares them to be of German origin, and made of run steel.

F 2 is two pairs of scissors marked "Sheffield." They were purchased at Manchester.

The invoice was put in, and an advertisement was produced which stated the shopkeeper had 500 dozen of Sheffield steel scissors at 5½d. per pair, usual price 1s.

The expert stated they were of German make, and made of run steel.

G 1 were some scissors applied for by a tradesman at Coventry from a firm at Sheffield. There is nothing either on the goods or the cards to show they are of Sheffield or German make.

The scissors were sent in reply to the following letter from a Coventry shopkeeper to a person who describes himself as a cutlery manufacturer, Sheffield:—

"Will you please send me a couple of sample cards, one large and one small, of cheap Sheffield cutlery, suitable for retailing at a low price; also quotations for sale by retail for cash."

In reply to this application, a letter was sent from a London address, intimating that the goods would be sent on a remittance being received:—

"Your Memorandum has been sent on to me."

The invoice was sent with the goods.

The goods consist of three cards. One has printed on, "A paragon of cheapness, highly polished nickel-plated scissors, unequalled finish;" the second has the same description, except the words "nickel-plated scissors;" and the third card is printed "Hard steel scissors, highly polished, superior quality," with a trade-mark, and the scissors are marked "Cast steel."

As to the first card, the experts stated the goods were of German manufacture, made of pig-iron, had been knocked in pieces, and screws put in.

As to the third card, the goods are also German and made of run steel, and were so brittle that one was broken very easily in the hand of the expert.

As to the "Paragon cards," the goods are German, and are cast, not forged.

As to this lot of goods, the attention of the seller has been called to the statements, and, in reply, he sent to the Committee a copy of the order and invoice, which agrees with what was produced to the Committee, and also the following letter:—

"Your letter dated the 26th instant duly received. In reply to same, I inclose herewith a copy of the order for the scissors to which your complaint, I expect, refers. Had the word 'Sheffield' been underlined instead of the word 'cheap,' I should, of course, not have supplied the goods, and you will note that in my reply, invoice, nor upon the goods or cards do I mention that they are of Sheffield manufacture, and I had no intention in selling them other than of German origin. Every one with whom I do business knows that I supply exclusively German manufactured goods, and I am proud of it, and certainly make no secret of it."

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It appears from the letter sent with the goods no stock is kept at Sheffield, and the goods were sent from London.

No. 7. Statement in letter is—

“German penknives stamped with the trade-mark of a Sheffield firm.”

With reference to this statement, Mr. Leader said he was not in a position to produce the knife he had had in his possession; it had been shown to him by a representative of a Sheffield firm, but he had had to return the knife.

The knife had been seen by Mr. Councillor John Wilson and others, and on Mr. S. appearing before the Committee he was asked about it, and, in reply, admitted the knife bore the corporate mark of his firm, but he contended that the mark and name were “marks of guarantee—not of origin.”

The explanation as to this was that the firm had had one lot of German knives, marked with their trade-mark, at a time when they were having their trade-mark registered in Germany, and it was done as a matter of security, so as to show that it had been used. The lot was unsatisfactory, and they had since sold them without a mark. They got one consignment to try them.

No. 8. Statement in letter is—

“Sheffield table knives (fied from Bessemer) bearing a corporate mark and the words ‘Warranted shear steel, Sheffield,’ or ‘Warranted cast steel, Sheffield,’ with a crown and V.R.; or ‘Silver steel,’ or ‘Warranted Sheffield’ (with a name), or with the maker’s name and trade-mark; or ‘Shear steel, Sheffield’ (with a trade-mark).”

No. 9. Statement in letter is—

“Table knife blades in the rough as ‘fied’ from Bessemer, bearing similar marks to the above—‘Best cast steel, Sheffield,’ &c.”

Nos. 8 and 9 were taken together, and the parcels are numbered J 1 to J 7.

J 1 is a parcel of twelve table knives of various marks as follows: “Warranted cast steel, Sheffield.” “H B, silver steel, town.” “Shear steel, A and B C, Sheffield.” “Warranted, J K and Co., Sheffield.” “E P and S, &c., number.” “A M S within trade-mark in a double hoop—shear steel, and the words shear steel.” “V R and Crown, warranted cast steel, Sheffield.” Two with the figure of “an animal” with the words “A B, Sheffield” and “B M shear steel, Bradford.”

J 2 was fifteen black blades in the rough, six not marked, one each marked “Shear steel.” “V R, best cast steel, Sheffield.” “V R Crown best cast steel, Sheffield.” “Trade-mark X Y and Z, Sheffield.” “V R Crown shear steel.” “Warranted cast steel, Sheffield.” “Mark, L G M, Sheffield.” “V R warranted cast steel, Sheffield.”

The evidence as to these two parcels was that some of them were cast steel and not shear steel, and that others were made out of Bessemer, in one case “shear steel” and “silver steel” being made out of the same piece of Bessemer. One witness stated that these blades were a disgrace to Sheffield and to those who sent them out. Some of the blades were fied out and made from shovel scrap, that out of the lot there was but one blade what it professed to be, and that was of first-class quality. The witness gave an instance where he saw a man marking blades “Warranted cast steel Sheffield,” and the manager to a manufacturer went to him and said he wanted six dozen marked “Shear steel” from the same lot as he was marking “Cast steel.” It was stated that this system of false marking was carried on to a considerable extent.

J 3 is half-a-dozen knives and forks in a parcel; the blades are marked “A B, Works, Sheffield,” the corporate mark. There is also a label on the parcel with “Corporate mark 1234, when granted, and warranted table cutlery,” a view of the works, and underneath “Manufactured of the best shear steel, expressly for family use” by the firm, again describing them.

The manufacturer explained that the label might have been put on in mistake. He could not say whether the knives were shear steel or not.

J 4 is four knives and forks in a parcel, labelled “Superior cutlery, manufactured by first-class Sheffield workmen, 363.”

J 5, knife and fork, marked “Warranted, Sheffield.” They are cast.

J 6, six table knives etched, “Best steel, made in Sheffield, warranted.” The haft professes to be pinned on, but the tang is too short for the pin to go through it, and is loose.

J 7 is five table blades, the tang and blade being all cast in one piece; they are marked “N—Cutlery Company,” with two stars. The other blades are marked respectively O—1881, 1882, 1884, 1885.

These lots, J 3 to J 7, were by experts, as well as some members of the Committee, declared to be rubbish.

No. 10. Statement in letter is—

“Table knives, ostensibly of ivory, with inflammable ivory handles.”

No. 11. Statement in letter is—

“Worthless pocket-knives, stamped with a ‘blind’ name, and ‘Sheffield, or ‘Silver steel,’ carded as ‘Best Sheffield cutlery, warranted;’ or labelled as ‘Superior Sheffield cutlery, manufactured of the best cast steel.’”

This allegation is supported by parcel K 1.

K 1 consists of four parcels. One containing two knives, the blades are marked “Silver steel,” and the hafts are cast. The label says, “Superior Sheffield Cutlery, manufactured of the best cast steel.” The other parcel contains two knives, the blades are marked “Silver steel,” the handle is cast with a shield, and has a similar label to the last parcel. There is another parcel containing two knives, marked “J. E. and S., Sheffield;” the knives have handles similar to the first parcel in this lot, and with a similar label; and a fourth lot of two knives, bone handles with bolsters, with the same mark and similar labels.

There are two blades also, marked “Warranted good” and “Extra quality.” These came from a person who said he was making them for a Sheffield manufacturer.

The invoice for these goods, except the two blades, was produced, and showed that the goods had been purchased from a Sheffield cutlery manufacturer.

The term “Silver steel” in the trade is regarded as being of the highest quality, and the expert who spoke as to the quality of the whole of these parcels said they were complete rubbish, and about as bad as they could be.

There is no known firm in Sheffield of that name.

The sellers have been invited to attend before the Committee but have not done so.

No. 12. Statement in letter is—

“Rubbishy penknives carded ‘Sheffield manufacture,’ stamped ‘Fine steel.’”

The evidence in support of this statement is K 2.

K 2 is a card of twelve knives on which is printed “Best Sheffield cutlery, warranted,” and all marked “John W., Sheffield.”

This lot was purchased at London, and 6s. paid for them, and a practical member of the Committee declared the price to be a good one, and the knives rubbishy.

K 3 is a card containing nine two-blade knives, some of them marked “Spring Cutlery Company, Sheffield,” and others “Fine steel;” on the card was printed “The school girl’s companion, neat and useful, Sheffield manufacture.”

This lot was purchased at a fancy bazaar in Manchester.

K 4 is two knives, one with four and the other three blades, and marked with the name of a Sheffield firm and its corporate mark.

K 5 is two cards of knives, one the “Nipper knife,” and another marked “Gem, warranted Sheffield make;” the blades are marked “Fine steel, Sheffield.”

This lot of goods were sent in answer to a similar letter to the one on p. 12. The goods were sent as Sheffield goods.

No. 13. Statement in letter is—

“Worthless penknives, carded with Royal arms, V.R., and ‘Warranted best Sheffield cutlery,’ stamped “India steel.””

This is supported by the parcel marked K 6, which consists of a card containing three knives, two marked “India steel,” and the card is headed “V.R.,” Lion and Unicorn, warranted best Sheffield cutlery.”

No. 14. Statement in letter is—

“Cast metal scissors, stamped with ‘blind’ name, and labelled ‘Celebrated cutlery, warranted, Sheffield,’ with manufacturer’s name.”

This allegation was supported by the production of parcel L 1, which contained six pairs of scissors marked “Name.” This mark had been put on after they were glazed.

They were sold at Sheffield, and the sellers describe themselves as “Cutlery Manufacturers and Importers of Foreign Merchandize.” The label on the parcel is “Name, celebrated cutlery, warranted Sheffield manufacture,” and a trade-mark. Three dozen pairs of scissors, all of the same kind and mark, were handed in.

The name marked is not known as a manufacturer, and the experts who attended before the Committee pronounced them to be of common cast metal, of Sheffield make, and rubbish.

No. 15. Statement in letter is—

“Joiners’ tools stamped ‘Cast steel,’ but made of the most worthless materials—*e.g.*, a chisel whose edge turns at the first contact with wood; a ‘fied’ saw that assumes (and keeps) a graceful curve after a few minutes’ use, &c.”

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C 2

This was supported by the production of M 1, which consisted of a joiner's chisel marked "Cast steel," a parcel containing five ginlets and a saw marked "Warranted east steel, Sheffield," which were admitted to be of rubbishy quality.

No. 7.

Foreign Office to Board of Trade.

Sir,

Foreign Office, December 7, 1886.

I AM directed by the Earl of Iddesleigh to transmit to you, to be laid before the Board of Trade for perusal, a letter from the Sheffield Town Council, inclosing a copy of a Report of a Committee appointed by them with reference to German cutlery and false marking of cutlery, &c., in Sheffield,* which Report was adopted by the Council on the 17th ultimo.

I am, &c.
(Signed) JAMES FERGUSON.

No. 8.

Foreign Office to the Town Clerk of Sheffield.

Sir,

Foreign Office, December 7, 1886.

I AM directed by the Earl of Iddesleigh to acknowledge the receipt of your letter of the 3rd instant, inclosing a copy of a Report of a Committee appointed by the Sheffield Town Council with reference to German cutlery, and false marking of cutlery, steel, and other articles in Sheffield.

I am, &c.
(Signed) JAMES FERGUSON.

No. 9.

The Earl of Iddesleigh to Mr. Scott.

Sir,

Foreign Office, December 8, 1886.

YOU will recollect that in the spring of this year Sir E. Malet was instructed to represent to the German Government the hardship caused to British trade and manufacture by the production in Germany of goods falsely bearing indications of British origin, and that it was the desire of Her Majesty's Government to come to an arrangement with that of Germany for the purpose of putting a stop to such proceedings.

To the representations which were consequently made to the German Government no definite reply has yet been received, but Her Majesty's Government have seen with great pleasure the indication given, by the presence of a German Delegate at the International Conference at Rome, that the Imperial Government were taking a spontaneous interest in the matter.

It is scarcely necessary that I should emphasize the importance attached by all honest manufacturers and traders to the maintenance of the commercial good name of the locality in which they reside; or the desire of Her Majesty's Government that the public should, if possible, be protected from the risk of purchasing spurious and perhaps worthless articles under a false guarantee of their excellence.

These questions of principle, which were thoroughly discussed at the Roman Conference, have no doubt formed the subject of a Report from the German Delegate, and it now becomes a matter of great interest to Her Majesty's Government to learn whether, in consequence of such report, the Imperial Government feel themselves in a position to take any practical steps in the matter.

I have therefore to request you to inquire—

1. Whether the German Government contemplate adhering to the International Convention of 1883 for the Protection of Industrial Property?

And, if so, whether they are equally disposed to accept, and to carry out effectively,

* No. 6.

the principles contained in the Additional Articles to Article X of the International Convention which were voted by the Conference at Rome.

Copies of these are inclosed for your information.

2. In case the Imperial Government should not contemplate adhering to the International Industrial Property Convention, whether they would be disposed to negotiate with Her Majesty's Government a separate arrangement calculated to put a stop to the frauds against which the Additional Articles in question are aimed.

You will not fail to make clear the desire of Her Majesty's Government that any such arrangement should be of a strictly reciprocal character, so as to equally prevent the apposition in England of false indications of German origin, and the apposition in Germany of false indications of English origin; the object of Her Majesty's Government being not only to protect the interests of the manufacturer, but also to safeguard the public from the risk of purchasing goods, whether of German or English manufacture, under a misleading guarantee of their actual place of production.

I shall be glad to receive from you an early report as to the disposition of the German Government on these points.

I am, &c.
(Signed) IDDESLEIGH.

No. 10.

The Earl of Idedesleigh to Sir L. West.

Sir,

Foreign Office, December 8, 1886.

HER Majesty's Government have lately had under their consideration the question of preventing the fraudulent marking of goods with false indications of origin, and with this view instructed their Delegates to the recent Conference for the Protection of Industrial Property to propose an Additional Article to the International Convention of 1883.

The Additional Article which was accordingly proposed by the British Delegates was accepted by the Conference, and recommended for adoption by the various Governments who are parties to the International Union for the Protection of Industrial Property.

Her Majesty's Government have learnt with much pleasure from the Report of their Delegates that a Representative of the United States took part in the proceedings of the recent Conference at Rome, and it now becomes a matter of great interest to this country to know whether, in consequence of the Report of such Representative, the Government of the United States feel themselves in a position to take any practical steps in the matter.

I have therefore to request you to inquire:—

1. Whether the Government of the United States contemplate adhering to the International Convention of 1883 for the Protection of Industrial Property; and, if so, whether they are equally disposed to accept and to carry out effectively the principles contained in the Additional Articles to Article X of the International Convention which were voted by the Conference at Rome.

Copies of these are inclosed for your information.

2. In case the United States' Government should not contemplate adhering to the International Industrial Property Convention, whether they would be disposed to negotiate with Her Majesty's Government a separate arrangement calculated to put a stop to the frauds against which the Additional Articles in question are aimed.

It is scarcely necessary that I should emphasize the importance attached by all honest manufacturers and traders to the maintenance of the commercial good name of the locality in which they reside; nor the desire of Her Majesty's Government that the public should, if possible, be protected from the risk of purchasing spurious and perhaps worthless goods under a false guarantee of their excellence.

You will not fail, therefore, to make it clear that Her Majesty's Government wish any such arrangement to be of a strictly reciprocal nature, so as to equally prevent the apposition in England of false indications of American origin, and the apposition in America of false indications of English origin, the object of Her Majesty's Government being not only to protect the manufacturer, but also the public.

I shall be glad to receive an early Report as to the disposition of the United States' Government on these points.

I am, &c.
(Signed) IDDESLEIGH.

No. 11.

Mr. Scott to the Earl of Iddesleigh.—(Received December 13.)

My Lord,

Berlin, December 11, 1886.

I HAVE the honour to inform your Lordship that I have this day addressed a note to Count Bismarck in the terms of your Lordship's despatch of the 8th instant, inquiring the views of the Imperial Government with regard to the steps to be taken for the prevention of spurious trade-marks and other similar fraudulent proceedings.

I have, &c.

(Signed)

CHARLES S. SCOTT.

No. 12.

Cutlers' Company of Sheffield to the Earl of Iddesleigh.—(Received December 13.)

My Lord,

Cutlers' Hall, Sheffield, December 10, 1886.

AS your Lordship is doubtless aware, the Cutlers' Company of Sheffield were enabled, through the kind offices of Her Majesty's Government, to send two representatives to attend the International Conference for the Protection of Industrial Property held at Rome in April and May last.

The object the Government had in view in accrediting Mr. Belk, the then Master Cutler, and his colleague, was that the question of the right of a community to property in the name of their place or district might, if possible, be affirmed by the Conference.

The Resolution embodying this view was proposed on behalf of Great Britain, and was carried in the Conference with only one opponent.

The Empire of Germany was represented at the Conference, as were also the United States of America, and it will be within your Lordship's knowledge that, after the return of the Cutlers' Company's representatives, they furnished a Report to the President of the Board of Trade (Blue Book, Industrial Property and Trade-marks, 1886), which, among other things, drew attention to the desirability of endeavouring to secure the adhesion of Germany and the United States of America to the Convention, or, at all events, to the terms of the British Resolution, since it is in Germany that so much of the piracy of the name of "Sheffield" takes place, while the United States is the principal market to which the spurious goods are sent.

The Company's representatives also urge the desirability of securing the adhesion of the Colonies to the British Resolution, which could be brought about if the Colonies were willing in alternative ways, viz., either by their acceptance of the Convention, each Colony then passing such legislation as may be necessary to carry it into effect, or by the extension of the British legislation which is in contemplation by the Board of Trade to such of the Colonies as do not signify a desire to the contrary.

I do not, however, desire to enter into details in this letter, my object in addressing your Lordship being to ask you to be so good as to direct that the Cutlers' Company may be informed whether steps are being taken to secure the adhesion of Germany and the United States to the principle of the British Resolution at Rome, and, further, whether the question of how the Colonies can be approached upon the matter is being considered.

I am directed to say that, should your Lordship desire it, my Company would willingly assist in this matter, either by suggestions or otherwise, as your Lordship might approve.

In conclusion, I desire to state to your Lordship that this question is of the greatest possible interest to my Company, who trust that the good work commenced at Rome may be carried to a successful conclusion at no distant date.

I have, &c.

(Signed)

CHAS. MACRO WILSON,

Law Clerk to the Cutlers' Company.

No. 13.

Foreign Office to Cutlers' Company of Sheffield.

Sir,

Foreign Office, December 14, 1886.

I AM directed by the Earl of Iddesleigh to acknowledge the receipt of your letter of the 10th instant relative to the steps which may be taken in connection with the apposition of false indications of origin on goods, and I am to acquaint you in reply that, at the suggestion of the Board of Trade, his Lordship has recently addressed a communication upon this subject to Her Majesty's Representatives at Berlin and Washington.

Sir E. Malet and Sir L. West are instructed to inquire:—

1. Whether, in consequence of any Report which may have been made by their Delegates to the Roman Conference, the Governments of Germany and of the United States contemplate adhering to the Union for the Protection of Industrial Property, and, if so, whether they will also accept in principle and carry out in practice the Additional Articles to Article X of the International Convention of 1883, which were voted at Rome.

2. Whether, in the event of the German and United States' Governments not being prepared at present to adhere to the International Union, they would be willing to negotiate separate Conventions with Great Britain in the sense of the said Additional Articles to Article X of the International Convention.

I am to add that any legislation on the subject of marking goods will be taken charge of by the Board of Trade, with which Department and the Colonial Office must rest the decision as to what steps should be taken for the inclusion of the British Colonies within the scope of the International Union, or of any Bill which may be presently framed upon this subject; but I am to state that a copy of your letter will be sent to the Board of Trade, with a suggestion that you may be informed of the views entertained by that Department on the Colonial branch of the subject.

I am, &c.

(Signed) JAMES FERGUSSON.

No. 14.

Foreign Office to Board of Trade.

Sir,

Foreign Office, December 15, 1886.

I AM directed by the Earl of Iddesleigh to transmit to you a copy of a letter from the Sheffield Cutlers' Company, and of my reply,* relative to the apposition of false indications of origin on goods; and I am to suggest that, if the Board of Trade see no objection, the Cutlers' Company should be informed of the views of the Board of Trade in regard to the Colonial branch of the question.

I am, &c.

(Signed) JAMES FERGUSSON.

No. 15.

Cutlers' Company of Sheffield to the Earl of Iddesleigh.—(Received December 16.)

My Lord,

Cutlers' Hall, Sheffield, December 16, 1886.

I BEG to acknowledge and thank you for your letter of the 14th instant, in reply to mine of the 10th instant, relative to steps taken in connection with marking goods with false indications of origin, which I will lay before the Cutlers' Company.

I have, &c

(Signed) CHAS. MACRO WILSON,
Law Clerk to the Cutlers' Company.

* Nos. 12 and 13.

Count Corti to the Earl of Iddesleigh.—(Received December 24.)

(Translation.)

My Lord,

London, December 23, 1886.

IN a note of the 16th August last this Embassy had the honour to communicate to Her Majesty's Government, as a party to the Paris Convention of the 20th March, 1883, for the protection of industrial property, the results of the labours of the Conference held last spring at Rome.

The observations made by some of the Governments, in answer to a similar communication addressed to them, have induced the Royal Government to re-examine the terms of the Agreements arrived at between the Delegates of the various States, and the form given to those Agreements, in order to be better able to judge of the system to be adopted to bring about their prompt and complete execution.

The Articles supplementary to the Paris Convention, as soon as they have been accepted by the Governments parties to that Agreement, ought, in the opinion of the Royal Government, to be sanctioned by a diplomatic Act to be signed at Rome, and regular ratifications of the same ought, in due course, to be exchanged in the same manner as was adopted for the exchange of the ratifications of the principal Convention.

As regards the Regulations, instead of the Delegates to the Conference submitting them to their respective Governments, they might be simply signed at Rome, without a special ratification being necessary, each Government merely undertaking to bring them into force after they have been approved according to the forms prescribed in each State, and at the period settled by common agreement.

I have the honour to inclose herewith, in accordance with instructions from Count Robilant, two copies of the draft Convention supplementary to the Convention of the 20th March, 1883, with the request that your Lordship will inform me whether Her Majesty's Government accept the draft, and whether they are ready to furnish their Representative at Rome with the full powers necessary for the signature of the new Act.

The Regulations might be signed at the same time, subject to the reservation named above.

I should be obliged if your Lordship would inform me, as soon as convenient, of the answer of Her Majesty's Government, and I avail, &c.

(Signed) L. CORTI.

Inclosure in No. 16.

Convention Additionnelle à la Convention Internationale conclue à Paris le 20 Mars, 1883, pour la Protection de la Propriété Industrielle.

