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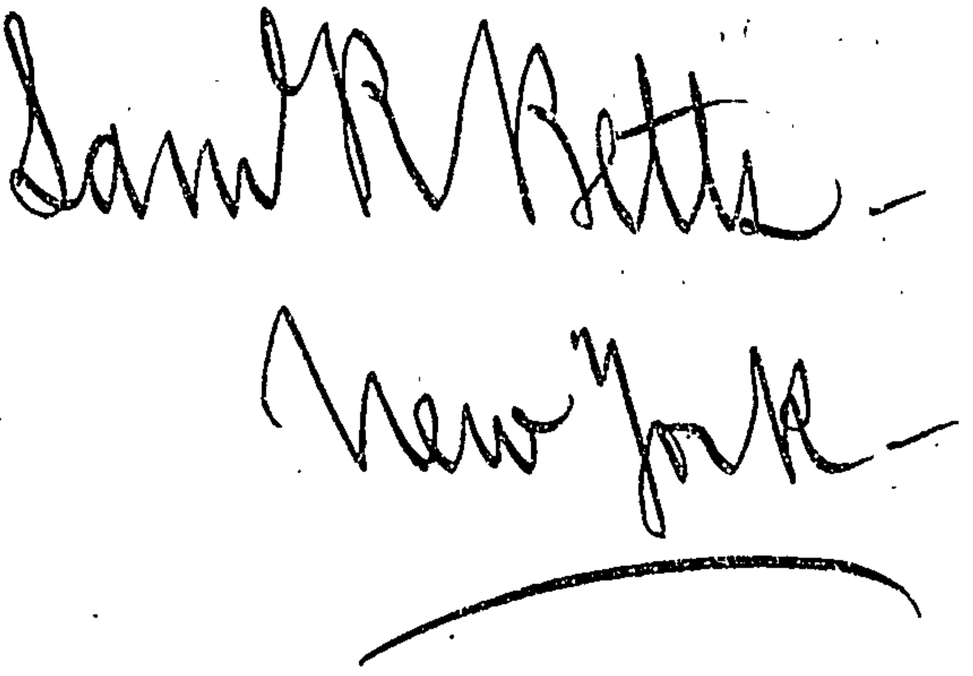
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TRADE MARKS:

NOTES ON THE

BRITISH, FOREIGN AND COLONIAL LAWS RELATING THERETO.

COMPILED FOR THE USE OF

MANUFACTURERS, MERCHANTS AND OTHERS INTERESTED IN COMMERCE.

BY

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PREFACE.

THE information contained in the following pages has been compiled with a view to acquainting manufacturers, merchants and others interested in commerce with the principal details of the laws and regulations adopted in various countries for the protection of proprietors of Trade Marks.

Were the public generally aware what a large number of countries afford protection of this character, what small expenses are involved in complying with the necessary formalities, what ample provisions are made for enabling proprietors to defend their rights and what heavy penalties may be inflicted upon those who counterfeit or usurp the Trade Marks of others, it would probably be the rule for every one engaged in trade to adopt some distinctive emblem and to acquire the rights and advantages conferred by and secured under the Trade Mark laws.

It should be borne in mind that the acquisition and maintenance of a Trade Mark are not only very much less expensive than those of a Patent, but that the former may be kept on foot for an indefinite time by renewing the registration occasionally. Further, both Patent- and Copy-rights are subject to limitations

of a territorial description which do not apply to rights of property in Trade Marks.

It is also worth remarking that the divers Trade Mark laws, being comparatively modern, are clearly expressed and are not likely to cause difficulty in interpretation or execution.

Although these laws confer valuable privileges on manufacturers, certain preliminary conditions are imposed, prominent amongst which is that of duly registering their Trade Marks. To render this manifest, it is only necessary to reflect that in a great many instances a Trade Mark, after having been made valuable by successful commerce, may be adopted by anyone, either at home or abroad, if the Mark be not registered. In many instances the original owner cannot prevent its being piratically registered; whereupon the manufacturer cannot sell his trade-marked goods in the country in question without the pirate's permission. This he is not likely to obtain gratis; or, at any rate, without resort to litigation.

By the proper use of Trade Marks the honest and skilful manufacturer is protected in his commercial operations, without any restriction being imposed on free trade. If a manufacturer by his ability and enterprise establish a reputation for his products, it is right, on the one hand, that the rewards of trade should be secured to him and, on the other, that the purchaser should be guaranteed that the goods he is receiving are of the particular character he bargained for and such as his experience leads him

to prefer. Nevertheless "protection" of this character places no restriction on the purchaser obtaining supplies of a like class in any quarter he pleases.

A good deal of repetition may be avoided by mentioning here that a design for a Trade Mark must not include terms, signs or symbols common to the trade concerned in the goods to which the Mark is applied; neither, as a rule, must it consist exclusively of letters, words or numbers. It is also in many cases forbidden to make use of the arms of states, countries or public bodies; and further, a Trade Mark must not be suggestive of anything contrary to good manners.

The approximate population of each country is mentioned, as these statistics may furnish a more or less accurate criterion of the importance or otherwise of the country named.

Most of the information contained in the following pages has been derived from official sources and from records of the Acts, Regulations, Treaties, &c. The author is, however, indebted to his foreign correspondents for valuable assistance in amplifying many of his summaries and for revising them in accordance with the most recent legislation.

WHITEHALL CLUB, S.W.,
July, 1881.

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THE UNITED KINGDOM.

POP. 34,500,000.

IN 1862 an Act was passed to amend the Law relating to the fraudulent marking of Merchandise. This provided that every person marking any false indication of quantity, weight, description, &c. upon an article with intent to defraud, or selling or offering for sale any article so falsely marked, or employing words representing that the article is the subject of an existing Patent, Privilege or Copyright would be liable to forfeit a sum equal to the value of the article and a further sum not exceeding five pounds and not less than ten shillings. Trade Marks are distinctly referred to as indications which are not to be misapplied to goods; but it was almost impossible to ascertain whether any particular device, which a manufacturer might wish to adopt as a distinguishing Mark for his goods, was novel or had already been appropriated. This led to the Act of 1875, which in effect provides that no emblem or distinctive device, applied to articles of manufacture or commerce, need be recognised as a Trade Mark, unless it be duly registered. It naturally follows that the Registrar will not refuse to register any Mark (complying with the regulations) not already registered; and therefore a Trade Mark owner who does not register runs the serious risk of having his Mark adopted and registered by another person.

The Trade Marks Registration Act, 1875, together with the short supplementary Acts of the two following years, as also the Rules and Schedules of classes and fees framed thereunder, are appended hereto. One object of giving these *in extenso* is to assist in conveying more accurate ideas of the Foreign Laws than can be imparted by summaries necessarily much condensed. Important and even radical differences unfortunately exist; but, on the other hand, there are many points of similarity, the precise nature of which will be more readily understood on noting the construction and phraseology of the British Acts.

It should be observed, with reference to Sec. 10, that although certain restrictions are imposed with regard to the design of a Trade Mark offered for registration, these do not apply to Trade Marks used before 13th August, 1875. If such a Mark be refused registration, as it may be if already adopted and registered by another person (see Sec. 6), then the original user, provided with the Registrar's Certificate of Refusal (see Act 1876, sec. 2) is entitled to institute proceedings for infringement and damages, and to apply for an order of Court that the register may be rectified. Registration for five years, however, is deemed conclusive evidence of the proprietor's right to the exclusive use of the Mark. Practically, the important distinction between what may be registered as an old Mark (*i.e.* one used before the passing of the Act) and a new Mark, lies in the fact that the former may consist of a "special and distinctive word," whereas the latter cannot, except it be the name of an individual or firm, and even then it must be produced in some particular and distinctive manner.

This work only professes to note the principal features of the various Trade Mark laws, and does not pretend to offer any elaborate criticism of them. To comment at any length on the English law would necessarily involve

travelling over ground already carefully surveyed by others. The author would therefore content himself with referring anyone desirous of information as to the details and refinements of the law and practice in this country, to a very able and useful treatise entitled "The Law of Trade Marks," by L. B. Sebastian, B.C.L., M.A., Barrister-at-Law.

Trade Marks Registration Act, 1875.

[38 & 39 VICT. CH. 91.]

An Act to establish a Register of Trade Marks.

[13*th August*, 1875.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Registration of Trade Marks.

1. A register of Trade Marks as defined by this Act, and of the proprietors thereof shall be established under the superintendence of the Commissioners of Patents, and from and after the first day of July one thousand eight hundred and seventy-six a person shall not be entitled to institute any proceeding to prevent the infringement of any Trade Mark as defined by this Act until and unless such Trade Mark is registered in pursuance of this Act.

Characteristics of registered Trade Mark.

2. A Trade Mark must be registered as belonging to particular goods, or classes of goods; and when registered shall be assigned and transmitted only in connexion with the goodwill of the business concerned in such particular goods or classes of goods, and shall be determinable with such goodwill, but subject as aforesaid registration of a Trade Mark shall be deemed to be equivalent to public use of such Mark.

Title of first proprietor of a Trade Mark

3. The registration of a person as first proprietor of a Trade Mark shall be primâ facie evidence of his right to the exclusive use of such Trade Mark, and shall, after the expiration of five years from the date of such registration, be conclusive evidence of his right to the exclusive use of such Trade Mark, subject to the provisions of this Act as to its connexion with the goodwill of a business.

Title of proprietor claiming by transmitted proprietorship.

4. Every proprietor registered in respect to a Trade Mark subsequently to the first registered proprietor shall, as respects his title to that Trade Mark, stand in the same position as if his title were a continuation of the title of the first registered proprietor.

Rectification of register.

5. If the name of any person who is not for the time being entitled to the exclusive use of a Trade Mark in accordance with this Act, or otherwise in accordance with law, is entered on the register of Trade Marks as a proprietor of such Trade Mark, or if the registrar refuses to enter on the register as proprietor of a Trade Mark the name of any person who is for the time being entitled to the exclusive use of such Trade Mark in accordance with this Act, or otherwise in accordance with law, or if any mark is registered as a Trade Mark which is not authorised to be so registered under this Act, any person aggrieved may apply in the prescribed manner for an order of the Court that the register may be rectified; and the Court may either refuse such application, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may award damages to the party aggrieved.

Where each of several persons claims to be registered as proprietor of the same Trade Mark, the registrar may refuse to comply with the claims of any of such persons until their rights have been determined by the Court, and the registrar may himself submit or require the claimants to submit in the prescribed manner their rights to the Court.

The Court may, in any proceeding under this section, decide any question as to whether a Mark is or is not such a Trade Mark as is authorised to be

registered under this Act, also any question relating to the right of any person who is party to such proceeding to have his name entered on the register of Trade Marks, or to have the name of some other person removed from such register, also any other question that it may be necessary or expedient to decide for the rectification of the register.

The Court may direct an issue to be tried for the decision of any question of fact which may require to be decided for the purposes of this section.

Whenever any order has been made rectifying the register the Court shall by its order direct that due notice of such rectification be given to the registrar.

Restrictions on registry of Trade Marks.

6. The registrar shall not, without the special leave of the Court, to be given in the prescribed manner, register in respect of the same goods or classes of goods a Trade Mark identical with one which is already registered with respect to such goods or classes of goods, and the registrar shall not register with respect to the same goods or classes of goods a Trade Mark so nearly resembling a Trade Mark already on the register with respect to such goods or classes of goods as to be calculated to deceive.

It shall not be lawful to register as part of or in combination with a Trade Mark any words the exclusive use of which would not, by reason of their being calculated to deceive or otherwise, be deemed entitled to protection in a court of equity; or any scandalous designs.

Establishment of registry and general rules.

7. Subject as aforesaid, a register office shall be established from and after such time (not being later than the first day of January one thousand eight hundred and seventy-six), in such manner and with such officers, and at such salaries, to be paid out of moneys provided by Parliament, as the Lord Chancellor may, with the consent of the Treasury, direct; and the Lord Chancellor may from time to time, with the assent of the Treasury as to fees, make, and, when made, alter, annul, or vary, such general rules as to the registry of Trade Marks, and as to notices to be given by advertisement before

the registration of Trade Marks, and as to the classification of goods for the purposes of this Act, and as to the registration of first and subsequent proprietors of Trade Marks, and as to the fees to be charged for registration, and also for the continuance of a Trade Mark on the register or otherwise, and as to the removal from the register of any Trade Mark, as to notices, and as to the persons entitled to inspect the register, and as to any proceedings to be taken to obtain the judgment or leave of the Court in any matter in which the judgment or leave of the Court is required to be obtained under this Act, and generally for the purpose of carrying into effect this Act, as he may deem expedient.

Any rules made in pursuance of this section shall be laid before both Houses of Parliament if Parliament be then sitting, or if not then sitting, then within ten days from the then next assembling of Parliament, and shall be of the same validity as if they had been enacted by Parliament; provided that if either House of Parliament resolve, within one month after such rules have been laid before such House, that any of such rules ought not to continue in force, any rule in respect of which such resolution has been passed shall, after the date of such resolution, cease to be of any force, without prejudice, nevertheless, to the making of any other rule in its place, or to anything done in pursuance of any such rules before the date of such resolution.

Certificate of registrar to be evidence.

8. The certificate of the registrar as to any entry, matter, or thing which he is authorised by this Act, or any general rules made thereunder, to make or do, shall be evidence of such entry having been made, and of the contents thereof, and of such matters and things having been done or left undone.

Provision as to Cutlers Company and Sheffield corporate marks.

9. With respect to the master, wardens, searchers, assistants, and commonalty of the Company of Cutlers in Hallamshire, in the county of York (in this Act called "the Cutlers Company"), and the Marks or devices (in this Act called "Sheffield corporate Marks") assigned or to be assigned by the master, wardens, searchers, and assistants of that company, be it enacted as follows:

(1.) Within the prescribed time and in the prescribed manner the Cutlers Company shall at their own expense deliver to the registrar under this Act copies of all Shefield corporate Marks in force at the time of such delivery:

(2.) When any person, after the passing of this Act, applies to the said master, wardens, searchers, and assistants to assign to him any Mark or device, notice of such application, with a copy of such Mark or device, shall, within the prescribed time and in the prescribed manner, be delivered to the registrar under this Act; and such Mark or device shall not be assigned until after the expiration of the prescribed period from the giving of such notice. In like manner, when any person applies for the registration under this Act of a Trade Mark as belonging to any goods or class of goods specified in section two of the Cutlers Company's Act of 1860, notice of such application, with a copy of such Trade Mark, shall, within the prescribed time and in the prescribed manner, be delivered to the Cutlers Company; and such Trade Mark shall not be registered until after the expiration of the prescribed period from the giving of the last-mentioned notice:

(3.) Upon the assigning of any such Mark or device, or the registration of any such Trade Mark as aforesaid, notice of the assignment or registration shall, within the prescribed time and in the prescribed manner, be given to the registrar under this Act, or to the Cutlers Company, as the case may be:

(4.) The registrar under this Act, without the special leave of the Court, to be given only in cases where the applicant proves his right, shall not in respect of any goods or classes of goods with respect to which

a Sheffield corporate Mark shall have been assigned and actually used, and of which Mark a copy or description or notice of the assigning whereof shall have been delivered or given to the registrar as aforesaid, register a Trade Mark identical with such Sheffield corporate Mark, or so nearly resembling the same as to be calculated to deceive:

(5.) The master, wardens, searchers, and assistants of the Cutlers Company shall not assign to any person a Mark or device identical with any Trade Mark registered under this Act, and notice of the registration whereof shall have been given to the Cutlers Company as aforesaid, or so nearly resembling the same as to be calculated to deceive:

(6.) Any person to whom a Sheffield corporate Mark legally belongs shall be entitled to have the same Mark registered also as a Trade Mark under this Act, in respect of any particular goods or classes of goods, in the same manner and upon the same terms and conditions in and upon which he might have registered the same if it were not a Sheffield corporate Mark:

(7.) Nothing in this Act shall prejudice or affect the rights and privileges of the Cutlers Company, nor, save as is otherwise in this Act expressly provided, shall any of the provisions of this Act apply to or in the case of any Sheffield corporate Mark.

Definitions.

10. For the purposes of this Act:

A Trade Mark consists of one or more of the following essential particulars; that is to say,

A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or

A written signature or copy of a written signature of an individual or firm; or

A distinctive device, mark, heading, label, or ticket;

and there may be added to any one or more of the said particulars any letters, words, or figures, or combination of letters, words, or figures ; also

Any special and distinctive word or words or combination of figures or letters used as a Trade Mark before the passing of this Act may be registered as such under this Act.

"Prescribed" means prescribed by general rules made in pursuance of this Act ; and

"Court" means any of Her Majesty's superior Courts of law or equity at Westminster, or any Court to which the jurisdiction of such Courts may be transferred, or any one or more of such Courts which may be declared to be the Court for the purposes of this Act by such general rules as aforesaid ; but the provisions of this Act conferring a special jurisdiction on the Court as above defined shall not, excepting so far as such jurisdiction extends, affect the jurisdiction of any Court in Scotland or Ireland in causes, actions, suits, or proceedings relating to Trade Marks ; and if the register requires to be rectified in consequence of any proceedings in any such Court in Scotland or Ireland, due notice of such requirements shall be given to the registrar, and he shall rectify the register accordingly.

Short title of Act.

11. This Act may be cited for all purposes as the Trade Marks Registration Act, 1875.

Trade Marks Registration Amendment Act, 1876.

[39 & 40 VICT. CH. 33.]

An Act for the Amendment of the Trade Marks Registration Act, 1875.

[*24th July*, 1876.]

WHEREAS by the Trade Marks Registration Act, 1875, in this Act referred to as the principal Act, it is provided that from and after the first day of

38 & 39 Vict. c. 91

July one thousand eight hundred and seventy-six, a person shall not be entitled to institute any proceeding to prevent the infringement of any Trade Mark as defined by the principal Act until and unless such Trade Mark is registered in pursuance of that Act:

And whereas by reason of the number of Trade Marks, and especially by reason of the difficulties attending the registration of Trade Marks in relation to textile fabrics, it has been found impossible to complete the registration of existing Trade Marks within the time specified by the said section; and it is therefore expedient to prolong the time for the completion of such registration as aforesaid, and otherwise to amend the principal Act;

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Amendment of s. 1 of the principal Act.

1. There shall be repealed so much of section one of the principal Act as provides that from and after the first day of July one thousand eight hundred and seventy-six a person shall not be entitled to institute any proceeding to prevent the infringement of any Trade Mark as defined by that Act until and unless such Trade Mark is registered in pursuance of that Act, and in place thereof be it enacted that—

From and after the first day of July one thousand eight hundred and seventy-seven, a person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of any Trade Mark as defined by the principal Act until and unless such Trade Mark is registered in pursuance of that Act, or until and unless, with respect to any device, Mark, name, combination of words, or other matter or thing in use as a Trade Mark before the passing of the principal Act, registration thereof as a Trade Mark under the principal Act shall have been refused as herein-after is mentioned.

Saving of Marks and devices not capable of

2. When an application by any person to register as a Trade Mark a device, Mark, name, word, combination of words, or other matter or thing proposed

for registration as a Trade Mark, which has been in use as a Trade Mark before the passing of the recited Act, has been refused, it shall be the duty of the registrar, on request, and on payment of the prescribed fee, to give to the applicant a certificate of such refusal, and a certificate so granted shall be conclusive evidence of such refusal. being registered under Act.

3. This Act may be cited for all purposes as the Trade Marks Registration Amendment Act, 1876. Short title.

Trade Marks Registration Extension Act, 1877.

[40 & 41 VICT. CH. 37.]

An Act for extending the Time for the Registration of Trade Marks, in so far as relates to Trade Marks used in Textile Industries.

[*6th August*, 1877.]

WHEREAS by section one of the Trade Marks Registration Amendment Act, 1876, it is provided that from and after the first day of July one thousand eight hundred and seventy-seven* a person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of any Trade Mark as defined by the Trade Marks Registration Act, 1875 (referred to in such Amendment Act and in this Act as the principal Act), until and unless such Trade Mark is registered in pursuance of the principal Act, or until and unless, with respect to any device, Mark, name, combination of words, or other matter or thing in use as a Trade Mark before the passing of the principal Act, registration thereof as a Trade Mark under the principal Act shall have been refused, as is in the said Act thereafter mentioned: 39 & 40 Vict. c. 33. 38 & 39 Vict. c. 91.