SA Majesté le Roi des Belges, Sa Majesté l'Empereur du Brésil, Sa Majesté la Reine Régente d'Espagne, au nom de Sa Majesté le Roi, le Président de la République Française, Sa Majesté la Reine de la Grande-Bretagne et de l'Irlande, Impératrice des Indes, le Président de la République de Guatémala, Sa Majesté le Roi d'Italie, Sa Majesté le Roi des Pays-Bas, Sa Majesté le Roi de Portugal et des Algarves, le Président de la République de San Domingo, Sa Majesté le Roi de Serbie, Sa Majesté le Roi de Suède et de Norvège, le Conseil Fédéral de la Confédération Suisse et Son Altesse le Bey de Tunis :

Désirant compléter, autant que possible, la Convention conclue à Paris le 20 Mars, 1883, pour la Protection de la Propriété Industrielle, ont nommé pour leurs Plénipotentiaires, savoir :

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des additions suivantes à la Convention susindiquée :—

A L'ARTICLE V.

Chaque pays aura à déterminer le sens dans lequel il y a lieu d'interpréter chez lui le terme "exploiter."

A L'ARTICLE X.

1. Tout produit portant illicitement une indication mensongère de provenance pourra être saisi à l'importation dans tous les États Contractants.

La saisie pourra également être effectuée dans le pays où l'indication mensongère aura été apposée, ainsi que dans le pays où le produit aura été introduit.

La saisie aura lieu à la requête soit du Ministère Public, soit d'une partie intéressée, individu, ou Société, conformément à la législation intérieure de chaque État.

Les Tribunaux de chaque pays auront à décider quelles sont les appellations qui, à raison de leur caractère générique, échappent aux présentes dispositions.

Les autorités ne sont pas tenues d'effectuer la saisie en cas de transit.

2. Il n'y a pas intention frauduleuse dans le cas prévu par le paragraphe 1^{er} de l'Article X de la Convention, lorsqu'il sera prouvé que c'est du consentement du fabricant dont le nom se trouve apposé sur les produits importés, que cette apposition a été faite.

La présente Convention Additionnelle sera ratifiée et les ratifications seront échangées à Rome dans le délai de six mois ou plus tôt si faire se pourra.

Elle entrera en vigueur un mois après l'échange des ratifications et aura la même valeur et la même durée de la Convention du 20 Mars, 1883.

En foi de quoi les Plénipotentiaires respectifs l'ont signée et y ont apposé leurs cachets.

Fait à Rome, le

(Translation.)

Additional Convention to the International Convention concluded at Paris on the 20th March, 1883, for the Protection of Industrial Property.

HIS Majesty the King of the Belgians, His Majesty the Emperor of Brazil, Her Majesty the Queen Regent of Spain, in the name of His Majesty the King, the President of the French Republic, Her Majesty the Queen of Great Britain and Ireland, Empress of India, the President of the Republic of Guatemala, His Majesty the King of Italy, His Majesty the King of Holland, His Majesty the King of Portugal and the Algarves, the President of the Republic of San Domingo, His Majesty the King of Servia, His Majesty the King of Sweden and Norway, the Federal Council of the Swiss Confederation, and His Highness the Bey of Tunis :

Desiring as far as possible to complete the Convention concluded at Paris on the 20th March, 1883, for the Protection of Industrial Property, have named as their Plenipotentiaries, that is to say :

Who, after having communicated to each other their full powers, found in good and due form, have agreed to the following additions to the above-mentioned Convention :—

To ARTICLE V.

Each country shall determine for itself the interpretation which is to be given to the word "exploiter."

To ARTICLE X.

Every article bearing illegally a false indication of origin may be seized on importation in all the Contracting States.

The seizure may also be effected in the country where the false indication has been put on the goods, as well as in the country to which the goods are imported.

The seizure will take place on the demand of the Public Department, or of the interested party, individual or Company, in accordance with the internal legislation of each State.

The Tribunals of each country must decide what are the appellations which, in virtue of their generic nature, do not come within the present regulations.

The authorities are not bound to seize in case of transit.

2. There is no fraudulent intention in the case mentioned in section 1 of Article X of the Convention when it shall be proved that the name on the imported goods has been affixed to them with the consent of the manufacturer whose name is thus used.

The present Additional Convention shall be ratified, and the ratifications exchanged at Rome within six months, or sooner if possible.

It shall come into effect one month after the exchange of the ratifications, and shall have the same force and the same duration as the Convention of the 20th March, 1883.

In faith of which the respective Plenipotentiaries have signed the same, and have affixed thereto their seals.

Done at Rome,

No. 17.

The Earl of Iddesleigh to Count Corti.

M. l'Ambassadeur,

Foreign Office, December 29, 1886.

I HAVE the honour to acknowledge the receipt of your Excellency's note of the 23rd instant relative to the proposed Additional Convention to the Industrial Property Convention of 1883; and I beg leave to acquaint you, in reply, that I have referred your note to the proper Department of Her Majesty's Government.

I am, &c.

(Signed) IDDESLEIGH.

No. 18.

Foreign Office to Board of Trade.

Sir,

Foreign Office, December 29, 1886.

I AM directed by the Earl of Iddesleigh to transmit to you a translation of a note from the Italian Ambassador at this Court,* inclosing a form of Convention which the Italian Government propose for the purpose of converting into a regular diplomatic instrument the Additional Articles to the Industrial Property Convention which were recommended by the Conference at Rome.

I am to request that the Board of Trade will take into consideration the observations contained in Count Corti's note, and favour Lord Iddesleigh with their opinion as to the course to be pursued in the matter.

I am, &c.

(Signed) JAMES FERGUSSON.

No. 19.

Board of Trade to Foreign Office.—(Received December 30.)

Sir,

Board of Trade, London, December 29, 1886.

REFERRING to previous correspondence in respect to the fraudulent marking of goods, and the proposed amendment of the Industrial Property Convention of 1883 in that particular, I am directed by the Board of Trade to transmit herewith, to be laid before Lord Iddesleigh, copy of a communication that this Department has caused to be addressed to the Colonial Office on the subject.

I have, &c.

(Signed) COURTENAY BOYLE.

* No. 16.

Inclosure in No. 19.

Board of Trade to Colonial Office.

Sir,

Board of Trade, London, December 29, 1886.

REFERRING to previous correspondence touching the expediency of Colonial Governments taking the necessary steps by local legislation to meet the intention of the provisions of sections 103 and 104 of "The Patents, Designs, and Trade-marks Act, 1883," and ultimately acceding to the Industrial Property Convention of 1883, I am to acquaint you, for the information of the Secretary of State, that, since the accession of this country to the Convention in question, strong representations have been made to the Board of Trade, more especially by the Cutlers' Company of Sheffield, of the growing practice abroad of placing the marks of English traders and Sheffield marks on foreign goods to the injury of British traders and the Company.

In consequence of these representations, at the recent meeting of Representatives of States parties to the Industrial Property Union at Rome, an amendment of Article X of the Convention, designed, when supplemented by internal legislation of the Contracting States, to prevent the fraudulent marking of goods, was put forward and supported by the English Delegates, finally adopted by the Conference, and recommended for the consideration of the respective Governments.

It will be incumbent on the various Governments to consider the propriety of authorizing their Representatives to sign the Additional Articles in May next, and the Board of Trade, in the meantime, are endeavouring to ascertain through the Foreign Office what Governments are prepared to signify their adhesion to the amendments of the Convention.

I am further to state that the Board of Trade have undertaken to introduce a Bill designed to give effect to the recommendations of the late Conference on this head, and they would suggest, for the consideration of Mr. Stanhope, that, looking to the importance of the due protection of trade interests in the Colonies, and to the fact that any steps taken by the Colonial Governments in the direction indicated would materially assist the international arrangements in progress, such Governments should be invited to consider the expediency of similar legislation in their respective Colonies.

I am further to suggest that it may be convenient for the Departmental Committee of the Colonial Office and this Board to consult on the details of any communication Mr. Stanhope may be disposed to make to the Colonial Governments on this subject.

I have, &c.
(Signed) COURTENAY BOYLE.

No. 20.

Board of Trade to Foreign Office.—(Received January 8.)

Sir,

Board of Trade, London, January 7, 1887.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 29th ultimo, transmitting copy of a note from the Italian Ambassador, covering a form of Convention which the Italian Government propose as a diplomatic instrument embodying the Additional Articles to the Industrial Property Convention recommended by the Conference at Rome.

In reply, I am to state that, in the opinion of the Board of Trade, it is desirable, in the first place, to ascertain whether it is designed that the signing of the proposed instrument is to be held to imply a *bond fide* intention on the part of the Signatory States to initiate legislation to give effect to the Additional Articles in question; and I am to suggest, for the consideration of Lord Iddesleigh, that steps should be taken with this object.

I am, as requested, to return herewith the translation of Count Corti's note.

I have, &c.
(Signed) COURTENAY BOYLE.

No. 21.

Foreign Office to Board of Trade.

Sir,

Foreign Office, January 10, 1887.

IN reply to your letter of the 7th instant, I am directed by the Earl of Iddesleigh to transmit to you a draft of a note which his Lordship proposes to address to the Italian Ambassador at this Court on the subject of the proposed signature of a Convention to carry into effect the Resolutions of the Roman Conference on the subject of false indications of origin of goods.*

I am to inquire whether the Board of Trade concur in the terms of this note.

I am, &c.

(Signed) JAMES FERGUSON.

No. 22.

Board of Trade to Foreign Office.—(Received January 12.)

Sir,

Board of Trade, London, January 11, 1887.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 10th instant, inclosing a draft of a note it is proposed to address to the Italian Ambassador on the subject of the suggested signature of a Convention to carry into effect the Resolutions of the Conference at Rome on the subject of false indications of origin on goods, and, in reply, to state that the Board of Trade concur in the terms of the proposed note.

I have, &c.

(Signed) COURTENAY BOYLE.

No. 23.

The Secretary of State for Foreign Affairs to Count Corti.

M. l'Ambassadeur,

Foreign Office, January 13, 1887.

I HAVE had under my consideration, in communication with the proper Department of Her Majesty's Government, your Excellency's note of the 23rd ultimo, in which you were good enough to inclose a form of Convention which the Italian Government propose as a diplomatic instrument to be signed at Rome for the purpose of embodying the Additional Articles to the Industrial Property Convention of 1883 which were adopted and recommended by the Conference at Rome.

I have now the honour to state that, before giving any instructions to Her Majesty's Ambassador at Rome in regard to the signature of this instrument, Her Majesty's Government think that it is necessary to ascertain clearly whether it is understood on the part of all the Governments concerned that its signature shall be held to imply a *bond fide* intention on the part of the Signatory States to give effect by legislation to the principles enunciated in the Additional Articles, that is to say, that effectual legal remedies shall be provided in all the Contracting States against the fraudulent apposition to goods of false or misleading indications of origin.

In referring your Excellency to the Declaration of the British Delegate, printed at pp. 143 and 144 of the Records of the Roman Conference, I beg leave to state that whilst Her Majesty's Government are disposed to give full weight to the difficulties which may present themselves in certain States in regard to the immediate initiation of legislation to give complete effect to the Additional Articles, they nevertheless consider that no useful purpose would be served by the signature of the proposed Convention, unless its conclusion implies the acceptance by all the Signatory Powers of the principles in question, and their sincere disposition to put them effectively into practice.

I have the honour to request, M. l'Ambassadeur, that you will be so good as to make known to your Government the above observations on the part of Her Majesty's

* See No. 23.

Government, and to invite them to ascertain the views of the various States upon the subject.

I have, &c.
(Signed) SALISBURY.

No. 24.

Sir L. West to the Earl of Iddesleigh.—(Received January 14, 1887.)

My Lord,

Washington, December 31, 1886.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 8th instant, instructing me to ascertain the intentions of the United States' Government with regard to adhering to the International Convention for the Protection of Industrial Property, and to inclose to your Lordship herewith copy of a note which I have received from the Secretary of State in reply to the communication which I addressed to him in the sense of your Lordship's above-mentioned despatch.

I have, &c.
(Signed) L. S. SACKVILLE WEST.

Inclosure in No. 24.

Mr. Bayard to Sir L. West.

Sir,

Department of State, Washington, December 30, 1886.

I HAVE the honour to acknowledge the receipt of your note of the 24th instant, in which, after referring to the Conference for the Protection of Industrial Property, recently held at Rome, and to the action of Her Britannic Majesty's Government with reference thereto, you inquire whether or not this Government proposes to adhere to the International Convention of 1883 for the Protection of Industrial Property, with the Additional Articles thereto proposed by the late Conference at Rome; and also whether, in the event of this Government not being so disposed, it would be willing to negotiate a separate Treaty with Her Britannic Majesty's Government in regard to the subject-matter of the Additional Articles proposed at Rome, which you quote in your note.

In reply, I have the honour to inform you that the Treaty-making branch of this Government having actually under consideration at this time the question of adhering to the International Convention for the Protection of Industrial Property, and in connection therewith, the Additional Articles referred to in your note, this Department cannot with propriety, at present, discuss the proposition of Her Majesty's Government for the negotiation of a separate Treaty in regard to the fraudulent use of marks of origin.

I have, &c.
(Signed) T. F. BAYARD.

No. 25.

The Marquis of Salisbury to Sir J. S. Lumley.

Sir,

Foreign Office, January 14, 1887.

I TRANSMIT herewith, for your information, copies of correspondence, as marked in the margin,* on the subject of the proposed signature of a Convention to carry into effect the resolutions of the Roman Conference on the subject of false indications of origin of goods; and I have to acquaint you that the necessary instructions in the matter will be sent to you as soon as the preliminary inquiries have been satisfactorily concluded.

I am, &c.
(Signed) SALISBURY.

* Nos. 1, 2, 16, and 23.

No. 26.

Redditch Needle and Fish-hook Association to the Marquis of Salisbury.—(Received January 21.)

My Lord,

Redditch, January 20, 1887.

I AM directed by the Chairman and Committee of the Redditch and District Needle and Fish-hook Association to forward to your Lordship the views of this locality on the counterfeiting of English trade-marks, brands, and names by German houses, and to express a hope that, in any future Commercial Treaties, a clause may be inserted to prohibit the entry into either country of foreign goods bearing such marks as would lead the consumer to suppose the goods to be of origin other than what they profess to be.

Redditch trade has suffered much from unfair German competition, German needles being sold with the word "Redditch" on, and in many cases the imitation to our labels is so close as to completely deceive the foreign buyer as to their origin.

Our trade suffers more especially from this unfair competition in France, and it is the hope of our Association that Her Majesty's Government will be able to make mutual arrangements with the French Government, so as to prohibit the entry into France of German and other foreign goods bearing brands calculated to lead the consumer to believe them of English origin, and Great Britain prohibiting the entry into England of foreign goods bearing French brands.

France, so far as her own internal trade is concerned, by her late Custom-house Regulations, prohibits the entry of all foreign goods bearing French names or addresses, although the French house importing such goods may have so ordered them.

We hope arrangements in the future may be made to carry out the principle of each country and locality, and being able to trade on its own earned reputation; that in France, Redditch and Sheffield brands should be a guarantee of English goods, instead of allowing Aix-la-Chapelle to brand its German wares as Redditch make, or other German towns using Sheffield, England for her part prohibiting the entry of foreign goods with Paris, Lyons, and other French brands on.

I am, &c.

(Signed) A. G. BAYLIS, *Hon. Secretary,*
Redditch Association.

No. 27.

Foreign Office to Redditch Needle and Fish-hook Association.

Sir,

Foreign Office, January 24, 1887.

IN reply to your letter of the 20th instant, I am directed by the Marquis of Salisbury to acquaint you that the question of the proper steps to be taken to prevent fraud in connection with false indications of the origin of goods was fully considered at the International Conference for the Protection of Industrial Property which was held at Rome last spring, and which was attended by British Delegates.

The inclosed Parliamentary Paper will give you complete information on the subject;* and I am to state that Her Majesty's Government are now in communication with the Italian Government as to the proper mode of giving effect to the recommendations of the Conference.

I am to add that separate communications have recently been made to the German and United States' Governments with the view to ascertain whether they are willing to enter into any International Arrangement with Great Britain for the suppression of frauds of this description.

I am, &c.

(Signed) JAMES FERGUSSON.

* C.—4837.

Count Corti to the Marquis of Salisbury.—(Received February 15.)

(Translation.)

My Lord,

London, February 14, 1887.

I COMMUNICATED to my Government the note you did me the honour to address me on the 13th ultimo, in reply to the invitation to provide Her Majesty's Representative at Rome with full powers for the signature of the Additional Articles of the Convention on Industrial Property. In that note your Lordship informed me that it was necessary, before the full powers were given, that it should be ascertained whether each of the Powers interested really intended to undertake, in signing the Additional Articles, to promote the adoption of internal laws sufficient to confer the power of putting into execution the proposed measures against spurious marks of origin on commercial products, and you requested the Royal Government to sound the intentions of the parties interested on this point.

In reply to your communication, Count Robilant desires me to observe that it is, in his opinion, unnecessary to proceed to these inquiries, since it is understood that, when a State assumes an obligation by a solemn compact, it is bound to put itself into a position to execute it, modifying, if necessary, its internal laws. And this is the course the Italian Government will adopt, as far as it is concerned; nor need your Lordship doubt that the other Governments will do the same, unless, indeed, they abstain from taking part in the signature and ratification of the Agreement. To ask "whether the signature of the compact implies a *bond fide* intention to give effect, through laws, to the principles set forth in the Additional Articles" would not only imply an idea of distrust towards the parties interested, but also would be of but little value, for a declaration answering in the affirmative would have no more binding force than the diplomatic Act itself, signed with a full knowledge of its contents, and founded on the full powers which repeat and confirm the contents themselves.

Lastly, it is to be noted that, as soon as the Convention is signed, the obligation of each Contracting Government arises to execute all the necessary constitutional formalities for its ratification. And, as soon as the exchange of ratifications has taken place, the new compact will become a law of itself, pre-eminent over all internal laws which may oppose it.

In bringing these considerations to your Lordship's notice, I am instructed to give expression to the confidence of my Government that Her Majesty's Government will not insist upon the demand contained in the Foreign Office note of the 13th ultimo, but will consent to send to their Representative at Rome the full powers necessary for the signature of the above-mentioned Articles.

I avail, &c.
(Signed) L. CORTI.

Foreign Office to Board of Trade.

Sir,

Foreign Office, February 25, 1887.

WITH reference to your letter of the 11th ultimo, I am directed by the Marquis of Salisbury to transmit to you, to be laid before the Board of Trade, a translation of a note from the Italian Ambassador at this Court,* in reply to his Lordship's communication of the 13th ultimo, on the subject of the signature of the Additional Articles to the Convention for the Protection of Industrial Property.

I am to inquire whether, in view of the proposed passing of the Merchandise Marks Act, the Board of Trade would wish Her Majesty's Ambassador at Rome to sign the proposed Additional Articles.

In that event, I am further to inquire whether the Board of Trade are of opinion that the signature should be accompanied by a declaration by Her Majesty's Ambassador to the effect that Her Majesty's Government understand, from the explanations which have been received from the Italian Government, that the signature and ratification of the Additional Act signifies the acceptance of its principles by the Signatory States, and the obligation to alter internal laws if necessary in conformity with it.

* No. 28.

Lord Salisbury would also propose, with the concurrence of the Board of Trade, to reply to Count Corti's note to the effect that the previous inquiry was made because the Italian Delegates at Rome expressed the opinion that the acceptance of the Additional Article X did not imply any obligation on any State to alter its law, and that Her Majesty's Government are glad to find that the obligation to do so, if the Additional Act is once signed, is now recognized.

I am, &c.
(Signed) JAMES FERGUSSON.

No. 30.

Board of Trade to Foreign Office.—(Received March 7.)

Sir,

Board of Trade, London, March 5, 1887.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 25th ultimo, transmitting a translation of a note from the Italian Ambassador at this Court on the subject of the signature of the Additional Articles to the Convention for the Protection of Industrial Property; and, in reply, to state, for the information of Lord Salisbury, that the Board of Trade concur in the suggestions made, and the course proposed to be adopted by the Foreign Office.

I have, &c.
(Signed) COURTENAY BOYLE.

No. 31.

Foreign Office to Board of Trade.

Sir,

Foreign Office, March 15, 1887.

WITH reference to your letter of the 5th instant, I am directed by the Marquis of Salisbury to transmit to you drafts of despatches which his Lordship proposes to address to the Italian Ambassador at this Court and to Her Majesty's Ambassador at Rome* on the subject of a proposed signature of a Convention to embody the recommendations of the Industrial Property Conference at Rome; and I am to request that the Board of Trade will inform his Lordship at their early convenience whether they concur in the terms thereof.

I am, &c.
(Signed) JAMES FERGUSSON.

No. 32.

Board of Trade to Foreign Office.—(Received March 26.)

Sir,

Board of Trade, London, March 25, 1887.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 15th instant, transmitting drafts of despatches which Lord Salisbury proposes to address to the Italian Government and Her Majesty's Ambassador at Rome as to the signature of the Convention embodying the recommendations of the recent Industrial Property Conference.

In reply, I am to state, for the information of his Lordship, that the Board of Trade concur in the terms of the drafts (returned herewith), but they must at the same time point out that it is most difficult to say in the present state of Parliamentary business when it may be practicable to legislate in the manner desired to give effect to the recommendations of the Conference.

I have, &c.
(Signed) GEORGE J. SWANSTON.

* Nos. 33 and 34.

The Marquis of Salisbury to Sir J. S. Lumley.

Sir,

Foreign Office, March 30, 1887.

WITH reference to my despatch of the 14th January last, I transmit to your Excellency herewith a translation of a note from the Italian Ambassador at this Court, and a copy of my reply,* relative to the proposed signature of a Convention to embody the recommendations of the Industrial Property Conference at Rome.

I have now to authorize you to sign the Convention in question on behalf of Her Majesty's Government, and I transmit to your Excellency herewith a full power to that effect.

You will, however, accompany your signature by a declaration to the effect that Her Majesty's Government understand from explanations which have been received from the Italian Government, especially in regard to the Articles additional to Article X of the Industrial Property Convention, that the signature and ratification of the Additional Convention signifies the acceptance by the Signatory States of the principles contained in the Additional Articles recommended by the Conference at Rome, and the obligation to alter internal laws, if necessary, in conformity therewith.

I am, &c.
(Signed) SALISBURY.

The Marquis of Salisbury to Count Corti.

M. l'Ambassadeur,

Foreign Office, March 30, 1887.

I HAVE the honour to acknowledge the receipt of your Excellency's note of the 14th ultimo on the subject of the signature of a Convention embodying the Additional Articles to the Industrial Property Convention which were recommended for adoption by the Conference which met last year at Rome.

In reply, I beg leave to state that, as some doubt appears to have been entertained at that Conference as to the precise obligation to alter legislation which would be entailed by the adoption of these Articles, and especially by those additional to Article X, Her Majesty's Government would much have preferred that the views of the various States concerned should have been ascertained upon this point before the signature actually took place, in order that no difficulty might subsequently arise as to the extent of the obligation which would be undertaken by each State by the act of signature and ratification of such a Convention.

Her Majesty's Government were strengthened in this belief by the fact that whilst M. Catalani, in his note of the 16th August last, laid particular stress on that passage in the Records of the Conference where it is stated as the résumé of a general conversation that the adoption of the proposed addition to Article X would not oblige any Contracting State to modify its own legislation on the subject, no allusion was made by him to the declaration of the British Delegate on pp. 143 and 144 of the Records, whereby it is clearly indicated that the acceptance by the various Governments of the principles recommended should carry with it a moral obligation to alter their laws if necessary.

It is from no feeling of distrust in regard to the *bona fides* of the States who may sign the Convention in their intention to give effect to its principles that Her Majesty's Government have suggested preliminary inquiry, but rather from a fear that doubts and hesitation may subsequently arise as to what those principles are; but they are now glad to learn from your Excellency's communication that the Italian Government binds itself, when the proposed Convention has come into effect, to modify, if necessary, its internal laws, so as to render them sufficient to confer the power of putting into execution the proposed measures against spurious marks of origin on commercial products, and that there is no reason to doubt that the other Governments will do the same, unless, indeed, they abstain from taking part in the signature and ratification of the Convention.

* Nos. 28 and 34.

In view of these explicit assurances, Her Majesty's Government can no longer hesitate to authorize Her Majesty's Ambassador at Rome to take part in the signature of the proposed Convention, which in point of form appears now to meet every requirement.

I have therefore addressed instructions in this sense to Her Majesty's Ambassador at Rome; but, in order that no misapprehension may occur before the ratifications of the Convention are exchanged as to the understanding upon which Her Majesty's Government have signed it, I have requested his Excellency to accompany his signature by a declaration to the effect that Her Majesty's Government understand, from explanations which have been received from the Italian Government, especially in regard to the Articles additional to Article X of the Industrial Property Convention, that the signature and ratification of the Additional Convention signifies the acceptance by the Signatory States of the principles contained in the Additional Articles recommended by the Conference at Rome, and the obligation to alter internal laws, if necessary, in conformity therewith.

I have, &c.
(Signed) SALISBURY.

No. 35.

M. Vernet to the Marquis of Salisbury.—(Received April 20.)

My Lord,

25, Old Broad Street, April 19, 1887.

I HAVE the honour to hand your Lordship a Circular note from my Government with respect to the entry of the United States of America into the International Union for the Protection of Patents.

I have, &c.
(Signed) J. H. VERNET,
Agent and Consul-General for Switzerland.

Inclosure in No. 35.

The President of the Swiss Confederation to the Marquis of Salisbury.

Excellence,

Berne, le 11 Avril, 1887.

NOUS avons l'honneur d'informer votre Excellence que le Sénat des États-Unis a ratifié la Convention du 20 Mars, 1883, pour la Protection de la Propriété Industrielle et le Protocole adopté le 11 Mai, 1886, par la Conférence de Rome, et que le Gouvernement de ce pays a notifié à la Légation Suisse de Washington son intention d'accéder à l'Union pour la Protection de la Propriété Industrielle.

La date d'accession est fixée au 18 Mars, 1887, date de la notification adressée par le Gouvernement des États-Unis à la Légation Suisse. En ce qui concerne leur participation aux frais du Bureau International, les États-Unis sont rangés dans la première classe.

Nous croyons devoir attirer l'attention de votre Excellence sur la mention insérée au procès-verbal de la séance du 12 Mars, 1883, de la seconde Conférence de Paris (procès-verbaux, p. 37) et d'après laquelle le Gouvernement Fédéral Suisse est autorisé à accepter l'accession ultérieure des États-Unis sous la réserve formulée en ces termes au quatrième paragraphe du projet du Protocole de Clôture de 1880:—

“Le Plénipotentiaire des États-Unis d'Amérique ayant déclaré qu'aux termes de la Constitution Fédérale, le droit de légiférer en ce qui concerne les marques de fabrique ou de commerce est, dans une certaine mesure, réservé à chacun des États de l'Union Américaine, il est convenu que les dispositions de la Convention ne seront applicables que dans les limites des pouvoirs Constitutionnels des Hautes Parties Contractantes.”

En priant votre Excellence de vouloir bien prendre note de ce qui précède, nous saisissons, &c.

Au nom du Conseil Fédéral Suisse,
Le Président de la Confédération :
(Signé) DROZ.
Le Chancelier de la Confédération :
(Signé) RINGIER.

(Translation.)

Excellency,

Berne, April 11, 1887.

WE have the honour of informing your Excellency that the Senate of the United States has ratified the Convention of the 20th March, 1883, for the Protection of Industrial Property, as well as the Protocol adopted the 11th May, 1886, by the Conference of Rome, and that the Government of the United States has notified to the Swiss Legation at Washington its intention of acceding to the Union for the Protection of Industrial Property.

The accession dates from the 18th March, 1887, the date of the notification addressed by the United States' Government to the Swiss Legation, and the United States will rank in the first class as far as regards their participation in the expenses of the International Office.

We think it right to draw your Excellency's attention to the condition inserted in the record of the sitting of the 12th March, 1883, of the second Conference of Paris (Records, p. 37), by which the Swiss Federal Government was authorized to accept the ulterior adhesion of the United States under the reserve drawn up in the following terms in the fourth paragraph of the draft of the Final Protocol of 1880:—

"The Plenipotentiary of the United States of America having declared that, according to the terms of the Federal Constitution, the right of legislating respecting manufacturing or commercial marks is, to a certain degree, reserved to each of the States of the American Union, it is agreed that the stipulations of the Convention shall only be applicable within the limits of the constitutional powers of the High Contracting Parties."

In requesting your Excellency to be good enough to take note of the above communication, we avail ourselves, &c.

In the name of the Swiss Federal Council:

The President of the Confederation,
(Signed) DROZ.

The Chancellor of the Confederation,
(Signed) RINGIER.

No. 36.

Foreign Office to Board of Trade.

Sir,

Foreign Office, April 20, 1887.

I AM directed by the Marquis of Salisbury to transmit to you a copy of an official notification of the accession of the United States to the International Union for the Protection of Industrial Property;* and I am to state that his Lordship proposes, with the concurrence of the Board of Trade, to lay this notification before Parliament immediately.

I am, &c.
(Signed) JAMES FERGUSSON.

No. 37.

The Marquis of Salisbury to the President of the Swiss Confederation.

Sir,

Foreign Office, April 22, 1887.

I HAVE the honour to acknowledge the receipt of your Excellency's communication of the 11th instant, and to acquaint you that Her Majesty's Government have taken note with much satisfaction of the accession of the United States of America to the Union for the Protection of Industrial Property.

I have, &c.
(Signed) SALISBURY.

* No. 35.

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No. 38.

The Marquis of Salisbury to M. Vernet.

Sir,

Foreign Office, April 22, 1887.

IN reply to your note of the 19th instant, I have the honour to transmit to you my reply to the communication in which the President of the Swiss Confederation announces the accession of the United States of America to the Union for the Protection of Industrial Property.*

I have, &c.
(Signed) SALISBURY.

No. 39.

Board of Trade to Foreign Office.—(Received April 27.)

Sir,

Board of Trade, London, April 27, 1887.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 20th instant, transmitting copy of an official notification of the accession of the United States' Government to the Industrial Property Convention, and, in reply, to state, for the information of Lord Salisbury, that the Board of Trade concur in the proposal to lay this notification before Parliament.

I have, &c.
(Signed) COURTENAY BOYLE.

No. 40.

Mr. J. G. Kennedy to the Marquis of Salisbury.—(Received April 28.)

My Lord,

Rome, April 25, 1887.

I HAVE the honour to acknowledge receipt of your Lordship's despatch addressed to Sir J. Savile Lumley on the 30th ultimo, as well as of a full power enabling his Excellency to sign on behalf of Her Majesty's Government a Convention embodying the recommendations of the Industrial Property Conference which met last year in Rome.

In order to remove any feeling of anxiety lest the absence on leave of Her Majesty's Ambassador should cause delay in the signature of the Convention, I venture to inform your Lordship, on the authority of the Director of the Commercial Department of the Italian Foreign Office, that there is no prospect of speedily effecting the signature of the Convention in question.

It appears that one of the Governments parties to the Conference has made a declaration completely opposed to the declaration announced by Her Majesty's Government, and recorded in your Lordship's above-named despatch.

As a consequence of this counter-declaration, the Italian Government feels itself compelled to address a Circular despatch to the Governments interested, in order to inform them of the state of the question, and to inquire whether all are willing to accept the declaration of Her Majesty's Government.

I have, &c.
(Signed) J. G. KENNEDY.

No. 41.

The Marquis of Salisbury to Mr. J. G. Kennedy.

Sir,

Foreign Office, April 30, 1887.

I HAVE to acknowledge the receipt of your despatch of the 25th instant, reporting that there is no prospect of the immediate signature of the Additional Convention to the Industrial Property Convention.

As, however, Sir J. S. Lumley may be absent on leave for some time, I have

* No. 37.

considered it desirable to obtain a full power to enable you to sign the Convention in his absence, if necessary, and in such case you will be governed by the instructions contained in my despatch to his Excellency of the 30th March last.

I am, &c.

(Signed) SALISBURY.

P.S.—The full power is inclosed herein.

No. 42.

M. Vernet to the Marquis of Salisbury.—(Received May 18.)

My Lord,

25, Old Broad Street, London, May 17, 1887.

I HAVE the honour to hand your Lordship a Circular note from my Government, announcing that the date of the accession of the United States of America to the Union for the Protection of Industrial Property has not been definitely fixed, as stated in their note of the 11th April, but will be communicated shortly.

In requesting that your Lordship will be good enough to take note of the above, and to acknowledge to me the receipt of this communication, I have, &c.

(Signed) J. H. VERNET,

Agent and Consul-General for Switzerland.

Inclosure in No. 42.

The President of the Swiss Confederation to the Marquis of Salisbury.

Excellence,

Berne, le 10 Mai, 1887.

EN se référant à la note que nous avons eu l'honneur de lui adresser en date du 11 Avril dernier pour l'informer de l'accession des États-Unis à la Convention du 20 Mars, 1883, pour la Protection de la Propriété Industrielle, nous avons l'honneur de faire savoir à votre Excellence qu'à la suite de communications recues de la Légation des États-Unis en Suisse, la date de l'accession de ce pays ne doit pas être fixée au 18 Mars, comme cela était indiqué dans la note susmentionnée, mais bien à une date ultérieure, que nous serons bientôt à même de communiquer à votre Excellence.

Nous saisissons, &c.

Au nom du Conseil Fédéral Suisse :

Le Président de la Confédération,

(Signé) DROZ.

Le Vice-Chancelier,

SCHATZMAN.

(Translation.)

My Lord,

Berne, May 10, 1887.

WITH reference to the note which we had the honour to address to you on the 11th April last to inform you of the accession of the United States to the Convention of the 20th March, 1883, for the Protection of Industrial Property, we have now the honour to acquaint you, in accordance with a communication which we have received from the United States' Legation in Switzerland, that the date of that country's accession should not be fixed at the 18th March, as already stated in the above-mentioned note, but at a later date, which we shall soon have the honour of communicating to you.

We seize, &c.

In the name of the Swiss Federal Council :

The President of the Confederation,

(Signed) DROZ.

The Vice-Chancellor,

SCHATZMAN:

No. 43.

The Marquis of Salisbury to M. Vernet.

Sir,

Foreign Office, May 23, 1887.

I HAVE the honour to acknowledge the receipt of your note of the 17th instant, inclosing a Circular note from the Swiss Government to the effect that the accession of the United States to the Convention for the Protection of Industrial Property will not date from the 18th March, as previously announced, but from a date to be subsequently fixed.

I have, &c.
(Signed) SALISBURY.

No. 44.

Mr. J. G. Kennedy to the Marquis of Salisbury.—(Received June 6.)

My Lord,

Rome, June 2, 1887.

I HAVE the honour to acknowledge the receipt of the full power transmitted to me in your Lordship's despatch of the 30th April last, enabling me to sign the Additional Articles to the Convention on Industrial Property.

The Director-General of the Commercial Department of the Foreign Office, to whom I communicated the receipt of my full power, again informs me that, owing to the continued disagreement of the Contracting Powers in regard to the tenour of the Additional Articles, it is impossible to foresee the date on which the new Convention can be signed.

I have, &c.
(Signed) J. G. KENNEDY.

No. 45.

Count Corti to the Marquis of Salisbury.—(Received June 6.)

(Translation.)

My Lord,

London, June 3, 1887.

I HAVE received the following communication from M. Depretis:—

The various Governments interested were invited through our Representatives to furnish their respective Representatives at Rome with the necessary full powers for the signature of the Additional Articles of the Convention of Paris of the 20th March, 1883, on industrial property, which Articles had been drawn up by the Conference held at Rome last year.

The Governments of France, Guatemala, Portugal, Servia, Switzerland, and Sweden and Norway notified their unconditional adhesion to the Convention, and that of Brazil also gave its adhesion, expressing, however, the wish that the short period of one month, which had been fixed for putting the Convention into force after the exchange of ratifications, might be prolonged.

The Belgian Government, on the other hand, in view of the lively opposition met with at the Conference by certain provisions of the Additional Articles, on the part of the Representatives of some States, expressed a wish to be informed, before sending the full powers, whether all the Governments were agreed as to the signature of the Articles.

It afterwards appeared that these doubts were perfectly justified, for, on the 15th January, the British Government informed the Italian Ambassador in London that, in their opinion, it was necessary first to question all the Governments interested in order to ascertain clearly whether it was understood on their part that the signature of the Convention implied a *bonâ fide* intention to give effect, by legislation, to the principles laid down in the Additional Articles, *i.e.*, that legal remedies should be provided by all the Governments against the fraudulent marking of commercial products with false and misleading marks of origin.

Without this, in the opinion of the British Government, no useful end would be attained by the signature of the Convention.

The Italian Government was of opinion that no Government would have signed

the instrument if it had not had the firm intention of providing for its complete execution by bringing its internal laws into harmony with it, and that if any Government had been conscious of its inability to do this it would have refused to sign, or else would have explained the reservations under which it would append its signature. The Italian Government communicated its view to that of Great Britain, and begged the latter to withdraw its request.

The British Government replied, on the 18th March last, that its proposal was suggested by the doubts expressed at the Conference of Rome as to the precise obligation of the Governments to modify their internal laws in order to bring them into harmony with the international compact, as well as by a desire to remove any difficulties that might afterwards arise on the subject of the extent of the obligations undertaken by each Government at the signature of the Articles. The British Government added that it would withdraw the proposal to address a preliminary Circular on the subject to the Governments concerned, but would instruct the British Ambassador at Rome to make, simultaneously with the signature, a declaration to the effect that the signature and ratification of the Additional Convention implied the acceptance by the Contracting Parties of the principles embodied in the Additional Articles recommended by the Conference at Rome, and included the obligation, if necessary, to modify internal laws in harmony with those principles.

A few days previously the Italian Government had received the answer of the Government of the Netherlands, which stated, through the Netherlands Minister at Rome, that it would authorize the signature of the Additional Convention, but with the express reservation that it did not hold itself thereby obliged to make any changes in the Penal Law of the Netherlands, as the Delegate of that country had already declared at the Conference itself.

Finally, a distinct refusal was received on the 8th March last from the Spanish Government, in so far as the 2nd Annex to Article X of the Convention of 1883 is concerned. That Government is of opinion that the Annex tends indirectly to nullify paragraph 1 of Article X, since it lays down that there is no fraudulent intention, if an article bears a false indication of origin, so long as it can be proved that the mark has been affixed with the consent of the manufacturer whose name is used. This would be opposed to the interests of Spain, not to mention that the Additional Articles do not harmonize with the Spanish Penal Code. Under these circumstances, the Spanish Government thinks that no decision should be taken till the next Conference, when a more ample experience of the working of the Convention of 1883 will have been obtained. It concludes by accepting the regulations for the execution of that Convention, it being understood that the 4th provision does not modify in any way the Convention of 1883, and especially the 4th clause of the concluding Protocol.

In view of the fact that the declarations of some of the parties constitute a serious obstacle to the signature of the Additional Convention, and that it does not seem likely that this difficulty can be overcome without an exchange of ideas and a full discussion, the Italian Government has decided, after mature reflection, to confine itself to informing the Signatories of the Convention of Paris of the present state of the case, expressing, at the same time, the hope that a more careful examination on their part may lead to an agreement in the matter. Nor ought it to be difficult shortly to arrive at some arrangement which would be satisfactory to all parties, when it is considered that all the States of the Union must be animated by a lively desire to see a useful result from the last Conference, and to see the Additional Articles signed, with a firm resolve on the part of all to carry them out scrupulously. If no agreement can be come to, the only course open is to leave the Articles to be discussed again by the new Conference which is to meet at Madrid in 1889.

In the meantime, it would seem best to proceed to the signature of the Regulations proposed by the Conference of Rome.

In communicating the above to your Lordship, and requesting you to be good enough to inform me what answer you wish returned to M. Depretis on the subject, I avail, &c.

(Signed) L. CORTI.

No. 46.

M. Vernet to the Marquis of Salisbury.—(Received June 7.)

My Lord,

25, Old Broad Street, June 6, 1887.

I HAVE the honour to hand your Lordship a Circular note from my Government to the effect that the accession of the United States of America to the Convention for the Protection of Industrial Property will date from the 30th May, 1887.

I have, &c.

(Signed) J. H. VERNET,
Agent and Consul-General for Switzerland.

Inclosure in No. 46.

The President of the Swiss Confederation to the Marquis of Salisbury.

Excellence,

Berne, le 2 Juin, 1887.

PAR notre note du 10 Mai dernier, nous avons informé votre Excellence que la date du 18 Mars, que nous lui avons indiquée le 11 Avril comme celle de l'accession des États-Unis d'Amérique à l'Union pour la Protection de la Propriété Industrielle, était inexacte.

En suite d'une notification que nous venons de recevoir de la Légation des États-Unis, nous avons l'honneur de faire savoir à votre Excellence que la date de l'accession de ce pays à l'Union a été fixée au 30 Mai, 1887.

Nous saisissons, &c.

Au nom du Conseil Fédéral Suisse :

Le Président de la Confédération,

(Signé) DROZ.

Le Chancelier de la Confédération,

(Signé) RINGIER.

(Translation.)

Your Excellency,

Berne, June 2, 1887.

IN our note of the 10th ultimo we informed your Excellency that the date of the 18th March, which we notified to you on the 11th April last as that of the accession of the United States of America to the Union for the Protection of Industrial Property, was inexact.

In accordance with a notification which we have now received from the United States' Legation, we have the honour to acquaint your Excellency that the date of the accession of that country to the Union has been fixed for the 30th May, 1887.

We avail, &c.

In the name of the Swiss Federal Council :

The President of the Confederation,

(Signed) DROZ.

The Chancellor of the Confederation,

(Signed) RINGIER.

No. 47.

The Marquis of Salisbury to Count Corti.

M. l'Ambassadeur,

Foreign Office, June 8, 1887.

I HAVE the honour to acknowledge the receipt of your Excellency's note of the 3rd instant relative to the difficulties which have arisen in regard to the signature of the Convention to embody the Additional Articles to the Industrial Property Convention, and I beg leave to say that the matter shall receive due attention.

I have, &c.

(Signed) SALISBURY.

No. 48.

The Marquis of Salisbury to M. Vernet.

Sir,

Foreign Office, June 8, 1887.

I HAVE the honour to acknowledge the receipt of your note of the 6th instant, inclosing a Circular from your Government to the effect that the accession of the

United States of America to the Union for the Protection of Industrial Property will date from the 30th May, 1887.

I have, &c.
(Signed) SALISBURY.

No. 49.

Foreign Office to Board of Trade.

Sir, *Foreign Office, June 8, 1887.*

WITH reference to previous correspondence, I am directed by the Marquis of Salisbury to transmit to you a translation of a note from the Italian Ambassador at this Court relative to the difficulties which have arisen as to the signature of the proposed Convention, embodying the results of the meeting of the Industrial Property Conference at Rome in May 1886;* and I am to request that you will move the Board of Trade to favour his Lordship with their views as to the reply which should be made to Count Corti's note.

I am also to inclose a copy of a despatch from Her Majesty's Chargé d'Affaires at Rome on the same subject.†

I am, &c.
(Signed) JAMES FERGUSSON.

No. 50.

Foreign Office to Board of Trade.

Sir, *Foreign Office, June 8, 1887.*

I AM directed by the Marquis of Salisbury to transmit to you a copy of a note from the Swiss Agent and Consul-General,‡ stating that the accession of the United States to the Industrial Property Convention will date from the 30th May, 1887; and I am to say that his Lordship presumes the Board of Trade will now consider the propriety of applying the Patents Act of 1883 to the United States by Order in Council.

I am to add that M. Vernet's communication will be laid before Parliament.

I am, &c.
(Signed) JAMES FERGUSSON.

No. 51.

Board of Trade to Foreign Office.—(Received June 20.)

Sir, *Board of Trade, London, June 18, 1887.*

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 8th instant, transmitting copy of a note from the Swiss Agent and Consul-General, stating that the accession of the United States to the Industrial Property Convention will date from the 30th May, 1887; and, in reply, to acquaint you, for the information of Lord Salisbury, that the necessary Order in Council to give effect to such accession has been prepared in this Department, and forwarded to the Council Office for submission to Her Majesty.

I have, &c.
(Signed) COURTENAY BOYLE.

No. 52.

Board of Trade to Foreign Office.—(Received July 5.)

Sir, *Board of Trade, London, July 4, 1887.*

REFERRING to your communication of the 8th ultimo, touching difficulties that have arisen in connection with the signature of the proposed Convention embodying

* No. 45.
[554]

† No. 44.

‡ No. 46.

the results of the meeting of the Industrial Property Conference at Rome in May 1886, I am directed by the Board of Trade to request that the following reply may be laid before Lord Salisbury.

The Board of Trade are unable to concur in the criticism made by the Spanish Government with regard to the second Additional Article to Article X of the Convention, which they regard as merely explanatory of what should be deemed fraudulent intent under the Article in question.

I am further to state that the Board of Trade are of opinion that the Italian Government may properly be informed that Her Majesty's Government would view with great regret any action tending either to cast doubt on the soundness of the principles which animate the first Additional Article to Article X, or to postpone the signature by any Powers who are prepared to put these principles into effect.

They, therefore, recommend that steps should be taken in order that the proposed Convention be at once signed by those States who are willing to give effect to it by legislation.

I am to add that, while the Merchandise Marks Bill of this Session is being pressed forward by Her Majesty's Government with all due diligence, it cannot, of course, be said how soon the measure may become law; but this point will be determined prior to the arrival of the period for the exchange of ratifications.

I have, &c.

(Signed) COURTENAY BOYLE.

No. 53.

The Marquis of Salisbury to Count Corti.

M. l'Ambassadeur,

Foreign Office, July 9, 1887.

HER Majesty's Government have had under their consideration the note which, under date of the 3rd ultimo, your Excellency was good enough to address to me relative to the difficulties which have arisen as to the signature of the proposed Additional Convention to the International Convention for the Protection of Industrial Property; and I have now the honour to request that you will be so good as to submit to your Government the following observations in reply:—

1. Her Majesty's Government are unable to concur in the criticism made by the Spanish Government respecting the second Additional Article to Article X of the Convention, which Her Majesty's Government regard as merely explanatory of what should be deemed to be fraudulent intent under the Article in question.

2. Her Majesty's Government would view with great regret any action tending to cast doubt on the soundness of the principles which animate the first Additional Article to the said Article X, or leading to the postponement of the signature of the proposed Additional Convention by any of the Powers belonging to the Union who may be prepared to put those principles into effect.