And whereas by reason of the difficulties attending the registration of Trade Marks used in the

* Extended by Order in Council to 1st January, 1878.

textile industries it has been found impossible to complete the registration of such Trade Marks within the time specified by the said section, and it is therefore expedient to prolong such time as aforesaid :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Extension of time for registration of Trade Marks used in textile industries.

1. In so far as relates to the registration of Trade Marks used in the textile industries, but not further or otherwise, section one of the Trade Marks Registration Amendment Act, 1876, shall be construed as if for the words "from and after the first day of "July one thousand eight hundred and seventy-"seven" there were substituted the words "from "and after the first day of January one thousand "eight hundred and seventy-eight,* or such further "time as Her Majesty may by Order in Council "determine."

Definition of "Trade Marks used in the textile industries."

2. The expression in this Act "Trade Marks used in the textile industries" means the Trade Marks relating to goods comprised in classes 23 to 35, both inclusive, of the First Schedule to the rules under the Trade Marks Registration Acts, 1875-76, dated September, 1876.

Short title of Act.

3. This Act may be cited for all purposes as the "Trade Marks Registration Extension Act, 1877," and this Act and the Trade Marks Registration Amendment Act, 1876, and the Trade Marks Registration Act, 1875, may be cited together as the "Trade Marks Registration Acts, 1875-77."

RULES under the Trade Marks Registration Acts, 1875—7.

WHEREAS by the Trade Marks Registration Act, 1875, the Lord Chancellor is authorised from time

* Extended by Order in Council to 30th June, 1878.

to time, with the assent of the Treasury as to fees, to make general rules as to the registry of Trade Marks, and other matters connected therewith, and also when made to alter, annul, or vary such rules, as is in the said Act mentioned:

Now, therefore, I, the Right Honourable Hugh MacCalmont Baron Cairns, of Garmoyle in the county of Antrim, Lord High Chancellor of Great Britain, in pursuance of the said Act, and of all other powers enabling me in this behalf, do hereby, without prejudice to any proceedings that may have been taken under any former rules as to the registry of Trade Marks before made by me, annul all such rules, and do hereby make the following Rules:—

Preliminary.

Classification of goods in schedule.

1. For the purposes of these Rules goods are classified in the manner appearing in the first schedule hereto.

Fees.

2. The fees to be charged in pursuance of these Rules are the fees specified in the second schedule hereto.

Determination of doubt as to classes.

3. If any doubt arises as to what class any particular description of goods belongs to, the doubt shall be determined by the registrar.

Registration of different Trade Marks, or Trade Marks in different classes.

4. A Trade Mark or Trade Marks may be registered in pursuance of the same application by the same person in respect of all or any goods, subject to the payment of the additional fees specified in the second schedule in respect of the registration of different Trade Marks or the extension of the same Trade Marks to goods in different classes.

Application for Registry.

Proceedings on application.

5. A person, whether a British subject or an alien, desiring to register a Trade Mark shall apply to the registrar by sending to him a statement accompanied by such declaration as is herein-after mentioned and the prescribed fee.

Contents of statement on application.

6. The statement shall contain the following particulars:—

A. The name and address and calling of the applicant: and

B. The description of the Trade Mark to be registered: and

C. The class or classes of goods (being some one or more of the classes mentioned in the first schedule): and

D. In the case of a Trade Mark used before the passing of this Act, a description of the goods in respect of which it has been used and the length of time during which it has been so used.

Requisites of statement.

7. The above statement must bear a date and be signed by the applicant. Subject to any other directions that may be given by the registrar, the statement sent to the registrar shall be upon foolscap paper of a size of thirteen inches by eight inches, and shall have on the left-hand part thereof a margin of not less than one inch and a half.

Nature and size of representation of Trade Mark.

8. Subject to any other directions that may be given by the registrar, a description of a Trade Mark shall be given in writing, and shall be accompanied, when practicable, by a drawing or other representation, of a durable nature, in duplicate, not less than three inches square, on foolscap paper of the size aforesaid, or by pasting or otherwise fastening on such paper a specimen of the Trade Mark.

Where a drawing or other representation or specimen cannot be given in manner aforesaid, a specimen or copy of the Trade Mark may be sent either of full size or on a reduced scale, and in such form as may be thought most convenient.

The registrar may, if dissatisfied with the representation of a Trade Mark, require a fresh representation either before he proceeds with the application or before he registers the Trade Mark.

The registrar may also, in exceptional cases, deposit in the Patent Museum a specimen or copy of a Trade Mark which cannot conveniently be placed on his register, and may refer thereto in his register in such manner as he thinks advisable.

Declaration to accompany application.

9. The declaration must be on foolscap paper of the above-mentioned size, and must verify the statement, and declare that, to the best of the applicant's knowledge and belief, he is lawfully

entitled to use the Trade Mark, and must be made and subscribed as hereinafter mentioned.

Application by company.

10. Where an application for the registry of a Trade Mark is made by or on behalf of a corporate body of persons, the statement and declaration shall be made by the secretary or other principal officer of the body of persons; and the registrar may require such proof as he thinks fit that the application made is duly authorised by such body of persons.

Application by firm.

11. Where an application for the registry of a Trade Mark is made by or on behalf of any firm or partnership, the statement and declaration may be made by any one member of such firm or partnership, or by any person duly authorised by such firm or partnership; and the registrar may require such proof as he thinks fit that the application made is duly authorised by such firm or partnership.

Acknowledgment of application by registrar.

12. On receipt of the application the registrar shall send to the applicant an acknowledgment thereof.

Advertisement of Application and Notice of Opposition.

Advertisement of application.

13. As soon as may be after the receipt of an application made as provided by these Rules, the registrar shall require the applicant to insert an advertisement of the application in the official paper, during such time, and in such form, and generally in such manner as the registrar may think desirable, and distinguishing whether the Mark has or has not been used before the thirteenth day of August one thousand eight hundred and seventy-five.

Definition of official paper.

14. The official paper for the purposes of these Rules shall be some paper published under the direction of the Commissioners of Patents, or such other paper as such Commissioners, or any one of them, may from time to time direct.

Means of advertising Trade Mark to be supplied to official paper.

15. For the purposes of such advertisement the applicant may be required to furnish the printer of the official paper with a wood-block or electrotype of the Trade Mark, of such dimensions as may from time to time be directed by the registrar, or with

such other information or means of advertising the Trade Mark as may be allowed by the registrar.

Notice and proceedings for opposition.

16. A notice of opposition may be given by sending to the registrar, together with the prescribed fee, a written notice in duplicate, on foolscap paper of such size as aforesaid, stating the grounds of the opposition. The registrar shall acknowledge the receipt of such notice of opposition, and shall send one copy of such notice to the applicant.

Within three weeks after the receipt of such notice, or such further time as the registrar may allow, the applicant may send to the registrar, on foolscap paper of such size as aforesaid, a counter-statement in duplicate of the grounds on which he relies for his application, and if he does not do so shall be deemed to have withdrawn his application.

If the applicant sends such counter-statement the registrar shall require the person who gave notice of opposition to give security, in such manner and to such amount as the registrar may require, for such costs as may be awarded in respect of such opposition; and if such security is not given within fourteen days after such requirement was made, or such further time as the registrar may allow, the opposition shall be deemed to be withdrawn.

If the person who gave notice of opposition duly gives such security as aforesaid, the registrar shall send him one copy of the counter-statement sent by the applicant, and thereupon the case shall be deemed to stand for the determination of the Court.

Registration of Trade Marks.

Time of registration of Trade Mark.

17. On the expiration of three months from the date of the first appearance of the advertisement in the official paper, the registrar may, if he is satisfied that the applicant is entitled to registration, register the Trade Mark in respect of the description of goods for which he may be entitled to be registered, and the applicant as the proprietor thereof, on payment of the prescribed fee.

Duty of registrar in case of disputed claim.

18. Where each of several persons claims to be registered as proprietor of the same or a nearly identical Trade Mark, in respect of the same goods

or goods belonging to the same class, the registrar shall use his discretion as to registering all or any of such Trade Marks, either unconditionally or on the condition of the introduction of such variations (if any) or otherwise as he thinks fit, or the registrar may, if in any case he thinks it expedient, submit or require the claimants to submit their rights to the Court.

Prohibition of registration of identical Trade Marks.

19. Where a Trade Mark has been already registered in respect of any goods or description of goods belonging to one particular class, a Trade Mark identical with such Trade Mark, or so nearly resembling the same as to be calculated to deceive, shall not, without leave of the Court, be registered in the name of another person as proprietor thereof with respect to any goods in that class.

Entries to be made in register.

20. Upon registering any Trade Mark the registrar shall enter in the register the date on which the statement relating to the application for registry was received by the registrar (which day shall be deemed to be the date of the registry) and such other particulars as he may think necessary, including the name and address of the proprietor.

Notice of registration.

21. The registrar shall send notice to the applicant of the registration of his Trade Mark, together with a reference, where practicable, to the advertisement of such Trade Mark in the official paper.

Trust not to be entered in register.

22. There shall not be entered in the register, or be receivable by the registrar, any notice of any trust, expressed, implied, or constructive.

Registration of subsequent Proprietors.

Registration of assignee or transmittee.

23. The person to whom any registered Trade Mark has been assigned or transmitted may apply to be registered as proprietor thereof.

Production of assignment, &c. by assignee.

24. Where the Trade Mark has been assigned the person claiming as assignee to be registered shall send to the registrar, with his application, an assignment by deed executed both by the assignor and assignee, or a certified copy of such assignment, and a declaration verifying the fact of such assignment having been made.

Right of transmittee or his assignee.

25. Where a Trade Mark has been transmitted by the death of the registered proprietor, the legal personal representative of such proprietor shall be recognised as having the title to the Mark.

Where the Trade Mark has been transmitted by marriage, bankruptcy, or otherwise by operation of law, the person applying as the transmittee to be registered shall send to the registrar, together with his application, a statement of the manner in which such Trade Mark has been transmitted, and a declaration verifying such statement.

Any transmittee may assign his interest in the Mark, notwithstanding that he has not been registered as proprietor thereof.

Evidence to be produced on transmission.

26. Where the person applying to be registered claims as the transmittee of any registered proprietor, or as the assignee of a transmittee, there shall be produced to the registrar the following evidence :—

(1.) If the business concerned in the goods with respect to which the Trade Mark is registered is carried on in England or Ireland, then

A. If such transmission has taken place by the death of any person, there shall be produced the probate of the will of such deceased person, or the letters of administration to his estate, or an official extract therefrom ; and

B. If such transmission has taken place by the marriage of the female proprietor, there shall be produced a certified copy of the register of such marriage, or other legal evidence of the celebration thereof, and a declaration of the identity of such female proprietor ; and

C. If such transmission has taken place by the bankruptcy of the registered proprietor, or otherwise by operation of law, there shall be produced to the registrar such evidence as may, for the time being, be

receivable as proof of the title of the applicant; and

(2.) Where the said business is not carried on in England or Ireland,—

There shall be produced similar evidence to that herein-before prescribed, or such evidence as would be received as sufficient evidence in the courts of justice of the country or place at which the proprietor carries on business.

Declaration by assignee and transmittee.

27. Every declaration made by an assignee or transmittee shall state his name and address, and that he is entitled to the goodwill of the business concerned in the goods with respect to which the Trade Mark is registered, or to some part of such goodwill.

Assignee, &c. of joint owners.

28. Where two or more persons are registered as joint proprietors of the same registered Trade Mark, those proprietors, or the survivors or survivor of them, or their or his assignee or transmittee, shall alone be recognised by the registrar as having any title to the Mark.

Registration of joint owners as separate owners of separate Trade Marks.

29. Where divers persons claim to be severally entitled to the goodwill of a business concerned in the goods with respect to which a Trade Mark has been registered, such persons, or any of them, may, if they all consent thereto, and on the production of the proper evidence, and on payment of the prescribed fee, be registered separately as separate proprietors of such Trade Mark.

If all of such persons so entitled do not so consent, the registrar shall not, without leave of the Court, register any of them as separate proprietors of such Trade Mark.

Continuance of a Trade Mark on the Register.

Removal of Trade Mark after fourteen years unless fee paid.

30. At a time not being less than two months nor more than three months before the expiration of fourteen years from the date of the registration of a Trade Mark, the registrar shall send a notice to the registered proprietor that the Trade Mark will be removed from the register unless the proprietor pays

to the registrar, before the expiration of such fourteen years (naming the date at which the came will expire), the prescribed fee, and if such fee be not previously paid, he shall at the expiration of one month from the date of the giving of the first notice send a second notice to the same effect, and if such fee be not paid before the expiration of such fourteen years the registrar may, after the end of three months from the expiration of such fourteen years, remove the Mark from the register, and so from time to time at the expiration of every period of fourteen years.

Payment of additional fee after expiration of fourteen years.

31. If before the expiration of the said three months the registered proprietor pays the said fee, together with the additional prescribed fee, the registrar may, without removing such Trade Mark from the register, accept the said fee as if it had been paid before the expiration of the said fourteen years.

Power of Commissioners to restore Trade Mark.

32. Where after the said three months a Trade Mark has been removed from the register for non-payment of the prescribed fee, the Commissioners of Patents, or one of them, may, if they are satisfied that it is just so to do, restore such Trade Mark to the register on payment of the prescribed additional fee and compliance with such conditions as they may think just.

Trade Mark like one removed not to be registered for five years.

33. Where a Trade Mark has been removed from the register for non-payment of the fee or otherwise, such Trade Mark shall nevertheless for five years after the date of such removal be deemed for the purpose of section six of the Act, and not for any other purpose, to be a Trade Mark which is already registered.

Removal of Trade Mark where no business in goods.

34. The Court may, on the application of any person aggrieved, remove any Trade Mark from the register on the ground, after the expiration of five years from the date of the registry thereof, that the registered proprietor is not engaged in any business concerned in the goods within the same class as the goods with respect to which a Trade Mark is registered.

Alteration and Rectification of Register.

Alteration of non-essential parts of Trade Mark.

35. The registered proprietor of any registered Trade Mark may, by leave of the Court, alter such Trade Mark, so that he do not alter any one or more of the particulars in such Mark which are declared by section ten of the Act to be the essential particulars of a Trade Mark, and the registrar shall, on payment of the prescribed fee and compliance with the requisitions of the registrar as to the deposit of representations of the Trade Mark as altered, alter the register accordingly.

Entry of rectification in register.

36. Where due notice of an order of any Court rectifying the register has been given to the registrar, the registrar shall forthwith, upon an official copy of so much of the order as relates to such rectification being left with the registrar, and payment of the prescribed fee, rectify the register in accordance with the order.

Publication of rectification or alteration in register.

37. Whenever the register is rectified or altered in any particular in respect to any Trade Mark, the registrar shall, if he thinks that such rectification or alteration should be made public, at the expense of any person interested publish, by advertisement or otherwise, and in such manner as he thinks just, the circumstances attending the rectification or alteration of the register.

Notice to registrar of opposition in any matter.

38. Any person may send, with the prescribed fee, notice to the registrar of his desire to oppose the registration of any assignee or transmittee, or any alteration of the register. The registrar shall give to the applicant for such registration or alteration the like notice, and may require security for costs in like manner as in the case of a notice of opposition to the original registration of a Trade Mark.

The registrar in such case may, if he think fit, require the parties interested to submit their claims to the Court.

Alteration of address, &c. in register.

39. If the registered proprietor of a Trade Mark send to the registrar, together with the prescribed fee, notice of an alteration in his address, the registrar shall alter the register accordingly.

Inspection of Register.

Inspection and copies of register.

40. On such days and during such hours as the registrar may from time to time determine, not being less than three hours on three separate days in a week, any person may, on paying the prescribed fee, inspect the register of Trade Marks; and any person may, on paying the prescribed fee, obtain an office copy of any entry in the register.

Certificate by registrar.

41. The registrar when required for the purpose of any legal proceeding or other special purpose to give a certificate as to any entry, matter, or thing which he is authorised by the Act, or any of these rules to make or do, may, on payment of the prescribed fee, give such certificate, and shall specify on the face of it the legal proceeding or other purpose for which such certificate is granted.

Application to the Court.

Definition of Court.

42. The Court for the purposes of this Act is hereby declared to be the Chancery Division of Her Majesty's High Court of Justice.

Application to Court.

43. An application to the Court under the Act and these Rules may, subject to Rules of Court under the Supreme Court of Judicature Act, 1875, be made by motion or by application in chambers, or in such other manner as the Court may direct.

Submission to Court of conflicting claims.

44. Where the registrar refuses to comply with the claims of any persons until their rights have been determined by the Court, the manner in which the rights of such claimants may be submitted by the registrar, or, if the registrar so require, by the claimants, to the Court shall, unless the Court otherwise order, be by a special case; and such special case shall be filed and proceeded with in like manner as any other special case submitted to the Court, or in such other manner as the Court may direct.

Settlement of special case.

45. The special case may be agreed to by the parties, or if they differ may be settled by the registrar.

Cutlers Company.

Time for delivery of old Sheffield Marks.

46. The time within which the Cutlers Company are in pursuance of the Act to deliver to the registrar copies of all Sheffield corporate Marks in force at the time of such delivery shall be the first day of March one thousand eight hundred and seventy-six, or such later day as the Lord Chancellor may fix.

Manner of delivery of old Sheffield Marks.

47. Subject to any other directions that may be given by the registrar the manner in which such copies are to be delivered shall be the sending to the registrar of copies as herein-after defined of such marks, accompanied by a statement of the names, addresses, and callings of the persons to whom such Trade Marks have been assigned.

Time for delivery of new Sheffield Marks.

48. The time within which the Cutlers Company are to deliver to the registrar notice of an application to them for assigning any Mark or device, with a copy of such Mark or device, shall be as soon as practicable after the date at which such Company have determined on the Mark or device to be assigned.

Manner of delivery of new Sheffield Marks.

49. The manner in which such notice and copy shall be delivered to the registrar shall be the sending to the registrar a notice of the application, accompanied by a statement comprising the like particulars as a statement required to be made by an applicant for the registration of a Trade Mark by the registrar under the Act, so far as such particulars are known to the Cutlers Company.

Period between notice to registrar and assignment of new Sheffield Marks.

50. The period before the expiration of which such Mark or device shall not be assigned by the Cutlers Company, shall be six weeks from the date of sending the said notice to the registrar.

Time for notice of application to register new Trade Marks to Cutlers Company.

51. The time within which notice of an application for the registration under the Act of a Trade Mark as belonging to any particular goods or class of goods specified in section two of the Cutlers Company's Act, 1860, together with a copy of the Trade Mark, is to be delivered to the Cutlers Company, shall be as soon as practicable after the receipt of the application by the registrar.

Manner of

52. The manner in which such notice is to be

giving notice to Cutlers Company of application.

given shall be the sending to the Cutlers Company a copy of the official journal containing the Mark of which notice is required to be given, with a note distinguishing such Mark.

Time between notice to Cutlers Company and registration of Trade Mark.

53. The period from the giving of such notice, before the expiration of which the Trade Mark is not to be registered, shall be six weeks from the date of sending such notice to the Cutlers Company.

Time for notice of assignment of Mark or registration of Mark.

54. The time within which notice of the assignment of any Trade Mark or device, or the registration of any Trade Mark, is to be given to the registrar or to the Cutlers Company (as the case may be) shall be fourteen days after such assignment or registration.

Manner of giving notice of assignment or registration of Mark.

55. The manner in which such notice shall be given shall be the sending a notice of such assignment or registration, with sufficient particulars to identify the Mark, or device, or Trade Mark, to the registrar or Cutlers Company, as the case may be.

Description of copies for purpose of Cutlers Company.

56. A copy of a Trade Mark for the purpose of these rules when sent by the Cutlers Company shall be a drawing or representation of the Trade Mark, in duplicate, and, subject to any other directions that may be given by the registrar, shall be of a size of not less than three inches square, and shall be upon foolscap paper of such size as aforesaid.

Cotton Goods.

Establishment of office for exhibition of cotton Trade Marks at Manchester.