3. Her Majesty's Government therefore earnestly trust that the consideration of the question may not be postponed to the next meeting of the Union, which will not take place until the year 1889, and they hope that the signature of the proposed Additional Convention may at once take place between those States of the Union who may be willing to give effect to it by legislation.

I have, &c.

(Signed) SALISBURY.

No. 54.

The Marquis of Salisbury to Viscount Lyons.*

My Lord,

Foreign Office, July 9, 1887.

I TRANSMIT to your Excellency herewith printed correspondence relative to the Additional Articles to the Industrial Property Convention which were agreed to by the Conference held at Rome in the spring of last year.

Your Excellency will perceive from the correspondence with the Italian Government, and from my latest note of the 9th instant to Count Corti, herewith inclosed,†

* Also to Mr. Gosselin (Brussels).

† No. 53.

that Her Majesty's Government, notwithstanding the difficulties which have been raised, are quite willing to sign a Convention embodying the Additional Articles in question with any of the States parties to the Union who are in a position to give effect to them by legislation.

The French Government have, no doubt, received from the Italian Government communications of a similar nature to those addressed to Her Majesty's Government, and it becomes of interest to ascertain their views upon the subject.

It would, in the opinion of Her Majesty's Government, be regrettable that the principles which were all but unanimously agreed to at Rome should be delayed in their practical operation till the next meeting in two years' time at Madrid, when the very principles themselves might perhaps be called in question and reargued.

I have, therefore, to request that your Excellency will communicate to the French Government a copy of my note of the 9th instant to Count Corti in reply to the last Circular of the Italian Government, and that you will inquire whether they are disposed to make a similar representation as to the expediency of the signature of the proposed Additional Convention taking place without delay between those States who are or who intend to place themselves in a position to give effect to it.

You will state that I have addressed a similar despatch to Her Majesty's Chargé d'Affaires at Brussels, in the hope that identic representations may be made to the Italian Government as to the wishes of the three Powers, viz., Great Britain, France, and Belgium, at whose instance were adopted the three Additional Articles which form the contents of the proposed Additional Convention.

I am, &c.
(Signed) SALISBURY.

No. 55.

The Marquis of Salisbury to Mr. J. G. Kennedy.

Sir,

Foreign Office, July 9, 1887.

WITH reference to previous correspondence, I transmit to you herewith copies of correspondence with the Italian Ambassador at this Court relative to the signature of the proposed Additional Convention to the Convention for the Protection of Industrial Property.*

If it should appear that the signature is likely to take place, I shall not fail to supply you with instructions as to whether your signature on behalf of Great Britain should or should not be accompanied by any declaration according to the circumstances as they may then appear.

I also inclose, for your information, a copy of a despatch on this subject which I have addressed to Lord Lyons and Mr. Gosselin.†

I am, &c.
(Signed) SALISBURY.

No. 56.

Mr. Gosselin to the Marquis of Salisbury.—(Received July 12.)

My Lord,

Brussels, July 11, 1887.

I HAVE the honour to inform your Lordship that I have this day addressed a note to Prince de Chimay in the terms of your Lordship's despatch of the 9th instant, transmitting to his Excellency a copy of your Lordship's note to the Italian Ambassador in London with regard to the signature of a Convention embodying the Additional Articles to the Industrial Property Convention agreed to by the Conference held in Rome in the spring of last year, and inquiring whether the King's Government are disposed to make a similar representation to the Italian Government.

I, at the same time, informed Prince de Chimay that Her Majesty's Ambassador in Paris has been instructed to make a similar communication to the French Government, and that it is the hope of Her Majesty's Government that identic representations may be made to the Cabinet of Rome as to the wishes of the three Powers, viz.,

* Nos. 45 and 53.

† No. 54.

Great Britain, Belgium, and France, at whose instance the three Additional Articles were adopted.

I have, &c.
(Signed) MARTIN GOSSELIN.

No. 57.

Viscount Lyons to the Marquis of Salisbury.—(Received July 15.)

My Lord,

Paris, July 14, 1887.

I HAVE the honour to transmit to your Lordship a copy of a note, in the terms of your Lordship's despatch of the 9th instant, which I have addressed to the French Government on the expediency of proceeding at once to the signature of the Additional Articles to the Industrial Property Convention which were agreed to by the Conference held at Rome in the spring.

I have, &c.
(Signed) LYONS.

Inclosure in No. 57.

Viscount Lyons to M. Flourens.

M. le Ministre,

Paris, July 14, 1887.

A CIRCULAR, dated the 3rd ultimo, was addressed by Count Corti, the Italian Ambassador in London, to the Marquis of Salisbury on the subject of the Additional Articles to the Industrial Property Convention which were agreed to by the Conference held at Rome in the spring.

I have the honour to lay before your Excellency a note, dated the 9th instant, which Lord Salisbury has written in reply to Count Corti.

It would, in the opinion of Her Majesty's Government, be very much to be regretted that the principles which were all but unanimously agreed to at Rome should be delayed in their practical operation till the next meeting of the Conference, which will take place in two years' time at Madrid; and your Excellency will perceive by Lord Salisbury's communication to Count Corti that, notwithstanding the difficulties which have been raised, Her Majesty's Government are quite willing to sign a Convention embodying the Additional Articles with any of the States parties to the Union who are in a position to give effect to them by legislation. I am consequently instructed by Lord Salisbury to inquire of your Excellency whether the Government of the Republic are disposed to make to the Italian Government a communication similar to that which his Lordship has addressed to Count Corti as to the expediency of the signature of the proposed Additional Convention taking place without delay between those States which are or which intend to place themselves in a position to give effect to it.

Lord Salisbury has given similar instructions to Her Majesty's Chargé d'Affaires at Brussels, in the hope that identic representations may be made to the Italian Government by the three Powers, namely, Great Britain, France, and Belgium, at whose instance the three Articles were adopted which form the contents of the proposed Additional Convention.

I shall be very much obliged if your Excellency will enable me to make known to Her Majesty's Government the views of the French Government on the subject.

I have, &c.
(Signed) LYONS.

No. 58.

Mr. J. G. Kennedy to the Marquis of Salisbury.—(Received July 16.)

My Lord,

Rome, July 11, 1887.

WITH reference to my despatch of the 2nd June last, I have the honour to report that M. Pieroleri, Director of the Commercial Department of the Foreign Office, showed me a few days the Règlement for the execution of the Industrial Property Convention concluded at Paris on the 20th March, 1883, which he had

caused to be written out as a separate document, and to which he begged me to affix my signature.

This Règlement, containing eight Articles, was, as your Lordship is aware, signed by the Delegates to the International Conference on Industrial Property held last year in Rome.

M. Pieroleri now thinks that it would be advantageous to give a diplomatic form to the above Règlement by affixing to it the signatures of the Representatives of the countries parties to the Conference.

M. Depretis, the Minister for Foreign Affairs, and the Representatives of Switzerland and Sweden, have already signed the above document.

I have the honour to request your Lordship's instructions as to my own action in the matter.

I have, &c.
(Signed) J. G. KENNEDY.

No. 59.

Foreign Office to Board of Trade.

Sir, *Foreign Office, July 18, 1887.*

WITH reference to previous correspondence on the subject of the proposed signature of an Additional Convention to the Convention for the Protection of Industrial Property, I am directed by the Marquis of Salisbury to transmit to you a copy of a despatch from Her Majesty's Chargé d'Affaires at Rome,* inquiring whether he should at once sign the Règlement which, together with the proposed Additional Convention, was recommended by the Conference at Rome.

Lord Salisbury is not aware whether the Board of Trade attach much importance to the Règlement in question, but unless such is the case his Lordship thinks that Mr. Kennedy might properly be instructed to state that he is prepared to sign the Règlement simultaneously with the Additional Convention with any Powers who are prepared to carry them both into effect.

I am, &c.
(Signed) JAMES FERGUSSON.

No. 60.

Board of Trade to Foreign Office.—(Received July 28.)

Sir, *Board of Trade, London, July 27, 1887.*

REFERRING to your communication of the 18th instant, transmitting copy of a despatch from Her Majesty's Chargé d'Affaires at Rome touching the suggested signature of the Règlement which was recommended by the Conference at Rome in connection with the provisions of the Industrial Property Convention, I am directed by the Board of Trade, in reply, to state, for the information of Lord Salisbury, that they concur in the view which his Lordship takes as to the instructions to be given to Mr. Kennedy in the matter.

I have, &c.
(Signed) COURTENAY BOYLE.

No. 61.

The Marquis of Salisbury to Mr. J. G. Kennedy.

Sir, *Foreign Office, July 29, 1887.*

I HAVE to acknowledge the receipt of your despatch of the 11th instant, reporting that you had been asked to sign the Règlement for the execution of the Industrial Property Convention which was recommended by the Conference at Rome of 1886.

In reply, I have to instruct you to state that you are authorized to sign the Règlement simultaneously with the Convention embodying the Additional Articles

* No. 58.

recommended at the same Conference with any Powers who are prepared to carry them both into effect; but that Her Majesty's Government do not perceive any advantage in signing one portion of the recommendations of the Conference to the exclusion of the other portion.

I am, &c.
(Signed) SALISBURY.

No. 62.

M. Catalani to the Marquis of Salisbury.—(Received July 30.)

My Lord,

London, July 28, 1887.

COUNT CORTI lost no time in communicating to the Royal Government the note which your Excellency was good enough to address to him on the 9th instant on the subject of the Convention for the Protection of Industrial Property. I am now instructed by M. Depretis to inform your Lordship, in reply, that the proposal made by Her Majesty's Government that the signature of the Additional Articles of the Convention for the Protection of Industrial Property should take place between the States of the Union which are disposed to carry out the provisions of the Convention by means of internal laws, shall receive the attention of the Royal Foreign Office in conjunction with the Ministry of Agriculture and Commerce. But in order to do this it will be necessary first to ascertain what are the views entertained on the subject by the other Powers to which a communication analogous to that addressed to your Lordship on the 3rd June last was made.

I am, in the meantime, to call your Lordship's attention to the fact that what is now required is that the Regulations for the execution of the Convention of the 20th March, 1883, should be signed, especially as many of the States belonging to the Union have already declared their readiness to sign it, and some of the foreign Representatives at Rome have already appended their signatures to the document prepared for the purpose.

Under these circumstances, I have the honour to request your Lordship, in accordance with my instructions, to be good enough, should there be no objection, to instruct Her Majesty's Representative at Rome also to sign the Regulations in question.

(Signed) T. CATALANI.

No. 63.

The Marquis of Salisbury to M. Catalani.

M. le Chargé d'Affaires,

Foreign Office, August 4, 1887.

I HAVE the honour to acknowledge the receipt of your note of the 28th ultimo, concerning the signature of the recommendations of the Conference relative to industrial property which met at Rome last year.

Her Majesty's Chargé d'Affaires at Rome had already requested instructions with regard to the signature of the Règlement which formed part of those recommendations; and I beg leave now to inclose a copy of a despatch in which I acquainted Mr. Kennedy with the views of Her Majesty's Government on the subject.*

I have, &c.
(Signed) SALISBURY.

No. 64.

Foreign Office to Board of Trade.

Sir,

Foreign Office, August 5, 1887.

IN reply to a question asked in Parliament yesterday an undertaking has been given on the part of the Marquis of Salisbury that, on the Merchandize Marks Bill receiving the Royal Assent, a Circular shall be addressed to all the Powers who are

* No. 61.

parties to the Industrial Property Convention, calling their attention to the measure, and inviting them to give to British subjects the same protection against fraud as the Act will afford to subjects of foreign Powers.

I am to request that, for this purpose, the Board of Trade will be good enough to furnish his Lordship with a short statement, showing the nature and extent of the protection granted by the Bill to foreign subjects, together with the general effect of its provisions in regard to foreign countries.

I am, &c.
(Signed) JAMES FERGUSSON.

No. 65.

Mr. J. G. Kennedy to the Marquis of Salisbury.—(Received August 15.)

My Lord,

Rome, August 8, 1887.

I HAVE the honour to acknowledge receipt of your Lordship's despatches of the 9th and of the 29th ultimo, the former transmitting to me copies of correspondence with the Italian Ambassador in London relative to the signature of the proposed Additional Articles to the Convention for the Protection of Industrial Property, and the latter authorising me to sign the Règlement simultaneously with the Convention embodying the Additional Articles with any Powers who are prepared to carry them both into effect.

The Director-General of the Commercial Department of the Italian Foreign Office, to whom I communicated my inability to sign the Règlement as a separate document, expressed his regret at this decision. He explained to me at some length that the Règlement had nothing to do with the Additional Articles, but was considered, both in Rome and at Berne, as a document explanatory of the Convention signed in Paris; he saw no prospect of the speedy signature of the Additional Articles, and said, or rather implied, that the delay arose from the conditions imposed by Her Majesty's Government, that each Power, on signing the Additional Articles, should engage to provide legislative measures for their due enforcement.

Holland, said M. Pieroleri, had declared it to be impossible at present to comply with this condition, while Spain objected to the immorality of the Additional Article to Article X, relating to false indication of origin.

M. Pieroleri further informed me that the United States' Minister had now signed the Règlement.

I hope before long to learn the views of the Representatives of the United States, of Sweden, and of Switzerland as to the prospects of the signature of the Additional Convention.

I have, &c.
(Signed) J. G. KENNEDY.

No. 66.

Board of Trade to Foreign Office.—(Received August 27.)

Sir,

Board of Trade, London, August 26, 1887.

REFERRING to your letter of the 5th instant, stating that an undertaking has been given on the part of the Secretary of State that, on the Merchandise Marks Bill receiving the Royal Assent, a Circular shall be addressed to all the Powers who are parties to the Industrial Property Convention, and requesting this Department to be good enough to furnish his Lordship with a short statement showing the nature and extent of the protection granted by the Bill to foreign subjects, together with the general effect of its provisions in regard to foreign countries, I am directed by the Board of Trade to transmit to you herewith, for the information of the Secretary of State, a Memorandum that has been drawn up in compliance with that request.*

I have, &c.
(Signed) COURTENAY BOYLE.

* See Inclosure in No. 73.

M. Catalani to the Marquis of Salisbury.—(Received August 30.)

(Translation.)

My Lord,

London, August 27, 1887.

THERE was no delay in communicating to the King's Government the letter which your Excellency did me the honour to address to me on the 4th instant respecting the signature of the Regulations proposed by the Roman Conference of 1886 for carrying out the Convention regarding industrial property.

In reply, Cavaliere Crispi expresses to me his regret that the Queen's Government should have thought fit to authorize their Representative at Rome to sign the Regulations at the same time as the Additional Article to the Convention itself, being of opinion that it is useless to sign one part of the recommendations and exclude the rest.

His Excellency the Minister for Foreign Affairs observes that there does not perhaps appear any such close connection between the Additional Articles and the Regulations as to make the signature of both Acts more necessary than the signature of the latter only. He adds that, apart from the consideration that the deliberations of the Conference are merely proposals submitted for the observations and amendments of the Governments interested, there still remains the fact that the Regulations carry out the Convention of Paris of the 20th March, 1883, *i.e.*, carry out the principal Convention; and that the propriety and utility of applying the same are in no way dependent on the signature of the above-mentioned Additional Articles.

At the Conference to be held at Madrid in 1889 the Contracting States will, it may be presumed, agree upon the additions to be made to the Convention of Paris, but in any case it would, in the opinion of my Government, be a great pity for the latter to continue in force without the aid of the explanations and declarations contained in the proposed Regulations.

In these circumstances, I beg leave to again have recourse to your Excellency's goodness and ask that the proper authorities may, if possible, be moved in order that Her Majesty's Government may again examine the question in the hope that such a course may perhaps bring them to take a decision in the sense of the proposals contained in the note I had the honour to address to your Excellency on the 28th July last.

There is no doubt that the King's Government would be most pleased to see any such kind assent to their wishes.

I have, &c.

(Signed) T. CATALANI.

Foreign Office to Board of Trade.

Sir,

Foreign Office, September 7, 1887.

WITH reference to previous correspondence, I am directed by the Marquis of Salisbury to transmit to you, to be laid before the Board of Trade, a translation of a note from the Italian Chargé d'Affaires expressing the regret of his Government that Her Majesty's Representative at Rome has been authorized to sign the Regulations proposed by the Roman Conference of 1886 for carrying out the Convention regarding industrial property simultaneously with the Additional Articles to that Convention.*

There appears to Lord Salisbury to be no reason for altering the decision arrived at, and as the French and Belgium Governments have been asked to support that decision, his Lordship proposes, with the concurrence of the Board of Trade, to answer M. Catalani's note accordingly.

I am, &c.

(Signed) JAMES FERGUSSON.

No. 69.

Board of Trade to Foreign Office.—(Received September 13.)

Sir,

Board of Trade, London, September 12, 1887.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 7th instant, with its inclosure, in respect to the view taken by the Italian Government regarding the proposed signature, by Her Majesty's Representative at Rome, of the Regulations put forward by the Conference at Rome in 1886 in connection with the Industrial Property Convention; and, in reply, to state, for the information of Lord Salisbury, that the Board of Trade concur in the terms of the answer his Lordship is of opinion should be made to the Italian Government.

I have, &c.

(Signed) HENRY G. CALCRAFT.

No. 70.

The Marquis of Salisbury to M. Catalani.

M. le Chargé d'Affaires,

Foreign Office, September 16, 1887.

I HAVE the honour to acknowledge the receipt of your note of the 27th ultimo relative to the signature, by Her Majesty's Representative at Rome, of the Regulations proposed by the Conference at Rome in 1886 in connection with the Industrial Property Convention.

The question has been again duly considered by Her Majesty's Government, and I have now to express to you their regret that they are unable to meet the wishes of the Italian Government by altering the decision already arrived at by them with regard to this subject.

I have, &c.

(Signed) SALISBURY.

No. 71.

Foreign Office to Board of Trade.

Sir,

Foreign Office, September 26, 1887.

WITH reference to your letter of the 26th ultimo, I am directed by the Marquis of Salisbury to transmit to you, to be laid before the Board of Trade, the draft of a Circular despatch,* relative to "The Merchandize Marks Act, 1887," which his Lordship, with the concurrence of the Board of Trade, proposes to address to Her Majesty's Representatives to the Governments who are parties to the Industrial Property Convention.

I am to add that the Memorandum alluded to in the draft of the Circular forms the inclosure to your letter of the 26th ultimo.

I am, &c.

(Signed) JAMES FERGUSSON.

No. 72.

Board of Trade to Foreign Office.—(Received October 3.)

Sir,

Board of Trade, London, October 1, 1887.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 26th ultimo, transmitting the draft of a Circular despatch relative to "The Merchandize Marks Act, 1887," proposed to be addressed, through Her Majesty's Representatives, to the Governments who are parties to the Industrial Property Convention; and, in reply, to state, for the information of the Secretary of State, that the Board of Trade concur in the terms of the proposed despatch.

As regards the Memorandum intended to accompany the same, I am to ask that

* See No. 73.

the words "any goods" may be inserted in paragraph 4 after the words "false trade description to" and before the words "or to be in possession."

The inclosure to your letter is returned herewith.

I have, &c.

(Signed) GEORGE J. SWANSTON.

No. 73.

The Marquis of Salisbury to Her Majesty's Representatives at Brussels, Rio de Janeiro, Madrid, Paris, Guatemala, Rome, the Hague, Lisbon, Belgrade, Berne, Stockholm, San Domingo, and Washington.

(Circular.)

My Lord,

Sir,

Foreign Office, October 8, 1887.

I TRANSMIT to you herewith copies of "An Act to consolidate and amend the Law relating to Fraudulent Marks on Merchandize,"* which has recently been passed in this country, together with copies of a Memorandum explaining the nature of its provisions.

In framing this Act Her Majesty's Government have sought to protect not only the interests of British subjects but also of subjects of foreign States, by providing remedies against the fraudulent practices in question, whether committed to the detriment of British or foreign manufacturers.

The Government to which you are accredited being a party to the International Union for the Protection of Industrial Property, Her Majesty's Government feel confident that the passing of this Act will be recognized by them as an attempt to carry out in their complete spirit the principles of that Union, of which the main motive is the prevention of fraudulent practices of this description.

I have to request that you will communicate copies of the Act and Memorandum to the Government to which you are accredited, and that whilst inviting a careful consideration thereof, you will state that Her Majesty's Government appeal, with some confidence, to the States comprising the International Union to take any steps which may be in their power to initiate legislation in the same direction, whereby reciprocal protection might be afforded abroad in similar circumstances to British subjects.

I am, &c.

(Signed) SALISBURY.

Inclosure in No. 73.

Memorandum.

"THE Merchandize Marks Act, 1887," has been passed with the object, *inter alia*, of giving effect to the International Convention signed at Paris on the 20th March, 1883, for the protection of industrial property, and also of giving effect to a certain extent to the recommendations made at the second meeting of the Conference held in Rome in the early part of 1886.

Her Majesty's Government have been assured that a habit largely prevails in various parts of the world of marking goods with false indications of origin, which habit tends to defraud, not only the purchaser who buys articles produced in one place believing them produced in another, but also those trade communities who, having justly attained a high reputation for excellence, find their name pirated by makers of inferior goods, not only in their own, but also in foreign countries. It is believed that any enactment which tends to discourage this habit, and to afford to the purchaser reasonable assurance that the goods he buys are what they purport to be, will be for the benefit, not only of the whole body of the consumers, but also of trading communities both in the United Kingdom and in foreign countries.

The Act deals with two principal classes of offences: those connected with forged or imitated trade-marks, and those connected with false trade descriptions. It is an offence under the Act to forge a trade-mark, or to make or have in possession any machine or other instrument for the purpose of forging a trade-mark,

* 50 & 51 Viet., cap. 28.

It is also an offence to apply any false trade description to any goods, or to be in possession for sale of any goods to which a false description or trade-mark has been applied.

A "trade-mark" is defined so as to include foreign trade-marks entitled to protection in the United Kingdom, as well as trade-marks registered in the United Kingdom.

A "trade description" is defined as meaning any description, statement, or other indication, direct or indirect—

1. As to the number, quantity, measure, gauge, or weight of any goods;
2. As to the place or country in which the goods were produced;
3. As to the mode of manufacture of such goods;
4. As to the material of which they are composed; or
5. As to their being the subject of any existing patent or copyright.

A "false trade description" means a trade description which is false in a material respect as regards the goods to which it is applied.

An application includes not only a direct application, but an application to any cover, label, &c., in or with which the goods are sold, and also placing goods in any cover, label, &c., to which a trade-mark or trade description has been applied.

The several offences of making and applying forged marks, applying false descriptions, and selling goods so falsely marked are punishable under the Act with imprisonment and fine according to the two British methods of procedure by indictment and by summary conviction. It is competent for any foreigner in the United Kingdom, whether he be the proprietor of a pirated trade-mark, or a member of an injured community, to set the law in motion for the punishment of an offender.

Provision is also made under the Act for the forfeiture and disposal of falsely-marked goods, whether found in the possession of an accused person or otherwise.