57. For the purpose of facilitating the granting of Trade Marks in respect of cotton goods in Classes 23, 24, and 25 there shall be established by the Commissioners of Patents, and subject to their control, an office at Manchester for the exhibition of all devices, Marks, headings, labels, tickets, letters, words, or figures, or combinations of letters, words, or figures used in the cotton trade, and in these rules included under the expression "cotton marks."

Representations of cotton Marks to be sent to Manchester office on or before Dec. 1st, 1876.

58. *See amended Rule* 58, *page* 29.

Committee of experts to

59. A committee of persons versed in the usages of the cotton trade shall be appointed by the Commissioners of Patents, consisting of such number of persons as may from time to time be determined by them; and it shall be the duty of such committee,

on or before a time to be named by the Commissioners of Patents, to divide the Cotton Marks, representations of which have been so sent in to the Manchester office, into two classes, the first class consisting of such of the said Cotton Marks as are, in the opinion of the committee, Trade Marks within the meaning of the Act, and the second class consisting of such of the said Cotton Marks as are not, in the opinion of the committee, Trade Marks within the meaning of the Act.

be appointed, and to divide Cotton Marks into two classes.

60. The said committee shall form a list of the Cotton Marks sent to the Manchester office in each of the aforesaid classes, and shall transmit such list to the Commissioners of Patents, accompanied by two representations of each of the Marks specified in the second class in such list.

Committee to form list of Marks sent in to Manchester office.

The third representation of each of the Marks in the second class in such list shall be retained for reference in the Manchester office.

61. The Commissioners of Patents may from time to time add to the aforesaid list any Cotton Marks as they may think just, and such addition shall be deemed to be part of the original list.

Marks may be added to list.

62. Any proprietor of a Cotton Mark not specified in the second class in such list may apply to be registered as proprietor of such Cotton Mark in manner and subject to the conditions in which he may apply to be registered as proprietor of any other Trade Mark, but it shall not be lawful for the registrar to register any person as proprietor of any Cotton Mark in the second class of the aforesaid list except in pursuance of an order of the court.

Any person claiming to be the proprietor of a Cotton Mark in Class 1 may apply to be registered

63. A Cotton Mark shall not be registered except in manner and subject to the conditions prescribed by these rules with respect to the registry of Cotton Marks.

Cotton Mark not to be registered except in manner herein prescribed.

(NOTE.—*For additional Rules relating to Cotton Marks, see page* 28.)

Declaration and Evidence.

64. In any case in which any person is required under this Act to make a declaration on behalf of himself, or of any body corporate, or any evidence

Dispensing with declaration, evidence, &c.

is required to be produced to the Registrar, the registrar, if satisfied that from any reasonable cause such person is unable to make the declaration, or that such evidence may be dispensed with, may, upon the production of such other declaration or evidence, and subject to such terms as he may think fit, dispense with any such declaration or evidence.

Manner in which and persons before whom declaration is to be taken.

65. The declarations required by these rules shall be made and subscribed in the United Kingdom under the authority of the Act of the fifth and sixth years of the reign of King William the Fourth, chapter sixty-two, "to repeal an Act of the present "session of Parliament, intituled 'An Act for the "'more effectual abolition of oaths and affirmations "'taken and made in various departments of the "'State, and to substitute declarations in lieu "'thereof, and for the more entire suppression of "'voluntary and extra-judicial oaths and affidavits,' "and to make other provisions for the abolition of "unnecessary oaths," and may be made and subscribed before any justice of the peace, or any commissioner or other officer authorised by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceeding.

The declaration, when taken out of the United Kingdom, shall

(*a.*) If made in any part of Her Majesty's dominions be made and subscribed before some court, justice, or officer authorised by law in such part of Her Majesty's dominions to administer an oath for the purpose of a legal proceeding; and,

(*b.*) If made out of Her Majesty's dominions, be made and subscribed before a British consul, vice-consul, or other consular officer.

Notice of seal of officer taking declaration to prove itself.

66. Any document purporting to have affixed, impressed, or subscribed thereto or thereon the seal or signature of any person hereby authorised to take such declaration, in testimony of such declaration having been made and subscribed before him, may be admitted by the registrar without proof of the

genuineness of any such seal or signature, or of the official character of such person or his authority to take such declaration.

Declaration by infant, lunatic, &c.

67. If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by the Act or these rules to be made or done by such incapable person, then the guardian or committee, if any, of such incapable person, or if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purpose of the Act and these Rules be as effectual as if done by the person for whom he is substituted.

Commissioners of Patents.

Registrar subject to Commissioners of Patents.

68. The Registrar, in the exercise of his powers, duties, and discretion under the Act and these Rules, shall be subject to the superintendence of the Commissioners of Patents, and shall conform in every case to any instructions, directions, orders, or rules (general or special) that may be issued, given, or made by such Commissioners, or any one of them; and he shall in all cases of doubt be entitled to refer to the said Commissioners, or any of them, for instructions.

Notices.

Notices to be in writin and served by post.

69. Applications, statements, notices, and documents required by the Act or by these Rules to be served or sent shall be in writing or print, or partly in writing and partly in print, and may be delivered personally, or served and sent by post, and if sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary

course of post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was prepaid and put into the post properly addressed.

Mode of addressing notices.

70. Any application, statement, notice, and document to be served or sent on or to the registrar shall be deemed to be properly addressed if addressed to the Registrar of Trade Marks at his office; and if required to be served on or sent to the proprietor of any Trade Mark shall be deemed to be properly addressed if addressed to the registered proprietor at his registered address.

Construction of Rules.

71. These Rules shall be construed as if they were part of the Trade Marks Registration Act, 1875, as amended by the Trade Marks Registration Amendment Act, 1876, and the said Trade Marks Registration Act, 1875, amended as aforesaid, is in these Rules referred to as "the Act."

Forms.

72. The forms in the third schedule to these Rules or such other forms as the Registrar may direct may be used in all cases to which they are applicable.

CAIRNS, *C.*

August, 1876.

We the Commissioners of Her Majesty's Treasury do hereby assent to the above Rules so far as they relate to fees.

CRICHTON.
R. WINN.

September, 1876.

Additional Rules relating to Cotton Marks.

WHEREAS by the fifty-eighth rule of the Trade Marks Rules it is provided as follows:

"Every person who at the date of the passing "of the Act used any Cotton Mark shall, on or before "the first day of December one thousand eight hun- "dred and seventy-six, send to the Manchester office "three representations of such Cotton Mark, in such "form and with such a description as may be from

"time to time required by the Commissioners of "Patents."

And whereas it is expedient to extend the time for sending into the Manchester office the representations of Cotton Marks in the said rule mentioned:

Now, therefore, I, the Right Honourable Hugh MacCalmont, Baron Cairns, of Garmoyle, in the county of Antrim, Lord High Chancellor of Great Britain, in pursuance of the Trade Marks Registration Act, 1875, and of all powers enabling me in that behalf, do hereby annul the said rule, and direct that there be substituted therefor the following rule; that is to say,

58. Every person who at the date of the passing of the Act used any Cotton Mark, shall, if resident in the United Kingdom, on or before the first day of January, one thousand eight hundred and seventy-seven, and if resident elsewhere, on or before the 1st day of March, one thousand eight hundred and seventy-seven, send to the Manchester office three representations of such Cotton Mark, in such form and with such a description as may be from time to time required by the Commissioners of Patents.

Representations of Cotton Marks to be sent by owners resident in the United Kingdom on or before Jan. 1, 1877, by owners resident abroad on or before Mar. 1, 1877.

CAIRNS, *C.*

1*st December*, 1876.

WHEREAS by the thirteenth, fifteenth, and seventeenth rules of the Trade Marks Rules provision is made respecting the advertisement in the official paper of facsimiles of Trade Marks: And whereas such provisions cannot conveniently be applied to cotton goods in classes 23, 24, and 25, referred to in the said Rules.

Now, therefore, I, the Right Honourable Hugh MacCalmont, Baron Cairns, of Garmoyle, in the county of Antrim, Lord High Chancellor of Great Britain, in pursuance of the Trade Marks Registration Act, 1875, and of all powers enabling me in that behalf, do hereby direct that the above-mentioned Rules 13, 15, and 17 shall not apply to Trade Marks in respect of cotton goods in the said classes,

and that instead of such Rules there shall apply to the goods aforesaid the Rules following:

Advertisement of Cotton Marks.

1. As soon as may be after the receipt of an application, made as provided by the Trade Marks Rules, for the registration of a Mark in classes 23, 24, 25 aforesaid, or in any one or more of such classes, the Registrar shall insert in the official paper an advertisement of such application, showing the name and address of the applicant, the class in which he applies, the number given to the Mark by the Registrar, the places in London and Manchester respectively where a specimen of such Mark is deposited for exhibition, and distinguishing whether the Mark has or has not been used prior to the thirteenth day of August one thousand eight hundred and seventy-five.

Time of registration of Cotton Marks.

2. On the expiration of three weeks from the date of the first appearance of the advertisement of a Mark in classes 23, 24, 25, or in any one or more of such classes, in the official paper, the Registrar may, if he is satisfied that the applicant is entitled to registration, register such Mark in respect of the description of goods for which he may be entitled to be registered, and the applicant as the proprietor thereof, on payment of the prescribed fee.

CAIRNS, *C.*

26*th February*, 1877.

Rule as to Cancelling of an Entry upon the Register upon Application of Proprietor.

WHEREAS by the Trade Marks Registration Act, 1875, the Lord Chancellor is authorised from time to time, with the assent of the Treasury as to fees, to make general rules as to the registry of Trade Marks, and other matters connected therewith, and also when made to alter, annul, or vary such rules, as in the said Act mentioned:

Now, therefore I, the Right Honourable Hugh MacCalmont Baron Cairns, of Garmoyle in the county of Antrim, Lord High Chancellor of Great

Britain, in pursuance of the said Act, and of all other powers enabling me in this behalf, do hereby, in addition to the rules as to the registry of Trade Marks before made by me, make the following rule :—

The registered proprietor of a Trade Mark may at any time send to the Registrar an application to cancel the entry of such Trade Mark upon the register; such application to be accompanied by the prescribed fee and by a declaration made by the applicant, stating his name and address, and that he is the person whose name appears upon the register as the proprietor of the said Trade Mark; and thereupon the Registrar may, if satisfied of the truth of the statement made by the applicant, cancel the entry of such Trade Mark.

CAIRNS, *C.*

4th February, 1878.

SCHEDULES.

First Schedule.

CLASSIFICATION OF GOODS.

	Illustrations.
	NOTE.—*Goods are mentioned in thi column by way of illustration, and no as an exhaustive list of the contents o a class.*
Class 1.	
Chemical substances used in manufactures, photography, or philosophical research, and anti-corrosives.	Such as— Acids, including vegetable acids. Alkalies. Artists' colours. Pigments. Mineral dyes. Varnish.
Class 2.	
Chemical substances used for agricultural, horticultural, veterinary, and sanitary purposes.	Such as— Artificial manure. Sheep washes. Deodorisers.

Class 3.	
Chemical substances not included in Class 1, used in medicine and pharmacy.	Such as— Tinctures. Extracts. Barks. Patent medicines. Cod-liver oil. Plaisters. Lozenges.
Class 4.	
Raw or partly prepared vegetable, animal, and mineral substances used in manufactures, not included in other classes.	Such as— Resins. Oils, not included in other Classes. Dyes, other than mineral. Tanning substances. Fibrous substances (*e.g.* cotton, hemp, flax, jute). Wool. Silk. Bristles. Hair. Feathers. Cork. Seeds. Bone. Sponge.
Class 5.	
Unwrought and partly wrought metals used in manufacture.	Such as— Iron and steel, pig or cast. ,, rough. ,, bar and rail, including rails for railways. ,, bolt and rod. ,, sheets, and boiler and armour plates. ,, hoops. ,, wire. Lead, pig. ,, rolled. ,, sheet. Copper. Zinc. Gold, in ingots.
Class 6.	
Machinery of all kinds, and parts of machinery, except	Such as— Steam engines.

Class 6.—*cont.*

agricultural machines included in Class 7.	Boilers. Pneumatic machines. Hydraulic machines. Locomotives. Sewing machines. Weighing machines. Machine tools. Mining machinery. Fire engines.

Class 7.

Agricultural and horticultural machinery, and parts of such machinery.	Such as— Ploughs. Drilling machines. Reaping machines. Thrashing machines. Churns. Cyder presses. Chaff cutters.

Class 8.

Philosophical instruments, instruments and apparatus for useful purposes, or for teaching.	Such as— Gauges. School desks. Logs.

Class 9.

Musical instruments.

Class 10.

Horological instruments.

Class 11.

Instruments, apparatus, and contrivances for surgical or curative purposes, or in relation to health.	Such as— Bandages. Friction gloves. Lancets.

Class 12.

Cutlery and edge tools.	Such as— Knives. Forks. Scissors. Shears. Files. Saws.

Class 13.	
Metal goods not included in other classes.	
Class 14.	
Goods of precious metals (including aluminium, nickel, Britannia metal, &c.), and jewellery, and imitations of such goods and jewellery.	Such as— Plate. Clock cases and pencil cases of such metals. Sheffield and other plated goods. Gilt and ormolu work.
Class 15.	
Glass.	Such as— Window and plate glass. Painted glass. Glass mosaic. Glass for optical purposes.
Class 16.	
Porcelain and earthenware.	Such as— China. Stoneware. Terra-cotta. Statuary porcelain. Tiles. Bricks.
Class 17.	
Manufactures from mineral and other substances for building or decoration.	Such as— Cement. Plaster. Imitation marble.
Class 18.	
Engineering, architectural, and building contrivances.	Such as— Diving apparatus. Warning apparatus. Ventilating apparatus. Filtering apparatus. Lighting contrivances. Drainage contrivances. Electric and pneumatic bells.
Class 19.	
Arms, ammunition, and stores not included in Class 20.	Such as— Cannon. Small-arms. Fowling-pieces. Swords.

Class 19.—*cont.*	
	Shot and other projectiles. Camp equipage. Equipments.
Class 20.	
Explosive substances.	Such as— Gunpowder. Gun cotton. Dynamite. Fog-signals. Percussion caps. Fireworks. Cartridges.
Class 21.	
Naval architectural contrivances and naval equipments not included in Classes 19 and 20.	Such as— Boats. Anchors. Chain cables. Rigging.
Class 22.	
Carriages.	Such as— Railway carriages. Waggons. Railway trucks. Velocipedes. Bath chairs.
Class 23.	
Cotton yarn and thread.	
Class 24.	
Cotton piece goods of all kinds.	
Class 25.	
Cotton goods not included in Classes 23, 24, or 38.	
Class 26.	
Linen and hemp yarn and thread.	
Class 27.	
Linen and hemp piece goods.	
Class 28.	
Linen and hemp goods not included in Classes 26, 27, and 50.	

Class 29.	
Jute yarns and tissues, and other articles made of jute not included in Class 50.	
Class 30.	
Silk, spun, thrown, or sewing.	
Class 31.	
Silk piece goods.	
Class 32.	
Other silk goods not included in Classes 30 and 31.	
Class 33.	
Yarns of wool, worsted, or hair.	
Class 34.	
Cloths and stuffs of wool, worsted, or hair.	
Class 35.	
Woollen and worsted and hair goods not included in Classes 33 and 34.	
Class 36.	
Carpets, floor-cloth, and oil-cloth.	Such as— Drugget. Mats and matting. Rugs.
Class 37.	
Leather, and skins unwrought and wrought.	Such as— Saddlery. Harness. Whips. Portmanteaus. Furs.
Class 38.	
Articles of clothing.	Such as— Hats of all kinds. Caps and bonnets. Hosiery. Gloves.

Class 38.—*cont.*

	Boots and shoes. Other ready-made clothing.

Class 39.

Paper (except paper hangings), stationery, printing, and bookbinding.	Such as— Envelopes. Sealing wax. Pens (except gold pens). Ink. Playing cards. Blotting cases. Copying presses.

Class 40.

Goods manufactured from india-rubber and gutta-percha not included in other classes.	

Class 41.

Furniture and upholstery.	Such as— Paper hangings. Papier-mâché. Mirrors. Mattresses.

Class 42.

Substances used as food. or as ingredients in food.	Such as— Cereals. Pulses. Olive oil. Hops. Malt. Dried fruits. Tea. Sago. Salt. Sugar. Preserved meats. Confectionery. Oil cakes. Pickles. Vinegar. Beer clarifiers.

Class 43.

Fermented liquors and spirits.	Such as— Beer. Cyder. Wine. Whisky. Liqueurs.

Class 44.	
Mineral and aërated waters, natural and artificial, including ginger beer.	
Class 45.	
Tobacco, whether manufactured or unmanufactured.	
Class 46.	
Seeds for agricultural and horticultural purposes.	
Class 47.	
Candles, common soap, detergents, illuminating, heating, or lubricating oils, matches, and starch, blue, and other preparations for laundry purposes.	Such as— Washing powders. Benzine collas.
Class 48.	
Perfumery (including toilet articles, preparations for the teeth and hair, and perfumed soap).	
Class 49.	
Games of all kinds. Archery. Fishing tackle. Toys.	Such as— Billiard tables. Roller skates. Fishing nets and lines.
Class 50.	
Miscellaneous, including— (1.) Goods manufactured from ivory, bone, wood, not included in other classes. (2.) Goods manufactured from straw or grass, not included in other classes. (3.) Goods manufactured from animal and vegetable substances, not	Such as— Coopers' wares.

Class 50.—*cont.*

included in other classes.

(4.) Tobacco pipes.

(5.) Umbrellas, walking sticks, brushes, and combs.

(6.) Furniture cream, plate powder.

(7.) Tarpaulins, tents, rick-cloths, rope, twine.

(8.) Buttons of all kinds, other than of precious metal or imitations thereof.

(9.) Packing and hose of all kinds.

(10.) Goods not included in the foregoing classes.

GENERAL NOTE.

Any wares made of mixed materials (for example, of both cotton and silk) shall be included in such one of the classes appropriated to those materials as the Registrar may decide.

Second Schedule.

FEES.

The following fees shall be payable to the registrar on or for the following occasions or purposes :—

	£	s.	d.
1. On application to register one Trade Mark for one or more articles included in one class . .	1	0	0
2. On application to register more than one Trade Mark for one or more articles included in one class, for each additional Trade Mark after the first	0	10	0
3. On application to register a Trade Mark in respect of goods in different classes, for every class after the first to which such Trade Mark is extended, an additional fee of . . .	0	2	0
4. For registration of one Trade Mark	1	0	0
5. Where the same person is registered at the same time for more than one Trade Mark, for registration of each additional Mark after the first	0	10	0
6. Where the same person is registered at the same time for the same Trade Mark in respect of			

	£	s.	d.
goods in different classes, for the registration of one Mark in each class after the first an additional fee of	0	2	0
7. For entering notice of opposition, for each Trade Mark, whether in one or more classes . . .	2	0	0
8. For registering subsequent proprietor in cases of assignment or transmission, the first Mark .	1	0	0
And for every additional Mark assigned or transmitted at the same time	0	2	0
9. For altering address on the register . . .	0	5	0
10. For every entry in the register of a rectification thereof or an alteration therein, not otherwise charged	0	10	0
11. For continuance of Mark at expiration of fourteen years	2	0	0
12. Additional fee where fee is paid within three months after expiration of fourteen years .	1	0	0
13. Additional fee for restoration of Trade Mark when removed for non-payment of fee . .	2	0	0
14. For certificate of registration to be used in legal proceedings	1	0	0
15. For inspecting register, for every quarter of an hour	0	1	0
16. For office copy of documents, 2*d*. per folio, but never less than	0	1	0
17. Settling a special case by Registrar . . .	2	0	0
18. For certificate of registration to be used for the purpose of obtaining registration in foreign countries	0	5	0
19. For copy of notification of registration . .	0	2	0
20. In cases where a Trade Mark requires a greater space than two inches of the depth of the page of the *Trade Marks Journal*, for each additional inch or part of an inch . . .	0	2	6
21. For certificate of refusal to register a Trade Mark under section 2 of 39 & 40 Vict. c. 33 . . .	1	0	0
22. For certificate of refusal, at the same time, for more than one Trade Mark, for each additional Mark after the first	0	10	0
23. For cancelling the entry of a Trade Mark upon the register, on the application of the owner of such Trade Mark	0	5	0

Note.—If a copy of a Trade Mark is required for any purpose, such copy shall be supplied by, or at the expense of, the applicant.