It is apparent, however, that much of the existing injury occasioned to traders and communities by false marking may be obviated by the prohibition on importation into the several countries of falsely-marked goods; and the attention of the Representatives at the Conferences of Paris and Rome was largely devoted to the formulation of principles upon which the countries of the Union respectively should frame their Customs Regulations.

As to the precise limits of prohibition, complete unanimity was not, indeed, attained at the Conferences. It was distinctly recognized that goods falsely marked, whether by means of forged trade-marks, false names, or descriptions, should throughout the countries of the Union be seized at the port of importation; but the Conference at Rome made an exception to the effect that the consent of the manufacturer should be taken as showing absence of fraudulent intent.

Her Majesty's Government are assured, however, that trading communities suffer much injury to their commercial reputation through the importation by their own members of inferior goods made elsewhere, and they are aware that the same feeling is entertained in other countries.

Her Majesty's Government therefore decided, in the Bill which they submitted to Parliament, and which has now passed into law, that no such exception shall be made; and the Act accordingly provides for the issue of Customs Regulations under which all goods which are falsely marked in any manner specified in the Act, and whether imported with the consent of the manufacturer or not, will be seized and forfeited.

Inasmuch as the existing mischief largely consists in marking goods made in one country with the names of manufacturers and places in another, and in the exportation of these goods to a third, it is evident that the interests of the injured manufacturer or community can be safeguarded only in the country of manufacture and in that to which the goods are exported.

Under the present Act and the forthcoming Customs Regulations, the rights of all foreign manufacturers and trading communities will be protected alike in British Courts of Justice and at British ports.

While Her Majesty's Government, therefore, believe that the evils complained of cannot be altogether suppressed without international harmony of legislation and Customs Regulations, they entertain a confident opinion that, under the Merchandise Marks Act, foreign traders and communities will obtain in the United Kingdom a very ample protection.

No. 74.

Mr. Egerton to the Marquis of Salisbury.—(Received October 12.)

My Lord,

Paris, October 10, 1887.

I HAVE the honour to inform your Lordship that I have this day addressed a note to the French Government in the terms of your Lordship's Circular of the 8th instant, and have transmitted to them therewith copies of "The Merchandize Marks Act, 1887," and of the Memorandum explaining it.

I have, &c.

(Signed) EDWIN H. EGERTON.

No. 75.

Lord Vivian to the Marquis of Salisbury.—(Received October 17.)

My Lord,

Brussels, October 10, 1887.

WITH reference to your Lordship's Circular despatch of the 8th instant, I have the honour to state that I have communicated copies of "The Merchandize Marks Act, 1887," and of the explanatory Memorandum, to the Minister for Foreign Affairs, for the consideration of the Belgian Government, and have expressed the hope of Her Majesty's Government that the Governments parties to the International Union for the Protection of Industrial Property will take such steps as may be in their power to initiate legislation in the same direction, with a view to affording reciprocal protection in similar circumstances to British subjects.

I have, &c.

(Signed) VIVIAN.

No. 76.

Mr. Petre to the Marquis of Salisbury.—(Received October 17.)

My Lord,

Lisbon, October 12, 1887.

I HAVE the honour to report that, in pursuance of instructions contained in your Lordship's Circular despatch of the 8th instant, I have addressed a note to the Portuguese Government forwarding copies of the "Act to consolidate and amend the Law relating to Fraudulent Marks on Merchandize," together with copies of a Memorandum explaining its provisions.

I have further stated, in the terms of your Lordship's despatch, that this Act is an attempt to carry out in their complete spirit the principles of the International Union for the Protection of Industrial Property—to which the Portuguese Government is a party—and that Her Majesty's Government appeal with confidence to the States comprising the Union to take any steps which may be in their power to initiate similar legislation, whereby reciprocal protection may be conferred on British subjects.

I have, &c.

(Signed) GEORGE G. PETRE.

No. 77.

Mr. Johnstone to the Marquis of Salisbury.—(Received October 22.)

My Lord,

Belgrade, October 18, 1887.

I HAVE the honour to acknowledge the receipt of your Lordship's Circular despatch addressed to Mr. Wyndham of the 8th instant, and to inform your Lordship that I have, as therein directed, transmitted to the Servian Government copies of the "Act to consolidate and amend the Law relating to Fraudulent Marks on Merchandize," together with copies of the Memorandum explaining the nature of its provisions, which were inclosed in your Lordship's above-mentioned despatch.

I have at the same time embodied the tenour of your Lordship's remarks on

the subject in the note which I have addressed to M. Ristich, and, whilst inviting his Excellency to carefully consider the Act and Memorandum in question, have stated that Her Majesty's Government appeal with some confidence to the States comprising the International Union for the Protection of Industrial Property to take any steps which may be in their power to initiate legislation in the same direction, whereby reciprocal protection might be afforded abroad in similar circumstances to British subjects.

I have, &c.
(Signed) ALAN JOHNSTONE.

No. 78.

Sir Clare Ford to the Marquis of Salisbury.—(Received November 2.)

My Lord,

Madrid, October 28, 1887.

WITH reference to your Lordship's Circular despatch of the 8th instant, inclosing copies of an Act and Memorandum on the subject of fraudulent marks on merchandize, I have the honour to transmit herewith to your Lordship translation of a note which I have received from Señor Moret, the Spanish Minister of State, in reply to one which I addressed to his Excellency on the 12th instant, in which I carried out the instructions which had been conveyed to me in your Lordship's Circular despatch.

Señor Moret conveys to me the expression of his thanks for the communication, and states that the Spanish Government is animated by feelings of reciprocity in the matter, and by a determination to guarantee industrial interests from all falsification.

I have, &c.
(Signed) FRANCIS CLARE FORD.

Inclosure in No. 78.

Señor Moret to Sir Clare Ford.

(Translation.)

M. le Ministre,

Ministry of State, October 26, 1887.

IN reply to your Excellency's note of the 12th instant, in which you transmitted to me the Act and the Memorandum relative to the prevention of forgeries of marks on merchandize—for which important communication I am exceedingly grateful—I have the honour to inform you that His Majesty's Government is animated by feelings of reciprocity, and is determined to guarantee industrial interests against all fraudulent practices.

I avail, &c.
(Signed) S. MORET.

No. 79.

Sir L. West to the Marquis of Salisbury.—(Received November 14.)

My Lord,

Washington, October 30, 1887.

IN obedience to the instructions conveyed to me in your Lordship's Circular despatch dated the 8th instant, I addressed a note to the United States' Secretary of State, inclosing copies of the Act and Memorandum relating to fraudulent marks on merchandize, and expressing the hope of Her Majesty's Government that the Government of the United States would take any steps that may be in their power to initiate legislation in the same direction.

I have now the honour to inform your Lordship that I have to-day received a reply from Mr. Bayard, stating that he has read the papers in question with interest, and that they will receive consideration.

I have, &c.
(Signed) L. S. SACKVILLE WEST.

Mr. Corbett to the Marquis of Salisbury.—(Received November 18.)

My Lord,

Stockholm, November 7, 1887.

REFERRING to my despatch of the 12th ultimo, I have the honour to inclose copy of a note addressed to me by the Minister for Foreign Affairs, together with translation of its inclosures, which contain the Laws which regulate industrial property in the Kingdom of Sweden and Norway, namely, for Sweden, the Royal Decree of the 16th May, 1884, on patents for inventions.*

The Law of the 5th July, 1884, on protection of trade-marks, and the Law of the 13th July, 1887, regarding trading firms and powers of procuration.*

For Norway, the Law of the 16th June, 1885, on patents; the Law of the 26th May, 1884, on protection of trade-marks.*

A Law relative to trading firms and powers of procuration, similar to the Swedish Law of 1887 mentioned above, has been also drafted for Norway, and will be laid before the Storting at their next Session for adoption.

Count Ehrensvärd observes that the legislation in the United Kingdom is based altogether on the International Convention of Paris, 1883.

As regards the decision voted by the Conference of Rome in 1886, in reference to the seizure of articles carrying a false statement of origin, a disagreement having been manifested on the subject among the members of the Union for the Protection of Industrial Property, the King's Government, although they have notified their adhesion to the work of the Conference, have not so far thought themselves obliged to take into consideration the modifications in the present legislation to which these decisions might give rise.

I have, &c.

(Signed) EDWIN CORBETT.

Inclosure in No. 80.

Count Ehrensvärd to Mr. Corbett.

M. le Ministre,

Stockholm, le 29 Octobre, 1887.

J'AI eu l'honneur de recevoir votre note du 12 de ce mois par laquelle vous avez bien voulu me transmettre des copies de la Loi sur les marques de commerce passée dernièrement en Angleterre ("Merchandise Marks Act, 1887"), ainsi que d'un Mémoire expliquant les dispositions de cette Loi.

En vous remerciant de cette communication je me permets, par suite des observations dont vous avez bien voulu l'accompagner, de joindre à ce pli des copies, en partie en traduction Française, des Lois qui, dans les Royaumes-Unis, régissent la propriété industrielle, à savoir :—

Pour la Suède :—

Ordonnance Royale du 16 Mai, 1884, sur les brevets d'invention ;

Loi du 5 Juillet, 1884, sur la protection des marques de fabrique et de commerce ; et

Loi du 13 Juillet, 1887, sur les noms commerciaux et la procuration.

Pour la Norvège :—

Loi du 16 Juin, 1885, sur les brevets d'invention ; et

Loi du 26 Mai, 1884, sur la protection des marques de fabrique et de commerce.

Un Projet de Loi sur les noms commerciaux et la procuration conforme à la Loi Suédoise de 1887 susmentionnée, a été élaboré également pour la Norvège et sera soumis à l'approbation du "Storting" Norvégien à sa prochaine Session.

Ainsi que vous voudrez bien vous convaincre par l'étude de ces documents, la législation des Royaumes-Unis sur la matière en question se trouve en tous points basée sur la Convention Internationale de Paris de 1883.

Quant aux décisions votées par la Conférence de Rome de 1886 sur la saisie des produits portant une indication mensongère de provenance, un désaccord s'étant manifesté à ce sujet, ainsi que vous le savez, entre les membres de l'Union pour la protection de la propriété industrielle, le Gouvernement du Roi, bien qu'il ait notifié son adhésion à l'œuvre de la Conférence, n'a pas encore cru devoir prendre en considé-

* Not printed.

ration les modifications à la législation actuelle auxquelles ces décisions pourraient donner lieu.

Agréez, &c.
(Signé) EHRENSVÄRD.

(Translation.)

M. le Ministre,

Stockholm, October 29, 1887.

I HAVE had the honour to receive your note of the 12th instant, in which you transmitted me copies of the Merchandize Marks Act of 1887, as well as a Memorandum explaining the nature of the Act.

While thanking you for this communication, I allow myself, in reply to the observations therein contained, to transmit to you copies, partly translated into French, of the Laws of the United Kingdom (of Sweden and Norway) regulating industrial property, viz.:—

For Sweden:—

Royal Decree of the 16th May, 1884, on patents for inventions;

Law of the 5th July, 1884, on protection of trade-marks; and

Law of the 13th July, 1887, regarding trade names and powers of procuration.

For Norway:—

Law of the 16th June, 1885, on patents for inventions; and

Law of the 26th May, 1884, for the protection of trade-marks.

A Project of Law relative to trade names and powers of procuration, similar to the Swedish Law of 1887 mentioned above, has also been drafted for Norway, and will be submitted for the assent of the Storthing at their next Session.

As you will perceive by reading these documents, legislation in Sweden and Norway on the matter in question is on all points based upon the International Convention of Paris of 1883.

As regards the decisions voted by the Conference in Rome in 1886 with reference to the seizure of articles bearing a false statement of origin, a disagreement having been, as you are aware, manifested among the members of the Union for the Protection of Industrial Property, the King's Government, although they have notified their adhesion to the recommendations of the Conference, have not so far thought themselves obliged to take into consideration the modifications in the present legislation to which these decisions might give rise.

Accept, &c.
(Signed) EHRENSVÄRD.

No. 81.

Foreign Office to Board of Trade.

Foreign Office, November 25, 1887.

[Transmits copy of Mr. Corbett's despatch of November 7, 1887, with copies of Inclosures: *ante*, No. 80.]

No. 82.

London Chamber of Commerce to the Marquis of Salisbury.—(Received January 19.)

My Lord,

Botolph House, Eastcheap, January 18, 1888.

"THE Merchandize Marks Act, 1887," although in force since September last, has come more fully into operation under the two Orders in Council which have had effect since the 1st of the present month, and which deal more especially with the action of Her Majesty's Customs and the marking of watches.

This Chamber has from the first been generally in favour of the provisions of this Act, believing that in the long run it will prove of value in maintaining the reputation of British manufactures and in promoting a higher level of integrity in commercial operations. There is one respect, however, in which the Act will probably prove detrimental to British interests in the present if not in the long run. It will undoubtedly assist in promoting the shipment of a considerable proportion of those goods of foreign manufacture which have passed through the hands of British firms via foreign vessels direct to the foreign country of consumption instead of by British bottoms, as formerly. A certain portion, perhaps, of these foreign-made goods may

be marked in a manner contrary to the Act, and will seek protection from the provisions of the Act in this manner, but the impression created by this legislation in foreign countries will also assist in the shipment of goods which are properly marked by foreign vessels direct to their destination. Foreign manufacturers and foreign merchants will undoubtedly do their best to take such advantage as they can of the Act to transact their business without British intervention whatsoever. It is against this danger, which is daily becoming a more definite and a more important one, that this Chamber seeks to guard, by requesting your Lordship to endeavour, through Her Majesty's Ambassadors abroad, to take the earliest and the most active efforts to induce all foreign Governments with which your Lordship may be in connection to adopt enactments similar to those of the Merchandize Marks Act, based, as these are, upon the International Property Convention, to which most nations have adhered.

As the Merchandize Marks Act was promoted by the direct instrumentality of Her Majesty's Government, your Lordship will admit that the mercantile community have a legitimate claim on Her Majesty's Government that every step should be taken to prevent that loss to the export trade of this country which will undoubtedly arise unless foreign nations are induced to adopt and apply similar legislation at the earliest possible date.

I am, &c.
(Signed) KENRIC B. MURRAY, *Secretary.*

No. 83.

Foreign Office to Board of Trade.

Sir,

Foreign Office, January 25, 1888.

I AM directed by the Marquis of Salisbury to transmit to you, to be laid before the Board of Trade, a copy of a letter from the London Chamber of Commerce relative to the probable detrimental effect to British interests, in certain cases, of "The Merchandize Marks Act, 1887;"* and his Lordship would be glad to be favoured with the opinion of the Board of Trade on the points raised.

With regard to the concluding portion of the letter, Lord Salisbury would propose to communicate to the London Chamber of Commerce the substance of the Circular of the 8th October last to Her Majesty's Representatives abroad showing the steps taken by Her Majesty's Government with the view of inducing foreign Governments to initiate legislation in the same direction as the British Act; and, should the Board of Trade see no objection thereto, his Lordship would also propose to communicate the Memorandum explanatory of the Act drawn up by the Board of Trade, and which accompanied the Circular in question.

I am, &c.
(Signed) JAMES FERGUSSON.

No. 84.

Board of Trade to Foreign Office.—(Received January 28.)

Sir,

Board of Trade, London, January 26, 1888.

I AM directed by the Board of Trade to transmit herewith a communication they have received from Messrs. James Currie and Co., suggesting that Her Majesty's Consuls at foreign ports should receive instructions to make known abroad the provisions of "The Merchandize Marks Act, 1887."

I have, &c.
(Signed) GEORGE J. SWANSTON.

* No. 82.

Inclosure in No. 84.

The Leith, Hull, and Hamburg Steam Paket Company to Board of Trade.

Sir,

Leith, January 23, 1888.

WE are advised from the Continent that much inconvenience is caused to the exporters there through the new Merchandize Marks Act not being sufficiently known. We would therefore respectfully suggest that the Consuls at foreign ports should receive instructions to make the Act known abroad.

Yours, &c.

(Signed)

JAMES CURRIE AND Co.

No. 85.

Foreign Office to Board of Trade.

Sir,

Foreign Office, January 31, 1888.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 26th instant, inclosing a communication from Messrs. James Currie and Co., suggesting that Her Majesty's Consuls at foreign ports should receive instructions to make known abroad the provisions of "The Merchandize Marks Act, 1887."

In reply, I am to state that Lord Salisbury sees no objection to this course, and his Lordship would suggest that a short Notification explanatory of the Act should be prepared by the Board of Trade, to the effect of the Memorandum previously prepared and sent to Her Majesty's Representatives abroad, which could be sent for exhibition in the British Consulates.

I am, &c.

(Signed)

P. CURRIE.

No. 86.

Consul-General Nathan to the Marquis of Salisbury.—(Received February 1.)

My Lord,

Vienna, January 30, 1888.

I HAVE the honour to inform your Lordship that since the Merchandize Marks Act of 1887 came into operation, inquiries are continually addressed to me by Austrian manufacturers and exporters with reference to the provisions of the said Act, and especially to the necessity of Austrian goods sent to England and India, or transit to the Colonies, being accompanied by a certificate showing their Austrian origin. Being without any instructions respecting the requirements of the said Act, I humbly request that the same may be given to me.

I have, &c.

(Signed)

GUST. NATHAN.

No. 87.

Foreign Office to Consul-General Nathan.

Sir,

Foreign Office, February 4, 1888.

WITH reference to your despatch of the 30th ultimo, I am directed by the Marquis of Salisbury to acquaint you that a Notification relative to "The Merchandize Marks Act, 1887," is being prepared for exhibition in the British Consulates abroad, and that instructions on this subject will be shortly sent to you.

I am, &c.

(Signed)

JAMES FERGUSSON.

Board of Trade to Foreign Office.—(Received February 7.)

Sir,

Board of Trade, London, February 7, 1888.

I AM directed by the Board of Trade to acknowledge the receipt of your letter of the 25th ultimo, inclosing copy of a communication from the London Chamber of Commerce touching the probable effect on British interests in certain cases of "The Merchandize Marks Act, 1887."

In reply, I am to observe, for the information of Lord Salisbury, that the Act of last Session was passed with the view of preventing the fraudulent use of marks, and that it materially strengthened the power of the Customs authorities to stop the entry of goods so marked into this country. It was foreseen that, where foreign goods had been improperly marked and forwarded through this country from abroad for transshipment to the Colonies or to foreign countries, there might be some risk that the difficulties interposed by the new Act would lead to the importation into such Colonies or foreign countries of the goods wrongly marked directly from the country of origin. To that extent, perhaps, the shipping trade may be affected. But this possibility was foreseen, was duly weighed, and was regarded as being an inferior consideration to the purification of trade.

One of the main principles of the Merchandize Marks Act is that every country and place should have the credit and advantage of its own manufactures, and against that principle the Board of Trade do not understand that the Chamber of Commerce contend.

Therefore, it is probable that the best assistance to be given in the state of affairs urged by the Chamber of Commerce would be by following the suggestion contained in the last paragraph of your letter, to the effect that the London Chamber of Commerce should be made acquainted with the substance of the Circular of the 8th October last to Her Majesty's Representatives abroad, and the Memorandum, drawn up by this Board, which accompanied this Circular.

As Lord Salisbury is aware, with a view to minimize the present evil, the Colonies have been asked to adopt a Law similar to the Act in question.

I have, &c.

(Signed) COURTENAY BOYLE.

Foreign Office to London Chamber of Commerce.

Sir,

Foreign Office, February 7, 1888.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 18th ultimo on the subject of the probable effect on British interests in certain cases of "The Merchandize Marks Act, 1887."

In reply, I am to state that the Act of last Session was passed with the view of preventing the fraudulent use of marks, and that it materially strengthened the power of the Customs authorities to stop the entry of goods so marked into this country.

It was foreseen by Her Majesty's Government that, where foreign goods had been improperly marked and forwarded through this country from abroad for transshipment to the Colonies or to foreign countries, there might be some risk that the difficulties interposed by the new Act would lead to the importation into such Colonies or foreign countries of the goods wrongly marked directly from the country of origin. To that extent the shipping trades may be affected. But this possibility was foreseen, duly weighed, and was regarded by Her Majesty's Government as being an inferior consideration to the purification of trade.

One of the main principles of the Act, as the London Chamber of Commerce is aware, is that every country should have the credit and advantage of its own manufactures, and against that principle it is not understood that the Chamber contend.

I am also to inform you that a Circular was addressed on the 8th October last to Her Majesty's Representatives in those countries who are parties to the International Union for the Protection of Industrial Property, inclosing copies of "The Merchandize Marks Act, 1887," with copies of a Memorandum explaining the nature of its provisions, for communication to the Governments of those countries.

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I am to inclose a copy of the Memorandum in question for the information of the London Chamber of Commerce.*

It was also pointed out to Her Majesty's Representatives that in framing the Act Her Majesty's Government had sought to protect not only the interests of British subjects, but also those of subjects of foreign States, by providing remedies against the fraudulent practices in question, whether committed to the detriment of British or foreign manufacturers, and that Her Majesty's Government felt confident that the passing of the Act would be recognized by foreign Governments as an attempt to carry out in their complete spirit the principles of the Union, of which the main motive is the prevention of fraudulent practices of this description. And they were instructed to state, in communicating the Act and Memorandum, that whilst Her Majesty's Government invited a careful consideration of the Act, they appealed with some confidence to the States comprising the International Union to take any steps which might be in their power to initiate legislation in the same direction, whereby reciprocal protection might be afforded abroad in similar circumstances to British subjects.

I am to add that, with a view to minimize the present evil, the British Colonies have been invited to adopt a Law similar to the Imperial Act.

I am, &c.

(Signed) JAMES FERGUSSON.

No. 90.

Board of Trade to Foreign Office.—(Received February 9.)

Sir,

Board of Trade, London, February 8, 1888.

REFERRING to your letter of the 31st ultimo, touching the suggestion that Her Majesty's Consuls at foreign ports should receive instructions to make known the provisions of "The Merchandize Marks Act, 1887," I am directed by the Board of Trade to state, for the information of Lord Salisbury, that, while they concur in the suggestion made, they are disposed to consider that the Memorandum already prepared on the subject might as it stands, or with the omission of those paragraphs which refer to the considerations leading to the passing of the measure, be properly exhibited at the Consulates.

Should, however, his Lordship be of opinion that a further note in briefer terms should be prepared, the Board of Trade will take the necessary steps to have the same prepared.

I am, &c.

(Signed) COURTENAY BOYLE.

No. 91.

Consul-General Dundas to the Marquis of Salisbury.—(Received February 11.)

My Lord,

Hamburgh, February 9, 1888.

INQUIRIES are daily made at this office with regard to the provisions and scope of the Merchandize Marks Act. As, in the absence of a copy of the Act itself, I find some difficulty in giving the desired information, I have the honour to ask your Lordship whether a copy of the Act could be supplied to this office, the possession of which would be of great assistance to me.

I have, &c.

(Signed) CHARLES S. DUNDAS.

No. 92.

Wolverhampton Chamber of Commerce to Foreign Office.—(Received February 14.)

Sir,

Wolverhampton, February 13, 1888.

THE President of the above Chamber having noticed that a Memorandum has been sent out by the Foreign Office to the Governments of certain foreign countries

* Inclosure in No. 73.

explaining the nature of the provisions of "The Merchandize Marks Act, 1887," and that a copy of this Memorandum has been forwarded to the London Chamber of Commerce, instructs me to respectfully ask that my Chamber may also be furnished with a copy of the Memorandum, as the subject to which it refers is one of the most vital importance to the large manufacturing district represented by my Chamber.

I am, &c.

(Signed) STEPHEN WATKINS, *Secretary.*

No. 93.

Mr. Petre to the Marquis of Salisbury.—(Received February 15.)

My Lord,

Lisbon, February 10, 1888.

WITH reference to my despatch of the 12th October last, reporting that I had addressed a note to the Portuguese Government in accordance with the instructions conveyed to me in your Lordship's despatch of the 8th October, relating to fraudulent marks on merchandize, I have the honour to inclose the translation of a note from M. de Barros Gomes in reply to that communication. It is dated, I presume by mistake, as I only received it yesterday, the 8th ultimo.

The Portuguese Government are willing to alter the law in the sense of rendering the protection of industrial property more effectual, and of extending to British subjects in Portugal the same protection enjoyed by Portuguese subjects in Great Britain with respect to trade-marks, but they consider it expedient to wait until other countries have agreed to a joint plan of protection, and they cannot therefore fix a time for laying a Bill with that object before the Cortes.

I have, &c.

(Signed) GEORGE G. PETRE.

Inclosure in No. 93.

Senhor de Barros Gomes to Mr. Petre.

(Translation.)

Your Excellency,

Lisbon, January 8, 1888.*

I HAVE before me the note which your Excellency addressed to me on the 12th October, 1887, in which you expressed a wish that the Portuguese Government should take such steps as might be in their power, in order that, by means of identic legislation in this country to that which is in force in England on the subject of marks on merchandize, British subjects in Portugal should be afforded the same protection that is accorded to Portuguese subjects in England.

I have the honour to state to your Excellency, in reply, that His Majesty's Government is willing to modify the Law of the 4th June, 1883, in the sense of rendering the protection of industrial property more effectual, but it is not as yet able to say precisely at what time the necessary Bill will be laid before the Cortes.

With regard to the Bill, the Government has made up its mind to insert therein the necessary provisions in order that the same protection which the law of England accords to Portuguese subjects in Great Britain as regards marks on merchandize or trade-marks may be extended to British subjects in Portugal.

Considering, however, that this matter is intimately connected with the interpretation to be placed on the Additional Article to the Xth Article of the Convention of Paris of the 20th March, 1883, voted in the Conference at Rome, the ratification of which has given rise to so many doubts, His Majesty's Government consider it expedient to wait until other countries shall have assented to a joint plan establishing a more effectual protection of industrial property, in order that reciprocal protection may likewise be afforded in those countries to our products.

We are particularly interested that the denomination of products of a generic nature—to which reference is made in the 4th period of the said Additional Article—should never include the so-called port and Madeira wines made at other places than those two mentioned above, just as England is specially interested that articles of cutlery made at places other than Sheffield should not be marked with that name.

* ? February 8.

Nevertheless, it will be difficult to come to a final decision before next year, in view of the result of the Conference which is to be held at Madrid.

I avail, &c.
(Signed) BARROS GOMES.

No. 94.

Foreign Office to Consul-General Dundas.

Sir, *Foreign Office, February 15, 1888.*

WITH reference to your despatch of the 9th instant, I am directed by the Marquis of Salisbury to acquaint you that a Notification relative to the Merchandize Marks Act of 1887 is being prepared for exhibition in the British Consulates abroad, and that instructions on this subject will shortly be sent to you.

I am, &c.
(Signed) JAMES FERGUSSON.

No. 95.

Foreign Office to Wolverhampton Chamber of Commerce.

Sir, *Foreign Office, February 15, 1888.*

IN reply to your letter of the 13th instant, I am directed by the Marquis of Salisbury to transmit to you, for the information of the Wolverhampton Chamber of Commerce, a copy of the Memorandum explaining the provisions of "The Merchandize Marks Act, 1887,"* communicated to foreign Governments parties to the International Convention for the Protection of Industrial Property.

I am, &c.
(Signed) JAMES FERGUSSON.

No. 96.

Foreign Office to Board of Trade.

Sir, *Foreign Office, February 16, 1888.*

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 8th instant relative to the instructions to be sent to Her Majesty's Consuls at foreign ports on "The Merchandize Marks Act, 1887;" and I am to acquaint you, in reply, for the information of the Board of Trade, that his Lordship sees no objection to the Memorandum explanatory of the Act already prepared on the subject being exhibited in the British Consulates abroad just as it stands.

I am to add that Lord Salisbury is of opinion that it would be desirable to furnish Her Majesty's Consuls also with copies of the Customs Regulations and any Customs orders which can be properly communicated to them.

I am, &c.
(Signed) JAMES FERGUSSON.

No. 97.

The Marquis of Salisbury to Sir E. Malet.

(Extract.) *Foreign Office, February 18, 1888.*

WITH reference to the general question of fraudulent trade-marks and false indications of origin, I transmit to your Excellency a copy of a Circular addressed on the 8th October last to Her Majesty's Representatives to the Governments who were parties to the International Industrial Property Convention, inclosing a copy of "The Merchandize Marks Act, 1887," with a Memorandum explaining the nature of its provisions, for communication to those Governments.†

I have to request that your Excellency will make a communication in the sense

* Inclosure in No. 73.

† No. 73.

of this Circular to the German Government, as showing the earnest endeavours made by Her Majesty's Government to provide remedies against the fraudulent practices in question; and you will also again inquire, with reference to the communication addressed to them by Mr. Scott on the 11th December, 1886, whether, in case they should not contemplate adhering to the International Property Convention, they would be disposed to negotiate with Her Majesty's Government a separate arrangement calculated to put a stop to the fraudulent practices against which the Additional Articles to the International Convention agreed to at the Conference at Rome are aimed.

No. 98.

Foreign Office to Board of Trade.

Sir,

Foreign Office, February 18, 1888.

I AM directed by the Marquis of Salisbury to transmit to you, for the information of the Board of Trade, a copy of a despatch from Her Majesty's Minister at Lisbon,* inclosing a copy of a note from the Portuguese Minister for Foreign Affairs in reply to the communication made to the Portuguese Government respecting "The Merchandize Marks Act, 1887."

I am, &c.
(Signed) JAMES FERGUSSON.

No. 99.

Lord Vivian to the Marquis of Salisbury.—(Received February 20.)

My Lord,

Brussels, February 19, 1888.

WITH reference to your Lordship's despatch of the 9th July last, instructing Mr. Gosselin to urge on this Government the expediency of coming to an agreement as to the signature of the proposed Additional Convention embodying the Additional Articles to the Industrial Property Convention which were agreed to at the Conference of Rome, I have the honour to inclose copy of Prince de Chimay's reply, stating that the Belgian Government, in agreement with that of Italy, prefer to postpone their decision on the Additional Articles in question until the next meeting of the Conference at Madrid, but that meanwhile they see no objection to the signature of the Regulations proposed by the Conference of Rome for the execution of the Convention of 1883, and have sent instructions in this sense to the Belgian Minister in Italy.

I have, &c.
(Signed) VIVIAN.

Inclosure in No. 99.

Prince de Chimay to Lord Vivian.

Milord,

Bruxelles, le 18 Février, 1888.

PAR un office du 11 Juillet dernier, M. Gosselin a bien voulu me faire part des vues du Gouvernement de Sa Majesté Britannique relativement à la signature éventuelle des Articles Additionnels à la Convention pour la Protection de la Propriété Industrielle qui ont été adoptés en 1886 par la Conférence de Rome.

Je crois utile de faire savoir à votre Excellence que, d'accord avec l'Italie, le Gouvernement du Roi estime que sa décision à l'égard de ces Articles devrait être différée jusqu'à la prochaine réunion d'une Conférence à Madrid en 1889. En effet, les dispositions des Articles Additionnels votés par la Conférence de Rome soulèvent des questions très importantes, qui sont à l'examen, et dont la Belgique désire, quant à présent, réserver la solution.

Néanmoins, le Gouvernement Belge ne voit pas d'objections à ce qu'il soit procédé

* No. 93.

à la signature du Règlement élaboré par la Conférence de 1886 pour l'exécution de la Convention Internationale du 20 Mars, 1883.

Des instructions congues en ce sens ont été récemment adressées au Ministre du Roi près la Cour d'Italie.

Je saisis, &c.
(Signé) Le Prince DE CHIMAY.

(Translation.)

My Lord,

Brussels, February 18, 1888.

IN a note of the 11th July last Mr. Gosselin was good enough to inform me of the views of Her Britannic Majesty's Government with regard to the eventual signature of the Additional Articles to the Convention for the Protection of Industrial Property which were adopted in 1886 by the Conference of Rome.

I think it advisable to inform you that the Government of the King, in agreement with the Government of Italy, is of opinion that any decision with regard to these Articles should be deferred to the approaching meeting of the Conference at Madrid in 1889. The nature of the Additional Articles voted by the Conference of Rome raises very important questions, which are under examination, and of which Belgium desires for the present to reserve the solution.

But the Belgian Government sees no objection to proceeding to the signature of the Regulations proposed by the Conference of 1886 for the execution of the International Convention of the 20th March, 1883, and instructions in this sense have been recently sent to the Belgian Minister at Rome.

I seize, &c.
(Signed) Le Prince DE CHIMAY.

No. 100.

Sir E. Malet to the Marquis of Salisbury.—(Received February 27.)

My Lord,

Berlin, February 25, 1888.

I HAVE the honour to transmit to your Lordship herewith copy of a communication which I have addressed to Count Bismarck, in compliance with the instructions contained in your Lordship's despatch of the 18th instant, with reference to the question of fraudulent trade-marks and false indications of origin, renewing the inquiry made by Mr. Scott on the 11th December, 1886, as to whether, if the Imperial Government should not contemplate adhering to the International Property Convention, they might be disposed to negotiate with Her Majesty's Government a separate arrangement with a view to putting a stop to the fraudulent practices against which the Additional Articles agreed to at the Conference of Rome are directed.

I have, &c.
(Signed) EDWARD B. MALET.

Inclosure 1 in No. 100.

Sir E. Malet to Count Bismarck.

(Extract.)

Berlin, February 24, 1888.

ON the 11th December, 1886, Mr. Scott had the honour to address to your Excellency a note drawing attention to the inadequacy of the existing Laws for the protection of trade-marks, with especial reference to the International Conference held at Rome in the early part of that year, and inquiring whether the Imperial Government contemplated adhering to the International Convention of 1883 for the Protection of Industrial Property, or, if not, whether they might be disposed to negotiate with Her Majesty's Government a separate arrangement of a reciprocal character with a view to putting a stop to the fraudulent practices against which the Additional Articles of the Roman Conference were aimed.

With reference to Mr. Scott's note, I have now the honour to transmit to your Excellency a copy of an Act dated the 23rd August of last year, entitled "An Act to consolidate and amend the Law relating to Fraudulent Marks on Merchandize," together with a Memorandum explaining the nature of its provisions, which have been communicated to the Governments parties to the International Industrial Property

Convention. In so doing it was pointed out that Her Majesty's Government, when framing this Act, had sought not only to protect the interests of British subjects, but also those of subjects of foreign States, by providing remedies against the fraudulent practices in question, whether committed to the detriment of British or foreign manufacturers, and that they therefore appealed with some confidence to the States in question to take such steps as might be in their power to initiate legislation in this direction, whereby reciprocal protection might be afforded abroad in similar circumstances to British subjects.

In laying these papers before your Excellency, I am instructed by Her Majesty's Principal Secretary of State for Foreign Affairs to point out the earnest endeavours which have been made by Her Majesty's Government to provide remedies against such fraudulent practices in the interests both of the manufacturers and of the public; and to renew the inquiry contained in Mr. Scott's note of the 11th December, 1886, above referred to, as to whether, in case the Imperial Government should not contemplate adhering to the International Property Convention, they would be disposed to negotiate with Her Majesty's Government a separate arrangement calculated to put a stop to the fraudulent practices against which the Additional Articles to the International Convention agreed to at the Roman Conference are aimed.

No. 101.

The Marquis of Salisbury to Sir E. Malet.

Sir,

Foreign Office, February 28, 1888.

I HAVE received your Excellency's despatch of the 25th instant, inclosing a copy of a note which you have addressed to Count Bismarck with reference to the question of fraudulent trade-marks and false indications of origin, and I approve the terms of that note.

I am, &c.
(Signed) SALISBURY.

No. 102.

Mr. Gough to the Marquis of Salisbury.—(Received March 1.)

My Lord,

Rio de Janeiro, February 4, 1888.

I HAVE the honour to inclose copy and translation of a Decree, dated the 31st December last,* approving a series of Regulations for the execution of the Law of the 14th October last relative to trade-marks.

I have been verbally informed by Baron de Cabo Frio that the Imperial Government consider that by the above legislation they have secured, though in a different manner, the same object as that contemplated in the British Merchandize Marks Act of 1887, referred to in your Lordship's Circular of the 8th October last.

I have, &c.
(Signed) HUGH GOUGH.

No. 103.

Mr. J. G. Kennedy to the Marquis of Salisbury.—(Received March 5.)

My Lord,

Rome, February 29, 1888.

IN reply to your Lordship's Circular of the 8th October last, on the subject of legislation respecting fraudulent marks on merchandize, I have the honour to inclose translation of a note which I have received from Signor Crispi.

His Excellency states that the Italian Government, after examining the question, have concluded that it would not be advisable at present to alter the law now in force in Italy.

I have, &c.
(Signed) J. G. KENNEDY.

* Not printed.

Inclosure in No. 103.

Signor Crispi to Mr. J. G. Kennedy.

(Translation.)

M. le Chargé d'Affaires,

*Ministry of Foreign Affairs, Rome,
February 27, 1888.*

IN his note of the 28th October last his Excellency Sir John Savile transmitted to me the new English Law respecting trade-marks, and at the same time expressed, on behalf of the British Government, the wish that provisions similar to those contained in the said Law for the purpose of checking the abuse of marking goods with forged indications of origin might be enacted in Italy.

The Royal Italian Government has examined the question, but has been led to the conclusion that it would not be advisable, at present, to alter the legislation now in force in the kingdom for the protection of trade-marks on merchandize.

The legislation in question secures to foreign marks the same protection as is afforded to those belonging to Italians, and is even more favourable to the former than to the latter, in that it allows the deposit of foreign marks, lawfully registered in their countries of origin, even though they may not present those special features which the law exacts in the case of Italian marks.

The Italian law does not, it is true, extend its action to false indications of the origin of goods, but on this point it is supplemented by the provisions of the Convention of Paris of the 20th March, 1883, in cases which fall under the conditions provided by Article X of that Convention.

The Conference of Rome in 1886 wished to make some provision on this subject by proposing certain additions to the Paris Convention, but, as you are aware, its deliberations led to no practical result.

While waiting for the Conference which is to take place at Madrid in 1889 to re-examine the points in dispute, the Royal Italian Government does not think it advisable to introduce any changes in the domestic law by which the ownership of trade-marks is at present regulated.

While begging you to inform Her Majesty's Government of the above, I avail, &c.

(For the Minister),
(Signed) A. DAMIANI.

No. 104.

Sir A. Paget to the Marquis of Salisbury.—(Received March 12.)

My Lord,

Vienna, March 9, 1888.

THE Austrian Government has just introduced a measure for the protection of trade-marks. It is founded mainly on the existing Law of 1858, but its provisions differ therefrom in regard to the penalties imposed for falsification of marks, and in regard to the criminal procedure involved. It declares such falsification to be a criminal act, and to constitute a misdemeanour. It renders the introduction into commerce, or the offering for sale knowingly of any articles bearing a mark of which any other person may have the exclusive right of use, or the falsification of such marks, a misdemeanour punishable by imprisonment not exceeding six months and by fine up to 1,000 fl. (80l.). The same penalty is applicable even if the falsification of such marks be so minute that the buyer can only ascertain it by the exercise of special attention. The criminal procedure can only be effected by the introduction of the injured party.

The following trade-marks are prohibited: those which consist exclusively in portraits of the Emperor or Imperial family; those which consist of the State or other public coats of arms; those which are generally in use as indicating special classes of goods; those which offend against public morality or public susceptibility.

The registration of marks is provided for and must be renewed every ten years.

Existing Treaties are applicable to the protection of foreign forms or trade-marks.

I have, &c.
(Signed) A. PAGET.

Consul-General Nathan to the Marquis of Salisbury.—(Received March 16.)

My Lord,

Vienna, March 10, 1888.

I HAVE the honour to report to your Lordship that on the 7th instant the Austrian Government laid a Bill before Parliament which alters in some respects the now existing Law of the 7th December, 1858, with reference to trade-marks.

I have the honour to inclose two copies of said new Law,* and to give herewith a short extract.

According to the Law in existence, a wilful infringement of the right of a trade-mark is punished by a fine amounting from 25 to 500 florins, in addition to any punishment which might be inflicted according to the stipulations of the criminal law, to be investigated and punished by the administrative authorities, whilst, according to the new Law, the imitation of a registered trade-mark is considered a criminal act, and is to be investigated and punished by Judges of the criminal law.

Paragraph 23 of the new Law enacts that whoever wilfully sells goods illegally provided with a trade-mark, being the property of a third person, or whoever wilfully imitates a mark for the said purpose, is guilty of a misdemeanour, to be punished with imprisonment up to six months, or a fine up to 1,000 fl. Of this misdemeanour every one becomes guilty who wilfully sells, or for this purpose imitates, goods deceitfully provided with the name, the firm, the arms, or the business description of any merchant or manufacturer, or even who wilfully manufactures these above-named tickets or descriptions.

The same offence also takes place if the alterations are of such insignificant or unclear character that the difference could only be perceived by the buyer's applying special attention.

It is also prohibited to use mercantile marks containing exclusively images of the Emperor or of any member of the Imperial family, further coats of arms, and also such marks which offend against morality.

According to the old Law, two copies of trade-marks have to be deposited at the Chamber of Commerce, whereas, according to the new Law, besides these, two copies must also be deposited at the Ministry of Commerce, where a central register of marks is to be established.

A renewal of the registration of marks and a new payment of the registration fee of 5 fl. must take place from ten to ten years, otherwise the right expires.

Trade-marks which at present have not yet been registered ten years have the benefit of the protection of this new Law until the term of ten years expires, when a renewal must take place; but all those trade-marks registered longer than ten years ago will be cancelled unless a renewal takes place within three months of the time that the new Law becomes valid.

The protection of foreign trade-marks and names of firms has to take place in accordance with the Treaties and Conventions with the respective States.

I have, &c.

(Signed) GUST. NATHAN.

Mr. Petre to Foreign Office.—(Received March 16.)

MR. PETRE presents his compliments to Sir James Fergusson, and has the honour to transmit herewith two copies of the Portuguese Law on Trade-marks of the 4th June, 1883, together with a translation.

Lisbon, March 10, 1888.

Inclosure in No. 106.

Law.

(Translation.)

DOM LUIZ, by the Grace of God King of Portugal and of the Algarves, &c. We hereby notify to all our subjects that the Cortes have passed the following Law, which we sanction:—

* Not printed.

Chapter I.—*General Provisions.*

Article 1. Every manufacturer or merchant is entitled to mark any articles made by him, or in which he trades, by means of any special and distinguishing marks, and also to get them stamped by the State.

Art. 2. It is, however, absolutely requisite, in order that the rights of such manufacturers or merchants should be duly guaranteed in accordance with this Law, that they shall have complied with the conditions and formalities set forth therein.

Art. 3. The use of trade-marks, as well as the affixing of State stamps, shall only be obligatory in such cases as are especially mentioned in the Law or Regulations in force.

Chapter II.—*Trade-marks.*

Art. 4. Any marks that may be used for the purpose of distinguishing any manufactured goods or articles of trade shall be considered to be trade-marks, and use may be made for this purpose of any names or special designations, of any stamps, emblems, seals, embroidered lines or vignettes, drawings, reliefs, letters, devices, and also of the signatures of any individuals or firms in view of their distinguishing characteristics.

§. Nevertheless, the following cannot be accepted as trade-marks, viz.:—

Mere words, letters, or figures written out without any distinguishing signs;

No marks containing any words or drawings of an obscene or immoral nature will be admitted.

Art. 5. The following rules must be observed as regards the adoption of trade-marks:—

(1.) No manufacturer or merchant shall appropriate any mark used by any other person, or that may be taken for the mark of any other person.

(2.) It is not lawful for any person to insert in any trade-mark the name of any country, region, or place which is not the place of production of any articles so marked, unless it should be the custom and tradition to describe the products of a certain region of the country under the special designation of a place by which they are generally known;

Or the name of any manufactory or mercantile establishment upon any articles that shall not either have been made there, or that shall not be dealt in by it;

Or, finally, the name of any firm or proper name that they may not be entitled to make use of.

(3.) Every manufacturer or merchant that shall insert in his trade-mark the name of the country, region, or place, or shall specify the manufactory or mercantile establishment by which the articles so marked are made or dealt with, shall also be bound to add thereto the signature of the firm or his own name.

(4.) Every wine-grower especially who shall mention in his trade-mark the country or region where the wine shall have been produced is bound, in addition to the provisions set forth above, to specify the name of the vineyard where the wine may have been originally prepared, or else of that of the parish where such vineyard is situated.

Art. 6. For the intents and purposes of this Law, the ownership of trade-marks can only be recognized after their deposit and registration in due form.

§ 1. The first person to make use of any trade-mark, although he may have not deposited and registered it, shall have the right to complain against the deposit and registration, either of the said trade-mark, or of any other which may be taken for it, that may be attempted or may have actually been made, on behalf of any other person.

§ 2. No complaint will be admitted after six months shall have elapsed since the date of such deposit and registration, or if the complainant shall have made use of his trade-mark during more than six months without his having applied during that period for its deposit and registration.

§ 3. The complaint referred to in the foregoing paragraphs shall be drawn up in the form of protest and lodged in the Department charged in virtue of the 7th Article of this Law with the duty of receiving the deposits of trade-marks and of registering the same; but the deposit and registration shall not be cancelled until the ordinary Courts of Justice shall have decided, in accordance with the legislation in force, that such complaint is well founded.

Art. 7. Trade-marks are to be deposited and registered in the proper Department of the Ministry of Public Works, Commerce, and Industry, on application being made for the purpose.

§ 1. This application must be accompanied by three patterns of the trade-mark about to be deposited, and by a certificate proving that no such trade-mark, or any trade-mark that may resemble it to such an extent as to be taken for it, has been registered on behalf of some other person.

§ 2. The records of these deposits and registrations shall be entered in special books, from which the title-deeds of the ownership of trade-marks shall be drawn up, as well as any certificates that may be applied for.

§ 3. The fees mentioned in the respective Schedules will have to be paid for the said records, title-deeds, and certificates, as well as the fixed charge of 1 milreis (4s. 5d.) per each deposit and registration.

§ 4. The Department in the Ministry of Public Works, Commerce, and Industry charged with the duty of receiving the deposits and of registering the same will give publicity thereto in the "Diario do Governo."