Approved

CRICHTON.
ROBERT WINN.

CAIRNS, *C.*

INTERNATIONAL TREATY STIPULATIONS.

THE protection abroad of Trade Marks belonging to manufacturers, merchants and others resident in Great Britain is guaranteed in various countries in different ways, subject always to the prescribed local regulations being observed.

In certain countries the Trade Mark laws themselves extend protection to all foreigners without distinction.

In other countries protection is only accorded to the subjects of such States as afford reciprocity of treatment.

It was formerly the custom to provide for reciprocity upon the subject of Trade Marks in the Treaties of Commerce. Austria, Belgium, Colombia, France, Italy and Russia are instances in which the subject has been treated in this manner. During recent years, however, it has been the practice to make special Declarations on the subject, and these are in effect of an equivalent character. Treaties, such as last referred to, have been entered into between Great Britain and the following countries: Denmark, Germany, Portugal, Spain, Switzerland and the United States of America. As an example of these, that with Spain is appended hereto.

DECLARATION BETWEEN GREAT BRITAIN AND SPAIN FOR THE PROTECTION OF TRADE MARKS.

Signed at London, December 14th, 1875.

THE Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the Government of His Majesty the King of Spain, with a view to the reciprocal protection of the Marks of manufacture and trade in the two countries, have agreed as follows:

The subjects or citizens of each of the Contracting Parties shall have, in the dominions and possessions of the other, the same rights as belong to native subjects or citizens, or as are now granted, or may hereafter be granted, to the subjects and citizens of the most favoured nation, in everything relating to property in Trade Marks and trade labels.

It is understood that any person who desires to obtain the aforesaid protection must fulfil the formalities required by the laws of the respective countries.

In witness whereof the Undersigned have signed the present Declaration, and have affixed thereto the seal of their arms.

Done at London, the 14th day of December, 1875.

(L.S.) DERBY.
(L.S.) MARQUES DE CASA LAIGLESIA.

COLONIAL AND FOREIGN COUNTRIES.

AUSTRO-HUNGARY.

Por. 38,000,000.

A LAW for the protection of Trade Marks and other denotations came into operation 1st January, 1859, and applied originally to both divisions of the Empire. A modification, affecting British subjects, took place in 1876 on the ground of the commercial treaties of that year. Formerly the commercial treaties were made with Austria and Hungary united as one nation; but the recent treaties, above referred to, are made with the Empire of Austria and the Kingdom of Hungary separately, the protection of Trade Marks being particularly provided for. The necessity of registering foreign Trade Marks at both Vienna and Budapesth, in order to obtain protection throughout the dual Empire, is consequently entailed.

Besides native manufacturers and merchants, residents in the following countries may obtain protection :— Belgium, France, Germany, Great Britain, Holland, Italy, Portugal, Roumania, Russia and Spain.

It is not necessary to prove that the Trade Mark of a foreigner has been registered in his own country. It sometimes happens, however, that a Trade Mark offered for registration is not regarded by the Austrian authorities as suitable (for instance, if it consist solely of words or letters or public heraldic emblems) and is therefore refused, unless it can be shewn that the Mark is officially registered in the country where the owner is domiciled.

It is clearly to the interest of owners of Trade Marks to register without delay, for any previous registration in Austro-Hungary, fraudulently obtained by another

person, will prevent the legitimate owner of the Mark in question securing the protection he may afterwards wish to obtain.

The Trade Mark Law provides that a trader who wishes to secure to himself the sole right to the use of a Mark must register it; whereupon the use thereof by any other trader is prohibited. The prohibition, however, only extends to the use of the Mark in conjunction with the particular class of goods for which it is registered. The right continues, changes owners and expires with the commercial or industrial undertaking; and a new owner (with some few exceptions) must have the Mark transferred to his name within three months, producing at the same time proof of the acquisition of the trading concern. The Law applies equally to the marking of the packing, receptacles, wrappers, &c. as to the goods themselves.

In registering a Trade Mark at Vienna and Budapesth, five copies are respectively required and an engraving or electrotype block corresponding therewith, particulars as to the name in which the Mark is to be registered and the designation of the industrial enterprise for which it is intended. A duty of 5 fl. (about 9*s.* 6*d.*) is payable in respect of Austria and Hungary separately; and, if the Mark be the property of a British manufacturer, it is also desirable to furnish an official certificate of its being registered at home, besides a legalised power of attorney for the use of the Austro-Hungarian agent applying.

On recording a transfer the same duty is payable as on the original registration.

All registers of Trade Marks are open to public inspection.

An infringement, whether by appropriation or imitation of a Mark or by using the illegally marked goods, is actionable at civil law; and the injured party may recover compensation as well as obtain the removal of the Marks from the goods and the destruction of the tools used for

the purpose of marking. It is considered an imitation if the Mark in question cannot be distinguished from the genuine one except by close examination. Proceedings may also be taken against any one who introduces articles for sale which are furnished with an imitation of a registered Trade Mark. If it be proved that an infringement has been knowingly committed, a fine of from 25 fl. to 500 fl. (£48), is to be imposed on the offender; but if such is likely to interfere with his paying the civil damages recovered, the fine is to be converted into imprisonment for a term of from 5 to 100 days. On a repetition of the offence the punishment may be doubled.

BELGIUM.

POP. 5,500,000.

A SPECIAL Law concerning Trade Marks came into force 1st October 1879, and has for its object, not only the protection of the manufacturer and merchant, but that of the consumer who wishes to be assured as to the origin of the goods supplied to him. These results are attained by enabling every person to adopt the exclusive use of some distinctive Trade Mark which, affixed to his productions, enables them to be recognised. It is however necessary for him to observe the requisite formalities incidental to official registration. Any articles which can be described as "industrial products" or "objects of commerce" may have such Marks applied to them or their wrappers, receptacles or packings; hence the scope of such a law is very wide.

The registration of a Trade Mark is effected at the office of the Tribunal of Commerce or at the office of the Civil Tribunal of the district in which the chief establishment of the person interested is situated. The follow-

ing documents have to be produced :—A receipt for the payment of the tax and dues, which amount to 13 fr. (10*s.* 6*d.*) ; a power of attorney from the owner if the registration be effected through an agent (this Power may be simply signed by the owner of the Mark and stamped, but it must be registered at the office where the tax is paid and left with the other documents in the hands of the Registrar of the Mark) ; a fac-simile or copy in triplicate of the adopted Mark (this copy is executed on unstamped paper and must be drawn on paper not exceeding $3\frac{1}{8}$ ins. in height by $3\frac{7}{8}$ ins. in width) ; a stereotype block of the Mark of the same size as the copy just alluded to (this should be well executed in metal [electrotype], the thickness of the block being $\frac{7}{8}$ ins. It is intended for use at the central office in compiling the printed record of registered Trade Marks). Office fees amounting to about 13*s.* 6*d.* are also payable.

The Registrar is required to note the day and the hour the deposit is made, the name of the applicant, his profession, his address and the nature of the industrial or commercial undertaking in which he intends to make use of the Mark. If the deposit be made through an agent, the name of the person so empowered is also to be noted. Besides a description of the Mark, it must be stated whether the Mark is to appear impressed, in relief or otherwise applied to the articles ; and whether the specimen copy of the Mark, above referred to, shews it in natural size or reduced in order to comply with the dimensions fixed by the law. A form, in triplicate, containing all the particulars enumerated, has to be signed by the depositor and by the Registrar, one copy being delivered to the former.

Several Marks cannot form the subject of a single registration, unless they differ solely in size or colour ; each Mark must be registered separately.

As a power of attorney when used is deposited with

the documents, it follows that a separate power must be provided for each Mark registered.

The Law applies indiscriminately and without restriction to natives and foreigners residing in Belgium as well as to Belgians and foreigners established abroad in countries where Belgian Trade Marks are by treaty correspondingly protected (see p. 41). In the latter case registration can only be made at the Tribunal of Commerce at Brussels.

Considerable discussion took place in the Chamber of Representatives with regard to the transfer and transmission of Trade Marks. The imposition of any restrictions was characterised, on the one side, as an interference with property rights and a dangerous innovation; and, on the other side, it was contended that to authorise a manufacturer to dispose of his Trade Mark without the transfer of his establishment would facilitate fraudulent practices, since it would enable the unscrupulous trader to deceive the public with regard to the quality of the goods offered for sale. The Minister of the Interior declared that what he desired was to make a law of public honesty, and that to authorise the sale of a Trade Mark without the cession of the establishment, would be making a law of public fraud. In point of propriety and public expediency it is manifest that the Minister's contention was correct, and the clause was adopted.

If a Trade Mark be transferred, the transfer must be recorded at the office, and the same tax and fees are payable as on registration of the Mark; but if, in consequence of the decease of the owner, it be transmitted to a successor, the tax is waived in consideration of the ordinary taxes payable on such an occasion. In any case the rights acquired through the transfer or transmission cannot be put in force against third parties until an extract of the conveyance or other document has been filed at the office.

One of the most important provisions of the new Law is that the registration of Trade Marks effected under the former laws ceased to have effect on January 1st, 1881, if not renewed before that date. Those Trade Mark owners therefore who have not registered under the new Law should do so without delay; as any person could now adopt their abandoned Marks, register them fraudulently and thus give rise to unnecessary litigation, should the original owners wish to recover their rights.

A record of all Trade Marks registered in Belgium is kept at the Musée de l'Industrie, Brussels, and may be inspected free of charge.

The Law further provides that those who counterfeit, fraudulently use or infringe a Trade Mark, or who knowingly sell goods bearing such fraudulent Marks, shall be liable to imprisonment for from 8 days to 6 months and a fine of from 21*s.* to £80; and those who assist in, connive at or encourage such offences are liable to the same punishments. Any one convicted of one of the offences first above mentioned within five years of having been condemned under the same clause of the Act is liable to twelve months' imprisonment and a fine of £160. Goods bearing counterfeit Marks may be confiscated, as well as the special instruments used for producing the Marks. The articles seized may be awarded to the complainant on account or in satisfaction of civil damages if sought by him. The Court may also order the judgment to be posted in such places as it may designate and to be inserted in the newspapers at the expense of the delinquent.

Civil proceedings may in all cases be instituted to recover damages, but criminal proceedings are only commenced by the Public Prosecutor at the instance of the party injured.

BRITISH POSSESSIONS IN THE MEDITERRANEAN.

CYPRUS, POP. 150,000. **GIBRALTAR**, POP. 15,000.
MALTA, POP. 150,000.

No special laws appear to have been introduced on the subject of Trade Marks. There is not much doubt, however, that protection would be afforded under the general laws relating to property of an ordinary description, and that the example of the English Courts would to a great extent be relied upon in practice.

With respect to Malta, the fraudulent use of Trade Marks is provided for in Art. 281 of the Criminal Law.

DENMARK.

POP. 2,000,000.

A SPECIAL Law for regulating the use of Trade Marks came into operation 15th November, 1880. The use in business of another person's or firm's name or that of their manufactory is fraudulent; as indeed it was before the passing of the Act, which relates more particularly to Trade Marks proper, and prescribes that they shall be registered before any exclusive claim to their use can be recognised.

To acquire a monopoly in the use of any Trade Mark, a person must be either a manufacturer or seller of goods destined for the use of the public, and must apply to have his Mark entered in the Register of Trade Marks, kept at Copenhagen; such an application must be in writing, and contain the following particulars:—Applicant's christian and surname, profession, place of residence, name of his firm (if any) and place where his business is carried on, a clear description of the proposed Mark, a declaration as to the mode of employment (whether by

attachment, branding, engraving, &c.) ; a drawing of the Mark in triplicate, not exceeding four inches in height by six inches in width, on durable paper (the drawing may be smaller than above stated, but must give a distinct representation of the Mark) ; two stereotypes or engravings in metal, one of which must be entirely metal (not mounted on wood). The notification must be signed by the applicant, and the Registrar must acknowledge the receipt thereof in writing, the date and time of day being mentioned on such certificate of deposit, so that, in case of two persons applying to register the same Mark, priority may be given to the first applicant.

The registration of a Trade Mark will be refused if it consist exclusively of numerals, words or letters ; if it contain names of persons or firms differing from those of the applicant ; if it indicate a place of manufacture different to that belonging to the applicant, unless it be proved to the Registrar that a right or authority to use such name or names exists. Public arms or marks or designs contrary to public order are inadmissible, as are also combinations of numerals, words or letters.

In the event of registration being refused, the Registrar has to notify the applicant and state the reasons for such decision, against which an appeal may be made to the Minister of the Interior.

A Trade Mark already registered may be removed from the register under the following circumstances :—at the request of the registrant ; on decision by a Court of Law that he is not entitled to the use thereof ; when it is shown that the Mark failed to comply with the regulations and ought not to have been registered ; when ten years have elapsed without the retention of the Mark being notified ; and when twelve months have passed since the death of the owner. One month at least before the expiration of the term of ten years above mentioned, the Registrar is required to inform the proprietor that the

Trade Mark will be cancelled unless duly renewed. Annulments of Trade Marks as well as registrations are notified in the public journals, "Berlinske Tidende" and "Gazette."

The fee payable on registration of each Trade Mark is equal to £1 13*s.* 3*d.*, besides 2*s.* 3*d.* for advertisements. These are exclusive of the cost of advertising the representation of the Mark itself, which, for a block 2½ inches wide, costs 1 Kroner (1*s.* 1½*d.*) per inch in height; a width greater than 2½ inches up to 5 inches costs 2 Kroners per inch in height, and so on. A copy of or extract from the Register costs 2*s.* 3*d.*, but no charge is made for mere inspection. In the case of an annulment taking place, attributable to error on the part of the Registrar, reimbursement of all fees may be demanded; the claim to be made within one month.

Upon the death of the proprietor of a registered Trade Mark, the exclusive use thereof passes to the estate or heirs; but the rights in such a case only continue for one year from the date of the death, when the registration must be renewed.

The introduction of a proper name in a Trade Mark does not prevent another trader of the same name from using the word and marking his goods therewith; and no one can, by registration, monopolise signs or expressions still in general commercial use. Protection against the unauthorised use of a Trade Mark is not withdrawn, because it may have been rendered with some slight alterations, only likely to be detected by employing unusual attention.

The Law further declares that any person who on his goods or their packings uses, unauthorised, another person's name or registered Trade Mark or another firm's name or that of their manufactory, or anyone who illegally brings the goods so marked into the market, can be compelled to remove such unauthorised Marks, or if necessary to have the goods or their packings destroyed. Further, the injured party may recover compensation,

and, if the accused party is supposed to have been aware of the illegal character of the acts committed, he is liable to punishment in accordance with sec. 278 of the Penal Code and to a fine of £110.

Foreigners may enjoy the same privileges as Natives, if domiciled in countries affording corresponding protection to Danish Trade Mark owners; such, for instance, as Great Britain. In this instance, the following additional documents must be provided:—A declaration, certified by a Notary Public, that a specified person in Denmark, having a power of attorney, is authorised to represent the applicant in any legal proceedings that may be brought against him under the present Law; an official certificate of registration of the Trade Mark in this country. Registration confers no right to use the Trade Mark in Denmark to any further extent or for any longer period than is the case in the foreign state concerned.

Persons who, at the time of the passing of the Act (2nd July, 1880), were lawfully making use of Trade Marks were allowed up to 29th November, 1880, to lodge the prescribed notification; but at the present time they have no longer any preferential right to demand registration. Trade Marks which still remain unregistered by their rightful owners may be adopted and even registered by other persons. Such use could not be treated as fraudulent. It is more probable that, in such circumstances, a Trade Mark would be regarded as having become public property.

FINLAND.

POP. 2,000,000.

IN the Grand Duchy of Finland, which possesses a special and partially independent form of Government, the laws of Russia (as such) do not apply.

The Legislation on the subject of Trade Marks may be described as rudimentary in character, and, owing to its being seldom put in operation, is but little developed.

The law of 1734 provides, that whoever puts on his products, the name of another maker is liable to a fine of 50 daler (£3 15s.). The subject is further referred to in sec. 17 of the law of 1879, which enacts, that any manufacturer shall be allowed to distinguish his products by a Trade Mark, provided he does not knowingly use one that might easily be mistaken for a similar Mark already employed either at home or abroad. An offence is punishable, under sec. 42, by a fine of from 10 to 500 marks (about £20), besides costs and damages for injuries sustained.

As no regulations relating to registration exist, it may be suggested that any Trader, having sufficient intercourse with Finland to render it expedient for him to adopt measures of precaution, should advertise his Trade Marks in the principal native periodicals, illustrating and describing them and cautioning the public against making improper use thereof. This course would probably involve no greater expense than is incurred in some countries for Registration fees; whilst fair evidence of ownership in a convenient form for future reference would, by its adoption, be created.

FRANCE.

Pop. 37,500,000.

The use of Trade Marks is governed by the Law of 1857 and the Regulations issued in the following year; and, so far as manufacturers in this country are concerned, by the Commercial Treaties of 1860 and 1873 between France and England.

In order to acquire exclusive rights to the use of Trade Marks, such Marks consisting of names used in a distinctive form, appellations, emblems, impressions, stamps, seals, vignettes, relievoes, letters, cyphers, wrappers, &c., it is essential that the owner deposit two specimens or representations thereof at the office of the Tribunal of Commerce of his district; whereupon he is protected for a period of fifteen years and may renew the registration time after time for similar periods. On each of such occasions a fee of 1 franc is payable for drawing out the statement of deposit in duplicate besides a stamp duty of 35 centimes and a small registration fee. British Manufacturers who do not possess industrial or commercial establishments in France register at the office of the Tribunal of Commerce of the Department of the Seine, Boulevard du Palais, Paris. The two copies of the Mark above referred to must not exceed $3\frac{7}{8}$ ins. × $3\frac{1}{8}$ ins.; and this design is placed in the centre of a sheet about $7\frac{1}{4}$ ins. square. To the left of the centre must be stated the names of the proprietor, his profession, address and a description of the manufactures or products to which it is intended to apply the Mark. This document is signed by the applicant or, if a foreigner, by his agent. In the latter case a power of attorney, legalised by the French Consul of the district where the owner resides, must be procured and subsequently registered in Paris.

A Trade Mark may be assigned in accordance with the ordinary rules regulating the transfer of property, and no special conditions or formalities have to be observed. A purchaser, to secure himself against a third party, must register the assignment at the Tribunal of Commerce. Such a deed would be subject to an *ad valorem* duty.

For fraudulently usurping another person's Trade Mark or counterfeiting it or selling or offering for sale products bearing a fraudulent Mark, a fine of from £2 to £120 and imprisonment for from three months to three years

may be inflicted. For fraudulently imitating a Mark in such a manner as to deceive the purchaser or for using such a Mark bearing signs calculated to deceive a purchaser as to the nature of the goods or for knowingly selling or offering for sale goods bearing such Marks, a fine of from £2 to £80 and imprisonment for from one month to one year may be incurred. Upon certain classes of goods the government makes it obligatory to place particular Marks, and if these be omitted a fine of from £2 to £40 and imprisonment for from fifteen days to six months may be inflicted. The above penalties may be doubled in case a conviction for a similar offence has been recorded against the defendant during the previous five years. The offender may, amongst other things, be deprived of his right to vote at public elections during a term not exceeding ten years, the sentence may be advertised in the public journals of his district at his expense, the goods bearing the objéctionable Marks may be confiscated and handed over to the rightful owner of the Mark, besides which damages may be recovered according to the injury caused to the trade of the complainant.

The Law further makes certain provisions with regard to proceedings before the tribunals and also directs that foreign productions, bearing the Mark or the name of a manufacturer in France or the name of a French factory or that of the place where it is situated, are prohibited from entering the country ; and, if introduced, may be seized wherever found by the police and the public prosecutor immédiately communicated with. In any case legal proceedings must be taken within two months, otherwise the seizure is rendered null and void.

A manufacturer who neglects depositing his Trade Mark risks seeing another one register a similar Mark, and the former would be unable to prevent the usurper making use of this Mark. It would appear, however, that the latter could not interfere with the former

continuing to use his Mark, claiming ancient user; but the original owner might be put to the expense and annoyance of having to legally prove such title.

GERMANY.

Por. 45,000,000.

PROTECTION to property in Trade Marks is afforded by the statute of 30th November, 1874, which came into force 1st May, 1875, and which makes registration obligatory.

The provisions of this Law apply to traders whose names are entered in what is known as the "Commercial Register;" and application has to be made at the Civil Court for the State in which the principal domicile or office of the firm is situated. In the case of a British subject, however, no such record as a Commercial Register being known, it is necessary to furnish proof that the Mark proposed for registration is already protected in his own country.

The course of procedure for British Trade Mark owners is by way of petition to the Royal Saxon Court of Commerce at Leipsic, accompanied by a declaration that the applicant submits to the jurisdiction of the said Court, so far as the Law under consideration is concerned. Besides five clear specimens or drawings of the Mark ($1\frac{3}{16}$ ins. sq.) and a block for printing, the designation of the applicant, his address and a list of the classes of goods for which the Mark is destined must be furnished. All the documents require to be legalised by a German Consul here.

The registration of a Trade Mark may be cancelled on the petition of the owners; and it is officially cancelled if the firm's name be removed from the Commercial Register, if an alteration in the style of the firm be

notified without a simultaneous application for the maintenance of the Mark, at the expiration of ten years from the date of registration unless an extension be applied for, or if it be found that the Mark ought not to have been registered on account of its consisting exclusively of numerals, letters, words, armorial bearings, &c. The validity of the registration will also cease if the principal domicile or head office of the firm be transferred from one district to another without the Mark being transferred to the register of the new district; and, in the case of a foreigner, if the registration in his own country be allowed to lapse.

The registration of a Mark is notified in the Official Gazette at the expense (about 6s.) of the proprietor and a fee of £2 10s. is also payable. In certain instances, however, if the Mark up to the commencement of 1875 was generally well known as appertaining to a particular manufacturer or trader, the payment of this fee may be excused; but it is of course essential that some other person has not acquired priority of ownership by registering the Mark in the meantime. The erasure of a Mark from the register is also published in the Gazette.

The remedies afforded by the German Statutes in the event of infringement may be by civil or by criminal procedure. Civil proceedings by British Trade Mark owners would be instituted at Leipsic, but criminal prosecutions would be conducted by the Public Prosecutor, and no serious expense would be incurred by the complainant. It is provided that whoever unlawfully and knowingly marks goods or the packings thereof with the registered Trade Mark of another person or with the name of some home manufacturer or who deals in or exposes for sale such fraudulently marked goods shall, on petition by the party aggrieved, be punished by a fine of from £7 10s. to £150 or by imprisonment for a term of six months or less, besides which he must compensate

the complainant; or instead of this indemnity the complainant may move for the payment of a fine not exceeding £250 in addition to the penalties above-mentioned. The complainant may also, on petition, obtain an order to have the fraudulent Marks removed from the goods or packings; and if this cannot be done, he may have the articles themselves destroyed. The sentence may, at the direction of the Court, be published at the expense of the condemned party.

The Criminal Code of May 1870 provides for the infliction of penalties similar to those above-mentioned, and declares that they are not evaded if, in marking the goods, the name or firm be reproduced with such slight alterations as to need particular attention in order to perceive the distinction.

It should be borne in mind when specifying the goods to which a Mark is intended to be applied, that protection is only accorded in the use of the Mark in conjunction with the particular goods enumerated. For instance, if a Mark be registered for use with woollen goods, another person might use the identical Mark upon cotton goods without infringement. In such a case, the expression "textile fabrics" would include both descriptions of material.

Where a Trade Mark consists of a device or pictorial representation in conjunction with (say) a motto or numerals, each feature should be made equally prominent, so that both may catch the eye. Neither the one nor the other can then be varied without the imitation being detected by the public as a spurious Mark. Important cases of this character have occurred in Germany, where pictorial representations, forming the prominent portions of Trade Marks, have been borrowed and surrounded by different inscriptions or borders; and it has been decided that such new combinations constitute original Trade Marks and are not infringements, notwithstanding the fact that the public is undoubtedly deceived.

GREECE.

POP. 1,700,000.

THERE are no special laws relative to Trade Marks. It can scarcely be said that rights of property in Trade Marks are entirely unrecognised, as legal proceedings have in some instances resulted in repressing infringements; but the protection afforded is of an exceedingly unreliable character.

The subject has for some years received the consideration of successive Governments, but events of greater national importance have so absorbed public attention that no opportunity has occurred for prosecuting the matter.

HOLLAND.

POP. 4,000,000.

A SPECIAL law for the Protection of Trade Marks came into force on the 1st January, 1881, and it provides that any person who wishes to secure exclusive use of a Mark placed on his manufactures or merchandise or on their packings, with a view to distinguish the same from those of other manufacturers or merchants, must send to the office of the clerk of the district court within the jurisdiction of which he resides two fac-simile copies of the Mark, signed by himself and accompanied by an exact description of the same and by a declaration as to the nature of the goods to which the Mark is to be applied. If he desire to have the Registrar's certificate of the entry in the Register, he must furnish three copies instead of two, in which case one will be returned duly certified. If the applicant do not reside in Holland, he must select an address in that country and send the documents to the

Amsterdam Registry Office. The fees payable to the Registrar amount to 10 florins (17*s.*), on receiving which the Registrar is required to make the entry, give the applicant a certificate that the same has been made, file the copies deposited, adding the date and the serial number under which the Mark is placed on the Register. One copy is then sent by him to the Department of Justice, and the other copy retained at the office. The registration is then officially advertised in the Netherlands Gazette with full particulars as to the Mark and the character of the goods for which it is intended, an illustration being added if the owner has furnished an electrotype block. Within eight days of the application the owner of the Mark must publish a similar advertisement in one of the newspapers of the district in which he resides; or if he reside abroad, then in one of the Amsterdam newspapers.

Should the proposed Mark be identical with, or not sufficiently distinct from, a Mark to which another person has a right, the latter may within six months after the official advertisement apply by petition to have the registration prohibited. In the same way the Public Prosecutor may oppose if the Mark be contrary to public order or morality or be otherwise objectionable (see Preface, parag. 7). Specific regulations are laid down as to the method of procedure in cases of opposition to registration or of proceedings to erase a Mark already registered.

If within six months after the announcement in the Official Gazette no petition has been presented for the prohibition of the registration, and the Public Prosecutor has not lodged any requisition to that effect, or if such petition or requisition has been rejected, then, on the application of the owner, accompanied by a copy of the newspaper containing the advertisement above mentioned, the Mark is definitely inscribed and the inscription

dated. The Registrar hereupon furnishes the owner with a certificate of the entry ; and, if three copies of the Mark have been deposited, he returns one of these copies with the certificate appended to it.

These definitive inscriptions, as also erasures from the register, are announced in the Official Gazette once a month.

The provisional entry confers no exclusive rights against third parties until the application has been advertised, although the right to the exclusive use of the Mark is accounted to commence on the day of entry, but only in connection with that description of merchandise for which the Mark was declared to be intended.

The registers may be consulted gratuitously and extracts may be obtained on payment of small fees.

The registration is valid for fifteen years and may be renewed on the owner, before the expiration of that term or of a succeeding similar term, sending to the office a petition in duplicate for renewal. The applicant is then furnished with a certificate of renewal, and the extension is advertised as before.

The Act also provides that whosoever shall knowingly sell, offer for sale, deliver or distribute or who shall have in store for the purpose of selling or distributing, goods which or the packings of which bear the Mark, imitated Mark or Mark with a trifling variation of another person shall be imprisoned for not less than eight days or more than three months, and fined from 25 to 600 florins (£2 2*s*. to £50 16*s*.) ; and if the offender has been convicted of a similar offence within the last five years the penalties shall be doubled. The judge may further order the publication of the sentence at the expense of the condemned, may declare the articles confiscated or may order the destruction of the goods if the counterfeit Marks cannot be otherwise obliterated.

With regard to those persons who, up to the commence-

ment of 1881, have enjoyed the exclusive right to any Marks, it is enacted that they shall continue to exercise their rights provided that, within six months from that time, they comply with the conditions of this Act and obtain provisional registration. It is obvious that those who do not take this course are liable to have their Marks adopted and registered by other persons, and hereafter the removal of such Marks from the Register could not be claimed by the original owners; but, on the contrary, the latter could be prevented making use of their Marks in those countries where they have abandoned their property and raised no objection to its being acquired by others.

ITALY.

POP. 28,000,000.

PROTECTION is accorded to Trade Marks by virtue of the special Law, dated 30th August, 1868, and the Regulations thereunder of the following February.

The formalities to be observed on registration consist in the production of two copies of the adopted Trade Mark, a description of the Mark itself, a declaration also in duplicate to the effect that the applicant desires to reserve the right to the exclusive use of such Mark, particulars of the christian and surname or names of the person or firm, address, nature of the manufacture or trade and name of the applicant's father (unless the application be on behalf of a Company). Particulars are also required with regard to the mode in which it is intended to apply the Trade Mark, whether to the goods themselves or to the wrappers, boxes, &c.; and further, as to the precise character of the goods to be protected.

In the case of a foreigner applying through a native agent, it is necessary in addition to present a power of

attorney, legalised by an Italian Consul of his country, authorising the said agent to make the application. A tax of 32*s.* is payable on each application to the Department of Public Domains.

If the proposed Trade Mark comply with the regulations laid down; that is to say, provided it shows the place where the article to be protected is manufactured, the name of the works as well as of the individual, firm or Company applying, all these particulars being exhibited in full on the Mark (except when the articles protected are very small), it is not necessary to state whether the Mark has already been in use abroad. But if the Mark do not happen to comply with the conditions referred to, it may still be registered if a Trade Mark Treaty exist between Italy and the country where the proprietor is established and if proof be furnished that the Mark is duly protected according to the laws of such country. Hence a registered British Trade Mark can be registered in Italy without considering whether it complies with the regulations laid down for the design of Italian Trade Marks, it being only necessary to produce an official certificate of the registration in this country. A certificate of this description may be obtained at the Trade Marks Registry Office, London, for the sum of 5*s.* and requires, like the other documents, to be legalised by an Italian Consul.

With regard to the question as to whether a Trade Mark, the property of a British Subject, can be adopted by, and become the property of, a native of Italy, it should be observed that the Law prohibits the illegal appropriation of the name of a commercial firm, of the sign of the business of such firm (whether native or foreign) or of its characteristic mark. The Tribunals have, however, decided repeatedly that the right to the exclusive use of a Trade Mark does not come into force till the date of the deposit at the Prefecture; and that therefore if anyone use a Trade Mark before it has been so deposited, he not only

cannot be accused of forgery by the original though unregistered proprietor, but the person first above referred to will be entitled to use the Mark even after the deposit has been made. In other words, the judicial authorities regard the Mark as having become public property and no longer capable of being monopolised either by the original or subsequent owner.

Wholesale traders in British manufactures may apply their Marks to the goods they import, but the manufacturer's Mark must not be suppressed without his consent.

Owners of Trade Marks registered in Italy, in order to obtain redress in case of infringement of the privileges of ownership, must have recourse to the Civil Tribunals of the kingdom in the place in which the forgery or appropriation of the Trade Mark occurred or where the article to which the false Mark was attached was used for purposes of trade. The amount of loss suffered by the injured party may thus be recovered, in addition to which the infliction of penalties may be obtained as follows :—For knowingly using a counterfeit Trade Mark or fraudulently imitating a Trade Mark ; for dealing in or importing goods with counterfeit or fraudulently imitated Marks knowing them to be such ; for making use of any Trade Marks, signs, emblems or indications calculated to deceive the purchaser as to the nature of the merchandise so marked—a fine not exceeding £80. In case of repetition of any of the above offences the fine is to be doubled. The spurious Trade Marks, the instruments used in their production and the goods improperly marked will be confiscated and the legitimate Trade Marks affixed at the expense of the party condemned. The above penalties are applicable without prejudice to any damages which the complainant may be entitled to, or to any severer punishments which may be applicable to such offences under the Penal Code. A criminal prosecution is commenced privately, but may be taken up by the Public Prosecutor.

NORWAY.

Pop. 1,900,000.

THE Norwegian Commercial Code contains no provision for the special protection of Trade Marks, and, consequently, no official registry is provided for their record. The Criminal Code of 1842 provides however that "Any persons, not *bonâ fide* manufacturers of such wares, offering for sale goods bearing the marks or stamps of special manufacturers, are amenable to punishment of fine or imprisonment." Also, "If any person, on wares offered for sale, without authorisation applies the mark or stamp as producer of a person who has not produced those wares, he is to be punished by fine or imprisonment." The fine varies from 9s. to £45, and the term of imprisonment from 4 to 240 days.

It is not incumbent on the proprietor to advertise his Trade Mark, although it is probably preferable for him to do so. Similarly, registration in the United Kingdom may be useful, in cases of infringement, as proving ownership. In such an event it is necessary for the owner to prove that the defendant has used the Trade Mark with fraudulent design and to the prejudice of the complainant.

An infringement is prosecuted by a criminal action at the public expense; the proceedings being taken before the Magistrate of the district where the offence is committed. Damages may be obtained at the same time or they may be sought by a civil action.

It is reported that a special law on the subject, providing for registration, has for some time been under the consideration of the Government.

PORTUGAL.

POP. 4,100,000.

THE legislation on the subject of Trade Marks in Portugal is meagre and deficient in detail. This was recognised as long ago as 1864, when a new Penal Code was projected; and certain clauses, providing for the imprisonment and fine of persons imitating or counterfeiting Trade Marks, whether native or foreign, were elaborated. That Code was not, however, sanctioned; and no law on the subject has been introduced since that time, although it is reported that the matter is receiving the attention of the Government.

A Declaration made by Great Britain and Portugal on the subject of Trade Marks was signed 6th January, 1880, and approved by the General Cortes 14th January, 1881. It is similar in character to that which appears at p. 42.

According to Article 230 of the Penal Code, approved by the decree of 10th December, 1852, the counterfeiting of seals, dies or stamps belonging to any industrial or commercial establishment is punishable by imprisonment for a term of from one to three months, independently of satisfaction in damages for any pecuniary injury that may have been caused. A similar punishment is provided for any person placing on goods the name of any manufacturer or firm other than that corresponding with the factory in which such goods were manufactured, or for exposing for sale or putting in circulation articles stamped with false or altered names.

Article 988 of the Commercial Code lays down that the stamps and Marks, either written or otherwise, and brands which merchants make use of on their packages, boxes, parcels, pipes or cases are very often a presumption in favour of and a means of proving the ownership of the article thus marked, which the law recognises; but the

degree of weight to be attached to the same is left to the discretion of the judge.

In order therefore to give more certain effect to the mode of proof above referred to such Marks should be registered at the Tribunal of Commerce. It should be mentioned that this is not definitely required by the law; but the practice is commonly followed, particularly by French and native manufacturers.

An applicant for registration of a Trade Mark must furnish duplicate specimens thereof, if of such a nature as to permit of the Marks themselves being deposited. If otherwise, drawings are accepted. For these there is no specified size, but they must accurately represent the original. If the application be made through an agent, he must be provided with a power of attorney, legalised by a Portuguese Consul. The agent should also be instructed as to the nature of the goods to or with which it is intended to apply the Marks. In the case of a foreigner, no certificate of registration in his own country is required. No fee is charged for registration.

The registration holds good for any length of time.

In the event of a registered Trade Mark changing hands, the new owner simply applies to have the transfer recognised and his own name entered on the register as proprietor.

ROUMANIA.

Por. 5,300,000.

A SPECIAL Law relating to Trade Marks came into force 27th May, 1879. The use of Trade Marks is optional; but in the case of pharmaceutical products and articles which relate more particularly to hygiene and public health, the Government has power to declare the use of Trade Marks obligatory.

Anyone who desires to reserve exclusive property in a

Trade Mark must deposit, at the Tribunal of Commerce of his place of residence, two specimens of the Mark. One of these is annexed to the official register and the other, signed by the Registrar, is returned to the applicant.

The registration of a Trade Mark remains valid for fifteen years, which term may be prolonged by renewing the deposit of the Mark at the expiration of that period. A stamp duty of 16s. is payable upon registration of each Mark or upon renewal thereof.

A Foreign subject, having a manufactory or commercial establishment in a Country with which a reciprocity treaty on the subject of Trade Marks has been concluded, may enjoy the same rights as natives, provided he has duly complied with the conditions of the Act. In such a case the proposed Mark has to be deposited at the Registry Office of Ilfove.

A Trade Mark is transmissible with the business concern for which it was registered; and, in the event of assignment or transmission thereof, the official register must be amended within three months, otherwise the exclusive right to the Mark will cease. Cessation also ensues on the business being discontinued.

Anyone counterfeiting a Trade Mark or using a counterfeited Mark or anyone fraudulently applying to their products a Mark belonging to another person or anyone knowingly selling or offering for sale articles furnished with a counterfeited or fraudulently applied Trade Mark is liable to a fine of from £2 to £100 and to imprisonment for a term of from 3 months to 3 years. Further, anyone fraudulently imitating a Trade Mark in order to deceive the public or making use of a Mark fraudulently imitated or anyone using a Mark whereby the purchaser may be deceived as to the nature of the goods or anyone knowingly selling or offering for sale one or more articles furnished with a fraudulent imitation of a Mark or with

any sign calculated to deceive the purchaser as to the nature of the goods is liable to a fine of from £2 to £60 and to imprisonment for a term of from 1 month to 1 year. And again, anyone who does not apply to his products a Mark the use of which is declared obligatory or anyone who sells or offers for sale one or more unmarked articles of such last mentioned character is liable to a fine of from £2 to £40 and to imprisonment for a term of from 15 days to 6 months. These penalties are not cumulative or applicable for each individual offence, the infliction of an extreme penalty being regarded as a punishment for all previous acts. In case of repetition of an offence, the prescribed penalties may be doubled; but this only applies when a former conviction has taken place within the previous five years. Delinquents may also be deprived, during a term not exceeding ten years, of their right to take part in elections for the Chamber of Commerce or to other public institutions of an industrial or commercial character. The Court may also direct that the judgment be posted in such places as it may indicate and be inserted in the public journals, in both cases at the cost of the guilty party. The Court may also order the confiscation or destruction of the goods fraudulently marked, as also the instruments used for effecting such marking, and may further order the confiscated goods to be handed over to the proprietor of the Mark counterfeited, imitated or fraudulently applied.

In all cases of unmarked goods, the marking of which is made obligatory, the Court may order the Marks to be affixed; and if a conviction has taken place during the previous five years for a similar omission, the goods may be confiscated. The law also gives specific directions as to the course to be adopted in judicial proceedings.

The importation, transit or storing of goods manufactured abroad but bearing the Mark or name of a Roumanian manufactory is forbidden.

RUSSIA.

POP.	77,000,000	
POLAND,	6,600,000	
	83,600,000	IN EUROPE.
	8,200,000	IN ASIA.
	91,800,000	

THE regulations now in force regarding Trade Marks were introduced as long ago as 17th February, 1830, and are modelled after a fashion differing considerably from that adopted by most of the other European States.

Article XX. of the Treaty of Commerce with Great Britain, signed 12th January, 1859, provides that each of the contracting parties shall, within its own dominions strictly prohibit and repress the fraudulent use or imitation of Tradesmen's Marks originally affixed to goods, produced in the other country. By a declaration signed 11th July, 1871, it was agreed that the offering for sale of goods bearing counterfeit British or Russian Trade Marks should be considered an offence amenable to the British "Merchandise Marks Act 1862" and to certain sections of the Russian Statute of Punishments and Penal Code. It also provided that British subjects desiring protection for their Trade Marks in Russia must register them at the Department of Commerce and Manufactures at St. Petersburg.

Trade Mark Treaties have been concluded between Russia and the following countries in addition to Great Britain :—Austro-Hungary, Belgium, France, Germany, Italy, Roumania and the United States of America.

The employment of Trade Marks is not compulsory, except in the case of gold and silversmiths' work or metallic alloys resembling the precious metals. Russian goods bearing registered Trade Marks enjoy, however, some slight privileges : they are not subject to duty on re-impor-

tation to Russia, they cannot be confiscated by the Customs authorities when forming a portion of seized smuggled goods, &c.