§ 5. After the deposit and registration shall have been entered in the manner set forth in the foregoing paragraphs, another registration *in extenso* (and not an extract only) will have to be made in the public Register of the Commercial Tribunal of the place of domicile of the manufacturer or merchant that shall have applied for the registration of the trade-mark.

The said registration will be made on presentation of a certificate of the registration made in the Department of Public Works, Commerce, and Industry, and of a duly authenticated pattern of the trade-mark.

§ 6. A fixed fee of 1 milreis (4s. 5d.) will have to be paid for the registration referred to in the 5th section of this Article in addition to any other fees that may by law be chargeable.

Art. 8. The transmission of the ownership of any trade-marks will be carried into effect in accordance with the provisions of law; but in order that it may be entitled to the benefit of this Law, a fresh deposit and registration will have to be made in accordance with the foregoing sections.

Chapter III.—*Affixing of Official Stamps.*

Art. 9. An official stamp may be affixed to any trade-marks that shall have been duly deposited and registered in accordance with the foregoing Article.

Art. 10. The stamp establishes a legal presumption as to the authenticity of the trade-marks to which it may have been affixed.

Art. 11. The stamp shall be affixed in the proper Department of Public Works, Commerce, and Industry, on application being made for that purpose.

§ 1. Applicants will have to specify the number and qualities of the trade-marks to be authenticated, and the application will have to be signed by the owners themselves or by their attorneys, and their signatures must be duly certified to; moreover, the application must be accompanied by a certificate proving that the deposit and registration of the trade-marks in question has been duly effected.

§ 2. The stamp ought to be affixed, whenever it may be possible to do so, to a part of the mark in such a manner as not to deface it.

Art. 12. The State will levy a fixed rate of 200 reis (10½d.) for each stamp.

Chapter IV.—*Penal Provisions.*

Art. 13. The punishment of imprisonment from one to six months, and a fine of the amount of from 10 to 100 milreis (2l. 4s. 5d. to 22l. 4s. 5d.), or else the fine alone, shall be inflicted as follows:—

(1.) On those counterfeiting any trade-mark.

(2.) On those who shall fraudulently make use of another person's mark or of a counterfeited mark.

(3.) On those who shall, in bad faith, sell, or expose for sale, any articles with a counterfeited mark or with one which is fraudulently used.

(4.) On those infringing the rules laid down in Nos. 2, 3, and 4 of Article 5.

§. The counterfeiting of a trade-mark consists in the integral and fraudulent reproduction of another person's trade-mark, irrespective of the means which may have been made use of for that purpose.

Art. 14. Imprisonment from fifteen days to three months, and a fine of the amount of from 5 to 50 milreis (1l. 2s. 2d. to 11l. 2s. 2d.), or else the fine alone, shall be inflicted in the following cases:—

(1.) On those imitating any trade-mark in such a manner as may deceive the purchaser.

(2.) On those who shall fraudulently make use of any mark which, from the fact of its being an imitation of another mark, may be taken for it.

(3.) On those who shall sell, or expose for sale, in bad faith, any articles with any trade-marks in the circumstances set forth in the foregoing numbers.

§. In order to constitute imitation in accordance with this Article, it is not requisite that the similarity between the two trade-marks should be complete; it is sufficient that the imitation should contain any indications tending to deceive the purchaser as regards the nature or origin of the article sold.

Art. 15. Any persons counterfeiting the seals of the State, or fraudulently using counterfeited seals, will be liable to the penalties imposed in Article 228 of the Penal Code and in its paragraphs.

§. Persons selling or exhibiting for sale, in bad faith, any marks with counterfeit stamps affixed thereto will be liable to the same punishment.

Art. 16. Double amount of the penalties imposed in Articles 13 and 14 shall be inflicted in the event of a repetition of any of the offences mentioned therein.

§ 1. Whenever a delinquent shall, after having been condemned in virtue of a sentence duly confirmed by the Courts of Justice on account of any of the offences referred to in this Law, commit a fresh offence of the same nature before the lapse of five years from the date of that condemnation, this fresh offence shall be considered to be a repetition of the offence.

§ 2. Whenever the first offence shall have been condoned by an amnesty, or when the delinquent shall have been "rehabilitado" (rehabilitated) by the reversal of the sentence against him, a fresh offence will not be considered to be a repetition of the same.

Chapter V.—*Judicial Proceedings and Jurisdiction.*

Art. 17. The owners of any trade-marks who may consider themselves injured by any of the offences punishable in virtue of the Articles 13, 14, and 15 may institute either criminal proceedings or actions for recovery of compensation for damages.

§. These suits cannot be instituted conjointly.

Art. 18. The "Procureurs du Roi" are charged with the following duties :—

(1.) To further the trial of any persons accused of any offences punishable in virtue of Articles 13 and 15.

(2.) To take part in the proceedings instituted by any private persons for the purpose of the infliction of the penalties imposed in Article 14.

§. Nevertheless, the rule laid down in Article 27, No. 4, of the Penal Code, is to hold good.

Art. 19. The Commercial or Civil Tribunals are exclusively competent to try :—

(1.) Any suits for the purpose of awarding compensation for losses and damages in the cases specified in Articles 13 and 15.

(2.) Any suits for the purpose of ascertaining any of the matters referred to in Article 14, fixing at the same time the amount of compensation.

§. In the districts where there are Commercial Tribunals the suits mentioned in this Article, provided they have reference to trade-marks, will be tried by them. The Civil Courts will try any suits concerning trade-marks in the districts where there are no Commercial Tribunals.

Art. 20. The Commercial Courts are exclusively competent to try :—

(1.) Any suits for the purpose of ascertaining the matters and inflicting the penalties referred to in Articles 13 and 15.

(2.) Any suits for the purpose of inflicting the penalties imposed in Article 14.

§. Any of these suits that may be instituted on the grounds set forth in Article 15 will be tried summarily before a magistrate.

Art. 21. The suits mentioned in No. 1 of Article 19 shall only be instituted in virtue of a sentence delivered by the proper Criminal Court, and finally confirmed, in conformity with No. 1 of Article 20, and provided the charge, by reason of any offences under Articles 13 and 15, shall have been declared to be fully proved.

§. In such a case the sentence of the Criminal Court constitutes a full proof as to the commission of the act forming the matter of the charge; and the Commercial or Civil Court will only have to decide whether compensation for the losses and damages caused thereby is due or not, as well as the amount of the same.

Art. 22. In like manner, the suits referred to in No. 2 of Article 20 cannot be instituted, unless any of the offences mentioned in Article 14 shall have been proved

by means of a Judgment delivered in the proper Commercial and Civil Court, in accordance with Article 19, No. 2, and its paragraph, and finally confirmed.

§. In such a case the Judgment of the Commercial or Civil Court shall afford a complete proof as to the commission of the charge made, and the Judge of the Criminal Court will only have to inflict the proper penalty.

Art. 23. As regards any of the suits referred to in this Law, the complainant will have the option of selecting either the jurisdiction of his own domicile or of that of the defendant.

Art. 24. In the event of there being a suspicion as to the commission of any of the offences mentioned in Articles 13, 14, and 15, the parties interested, or the "Procureurs du Roi," may address a Petition to the proper Courts, and in accordance with the Law on this subject, asking them to seize any articles that may be improperly and fraudulently marked or stamped, as well as any instruments or utensils especially used for imitating any trade-marks, or for counterfeiting any such marks or stamps.

§ 1. Should such seizure be ordered at the request of any interested party, he must sign a bond acknowledging his responsibility for any losses and damages.

§ 2. The seizure shall become null and void should the applicant fail to institute the proper proceedings within the period of thirty days.

Art. 25. The articles seized will serve as a security for the payment either of the fine due to the Exchequer, should the seizure have been effected in consequence of an application of the "Procureur du Roi," or else of the amount of compensation for losses and damages, should it have been effected at the request of an interested party.

Art. 26. Any stamps that are recognized to be false, any marks that are counterfeited, that are imitations, or that are not in accordance with the requirements of this Law, as well as the instruments and utensils specially used for the making of these marks and stamps, shall be rendered useless whenever it may be possible to do so without injury to the goods thus marked.

Art. 27. The Court that shall give a decision with respect to any offences specified in Articles 13, 14, and 15 may issue an order for its Judgment to be published in certain newspapers named by the Court, and for it to be affixed during eight days at the door of the establishment belonging to the delinquent.

Chapter VI.—*Provisions relative to Foreigners.*

Art. 28. Foreigners who are manufacturers or merchants in Portugal shall enjoy the same rights and guarantees as are accorded to Portuguese subjects, provided they comply with the provisions of this Law.

Art. 29. Foreign manufacturers or merchants not residing in Portugal shall enjoy in this country the same rights and guarantees as are accorded to Portuguese subjects by the laws of their respective countries.

Art. 30. Foreign products imported into Portugal with a Portuguese trade-mark, or bearing the name or signature of any manufacturer or merchant residing in this country, or of any mercantile establishment or manufactory here, or else the name of some place in this realm, shall be seized at once on the same being entered at any Portuguese custom-house.

§. The Director of the custom-house where such products may be entered shall order them to be seized, and a record of the fact is to be drawn up for transmission to the "Procureur du Roi" with a view to the instituting of the proper proceedings.

Art. 31. The provision set forth in the preceding Article shall cease *in toto* or *in parte*, according to the circumstances of the case, on presentation of an authentic or authenticated document to prove that the trade-mark or the name or signature attached to the goods imported from abroad was used with the assent of the party interested.

Art. 32. The stipulations of any Treaties or Conventions which have already or may hereafter be concluded between Portugal and any foreign nations are in no way affected by the provisions contained in this Law.

Chapter VII.—*Transitory Provisions.*

Art. 33. During the first year of the existence of this Law the Petition for the deposit and registration of any trade-marks must be accompanied by the negative certificate referred to in Article 7, § 1, and also by a certificate of a Judgment delivered in a suit ("de justificação avulsa") in which the petitioner shall have

been judicially recognized as the real author or owner of the trade-mark to be registered.

§. The trade-marks already registered in the Commercial Court are excepted from this rule, inasmuch as these can be deposited and registered in the Department of Public Works on presentation of the certificate proving that previous registration.

Art. 34. The Government shall draw up the necessary schedules and regulations for carrying this Law into effect.

Art. 35. Any Laws contrary thereto are hereby revoked.

We command therefore, &c.

The President of the Council of Ministers and Minister and Secretary of State for Finance, and the Ministers and Secretaries of State for Ecclesiastical Affairs and Justice and of Public Works, Commerce, and Industry, shall cause this Law to be printed, published, and put in circulation.

Given at the Palace, June 4, 1883.

(Countersigned)

A. M. F. P. DE MELLO.

J. M. DE VILHANA.

E. R. H. RIBEIRO.

(Signed)

THE KING.

No. 107.

Lord Vivian to the Marquis of Salisbury.—(Received April 9.)

My Lord,

Brussels, April 7, 1888.

THE effect on Belgian trade and industry of the operation of the Merchandize Marks Act is attracting the serious attention of the Chambers of Commerce in Belgium.

It is stated that several Belgian manufacturers are losing the large orders for goods they had been in the habit of supplying to British firms, by whom they were marked and re-exported to our Colonies and other countries as British merchandize.

This practice, which appears to have extensively prevailed, is put an end to by the new Act, and Belgian manufacturers can only hope to recover the loss of this indirect trade by establishing direct commercial relations with the countries to which their manufactures have hitherto been exported as British merchandize.

I have, &c.

(Signed)

VIVIAN.

No. 108.

Foreign Office to Board of Trade.

Sir,

Foreign Office, April 11, 1888.

I AM directed by the Marquis of Salisbury to transmit to you, for the information of the Board of Trade, and for such observations as they may wish to make thereon, a copy of a despatch from Her Majesty's Minister at Brussels relative to the effect on Belgian trade and industry of "The Merchandize Marks Act, 1887."*

I am, &c.

(Signed)

JAMES FERGUSSON.

No. 109.

Board of Trade to Foreign Office.—(Received April 20.)

Sir,

Board of Trade, London, April 19, 1888.

REFERRING to previous communications respecting colonial legislation on the subject of merchandize marks, I am directed by the Board of Trade to transmit to you herewith, for the information of the Secretary of State, copy of a further Circular despatch addressed by Lord Knutsford to the Colonies, which have not yet replied to

* No. 107.

his Lordship's Circular despatch of the 8th September last, and also copies of further despatches which have been received from certain Colonies on the subject.

I have, &c.

(Signed) COURTENAY BOYLE.

Inclosure 1 in No. 109.

Circular addressed to Governors of Colonies.

Sir,

Downing Street, March 5, 1888.

I HAVE the honour to request that you will favour me, at your earliest convenience, with a reply, if you shall not already have done so before receiving this despatch, to my Circular despatch of the 8th September last, inclosing a copy of "The Merchandize Marks Act, 1887," and urging upon your Government the desirability of similar legislation.

I am aware that scarcely sufficient time has elapsed for me to receive replies from all the Colonies; but the great interest taken in the question, especially in the House of Commons and by Chambers of Commerce, and the very great importance attached to securing uniformity of action in the matter between the Imperial and Colonial Governments, and the frequent requests made to me for information as to the action taken in the various Colonies, have induced me thus early to call your attention to my Circular despatch on the subject.

I have, &c.

(Signed) KNUTSFORD.

Inclosure 2 in No. 109.

Mr. Fleming to Sir H. Holland.

Sir,

Government House, Mauritius, February 7, 1887.

WITH reference to your predecessor's Circular despatch of the 18th April, 1884, and in reply to the concluding paragraph of your Circular despatch of the 8th September, 1887, I have the honour to report that a draft Ordinance has been prepared by the Procureur-General, Mr. L. Cox, "To consolidate and amend the Law relating to fraudulent marks on Merchandize," which will be introduced at the next session of the Council of Government.

I have, &c.

(Signed) F. FLEMING.

Inclosure 3 in No. 109.

Governor Sir W. Robinson to Sir H. Holland.

Sir,

Adelaide, January 23, 1888.

I HAVE the honour to acknowledge the receipt of your Circular despatch, with its inclosures, of the 8th September last, on the subject of legislation with reference to fraudulent marks on merchandize.

I submitted the despatch in question to my Ministers, who inform me that they contemplate dealing with the matter somewhat on the lines suggested at the earliest convenient opportunity.

I have, &c.

(Signed) W. C. F. ROBINSON.

Inclosure 4 in No. 109.

The Marquis of Lansdowne to Lord Knutsford.

My Lord,

Government House, Ottawa, March 20, 1888.

WITH reference to your Lordship's Circular despatch of the 8th September last, transmitting a copy of "An Act to consolidate and amend the Law relating to fraudu-

lent marks on merchandize," passed during the then present Session of the Imperial Parliament, and also certain correspondence relative thereto, and urging upon my Government the desirability of similar legislation, *mutatis mutandis*, in order, as far as possible, to secure uniformity and to check fraud, I have the honour to forward herewith a copy of an approved Minute of the Privy Council concurring in the recommendation of the Sub-Committee that similar legislation, *mutatis mutandis*, be asked for during the present Session of the Canadian Parliament.

I have, &c.
(Signed) LANSDOWNE.

Inclosure 5 in No. 109.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 17th March, 1888.

THE Committee of the Privy Council have had under consideration a despatch, dated the 8th September, 1887, from the Right Honourable the Secretary of State for the Colonies, transmitting copy of "An Act to consolidate and amend the Law relating to fraudulent marks on merchandize," passed during the then present Session of the Imperial Parliament, and also certain correspondence relative thereto, and urging upon the Canadian Government the desirability of similar legislation, *mutatis mutandis*, in order, as far as possible, to secure uniformity and to check fraud.

The Sub-Committee to whom the despatch and inclosure were referred, recommend that similar legislation, *mutatis mutandis*, be asked for during the present Session of the Parliament of Canada.

The Committee concurring advise that your Excellency be moved to inform the Right Honourable the Secretary of State for the Colonies in this sense in answer to his despatch of the 8th September, 1887.

All which is respectfully submitted.

(Signed) JOHN J. MCGEE,
Clerk Privy Council.

Inclosure 6 in No. 109.

Governor Sir T. O'Brien to Lord Knutsford.

My Lord,

Heligoland, April 3, 1888.

IN reply to your Lordship's Circular of the 5th ultimo, drawing my attention to your previous despatch (Circular) of the 8th September last, I have the honour to observe that I did not take any action in the matter, as from there being no merchandize exported from this island, the Circular in question did not seem applicable to Heligoland, and as, I regret to say, I see no probability in the future of any trade arising in this Colony that would require such marks, legislation in this direction, at all events for the present, would appear to be unnecessary.

I have, &c.
(Signed) T. O'BRIEN.

No. 110.

Circular addressed to Her Majesty's Consuls abroad.

Sir,

Foreign Office, April 24, 1888.

I AM directed by the Marquis of Salisbury to transmit to you a copy of a Memorandum explanatory of "The British Merchandize Marks Act, 1887," together with a copy of the Act itself and of the Customs Regulations which have been issued by the British authorities to give effect to its provisions.*

His Lordship desires that these documents may be exhibited in Her Majesty's Consulate to any persons who may make inquiry on the subject.

I am, &c.
(Signed) T. V. LISTER.

No. 111.

Board of Trade to Foreign Office.—(Received May 15.)

Sir,

Board of Trade, London, May 14, 1888.

REFERRING to previous communications on the subject of merchandize marks legislation in the Colonies, I am directed by the Board of Trade to inclose, for the information of the Secretary of State, copy of an Ordinance passed by the Legislative Council of St. Vincent, and also copies of despatches which have been received from the Governors of the Leeward Islands, Natal, and Barbados on the subject.

I have, &c.

(Signed) COURTENAY BOYLE.

Inclosure 1 in No. 111.

SAINT VINCENT.

The Merchandize Marks Ordinance, 1888.

An Ordinance to consolidate and amend the Law relating to Fraudulent Marks on Merchandize.

[5th April, 1888.]

I assent,

(Signed)

WALTER J. SENDALL,

Governor-in-chief.

March 29, 1888.

WHEREAS it is expedient to consolidate and amend the law relating to fraudulent marks on merchandize: Be it enacted by the Governor, with the advice and consent of the Legislative Council of Saint Vincent, as follows:—

Short title.
Commence-
ment of
Ordinance.
Repeal of
Act.
Proviso.

1. This Ordinance may be cited as "The Merchandize Marks Ordinance, 1888."

2. This Ordinance shall come into operation on the date of the publication of the Governor's assent thereto in the Government Gazette.

3. "The Merchandize Marks Act, 1864," is hereby repealed, and any unrepealed enactment referring to the Act so repealed shall be construed to apply to the corresponding provision of this Ordinance, provided that this repeal shall not affect—

(a.) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against the Act hereby repealed; nor

(b.) The institution or continuance of any proceeding or other remedy under the Act so repealed for the recovery of any penalty incurred, or for the punishment of any offence committed before the commencement of this Ordinance; nor

(c.) Any right, privilege, liability, or obligation acquired, accrued, or incurred under the Act hereby repealed.

Offences as
to trade-
marks and
trade
descriptions.

4.—(1.) Every person who—

(a.) Forges any trade-mark; or

(b.) Falsely applies to goods any trade-mark or any mark so nearly resembling a trade-mark as to be calculated to deceive; or

(c.) Makes any die, block, machine, or other instrument for the purpose of forging or of being used for forging a trade-mark; or

(d.) Applies any false trade description to goods; or

(e.) Disposes of or has in his possession any die, block, machine, or other instrument for the purpose of forging a trade-mark; or

(f.) Causes any of the things above in this section mentioned to be done; shall, subject to the provisions of this Ordinance, and unless he proves that he acted without intent to defraud, be guilty of an offence against this Ordinance.

(2.) Every person who sells or exposes for or has in his possession for sale or any purpose of trade or manufacture any goods or things to which any forged trade-mark or false trade description is applied, or to which any trade-mark or mark so nearly resembling a trade-mark as to be calculated to deceive is falsely applied, as the case may be, shall, unless he proves—

(a.) That, having taken all reasonable precautions against committing an offence against this Ordinance, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade-mark or trade description; and

(b.) That on demand made by or on behalf of the prosecutor he gave all the information in his power with respect to the persons from whom he obtained such goods or things; or

(c.) That otherwise he had acted innocently; be guilty of an offence against this Ordinance.

(3.) Every person guilty of an offence against this Ordinance shall be liable—

(i.) On conviction on indictment to imprisonment, with or without hard labour, for a term not exceeding two years, or to fine, or to both imprisonment and fine; and

(ii.) On summary conviction to imprisonment, with or without hard labour, for a term not exceeding four months, or to a fine not exceeding 20*l.*, and in the case of a second or subsequent conviction to imprisonment, with or without hard labour, for a term not exceeding six months, or to a fine not exceeding 30*l.*; and

(iii.) In any case to forfeit to Her Majesty every chattel, article, instrument, or thing by means of, or in relation to, which the offence has been committed.

(4.) The Court, before whom any person is convicted under this section may order any forfeited articles to be destroyed or otherwise disposed of as the Court thinks fit.

(5.) If any person feels aggrieved by any conviction made by a Police Magistrate, he may appeal therefrom to the Court of Appeal from Magistrates' Judgments under the provisions of "The Magistrates' Judgments Appeal Act, 1870."

(6.) Any offence for which a person is under this Ordinance liable to punishment on summary conviction may be prosecuted in manner provided by "The Summary Procedure Act, 1853." Provided that a person charged with an offence under this section before a Police Magistrate or two Justices of the Peace, shall, on appearing before the Court, and before the charge is gone into, be informed of his right to be tried on indictment, and if he requires be so tried accordingly.

(7.) All fines and penalties imposed by this Ordinance shall be due to Her Majesty, her heirs and successors, and shall be paid to the Treasurer for the public uses of this Colony.

5.—(1.) For the purposes of this Ordinance—

The expression "trade-mark" means a trade-mark registered in the Register of Trade-marks kept under the provisions of the Act of the Imperial Parliament, which may be cited as "The Patents, Designs, and Trade Marks Act, 1883," and includes any trade-mark which either with or without registration is protected by law in this Colony or in any British possession or foreign State to which the provisions of the 103rd section of the said "Patents, Designs, and Trade Marks Act, 1883," are under Order in Council for the time being applicable. Definitions.

The expression "trade description" means any description, statement, or other indication, direct or indirect—

(a.) As to the number, quantity, measure, gauge, or weight of any goods; or

(b.) As to the place or country in which any goods were made or produced; or

(c.) As to the mode of manufacturing or producing any goods; or

(d.) As to the material of which any goods are composed; or

(e.) As to any goods being the subject of an existing patent, privilege, or copy-right.

And the use of any figure, word, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Ordinance.

The expression "false trade description" means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise where that alteration makes the description false in a material respect; and the fact that a trade description is a trade-mark or part of a trade-mark shall not prevent such trade description being a false trade description within the meaning of this Ordinance.

The expression "goods" means anything which is the subject of trade, manufacture, or merchandize.

The expressions "person," "manufacturer, dealer, or trader," and "proprietor," include any body of persons corporate or unincorporate.

The expression "name" includes any abbreviation of a name.