A Trade Mark must bear on it the name and surname or the initials of the manufacturer, as well as of the place where the manufactory is established. The Mark must be legible and durable in character and Russian letters must be used. Other characters may also be employed but under condition that a Russian Mark be likewise placed on the goods. Armorial bearings should not be introduced into Trade Marks.

Whenever a manufactory is established the manufacturer must, should he wish to protect his Trade Mark, deposit a specimen thereof at the Department of Trade and Manufactures and he must notify the same Department of any change he may from time to time intend making in his Trade Mark as also the date from which such altered Mark will be used by him. In the event of a manufactory being closed the owner must report the fact to the Department. The Department may object to any Trade Mark submitted to it for registration on account of its close resemblance to some other which may have been already registered, or it may be rejected on other grounds. No fee is payable on registration of a Trade Mark. Specimens of Trade Marks used by gold and silversmiths and jewellers have to be deposited at an establishment at St. Petersburg which corresponds to some degree with Goldsmiths' Hall, London.

The counterfeiting of registered Trade Marks or the fraudulent applications of such Marks to goods is a criminal offence and is punishable by deprivation of all civil rights and privileges and by exile to distant provinces of European Russia or by imprisonment in a House of Correction for from four to eight months; the damage sustained by the injured party being, moreover, payable by the convicted person. Various degrees of punishment,

according to the gravity of the offences, are particularised in the Statute of Criminal and Correctional Punishments, amongst which a third conviction for fraud renders the culprit liable to deportation to Siberia.

The extreme severity of the penalties fixed by this Law unfortunately defeats the object of the enactment; it being regarded in Russia as obsolete and unsuited to the requirements of modern trade. Russian juries will not as a rule convict persons charged with counterfeiting Trade Marks or even of fraudulently using them; and this disinclination to convict in such cases arises from the circumstances above mentioned, that the punishment provided by the Law is altogether disproportionate to the offence.

The Government has for some time past been fully aware of the evils arising from the insufficiency of the present law in regard to the protection of Trade Marks, and new regulations have for some time been under consideration. These closely resemble the modern Trade Mark laws of other countries, and it is anticipated that the improved legislation referred to will shortly be submitted to the Council of the Empire and introduced without much delay.

The course to be followed by owners of British Trade Marks with a view to obtaining legal protection in Russia consists merely in presenting three sample Marks or copies to the Department of Commerce and Manufactures. This may be effected through the medium of Her Majesty's Consulate, an authorised agent or by the owner direct. If an agent be employed, he must be provided with a power of attorney setting out the names of the owners, their residences and place of business, the class of merchandise and description of goods to which the Trade Mark has been or is to be appropriated. A legalized copy of the Certificate of Registration must also be furnished if the Mark has been registered in England.

This is not done in consequence of any legal requirement, but because the officials at the Ministry request it to be filed in order to guard themselves as far as possible against mistakes and fraud. The person who registers the Trade Mark subsequently receives an official certificate of registration, to which a specimen of the Mark is attached.

In case of infringement a criminal suit may be commenced, in which case information must be lodged with the Public Prosecutor who institutes official enquiry into the case and, if well founded, draws up the indictment and ultimately sustains it in open Court. The process however is tedious and, for the reasons already stated, seldom terminates in the conviction of the accused. It is probable that an action for civil damages would be preferable, both in point of expedition and efficacy.

A non-registered Trade Mark, whether native or foreign, may be adopted by other persons and become their property.

POLAND.—In 1864 Poland was deprived of its administrative independence and in 1868 was absolutely incorporated in the Empire of Russia. A Trade Mark, duly registered in St. Petersburg, is therefore protected in Poland.

SERVIA.

Pop. 1,700,000.

No special law exists by which the registration of Trade Marks is made compulsory before ownership in them can be recognised at law. It may however be safely asserted that a manufacturer, who takes care to let the public know that he uses a particular Mark to distinguish his products from those of other manufacturers, would be protected against such infringements as might be calculated to deceive the public.

The subject of the laws and regulations with respect to Trade Marks has been repeatedly brought under the notice of the Servian Government, and although there exists at present no special legislative enactment in relation thereto, there is every probability of such being shortly introduced.

SPAIN.

Por. 17,000,000.

PROPRIETARY rights in Trade Marks are protected by the Royal Decree of 20th November, 1850, and some few minor regulations promulgated subsequently. The principal features of that Decree are as follow. A manufacturer, desiring protection, must in the first place provide himself with a Certificate of Mark, for which application must be made to the Governor of his Province. The petition must be in duplicate and include an explanatory statement clearly setting forth in detail the class of Mark adopted, the figures and emblems which it contains, the material of which it is composed or on which it is printed, the manner in which it is produced, and the name and address of the proprietor. Four copies of the Mark must also be furnished. If the method of applying the Mark be a secret which the proprietor desires to be preserved, he must mention this in the petition and furnish a written description under seal of the secret method. This record is only to be opened in case of necessity in the course of litigation. In acknowledgment of the petition, the Provincial Governor furnishes the applicant with a Certificate of Presentation and, within six days, forwards all the documents to the Ministry of Agriculture, Industry and Commerce. The proposed Mark is then submitted to the Royal Industrial Institute, the Director of which makes a

report as to whether the Mark has already been used on articles of the same class; if not, the proprietor receives a certificate stating that he has presented and made good his claim to a distinctive Mark, the description and all particulars of which are appended. Within three months of the date of presentation of the petition to the Provincial Governor, the applicant must pay the sum of 100 reals (£1) in stamp duty paper to the Ministry of Fomento, failing which the Certificate of Mark will not be forwarded to him. The registration remains effective without limit as to time.

Manufacturers are at liberty to adopt any distinctive Mark for their manufactures they may deem proper, with the following exceptions:—1. The Spanish Royal Arms, Orders and Decorations (unless duly authorised). 2. The distinctive Marks which others may have obtained by a prior Certificate.

The Law further directs that a manufacturer who has not provided himself with a Certificate of Mark cannot prosecute those who make use of his Trade Mark on their manufactures; but that should he, on the other hand, have obtained it, not only will he be authorised to proceed against the usurpers and claim the infliction of the penalties laid down in Art. 217 of the Penal Code, but likewise to demand indemnification for all damages and injuries caused him. The clause of the Penal Code here referred to prescribes a penalty of from four to six years' imprisonment, besides a fine of from 50 to 500 dollars. On 18th June 1870, however, a revised Penal Code was decreed, according to Arts. 291–2 and –3 of which the falsification of stamps, marks, signs, &c., used by industrial or commercial undertakings or establishments on their productions, will be punished with the penalties of correctional imprisonment in its minimum and medium degrees (this gives a range between "six months and a day" and "four years and two months"). For offering

goods for sale, the Marks or manufacturers' names on which have been substituted for those of the true manufacturers, a fine of from £5 to £50 is imposed; and a similar penalty is incurred by a person who removes from any such stamp, mark or sign the indication of its having served its purpose. Making use of a stamp, mark or sign so tampered with is similarly punishable.

In an Order dated 11th April, 1858, it was declared that Certificates of Mark are transmissible in the same way as any other property, and that proprietary rights in duly recognised and authorised Marks follow the same rules in transmission as apply to moveable property. For the more ample guarantee, however, of the persons acquiring the Marks, it was ordered that the Ministry of Fomento should be informed, through the Governor of the particular Province, of each such transmission or succession, proof being presented of the deed of cession or sale or of the testamentary clause within the space of three months, to count from the date on which the right was acquired. No fee is demanded on registration of a transfer.

By a Regulation dated 30th November, 1865, manufacturers seeking registration are required to present, together with the petition, a proof of their being established as manufacturers and a duplicate statement describing the design of the Mark.

British Trade Mark owners, having duly registered in accordance with the Spanish law, have the same rights as Spaniards, as stipulated in the declaration between Great Britain and Spain for the protection of Trade Marks, signed 14th December, 1875 (see pp. 42 and 43). The treaty makes it a condition that a claimant for protection must have fulfilled the formalities required by the laws of the respective countries. The Law does not require the production of a certificate of registration of the Mark in England. It should, however, be forwarded

with the application, as it is accepted as evidence of commercial status in place of the proof required from natives of their being entered in the "Register of Industry and Commerce." It is also looked upon as proof of ownership in this country and would go far to defeat any allegation of fraudulent registration in Spain were such at any time put forward. The petition should state the names and address of the applicant and the designation of the industrial enterprise. In the case of a firm or company the registered domicile is given. The applications with all particulars are published periodically in the Official Gazette. These announcements are illustrated if engravings be furnished, but this is at the option of the applicant.

It would appear that there is nothing to prevent an unregistered British Trade Mark being not only used but appropriated by a stranger in Spain to the permanent prejudice of the rightful owner, unless the latter take steps within the prescribed period to establish his claim and prove that the defendant is not entitled to use the Mark. Such vexatious and needless litigation may be anticipated and avoided by registration.

An elaborate Law for regulating the use of Trade Marks has been under consideration for several years. It passed the Congress of Deputies in 1877, but was not adopted in the Senate. A new Penal Code has also been projected and was published in the Official Gazette of 31st July, 1880, but this has not yet been definitely introduced. Both these proposed Laws are, however, interesting, as indicating the probable character of future Trade Mark legislation.

The author desires to specially acknowledge his indebtedness to Mr. Wm. Grain, the Notary Public of Gresham House, for valuable assistance most willingly accorded and for information derived from his extensive library of works connected with Spanish law.

SWEDEN.

POP. 4,600,000.

No special law is in force for regulating the use of Trade Marks, although a Royal Ordinance is under consideration which provides for systematic registration and which would accord protection to British subjects and natives equally. Under present circumstances, property in a Trade Mark is regarded in the same light as property of any other description and is protected by the civil laws of the country.

To acquire an exclusive right to the use of a Trade Mark, it is necessary to fully and sufficiently advertise its character and the fact of its adoption, in order that the public may be warned against inadvertent infringement of the private right to its use. It is also essential, in the case of a foreigner, for the Trade Mark to be registered in his own country.

The Ordinance above referred to and which was proposed as far back as 1878 includes the usual provisions as to registration, the fee being 50 Kroner (about £2. 15. 0); and, in the case of improper use of a Mark, imposes severe penalties under the penal code and liability to have the goods seized and destroyed.

SWITZERLAND.

POP. 3,000,000.

A FEDERAL Law concerning the protection of Manufacturing and Commercial Marks came into force 16th April, 1880. It applies to manufacturers and traders domiciled in foreign States which accord reciprocity of treatment to Swiss citizens. This definition includes Great Britain. It is, however, necessary for such Trade

Mark owners to show that their Marks are registered in their own countries, and then to register them in accordance with the special Law above referred to.

A Trade Mark must be clear and distinctive and although it may not consist exclusively of a single word (see also preface, p. 2), it may be composed of the commercial name of a firm. The first depositor of a Mark, in the absence of proof to the contrary, is deemed the rightful owner; and after its registration has been officially notified to the public, its use cannot be claimed by others. Signs used in a Mark already registered may be reproduced in a new Mark, provided the general appearance of the latter is sufficiently distinct to avoid confusion. A Mark identical with one already registered may be used on goods of an entirely different nature.

With regard to old Marks, *i.e.* those used before April 16th, 1880, their owners were accorded an exclusive right up to 31st July, 1880, to obtain registration. At the present date, any old Mark not registered may be adopted and registered by other persons.

The protection of a registered Trade Mark lasts for fifteen years, during the last year of which period the rights may be renewed for another similar term and so on indefinitely. A fee of 16*s.* is payable for each registration and for each renewal.

A Trade Mark cannot be transmitted except in conjunction with the commercial enterprise, the products of which it distinguishes. The transmission has no effect as against third parties until the deed of conveyance has been registered and the registration published. The rights lapse if the owner do not make use of the Mark during three consecutive years.

To register or renew a Trade Mark, an applicant must lodge a particular form of declaration at the Federal Bureau at Berne, together with two specimens or exact reproductions of the Mark, a description of the goods the

Mark is destined for, the signature, address and profession of the depositor, a stereotype of the Mark for printing purposes and (in the case of a foreigner applying through an agent) a power of attorney is necessary. If the office consider that the Mark is not new or not sufficiently distinctive, private notice is given to the applicant, who is at liberty to maintain, modify or abandon his demand. If however the Mark be accepted for registration, a certificate, indicating the day and hour of presentation, may be procured. Within fourteen days the Trade Mark and the particulars relating thereto are published in the *Official Gazette of Commerce* at the expense of the office.

Registration of an assignment or other transmission of a Trade Mark is made on the necessary documentary proofs being exhibited at the office and a fee of 16s. being paid.

The Law further provides for the prosecution, in either the civil or criminal Courts, of those who counterfeit the Marks of others; those who imitate the Marks of others in such a manner as to deceive the public; those who usurp the Marks of others or the packings or envelopes bearing the same for their own goods, in such a manner as to induce the public to believe that the goods emanate from the house to which the Marks belong; those who sell or expose for sale goods bearing Marks which are known to be spurious; those who have co-operated in such acts with knowledge of the infringement; and of those who refuse to declare the origin of the products in their possession bearing the counterfeit Marks. Upon proof of fraudulent intention the offender may be condemned in civil damages and punished with a fine of from 24s. to £80, and with imprisonment of from three days to one year. The punishment may be doubled in case of repetition of the offence. These penalties are not, however, inflicted where simply imprudence, negligence

or a mistake is proved; but civil damages may still be recovered.

The right of civil action is as much to the injured purchaser of the goods as to the owner of the Trade Mark, but no action can be brought for an infringement committed previously to registration nor after two years have elapsed since the commission of the offence.

The Court may order the seizure and confiscation of the instruments used for producing counterfeit Marks; also of the goods fraudulently marked, which may be assigned to the plaintiff in addition to or on account of the damages which he may recover. It may also order the publication of the judgment in one or more journals at the expense of the condemned.

A person who uses a Trade Mark, falsely representing that it has been registered, is liable to be fined from 24s. to £40 and imprisoned for a period of from 3 days to 3 months. The penalty may be doubled for a second offence.

Opposition to the definite registration of a Trade Mark must be entered within one month of the official advertisement of the application. The Federal Department of Commerce, after having heard the opposing parties, announces its decision, which may be appealed against to the Federal Tribunal within 20 days. Marks declared legal and valid by the latter Court must be forthwith accepted by the Registrar, recorded and published.

TURKEY.

POP. IN EUROPE . .	4,275,000
ASIA . .	15,715,000
AFRICA . .	1,010,000
	21,000,000.

TRADE Marks are protected by a special regulation promulgated in 1870. The provisions thereof make registration obligatory and afford protection for fifteen years. This period may be extended indefinitely by renewing the samples of the Marks every fifteen years. Two specimens or exact representations of the Mark have to be deposited together with the usual particulars, such as the name, profession and address of the applicant, description of the Mark and of the class of goods for which it is intended. The documents have to be signed by him or his Agent; in the latter case, the power of attorney is also filed. All the particulars having been entered, the official register is signed by the President and the Chief Clerk of the Central Civil Court of the Province and by the proprietor of the Mark or his Agent. The duplicate specimen of the Mark is sent with corresponding particulars and signatures to the Supreme Council of Justice. A provisional certificate sealed by the Governor, the President and the Chief Clerk of the Council of the Province is then delivered to the proprietor, the fee payable being equal to 18s. Within one month this certificate is exchanged for a permanent certificate, issued by the Supreme Court of Justice.

In the case of a manufacturer, resident in the United Kingdom, desiring to avail himself of the provisions of the law, he must in addition petition Her Majesty's Consul General at Constantinople. This can also be done through a local agent by power of attorney. The previous registration of the Mark in this country is not necessary.

Owners of British Trade Marks registered in Constantinople, seeking redress for infringement, have first to apply by petition to Her Majesty's Consul General and the complaint is laid before the Turkish Court. This method of procedure secures the assistance of the British authorities.

Litigation with respect to Trade Marks may be carried on before the Provincial Judicial Councils or the Central Civil Courts. Under certain conditions an order may be obtained for the seizure of goods bearing a counterfeit Trade Mark; but in this case the action to decide the dispute must be promptly proceeded with, otherwise a counterclaim for damages may arise.

A fine of from 18*s.* to £45 or imprisonment for from one to six months may be inflicted upon any person who forges, imitates or uses the registered Trade Mark of another person or who knowingly sells or offers for sale goods bearing a counterfeit Mark. In the case of anyone fraudulently altering a Mark or using such altered Mark or placing a Mark appropriated to a certain quality of goods upon another quality or selling or offering for sale such improperly marked goods, a fine of from 36*s.* to £27 or imprisonment for from one week to two months or both these penalties may be imposed. If a person be convicted of several different offences, the heaviest penalty is to be inflicted for each; and a second conviction entails double the punishment inflicted for the first offence, if this have been committed within the preceding five years. The goods seized as bearing spurious Marks may be handed over to the complainant or may be taken on account of the indemnity awarded. Heavy fines may also be inflicted for affixing to goods the name of any place different to that where they have been manufactured. This appears, however, only to prohibit the names of places within the Ottoman Empire being made use of.

ASIA.

CEYLON.

POP. 2,500,000.

THE Merchandise Marks Act of 1865 regulates the use of Trade Marks in this Colony and corresponds in all respects with the British Merchandise Marks Act of 1862.

CHINA.

POP. 350,000,000 (?).

THERE are no laws on the subject of Trade Marks in China and but little protection can be obtained against piracy. Neither is there any treaty on the subject between that country and Great Britain. There is, however, reason to believe that the influence of Her Majesty's Consuls would be brought to bear in flagrant cases of infringement and would be effectual in preventing usurpation or imitation of British Trade Marks by Chinese subjects.

Registration can be effected at the British Consulates situated in the Treaty Ports. Of these there are twenty-two and at nineteen of them there are British Consuls or Vice-Consuls established. Such registration could probably only be relied upon to save the Mark from being employed by other British subjects, and possibly by the subjects of such countries as have Trade Mark Conventions with Great Britain.

No regulations with regard to registration are published, but it is probable that an application would have to be accompanied by a specimen or drawing of the Mark and a certificate of its being officially registered in England. If the application be made through a local representative,

a power of attorney should be added. The fees would probably be merely nominal.

To register a Trade Mark at each of the British Consulates separately would doubtless be a troublesome and somewhat expensive process. It may be suggested, however, that such a course is scarcely necessary. Certain classes of British merchandise, although distributed throughout the empire, are shipped to perhaps only two or three ports; and if the manufacturer or merchant protect himself at these places, he practically secures a considerable degree of immunity throughout the country.

A large proportion of the British exports to China passes through the British Colony of Hong Kong. Hence the question of registering Trade Marks in that island acquires additional importance in connection with the China trade.

HONG KONG.

POP. 140,000.

THE Merchandise Marks Ordinance of 1863, which resembles the corresponding British Act of the previous year, was modified or rather supplemented by the Legislative Council of Hong Kong, 9th December 1873, on the ground that the parties entitled to the benefit and protection of the original Act were mostly residents in England and other places out of the colony and consequently the evidence on various points in legal proceedings was difficult, expensive and tedious to obtain. A Register of Trade Marks was therefore established, wherein those persons who claim exclusive property in Trade Marks which they make use of in the Colony are expected to record their Marks. Such registration is not compulsory and is evidently only intended to afford facilities for suppressing infringement with the least expense and delay.

Application may be made to the Governor for leave to register, such application being transmitted through H. M.'s Principal Secretary of State for the Colonies and accompanied by a fac-simile or specimen of the Trade Mark, verified by affidavit, setting forth the description and nature of the goods upon which such Trade Mark has hitherto been or is intended to be used; that the deponent is to the best of his belief entitled solely or jointly to the exclusive use of such Trade Mark. Upon all formalities being complied with, the Governor may order registration, whereupon notice thereof is published in the Gazette. The entries in the Register and the affidavits are to be received in the law courts as *primâ facie* evidence and the two Ordinances are to be construed together.

INDIA (BRITISH).

POP. 192,000,000.

A BILL for the protection of property in Trade Marks is now under the consideration of the Legislative Council of the Governor General of India. There is every probability of its being adopted and introduced at an early da'

JAPAN.

POP. 35,000,000.

ON December 4th, 1878, the Minister for Foreign Affairs stated that there were no Trade Mark Regulations established at that time, but that the Japanese Government were taking steps to introduce such regulations at no distant date. Upon making enquiry it appears that the arrangements are not yet completed.

PERSIA.

POP. 4,400,000.

ACCORDING to information obtained from the Persian Minister, there does not appear to be any law in Persia relating to the protection of property in Trade Marks.

STRAITS SETTLEMENTS;

COMPRISING MALACCA, PENANG, SINGAPORE.

POP. 310,000.

ACCORDING to the Penal Code, dated 25th May, 1870, (Sections 478 to 479) "Trade Marks" are distinguished from "Property Marks;" the former being used to denote that goods have been manufactured by a particular person or at a particular time or place or that they are of a particular quality, the latter being used for denoting that moveable property belongs to a particular person.

For marking goods or the case, package or receptacle containing same or using any case so marked, with the intention of causing it to be believed that the goods so marked or packed were manufactured by a person by whom they were not manufactured or that they were made at a place or time where or when they were not made or that they are of a particular quality of which they are not, the person is liable to imprisonment for a term not exceeding one year. A similar penalty in addition to a fine is incurred by anyone knowingly selling goods marked with a spurious Trade Mark with intent to deceive. Counterfeiting a Trade Mark used by another person with intent to cause damage or injury is punishable with two years' imprisonment, with or without a fine in addition. For fraudulently marking any case or package

in such a manner as to lead the public to believe that it contains goods which it does not contain or *vice versâ* or knowingly making use of any such falsely marked case or package, a penalty, not exceeding three years' imprisonment with or without a fine in addition, may be inflicted. Such may also be incurred for fraudulently making or having possession of any die, plate or other instrument for counterfeiting any Trade Mark. The amount of the fines not being fixed, they are unlimited; but, according to section 63, are not to be excessive.

No regulations appear to have been introduced relative to the official registration of Trade Marks.

AFRICA.

CAPE COLONY.

POP. 1,500,000.

A SPECIAL Act to provide for the registration of Trade Marks and to protect the owners thereof came into force 1st July, 1878. It provides that a Mark must be registered as belonging to particular goods or classes of goods and can only exist or be assigned or transmitted in connection with the good-will of the business concerned with such particular goods. The registration of a person as first proprietor of a Trade Mark is *primâ facie* evidence of his right to the exclusive use of such Mark; and after the expiration of five years from the date of registration the same is recognised as conclusive evidence. In the event of a person obtaining registration of a Mark to which he is not legally entitled, or if the Registrar refuse to register the name of a person who is entitled to use the Mark, or object to the Trade Mark itself although fit and proper for registration, or register a Mark the Act does not

authorize the registration of, any person aggrieved may apply for an order of the Court that the Register may be rectified; whereupon the Court may, if satisfied with the justice of the case, make the required order and award damages to the party aggrieved. Where several persons claim to be registered as proprietors of the same Mark, the Registrar may submit, or require the claimants to submit, their rights to the Court. The Registrar is not to register, in respect of the same class of goods, a Trade Mark identical with one already entered or so nearly resembling one already on the register as to be mistaken for it and therefore calculated to deceive. Neither is it lawful to register as part of a Trade Mark any words which (owing to their being calculated to deceive) would not receive protection in England.

A person desiring to register a Trade Mark must lodge a copy in the office of the Registrar of Deeds and advertise in a prescribed form, once a month during three months, in the Government Gazette and once a week, during four consecutive weeks within such three months, in two of the local papers in Cape Town; also in a paper (if any) published in the town or place within the Colony in which the applicant carries on his trade. It is at the option of the Registrar to order the Mark itself to be advertised in conjunction with the public notice of application above mentioned.

The fee on depositing a Trade Mark for registration is £5 5*s*., of which £2 10*s*. is returned to the applicant if registration of the Mark be refused. An assignment is subject to a fee of £2 10*s*.; for a search or inspection 2*s*. 6*d*. is charged, and for any copy or extract from the register the fee is 1*s*. 6*d*.

EGYPT.

POP. 5,500,000.

THERE is no special legislation on the subject of Trade Marks, but fraudulent use of same is punishable by law and may be dealt with under the Criminal Code, as well as the Civil and Commercial Codes. It appears that the Turkish laws on the subject of Trade Marks, although promulgated, have never been put in force in Egypt. Under present circumstances it is probable that anyone may establish a right to the exclusive use of a Trade Mark by sufficiently advertising its adoption and warning the public against imitating or improperly using it.

MAURITIUS.

POP. 320,000.

THE use of Trade Marks is regulated by the Ordinance of 20th October, 1868. This applies to British subjects and other persons equally, but it recognises no Mark as a Trade Mark until it has been duly registered in the manner prescribed.

Any person desiring to Register a Trade Mark which he has a right to use must, either himself or through a duly authorised person, make a written application to the Collector of Customs in the Colony. The application must state upon what articles it is intended to use the Trade Mark and a fac-simile of the latter is to be attached. At the same time notice of the registration must be given in three daily newspapers; such notice to contain a summary description of the Trade Mark and the date of its presentation. The fee for each certificate of registration is £1.

A fine of £20 may be inflicted for counterfeiting or usurping a registered Trade Mark, or imprisonment for a term of from 1 month to 1 year may be imposed. Penalties of this description do not, however, modify the liability at civil law for injuries occasioned. The Law does not specify the length of time for which the registration holds good.

NATAL.

POP. 350,000.

WITH a view to preventing the fraudulent marking of merchandise, the sale of merchandise so marked for fraudulent purposes and to assimilate the law in Natal to that which prevails in the United Kingdom, a special Act was passed in 1864. It provides that persons who knowingly sell articles bearing forged Trade Marks shall forfeit the price of the articles and a fine of from 10s. to £5. And further that any person who shall be convicted of any offence under this Law shall be liable to a fine not exceeding £25 or in default to imprisonment for a term not exceeding three months.

There are no regulations with regard to the formal registration of Trade Marks in this Colony. The Act above referred to corresponds with the British Act of Parliament of 7th August 1862, entitled "An Act to amend the Law relating to the fraudulent marking of Merchandise," which must not be confused with "The Trade Marks Registration Act 1875" the character of which is quite different.

GAMBIA . . .	Por.	14,000
GOLD COAST . .	„	410,000
LAGOS . . .	„	62,000
ST. HELENA . .	„	6,000
SIERRA LEONE .	„	39,000

In the above mentioned Colonies it appears that no special Trade Mark Laws exist.

AMERICA.

ARGENTINE REPUBLIC.

Por. 1,900,000.

ACCORDING to a special Law, dated 14th August, 1876, Trade Marks comprise denominations of objects or names of persons under a particular form, emblems, monograms, prints or engravings, seals, vignettes and reliefs, ciphers of a special design, packings or covers of goods and any other sign intended for distinguishing manufactures or articles of commerce. The following are not accepted as Trade Marks :—1, Letters, words, ciphers or signs employed by the Government ; 2, The form or shape of the manufactured article ; 3, The colour of the product ; 4, Terms or phrases in common use ; 5, Designations generally employed for indicating the origin of the products or the class they belong to ; 6, Offensive designs or expressions.

Absolute property in a Trade Mark and the right to oppose the use of any Mark that might directly or indirectly cause confusion between different products belongs to the person who registers and observes the provisions of the present Law.

A Trade Mark changes hands with the trading concern

to which it belongs, but the assignment must be registered at the office. The fee hereupon is £4.

The term of protection is ten years, which may be extended indefinitely for similar terms upon observing the regulations and paying a fee of 16*s*. besides the corresponding paper stamp duty.

Applications for registration, which are addressed to the Patent Office, must be accompanied by :—two copies of the Mark ; a description thereof in duplicate ; an indication as to the class of objects to which the Mark is to be applied ; a statement as to whether the Mark relates to manufactures or articles of commerce ; a Treasury receipt for the payment of £8 ; and a power of attorney in case of the applicant not attending in person. The particulars are then entered in a book, numbered and initialed by the Minister of the Interior. The entry is dated and signed by the Chief of the office, his Secretary and the Applicant. A copy hereof may be obtained by the applicant without further costs than the official paper stamp duty. A formal certificate of the registration of the Trade Mark is subsequently issued.

Decisions of the Patent Office, respecting the ownership of Trade Marks, may within ten days be appealed against before the Minister of the Interior, who may confirm or cancel such decisions. All particulars relating to grants of Trade Marks, whether allowed or refused, are published periodically.

Traders wishing to carry on a trade pursued already by another firm under the same name and the same conventional designation must adopt a modification, so as to show a clear distinction from the previous one.

No claim for damages for infringements can be entertained after the expiration of one year from the date of the infringement.

Penalties of from £4 to £100 or imprisonment for from 15 days to one year may be inflicted on :—1, those who

counterfeit or otherwise falsify a Trade Mark; 2, those who affix a Mark belonging to another on their articles of commerce; 3, those who knowingly sell, expose for sale or assist in selling articles with false or fraudulent Trade Marks; 4, those who knowingly sell, expose for sale or assist in vending counterfeit Marks and those who sell genuine Trade Mark without the cognizance of their owners; 5, those who with a fraudulent intention fix or cause to be fixed on merchandise a false declaration or any other false designation respecting the origin, quality, quantity, number, weight or measure, place or country of manufacture; 6, those who knowingly vend, expose for sale or assist in vending merchandise with any of the false Marks above mentioned. In case of a second offence these penalties are doubled. The mere application of a false Mark to a single article is sufficient to constitute a misdemeanour.

It is further provided that those who expose for sale merchandise fraudulently marked have to pay damages to the owner of the Mark. They have, moreover, to furnish the name and address of their seller and the date when the transaction began; otherwise they may be treated as accomplices of the real delinquent. All goods marked with false Trade Marks, found in the possession of the forger or of his agents, may be seized and sold and the proceeds devoted to the payment of the damages and costs; the tools employed in producing the Marks being at the same time destroyed. Sentences are published at the expense of the offender.

Criminal actions are commenced by the party injured, but when once initiated may be taken up by the Treasury. Neither criminal nor civil proceedings can, however, be instituted after three years from the date of the first or second offence or after one year from the date of the owner of the Trade Mark hearing for the first time of the infringement.

Foreign Trade Marks, to enjoy the privilege conferred by the Act, must be registered in accordance with the provisions thereof. Applications and descriptions must be written in a clear and legible hand on the usual stamped paper, leaving a margin on the left side of the sheet one third of its width, and signed by the applicant or his duly authorised attorney. One copy of the drawing must be made on linen or cotton paper and the other on vegetable or thin paper.

BRAZIL.

Por. 10,000,000.

THE right of property in Trade Marks is guaranteed not only by the 179th Article, paragraph 22, of the Constitution, but also by the Decree of the 23rd October, 1875.

To secure exclusive right to the use of a Trade Mark, it is essential to register it in the local Commercial Registry Office and that the registration be published in the Official Gazette. With this object it is necessary to present two copies consisting of an engraved or printed facsimile of the adopted Trade Mark; and, if the proprietor be domiciled abroad, a certificate that the Mark is registered in his own country. One of these facsimiles is entered in the Register and the other is returned to the applicant with a certificate of registration appended.

The Mark may consist of the name of the manufacturer or merchant in some distinctive form, of the name of the firm, or of any other denotation, emblem, stamp, seal, stamped mark, relief or wrapping of any kind. The registration must record the date of the presentation of the Mark, the name of the proprietor and that of the Attorney (if any) who solicits the registration, the pro-

fession of the proprietor, his domicile and the nature of the manufacture for which the Mark is intended. Until the registration has been published, criminal action cannot be taken for fraudulent imitation or adoption, but only civil proceedings for damages.

Any person counterfeiting a duly registered Trade Mark or making use of counterfeit Marks or fraudulently affixing Trade Marks, the property of others, to goods of his own manufacture or to articles in which he trades, or selling or exposing for sale goods bearing counterfeit or surreptitiously obtained Trade Marks, knowing them to be so, is liable to simple imprisonment for from one to six months and to a fine of from 5 to 20 per cent. of the losses occasioned. Further, any person who, without counterfeiting, fraudulently imitates the Trade Marks or others in such a manner as to deceive the purchaser or makes use of imitated Trade Marks with such intent is liable to three months' imprisonment and a fine of from 5 to 20 per cent. of the losses caused. An accomplice in such offences is punishable under the Criminal Code, Art. 35. Besides the penalties above mentioned, the injured party has in every case a right to compensation for losses incurred. On the petition of the complainant, foreign goods bearing imitated or counterfeited Trade Marks of native manufacturers may be detained in the Custom House until the Trade Marks proved to be fraudulent have been removed. Goods bearing fraudulent Trade Marks are not confiscated, but they may be seized and detained until final judgment in the civil or criminal action is given.

Registration is effectual for fifteen years, and if renewed at the end of that term the exclusive ownership in the Trade Mark is maintained.

An assignment or transmission of a Trade Mark or any alteration in the style of the firm or company owning it is subject to registration and publication in the newspapers.

The same tax is collected for registration of Trade

Marks as is levied for registration of contracts for commercial partnership. This amounts to about 2*d.* per line of thirty letters, but 3*s.* 6*d.* is fixed as the minimum sum payable.

Trade Marks composed exclusively of figures or letters, or of emblems or representations of objects which may give rise to scandal, are prohibited.

The Law is made applicable to foreigners who have industrial or commercial establishments in Brazil or whose establishments are situated in countries the laws of which accord reciprocity for Brazilian Trade Marks. In the latter case registration is effected at the Secretary's Office of the Tribunal of Commerce in Rio de Janeiro.

BRITISH GUIANA.

Pop. 200,000.

PROTECTION in the use of Trade Marks is afforded in this colony under the "Merchandise Marks Ordinance" of 1864, which corresponds to the British Act of Parliament of 1862 known as the "Merchandise Marks Act."

It is provided that every person who with intent to defraud or to enable another to defraud any person shall forge or counterfeit or cause or procure to be forged or counterfeited any Trade Mark or shall apply or cause or procure to be applied any Trade Mark shall be guilty of a misdemeanour. Upon conviction of any offence which is by this ordinance made a misdemeanour the offender is liable to imprisonment for a term not exceeding two years, with or without hard labour, or may be fined or may be punished in both ways. For selling articles with forged or false Trade Marks the penalty is a fine equal to the value of the article sold and a sum not exceeding £5 or less than 8*s.* 4*d.*

A Trade Mark is described to include any name, signa-

ture, word, letter, device, emblem, figure, seal, stamp, diagram, label, ticket or other special mark of any description; and the protection afforded by the Law is particularly stated to apply to all persons, whether subjects of Her Majesty or not, and to all bodies, whether constituted according to the law of England, of any of the colonies or of any foreign country.

No special system of registration is provided and therefore, as in all cases of this description, it is advisable to advertise the Mark, so that at any time evidence of ownership and of the public having been duly advised of such ownership may be producible.

CANADA.

POP. 4,000,000.

THE Law known as the "Trade Mark and Design Act of 1879" provides that a register of Trade Marks shall be kept in the office of the Minister of Agriculture, in which any proprietor of a Trade Mark may have the same registered, failing which formality he is not entitled to institute any legal proceedings to suppress infringement. It should be mentioned, however, that the previous Act, relating to the fraudulent marking of merchandise, is not repealed and that proceedings may be instituted thereunder, although the particular Marks fraudulently used may not have been registered; but the provisions of the older Law are not so complete.

The Act, like that in the Mother Country, offers protection to natives and foreigners indiscriminately and in this respect differs from the United States Law.

Objections may be raised to registering a Mark if it be identical with or closely resemble a Trade Mark already registered, or if it appear that the proposed Mark is calculated to deceive or mislead the public, or if it

contain any sign or representation of a scandalous character, or if it do not contain the essentials necessary to constitute a legal Trade Mark.

An applicant for registration must make a declaration that the Mark was not to his knowledge in use by any other person than himself at the time of his adopting it, must furnish a duplicate drawing and description thereof, stating whether the Mark is intended for use as a general or specific one, and pay a fee of £6 5*s*. in the former case, or £5 4*s*. in the case of the Mark being for specific use. Of the two drawings and descriptions supplied, one set is returned dated and certified by the Minister that the registration has been duly effected.

For the purposes of the Act, all Marks, names, brands, labels, packages or other business devices, used for the purpose of distinguishing manufactures or articles of commerce, are deemed Trade Marks; no matter whether applied to the commodities or manufactures themselves or to the parcel, package, case, box or other vessel or receptacle containing the same. Timber or lumber of any kind, upon which labour has been expended, is described as constituting an article within the scope of the Act.

A Trade Mark may be general or specific, according to the use intended to be made of it by the proprietor. If applied to various articles in which he deals in his trade, business or occupation, the Mark falls under the former category; but if applied to a class of merchandise of a particular description only, the Mark may be registered as specific. A general Trade Mark once registered and destined to be the sign in trade of the proprietor thereof endures without limitation; but the registration of a specific Trade Mark, intended for a special class of Merchandise, only endures for a period of 25 years, when it has to be renewed at a cost of £4 3*s*.

If the application for registration be refused the fees are returned to the applicant or his agent minus a sum of

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21s. retained for office expenses. Trade Marks may be assigned in the same way as other property; but the assignment must be registered at the office and a fee of 8s. 4d. paid in respect thereof.

The Law further provides that if any person applies to have a Trade Mark, already registered by another person, registered as his own, the Minister of Agriculture has authority to notify the parties to appear before him for the purpose of establishing which is the rightful owner of such Trade Mark, and he may order such entry or cancellation or both to be made as he may deem just.

The penalty for marking goods or articles of any description with the duly registered Trade Mark of another person, whether such be affixed to the goods themselves or to the case or wrapper containing the same, upon conviction for the misdemeanour, is a fine of from £4 to £20, to be paid to the owner of the Trade Mark together with the costs incurred in recovering the same. A similar penalty may be inflicted on anyone who knowingly sells or offers for sale any article marked with a spurious Trade Mark or with any part thereof with intent to induce persons to believe that the article was manufactured, compounded, packed or sold by the proprietor of the Trade Mark which appears. A suit is maintainable by any proprietor of a registered Trade Mark against any person selling an article bearing a fraudulent imitation of the said registered Mark.

The marking of timber is regulated under a separate Act which came into force in 1870. It is thereby rendered compulsory, under a penalty of £10, for every person who engages in the business of lumbering or getting out timber and floating or rafting the same to select some distinctive Mark, to register it and to place it on each log or piece of timber floated. The details of this Law are not likely to prove of sufficient interest in this country to warrant their being included in this epitome.

CHILI.

POP. 2,100,000.

TRADE Marks are divided into two categories :—viz., Manufacturing Marks and Commercial Marks. Under the former are included all Marks that may be put upon anything manufactured or elaborated in Chili or in foreign countries by manufacturers or agriculturists, and under the latter, all Marks that merchants may adopt or place upon goods simply sold by them as tradesmen.

Trade or Commercial Marks may consist of proper names, emblems or signs ; but the labels on manufactured goods must, in addition to the Trade Mark, bear the words "Marca de Fabrica" or briefly "M. de F.," and the goods simply sold by merchants or tradesmen, the words "Marca Commercial" or "M. C."

A Trade or Commercial Mark is the exclusive property of the person who registers it ; and in the same way, the name by which an estate, mill, smelting works or factory is known is for the exclusive use of the owner thereof.

The register is in the charge of the National Agricultural Society, and to inscribe a Mark therein a facsimile thereof must be furnished, together with the name, residence and occupation of the applicant, the name of the place where the factory is established and the nature of the industry or of the article which the Trade or Commercia Mark is intended to protect. The number which corresponds to the Mark and the date and the hour of the day when presented have also to be entered in the register.

The fee for registering a Marca de Fabrica is £2 5*s*. and for a Marca Commercial 11*s*. and for an authenticated copy of the entry 4*s*. No condition is made as to previous registration abroad of foreign Trade Marks.

Protection is accorded for ten years, and unless the registration be renewed every ten years the protection lapses.

The Law further provides that any person forging or udently using any Trade or Commercial Mark or label nall be liable to fine and imprisonment; that goods bearing forged Marks shall become the property of the injured party, and any instrument used in the falsification shall be destroyed. The legal process, however, by which these penalties are to be enforced is not defined.