(2.) The provisions of this Ordinance respecting the application of a false trade description to goods shall extend to the application to goods of any such figures, words, or marks, or arrangement or combination thereof, whether including a trade-mark or not, as are reasonably calculated to lead persons to believe that the goods are the

manufacture or merchandize of some person other than the person whose manufacture or merchandize they really are.

(3.) The provisions of this Ordinance respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied in like manner, as if such name or initials were a trade description; and for the purpose of this enactment the expression "false name or initials" means as applied to any goods, any name, or initials of a person which—

(a.) Are not a trade-mark or part of a trade-mark; and

(b.) Are identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description, and not having authorized the use of such name or initials; and

(c.) Are either those of a fictitious person, or of some person not *bond fide* carrying on business in connection with such goods.

Forging
trade-mark.

6. A person shall be deemed to forge a trade-mark who either—

(a.) Without the assent of the proprietor of the trade-mark makes that trade-mark, or a mark so nearly resembling that trade-mark as to be calculated to deceive; or

(b.) Falsifies any genuine trade-mark, whether by alteration, addition, effacement, or otherwise;

and any trade-mark or mark so made or falsified is in this Ordinance referred to as a forged trade-mark.

Provided that, in any prosecution for forging a trade-mark, the burden of proving the assent of the proprietor shall lie on the defendant.

Applying
marks and
descriptions.

7.—(1.) A person shall be deemed to apply a trade-mark, or mark, or trade description to goods who—

(a.) Applies it to the goods themselves; or

(b.) Applies it to any covering, label, reel, or other thing in or with which the goods are sold or exposed, or had in possession for any purpose of sale, trade, or manufacture; or

(c.) Places, incloses, or annexes any goods which are sold or exposed, or had in possession for any purpose of sale, trade, or manufacture, in, with, or to any covering, label, reel, or other thing to which a trade-mark or trade description has been applied; or

(d.) Uses a trade-mark, or mark, or trade description in any manner calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade-mark, or mark, or trade description.

(2.) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame, or wrapper, and the expression "label" includes any band or ticket.

A trade-mark, or mark, or trade description shall be deemed to be applied whether it is woven, impressed, or otherwise worked into or annexed or affixed to the goods, or to any covering, label, reel, or other thing.

(3.) A person shall be deemed to falsely apply to goods a trade-mark or mark who, without the assent of the proprietor of a trade-mark, applies such trade-mark, or a mark so nearly resembling it as to be calculated to deceive, but in any prosecution for falsely applying a trade-mark or mark to goods the burden of proving the assent of the proprietor shall lie on the defendant.

Exemption
of certain
persons
employed in
ordinary
course of
business.

8. Where a defendant is charged with making any die, block, machine, or other instrument for the purpose of forging or being used for forging a trade-mark, or with falsely applying to goods any trade-mark, or any mark so nearly resembling a trade-mark as to be calculated to deceive, or with applying to goods any false trade description, or causing any of the things in this section mentioned to be done, and proves—

(a.) That in the ordinary course of his business he is employed on behalf of other persons to make dies, blocks, machines, or other instruments for making or being used in making trade-marks, or as the case may be, to apply marks or descriptions to goods, and that in the case which is the subject of the charge he was so employed by some person resident in the Colony, and was not interested in the goods by way of profit or commission dependent on the sale of such goods; and

(b.) That he took reasonable precautions against committing the offence charged; and

(c.) That he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade-mark, mark, or trade description; and

(d.) That he gave to the prosecutor all the information in his power with

respect to the persons on whose behalf the trade-mark, mark, or trade description was applied;

he shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor unless he has given due notice to him that he will rely on the above defence.

9. Where a watch-case has thereon any words or marks which constitute or are by common repute considered as constituting a description of the country in which the watch was made, and the watch bears no description of the country where it was made, those words or marks shall *prima facie* be deemed to be a description of that country within the meaning of this Ordinance, and the provisions of this Ordinance with respect to goods to which a false trade description has been applied, and with respect to selling or exposing for or having in possession for sale, or any purpose of trade or manufacture, goods with a false trade description, shall apply accordingly, and for the purposes of this section the expression "watch" means all that portion of a watch which is not the watch-case.

Application
of Ordinance
to watches.

10. In any indictment, pleading, proceeding, or document in which any trade-mark or forged trade-mark is intended to be mentioned, it shall be sufficient, without further description, and without any copy or facsimile, to state that trade-mark or forged trade-mark to be a trade-mark or forged trade-mark.

Trade-mark,
how
described in
pleading.

11. In any prosecution for an offence against this Ordinance—

Rules as to
evidence.

(1.) A defendant and his wife or her husband, as the case may be, may, if the defendant thinks fit, be called as a witness, and if called shall be sworn and examined, and may be cross-examined and re-examined, in like manner as any other witness.

(2.) In the case of imported goods evidence of the port of shipment shall be *prima facie* evidence of the place or country in which the goods were made or produced.

12. Any person who, being within this Colony, procures, counsels, aids, abets, or is accessory to the commission without this Colony of any act which, if committed in this Colony, would under this Ordinance be a misdemeanor, shall be guilty of that misdemeanour as a principal, and be liable to be indicted, proceeded against, tried, and convicted in any place in this Colony in which he may be, as if the misdemeanour had been there committed.

Punishment
of acces-
sories.

13.—(1.) Where upon information of an offence against this Ordinance a Justice of the Peace has issued either a summons requiring the defendant charged by such information to appear to answer to the same, or a warrant for the arrest of such defendant, and either the said Justice, on or after issuing the summons or warrant, or any other Justice of the Peace, is satisfied, by information on oath, that there is reasonable cause to suspect that any goods or things, by means of or in relation to which such offence has been committed are in any house or premises of the defendant, or otherwise in his possession, or under his control in any place, such Justice may issue a warrant under his hand, by virtue of which it shall be lawful for any constable named or referred to in the warrant to enter such house, premises, or place at any reasonable time by day, and to search there for, and seize, and take away those goods or things, and any goods or things seized under any such warrant shall be brought before a Police Magistrate or two Justices of the Peace, for the purpose of its being determined whether the same are or are not liable to forfeiture under this Ordinance.

Search-
warrant.

(2.) If the owner of any goods or things which, if the owner thereof had been convicted, would be liable to forfeiture under this Ordinance is unknown or cannot be found, an information or complaint may be laid for the purpose only of enforcing such forfeiture, and a Police Magistrate or two Justices of the Peace may cause notice to be advertised, stating that unless cause is shown to the contrary at the time and place named in the Notice such goods or things will be forfeited, and at such time and place the Police Magistrate or two Justices of the Peace, unless the owner, or any person on his behalf, or other person interested in the goods or things shows cause to the contrary, may order such goods or things, or any of them, to be forfeited.

(3.) Any goods or things forfeited under this section or under any other provision of this Ordinance may be destroyed or otherwise disposed of in such manner as the Court by which the same are forfeited may direct, and the Court may, out of any proceeds which may be realized by the disposition of such goods (all trade-marks and trade descriptions being first obliterated), award to any innocent party any loss he may have innocently sustained in dealing with such goods.

14. On any prosecution under this Ordinance, the Court may order costs to be paid to the defendant by the informant or to the informant by the defendant, having

Costs of
defence or
prosecution.

regard to the information given by and the conduct of the defendant and informant respectively.

Limitation
of prosecution.

15. No prosecution for an offence against this Ordinance shall be commenced after the expiration of three years next after the commission of the offence, or one year next after the first discovery thereof by the prosecutor, whichever expiration first happens.

Prohibition
on importation.

16. Whereas it is expedient to make further provision for prohibiting the importation of goods which, if sold, would be liable to forfeiture under this Ordinance:

Be it therefore enacted as follows:—

(1) All such goods, and also all goods of foreign manufacture bearing any name or trade-mark being or purporting to be the name or trade-mark of any manufacturer, dealer, or trader in the United Kingdom or any British possession, unless such name or trade-mark is accompanied by a definite indication of the country in which the goods were made or produced, are hereby prohibited to be imported into this Colony, and, subject to the provisions of this section, shall be included among goods prohibited to be imported, as if they were specified in section 19 of "The Trade and Revenue Ordinance, 1882."

(2.) Before detaining any such goods or taking any further proceedings with a view to the forfeiture thereof under the Law relating to the Customs, the Comptroller of Customs may require the Regulations under this section, whether as to information, security, conditions, or other matters, to be complied with, and may satisfy himself in accordance with those Regulations that the goods are such as are prohibited by this section to be imported.

(3.) The Governor in Council may from time to time make, revoke, and vary Regulations, either general or special, respecting the detention and forfeiture of goods the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may by such Regulations determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4.) Where there is on any goods a name which is identical with or a colourable imitation of the name of a place in the United Kingdom, that name, unless accompanied by the name of the country in which such place is situate, shall be treated for the purposes of this section as if it were the name of a place in the United Kingdom.

(5.) Such Regulations may apply to all goods the importation of which is prohibited by this section, or different Regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(6.) The Comptroller of Customs, in administering the Regulations, and generally in the administration of this section, whether in the exercise of any discretion, or opinion, or otherwise, shall act under the control of the Governor.

(7.) The Regulations may provide for the informant reimbursing the Comptroller of Customs all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(8.) All Regulations under this section shall be published in the Government Gazette.

Implied
warranty on
sale of
marked
goods.

17. On the sale, or in the contract for the sale, of any goods to which a trade-mark, or mark, or trade description has been applied, the vendor shall be deemed to warrant that the mark is a genuine trade-mark, and not forged or falsely applied, or that the trade description is not a false trade description within the meaning of this Ordinance, unless the contrary is expressed in some writing signed by or on behalf of the vendor, and delivered at the time of the sale or contract to, and accepted by, the vendee.

Provisions
of Ordinance
as to false
description
not to apply
in certain
cases.

18. Where, at the passing of this Ordinance, a trade description is lawfully and generally applied to goods of a particular class, or manufactured by a particular method, to indicate the particular class or method of manufacture of such goods, the provisions of this Ordinance with respect to false trade descriptions shall not apply to such trade description when so applied. Provided that where such trade description includes the name of a place or country, and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or produced in that place or country, this section shall not apply unless there is added to the trade description, immediately before or after the name of that place or country, in an equally conspicuous manner with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there.

19.—(1.) This Ordinance shall not exempt any person from any action, suit, or Savings. other proceeding which might, but for the provisions of this Ordinance, be brought against him.

(2.) Nothing in this Ordinance shall entitle any person to refuse to make a complete discovery, or to answer any question or interrogatory in any action; but such discovery or answer shall not be admissible in evidence against such person in any prosecution for an offence against this Ordinance.

(3.) Nothing in this Ordinance shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in this Colony who *bond fide* acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master.

20. Any person who falsely represents that any goods are made by a person holding a Royal Warrant, or for the service of Her Majesty or any of the Royal Family, or any Government Department, shall be liable on summary conviction to a penalty not exceeding 20*l*.

False representation as to Royal Warrant or Government Department. Regulations.

21. The Governor in Council may, from time to time, make, alter, and rescind Regulations for the better administration of this Ordinance in any matter not sufficiently provided for.

Passed the Legislative Council the 8th day of March, 1888, and published in the Government Gazette this 5th day of April, 1888.

(Signed) C. FITZROY CLEMENTS,
Clerk of Council.

Inclosure 2 in No. 111.

Administrator Smith to Lord Knutsford.

My Lord,

Government House, Antigua, April 13, 1888.

WITH reference to your Lordship's Circular despatches of the 8th September last and the 5th ultimo, I have the honour to report that Acts embodying the provisions of "The Trade Marks Act, 1883," and "The Merchandize Marks Act, 1887," were passed at the last Session of the General Legislative Council of this Colony, and will be forwarded to your Lordship at an early date.

I have, &c.
(Signed) W. F. HAYNES SMITH.

Inclosure 3 in No. 111.

Governor Sir A. E. Havelock to Lord Knutsford.

My Lord,

Government House, Pietermaritzburg, Natal, April 4, 1888.

I HAVE the honour to acknowledge the receipt of your Lordship's Circular despatch of the 8th September, 1887, transmitting to me a copy of an Act of Parliament entitled "An Act to consolidate and amend the Law relating to Fraudulent Marks and Merchandize," urging upon this Government the desirability of similar legislation, and requesting me to report what action my Government proposes to take in the matter.

2. In reply, I beg to inform your Lordship that, at my request, the Attorney-General has drafted a Bill on the lines of the Imperial Act. I propose to introduce this Bill into the Legislative Council during the Session of the present year, which will open about the month of July next. I may add that the enactment of a Law based, as far as possible, on the Imperial Act has been strongly urged upon me by the Durban Chamber of Commerce. I have every hope that the Bill which I intend to introduce will be passed into law during the next Session.

I have, &c.
(Signed) A. E. HAVELOCK.

Inclosure 4 in No. 111.

Governor Sir C. C. Lees to Lord Knutsford.

My Lord,

Government House, Barbados, April 16, 1888.

REFERRING to your Lordship's Circular despatch of the 5th ultimo, and in reply to the one of the 8th September last, I have the honour to inform your Lordship that "The Merchandize Marks Act, 1887" (50 & 51 Vict., c. 28), modified to suit local circumstances, will be introduced in the next Session, there being no time to allow its being introduced during the two remaining weeks of this Session.

I have, &c.

(Signed) C. C. LEES.

No. 112.

M. Catalani to the Marquis of Salisbury.—(Received May 22.)

(Translation.)

My Lord,

Italian Embassy, London, May 20, 1888.

WHEN, in my note of the 3rd June last year,* I informed your Excellency of the objections made by certain countries, members of the Union for the Protection of Industrial Property, to signing the Additional Articles to the Convention of Paris of 1883, which were drawn up by the Conference of Rome in 1886, I had the honour to express to your Excellency the wish of His Majesty's Government that the Government of the Queen might at least agree to the signature of the Regulations, proposed by the Conference in question, for the application of the Convention of Berne.

The great reserve made by Her Majesty's Government to accepting this proposal, which, indeed, precludes the possibility of foreseeing a satisfactory conclusion, has led the King's Government to postpone the signature of the Regulations in question, as well as of the Additional Articles, until the Conference of Madrid of 1889, when it is hoped that a fuller discussion will enable the Powers interested to come to an agreement.

In communicating the above to your Excellency in accordance with the instructions I have received from his Excellency the Cavaliere Crispi, I avail, &c.

(Signed) T. CATALANI.

No. 113.

The Marquis of Salisbury to M. Catalani.

M. le Chargé d'Affaires,

Foreign Office, May 26, 1888.

I HAVE the honour to acknowledge the receipt of your note of the 20th instant, in which you inform me that the Italian Government have decided to postpone the question of the signature of the Regulations and Additional Articles to the International Industrial Property Convention of 1883 until the Conference to be held at Madrid in 1892.

I have, &c.

(Signed) SALISBURY.

No. 114.

Circular to Her Majesty's Representatives abroad.

My Lord,

Sir,

Foreign Office, June 11, 1888.

WITH reference to my Circular despatch of the 8th October last, I transmit to you herewith, for your information, a copy of a Circular addressed to Her Majesty's Consuls abroad on the subject of "The Merchandize Marks Act, 1887,"† together with copies of the Customs Regulations referred to.

I am, &c.

(Signed) SALISBURY.

* See No. 45.

† No. 110.

*Memorial of the Cutlers' Company, Chamber of Commerce, and Trades' Council, Sheffield.—
(Presented to the Marquis of Salisbury, August 7, 1888.)*

To the Most Noble the Marquis of Salisbury, K.G., Secretary of State for Foreign Affairs.

To the Right Honourable the Viscount Cross, G.C.B., Secretary of State for India.

To the Right Honourable Lord Knutsford, Secretary of State for the Colonies.

To the Right Honourable Sir Michael Hicks Beach, Bart., M.P., President of the Board of Trade.

The humble Memorial of the Master, Wardens, Searchers, Assistants, and Commonalty of the Company of Cutlers, in Hallamshire, in the County of York, the Sheffield Chamber of Commerce and Manufactures, and the Sheffield Federated Trades' Council.

YOUR memorialists have recently held a Conference, at which each of your memorialists were represented by four Delegates, to take into consideration the Merchandize Marks Act of last Session with a view to devising means of insuring the enforcement of the Act, and to consider what amendments were necessary in its provisions.

2. The Conference met on three occasions, and exhaustively discussed the subject, and eventually they unanimously adopted the following Resolutions, namely:—

(a.) That the Government should take all necessary steps to secure the adoption of the principles of the Merchandize Marks Act of 1887 in all foreign countries and in the British Colonies and dependencies.

(b.) That, in order to secure the easy enforcement of the provisions of the Act of 1887, some Government officer should be appointed whose duty it should be to put into operation the Act upon reliable information of offences against the Act being given to him.

3. It is the unanimous opinion of your memorialists that the present position of the subject of false marking of merchandize, so far as regards foreign countries and British Colonies, but especially as regards the dependencies of the Crown, and notably the Indian Empire, is most unsatisfactory, for at the present time, while manufacturers, merchants, and traders in this country are most properly prohibited from practices with reference to the marking of goods which before the passing of the Act of 1887 were commonly adopted, their competitors are under no such restrictions, but can, and do, carry on such practices to the great detriment of the trade of this country.

4. Your memorialists desire to point out that, so long as the magnificent markets afforded by the Colonies and dependencies of this Empire have no similar legislation to that inaugurated by the Merchandize Marks Act of last Session applied to them, foreign competitors of the traders of this country are enabled to ship falsely marked goods direct from the ports of their respective countries to India and the Colonies, thus escaping the operation of the Act of 1887.

Not only will such direct trading between foreign countries and the Colonies and India be detrimental to the manufacturing industries of this country, but it must also inevitably injure the shipping trade of this country by diverting consignments of goods from vessels trading from the United Kingdom.

5. Your memorialists have great difficulty in understanding the reason of the delay in applying the principles of the Merchandize Marks Act of last Session to the Indian Empire, where much active trade is being done by the foreign competitors of this country, and especially by manufacturers in Germany, the goods consigned by whom bear in very many cases a directly false indication of British origin, and also deliberately and intentionally infringe well-known British marks and brands.

6. With regard to the second Resolution arrived at by the aforesaid Conference, your memorialists are of opinion that, in order to secure the full enforcement of the provisions of the Merchandize Marks Act of 1887 in this country, it is essential that some Government officer, such, for example, as Factory Inspectors, should be appointed to receive information of offences against the Act, and to put it in force without necessarily disclosing the name of an informant.

Your memorialists therefore humbly pray that Her Majesty's Government will, in view of the vast interests involved in the marking of merchandize, take such steps to carry out the principles affirmed in the Resolutions set out in this Memorial as to their wisdom may seem most advisable, in order that the provisions of the Merchandize

Marks Act of last Session may no longer assist our competitors in other countries, and that the aforesaid Act may be more fully and thoroughly enforced in this country.

And your memorialists will ever pray, &c.

(Signed)

JAMES DIXON, *Master Cutler.*

GEO. FRAN. LOCKWOOD,

President of the Sheffield Chamber of Commerce.

CHARLES HOBSON,

President of the Sheffield Federated Trades' Council.

HERBERT HUGHES,

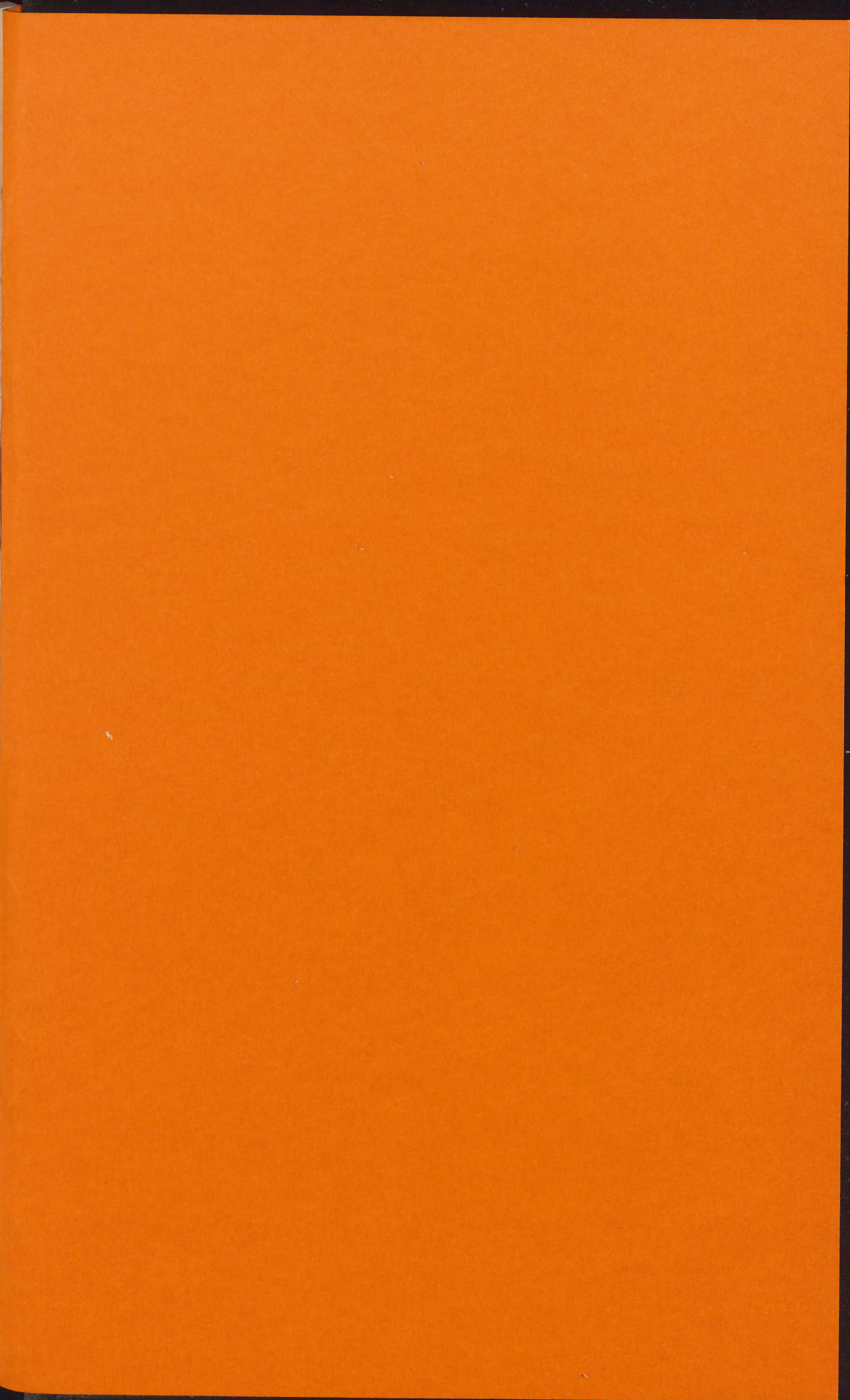
Secretary on behalf of the before-mentioned Conference.

MISCELLANEOUS. No. 3 (1888).

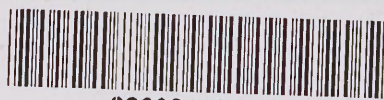
CORRESPONDENCE relative to the Protection of
Industrial Property.

*Presented to both Houses of Parliament by Command
of Her Majesty. August 1888.*

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