A transfer of a Trade Mark or any license that may be given to another person to make use of it must be recorded in the Register and the fact announced to the public by advertisements extending over a period of ten days.

Once a year the Trade Marks registered during the preceding twelve months are published in the Official Gazette.

COLOMBIA.

POP. 3,000,000.

THERE does not appear to exist any special law in the United States of Colombia on the subject of Trade Marks. There is, however, a treaty with Great Britain, signed 16th February, 1866, to the effect that the subjects and citizens of each of the contracting parties shall have, in the dominions and possessions of the other, the same rights as native subjects or citizens in regard to Trade Marks and Designs of every description applicable to articles of manufacture.

It may be assumed that Trade Mark rights are recognised and protected by the ordinary laws of the country relating to property in general.

LEEWARD ISLANDS;

COMPRISING ANTIGUA, MONTSERRAT,
ST. CHRISTOPHER'S, NEVIS, ANGUILLA,
VIRGIN ISLANDS, DOMINICA.

POP. 125,000.

THESE several colonies were, for administrative purposes, grouped together in 1871. It appears that the Trade Marks Ordinance, previously introduced in some of the Islands and corresponding with the "Merchandise Marks Act, 1862," now applies in all of them.

MEXICO.

POP. 9,600,000.

ACCORDING to information derived from a reliable official source, there are no special laws for the protection of Trade Marks in Mexico. It is improbable, however, that property rights of this description are entirely unrecognised in a civilised country of no mean importance.

The principal articles imported into Mexico from the United Kingdom consist of cotton and linen manufactures, iron and machinery; whilst the chief exports to this country comprise mahogany, sugar and silver. More than two-thirds, however, of the total trade of Mexico is carried on with the United States, and only about one-tenth with the United Kingdom. Questions connected with Mexican trade are therefore not of such importance to British manufacturers as the rather considerable population might induce some to imagine.

NEWFOUNDLAND.

POP. 150,000.

AN Act to amend the law relating to the fraudulent marking of merchandise was passed 17th April, 1880. It does not prescribe that Trade Marks shall be registered in any systematic manner to ensure their being recognised at law.

A Trade Mark is defined as any name, signature, word, letter, device, figure, sign, seal, stamp, diagram, label, ticket or other Mark lawfully used by any person to denote any chattel or article of trade, manufacture or merchandise.

Any person forging or counterfeiting a Trade Mark or applying a forged Mark to any chattel or article intended for sale is liable to an action for damages by the party aggrieved.

If a person sell or contract to sell any goods which, or the packings of which, bear Trade Marks, the contract is deemed to convey a warranty by the vendor to the vendee that every such Trade Mark is genuine and not forged or wrongfully used; unless the contrary be expressed in writing, signed by the vendor and delivered to and accepted by the vendee.

In any suit at Law the goods having false Marks may be ordered to be destroyed or otherwise disposed of as the Court may direct.

NICARAGUA.

POP. 350,000.

THE proposed Criminal Code contains the following articles:—"Any person or persons guilty of forging the seal, signature or Trade Mark of any private individual or

establishment, whether native or foreign, or who shall knowingly make use of a forged seal, signature, stamp, Mark or counter-sign shall suffer imprisonment of the fourth degree and a fine of from two hundred to one thousand dollars" (£40 to £200). The fourth degree of imprisonment amounts to four years with an increase or reduction of the punishment of from four to eight months, according to the circumstances of the case.

There is no special law providing for the registration of Trade Marks and it would therefore be advisable for any British firm exporting trade-marked goods to this Republic to advertise their Marks in the local journals and to caution the public against making improper use of the same.

PERU.

POP. 2,700,000.

ACCORDING to an official report made to the Foreign Office in 1879, it appears that the attention of the Peruvian Government has been directed to the question of protecting Trade Marks and that it has been intended to introduce a Law upon the subject. The troubles to which the country has been recently subjected have probably interfered with the prosecution of the matter.

It is remarked that no country is more in need of legislation to regulate the use of Trade Marks than Peru, which is stated to be flooded with miserable imitations of English goods, manufactured in Germany and bearing the Trade Marks of the best English houses. Even in Lima, the report goes on to say, the brewers openly affix on their bottles the pirated labels of the best English brewers and sell their inferior compounds with the name of Bass.

Stronger evidence could hardly be adduced as to the estimation in which British trade-marked goods are held abroad and as to the great importance of, or even necessity for, British manufacturers adopting the Trade Mark system, which in a great majority of countries would afford them the protection that is (according to recent advice) still conspicuously absent in Peru.

UNITED STATES.

Por. 50,000,000.

THE protection of property in Trade Marks has received a good deal of attention in the United States but the legislation on the subject has only very recently been placed on a satisfactory footing. Formerly protection depended on the general law of property, assisted by an Act of Congress of 1870 empowering proprietors to register their Marks; and by the Treaty of 1877 it was agreed that British subjects should have the same rights as citizens of the United States. In a case, however, which arose in 1878, it was decided that the Constitution of the United States did not confer upon Congress the power to legislate upon the subject of Trade Marks; and, further, that the Federal Courts had not jurisdiction to restrain an infringement where both parties to the suit were citizens of the same State, though they would be able to entertain the question when the parties were from different States. Nevertheless that decision did not deprive a citizen of his right to bring his case before any Common Law Court; neither did it interfere with a British subject, as a foreigner, claiming protection. Any doubts which existed on the subject have, at all events, been removed by the Act of Congress of 3rd March, 1881, which provides that any person may

obtain registration of his Trade Mark who is domiciled in the United States or in any foreign country, which by treaty affords corresponding privileges, and who is entitled to the exclusive use of any Trade Mark and uses the same in commerce between the United States and one or more foreign countries or Indian tribes.

An applicant for registration of a Trade Mark must furnish the name, domicile and place of business of the firm or corporation desiring protection and the residence and citizenship of an individual applicant, the class of merchandise and the particular description of the goods to which the Trade Mark has been or is to be appropriated, a description of the Mark itself and how it is applied (whether impressed, in relief, &c.), the length of time during which the Mark has been used by the applicant on the class of goods described and pay a fee of £5 4*s.* on filing each application.

Where a Trade Mark has been already registered under the original Act of 1870, no fee is charged upon complying with the new Act; and where application has been made, but registration not completed, the balance of £3 2*s.* 6*d.* is payable.

Assignments of Trade Marks to be valid must be registered within 60 days. The fee varies between 4*s.* and 12*s.* 6*d.*, according to the length of the document.

An application to register a Trade Mark must also be accompanied by a declaration or oath to the effect that the applicant is the rightful owner thereof, that it is used in lawful commerce with some foreign nation or Indian tribe, and that the accompanying fac-simile truly represents it. This oath may be taken in a foreign country before the secretary of a legation or consular officer of the United States. Care should be taken in describing the Mark to distinguish between its essential and non-essential features. In instances where the Mark proposed for registration can be accurately represented by a drawing

such may be furnished, the additional copies being officially prepared; but when the applicant prefers to file a specimen of the Mark, it must be mounted on a card 10 ins. × 15 ins. in size (with a border of one inch and sufficient additional space at the top to enable the officials to add a heading) and accompanied by ten extra copies upon flexible paper, not mounted. In all cases the drawing or the sheet containing the mounted specimen must be signed by the applicant or his authorised attorney.

A Mark will not be registered if it consist merely of the name of the applicant or if it appear to be identical with that owned by another person and registered for the same class of merchandise, or which so nearly resembles such as to be likely to cause confusion in the mind of the public or to deceive purchasers. In cases of conflicting applications for registration the proceedings will follow as nearly as possible the practice that prevails with regard to Patents; and if either party be dissatisfied with the official decision he may appeal without fee to have the case reviewed by the Commissioner.

The certificate of registration having been obtained, protection of the Mark is afforded for thirty years; which term may be extended for a similar period upon renewing the fee; but in the case of a foreign Trade Mark, protection is only given as long as the registration of the Mark remains valid in the country where the articles are manufactured.

All Trade Marks registered, the name and address of the registrant, a brief statement of the essential features of the Mark and the name of the goods to which it is applied are published weekly in the Official Gazette of the Patent Office. The drawing and a full copy of the specification are kept at the Patent Office and may be inspected by the public free of charge.

With regard to infringement the Act provides that any person reproducing, counterfeiting, copying or colourably

imitating any registered Trade Mark and affixing it to merchandise of substantially the same description as that for which it is registered shall be liable to an action for damages; and it also prescribes that any person registering himself as the owner of a Trade Mark by a false declaration or by any fraudulent means shall be liable to pay any damages sustained by the owner in consequence thereof. Criminal proceedings may also be taken and the infliction of penalties obtained under the ordinary statutes applicable in cases of fraud.

VENEZUELA.

POP. 1,800,000.

THE Law of the 24th May, 1877, decrees that any person domiciled in the Republic, or in a foreign country which by treaty accords corresponding privileges to Venezuelan citizens, can obtain protection for any legitimate Manufacturing or Commercial Mark for the use of which he has an exclusive privilege or which he desires to adopt in such wise; provided that the requirements of the present Law be complied with.

Accordingly it is necessary to present to the Department of Public Industry a petition (on stamped paper of the "seventh class") in which is stated the name of the applicant, his residence, principal business address, the class of articles that bear or are intended to bear the Trade Mark, a description of the latter with facsimiles in which its method of application is seen and, if in current use, the length for which it has been so. This application must be signed by the proprietor or by his agent; in the latter case a power of attorney being furnished. It must state that the party soliciting protection has a right to the use of the Mark and that the

same is not like any other, already registered in the same class, with which it could be confounded and thus lead to the deception of the public. It must also be affirmed that the facsimiles are exact copies of the Trade Mark for which protection is sought. The name of a person, society or corporation, unaccompanied by a Mark sufficiently distinct to enable it to be distinguished from the same name when used by other persons, is not accepted. Upon the requisitions being complied with, the Department of Public Industry issues a certificate, to be signed by the person interested, declaring that he is the proprietor of the Mark.

The right to the exclusive use of a Mark, registered and certified in the prescribed way, will remain in force for thirty years, except in cases where the Mark is applied to articles manufactured out of the Republic and where it is protected according to the law of a foreign country for a shorter time. In such cases, the petition must be accompanied by a certified copy of the registration of the Mark in the foreign country, which document must bear the legalisation of the resident Venezuelan Minister or Consul. Protection is then allowed for the same term as is granted in such foreign country.

During the six months previous to the expiration of the term of thirty years, application may be made for the renewal of the registration.

Any person who obtains the registration of a Mark or who solicits of the Minister of Public Industry any act relative to the matter, making therefor false or fraudulent representations or adopts any other fraudulent means will be subject to the penalties established by the Penal Code for impostors, without prejudice however to civil responsibility relative to a third party. It is also provided that any person who reproduces, falsifies, copies or imitates any Registered Trade Mark or places it on merchandise of the same description, properties and

qualities as those referred to in the register will be liable to answer for the consequences of such illegitimate use, without prejudice to his suffering the penalties established by the Penal Code.

Registration of Trade Marks is under the direction of the Patent Office; Manufacturing Marks and Commercial Marks being entered in separate registers.

Trade Marks for foreign produce or merchandise registered abroad may also be registered; even in the absence of treaties or conventions relating thereto if, in the judgment of the National Executive, the utility of the produce or merchandise to the Republic has been acknowledged.

WINDWARD ISLANDS.

COMPRISING BARBADOES,
ST. LUCIA, ST. VINCENT, GRENADA, TOBAGO.

POP. 290,000.

IN this Colony protection is afforded to owners of Trade Marks by the Act to assimilate the Law relating to the fraudulent marking of merchandise to that which prevails in the United Kingdom, introduced 18 March, 1864, in the Island of Barbadoes and now applicable to the whole group of islands above enumerated.

	Population.
BAHAMAS	40,000
BERMUDAS	12,000
BRITISH HONDURAS	25,000
BOLIVIA	200,000
COSTA RICA	200,000
ECUADOR	1,100,000
GUATEMALA	1,200,000
HAITI	700,000
HONDURAS	250,000
JAMAICA & TURK'S ISLANDS	510,000
PARAGUAY	330,000
SAN SALVADOR	450,000
TRINIDAD	110,000
URUGUAY	440,000

In 1879 official reports were received from most of the countries above enumerated to the effect that there were no laws to regulate the use of any Trade Marks merchants might choose to adopt. Recent enquiry on the subject has not resulted in eliciting news of any legislation subsequently introduced.

AUSTRALASIA.

NEW SOUTH WALES.

Por. 750,000.

THE regulations with regard to Trade Marks are similar to those which prevail in the neighbouring Colony of South Australia. The Act, however, is rather more recent, 1865.

The fee for registering a transfer is £1 1*s.* instead of 10*s.* 6*d.*

A register is kept of all Trade Marks, the fee for inspecting which is 6*d.*

NEW ZEALAND.

POP. 490,000.

A SPECIAL Act for the protection of property in Trade Marks came into operation 1st January, 1867. It provides that a Trade Mark (which may include any name, signature, word, letter, device, emblem, figure, sign, seal, stamp, diagram, label, ticket, &c.,) must be registered by, or on behalf of, its owner before his exclusive right thereto as a Trade Mark can be legally recognised.

A person desirous of registering a Trade Mark must deliver to the Registrar two copies of the Mark together with the sum of £3 3s. and must describe in writing the nature of the articles to which it is intended the Mark shall be applied. Within ten days the Registrar has to publish in the Government Gazette a notice stating the name of the applicant, a description of the Mark and of the articles with which it is to be used. Unless it be shewn to the satisfaction of the Registrar, within 60 days of that date, that the proposed Mark has been already registered or that it so closely resembles some registered Mark that it may be mistaken therefor, he shall issue to the applicant a certificate, stating that the proposed Mark has been duly registered and that the person named in the certificate is entitled to its exclusive use upon the goods described.

The register containing particulars of all Trade Marks and of official acts relating thereto is open to the inspection of the public on payment of the sum of sixpence.

A certificate of registration may be transferred, either wholly or in part, by a document in writing, signed by the transferror; and no transfer is valid against the registered owner unless the same has been officially registered and the sum of £1 1s. paid in respect thereof.

The penalties imposed for the fraudulent use of Trade

Marks include the forfeiture or destruction of the instruments used for forging the Marks, and render any person selling articles with false Marks liable to forfeit a sum equal to the value of the goods sold and to a fine of from 10s. to £5 for each offence, or to imprisonment until such fines have been paid. In addition to the above, civil damages may be recovered.

QUEENSLAND.

Pop. 250,000.

THE "Trade Marks Act of 1864" corresponds in its provisions with those of the law introduced the previous year in the neighbouring Colony of South Australia.

SOUTH AUSTRALIA.

Pop. 277,000.

THE use of Trade Marks is regulated in this Colony by an Act of 1863, which renders their registration compulsory in order to receive legal recognition. It provides that any person desirous of registering a Trade Mark shall deliver to the Registrar two copies of the proposed Mark and pay a fee of £2 2*s.*; stating at the same time in writing the nature of the article to which it is proposed to apply the Mark. Within 14 days the application is officially notified in the *Government Gazette*. If no opposition be offered a provisional certificate is then issued, which continues in force for 12 months. Any person entitled to a provisional certificate may apply to the Registrar to have such provisional certificate made absolute. The fee hereupon is £3 3*s.*; and, unless it can be shewn that

the person is not entitled to such certificate, the Registrar issues the absolute certificate which remains valid for 14 years.

The Act makes no provision with regard to renewal of the registration. It may probably be assumed that on the expiration of the term of protection the Mark has to be re-registered; similar formalities being observed as in the original instance.

Penalties are imposed for counterfeiting or forging a Trade Mark, and the instruments used for these purposes may be forfeited or destroyed. It is also enacted that every person who sells any article bearing a fraudulent Trade Mark shall forfeit a sum of money equal to the value of the article sold and a further sum not exceeding £5 and not less than 10*s.* or may be imprisoned until such fines have been paid. Proceedings may also be instituted for the recovery of civil damages under the ordinary laws relating to the protection of property.

A transfer or transmission of a Trade Mark has to be officially recorded. The fee hereupon is 10*s.* 6*d.*

TASMANIA.

POP. 116,000.

IN this Colony the protection of property in Trade Marks is given under the "Merchandise Marks Act of 1864," which is similar in its provisions to the South Australian Act of 1863. The fees are, however, somewhat lower; that upon delivery of the Trade Mark and other documents to the Registrar being 10*s.* and that upon application to have the Provisional Certificate made absolute being £1. The fee for registering a transfer is 10*s.*

VICTORIA.

POP. 850,000.

THE use of Trade Marks is regulated in this colony by the "Trade Marks Registration Act, 1876," which is evidently framed on the Act passed in the previous year in the Mother Country. Consequently it is necessary for a Trade Mark to include one or more of the following essential particulars :—(1) A name of a person or firm printed, impressed or woven in some particular and distinctive manner ; (2) a written signature or copy of a written signature of a person or firm ; or (3) a distinctive device, mark, heading, label or ticket. It must not however consist exclusively of figures or letters, unless the Mark was used before the passing of the Act.

Registration is compulsory before proceedings can be instituted to restrain infringement. The formalities to be observed include the presentation of a written application in a particular form to the Registrar General, a description of the Mark and a duplicate representation thereof, not exceeding 3 ins. sq., a wood engraving or electrotype for printing purposes, and particulars as to the class or classes of articles to which the Mark is to be applied. The various classes into which goods are divided are scheduled. The fee on application to register one Mark in one class is £1, and for each additional Mark 10*s*., and for each extra class 10*s*. Upon registration the fee is £2, for each additional Mark £1 and for each extra class 10*s*.

The registration is good for seven years and may be continued in force for succeeding similar periods on payment of £3 before the expiration of each period.

The fee for registering a subsequent proprietor, corresponding with what in some places is called a transfer fee, is £2.

A registered Trade Mark can only be assigned or trans-

mitted in connection with the good-will of the business concerned in the particular goods for which the Mark was registered and ceases to exist as a recognized Trade Mark on the termination of such good-will.

The registration of a person as first proprietor of a Trade Mark is *primâ facie* evidence of his right to the exclusive use of the Mark and, after five years, becomes conclusive evidence.

Under the Trade Marks Statute, 1864, every person who, with intent to defraud any person, shall forge or counterfeit any Trade Mark shall, on conviction thereof before any two justices, forfeit and pay any sum not exceeding £100 or shall, at the discretion of such justices, be imprisoned, with or without hard labour, for any period not exceeding 12 months. The fraudulently marked goods may also be forfeited to the Crown. The penalty for selling articles with forged Marks is a fine equal to the value of the articles, and a further sum of from 10s. to £5 or imprisonment, with or without hard labour, for a period not exceeding one month. An addition to or alteration of a Trade Mark, made with a fraudulent motive, is deemed a fraudulent act. Vendors of goods bearing false Trade Marks are bound to afford information as to the origin whence the said goods have been obtained ; and refusal or neglect on their part to comply with such a demand, duly approved by a justice of the peace, is to be regarded as *primâ facie* evidence that the person was aware of the fraudulent character of the Marks, whereupon he is subject to a fine of £5 for each such offence. Similar penalties may be incurred for falsely indicating the number, quantity, measure, weight, locality of manufacture, &c., of the article or representing that it is the subject of a Patent-right or other monopoly. Convictions under these heads do not in any way interfere with the remedies which may be sought at civil law or prevent damages being recovered for any losses suffered by the aggrieved parties.

WESTERN AUSTRALIA.

POP. 32,000.

THERE are no special laws for the protection of Trade Mark rights in this, the largest of the Australian Colonies. It is, however, by far the smallest in population and trading importance. In both New South Wales and Victoria the annual imports amount to about £15,000,000 and in Western Australia to about £400,000.

It does not necessarily follow, because there is no special legislation on the subject, that proprietary rights in Trade Marks are not recognized. On the contrary, it may be reasonably assumed that the rightful owner of a Trade Mark would have no legal difficulty in restraining infringement. The practical point in cases of this description is to be prepared with proof of ownership. Where official registration is not provided for, the Trade Mark should be advertised in the local journals. Such advertisements serve not only to record the claim to the exclusive use of the Marks, but may be pointed to afterwards as proofs that the public were duly cautioned against improperly using the same.

THE END.

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