1899.

NEW ZEALAND.

DESPATCHES

FROM THE SECRETARY OF STATE FOR THE COLONIES TO THE GOVERNOR OF NEW ZEALAND.

Presented to both Houses of the General Assembly by Command of His Excellency.

INDEX.

No. 1.

(Circular.)

SIR,— Downing Street, 19th February, 1898.

I have the honour to transmit to you, for the information of your Government, and for publication in the colony, copies of a treaty between Great

Britain and Ethiopia, signed on the 14th May, 1897, and ratified by the Queen on the 28th July, 1897. I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 21st April, 1898, page 660.]

No. 2.

(Circular.)

SIR,— Downing Street, 1st March, 1898.

I have the honour to transmit to you, for publication in the colony under your Government, copies of an order of the Queen in Council applying section 238 of "The Merchant Shipping Act, 1894," respecting the arrest of seamen deserters, in the case of Japan. I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 12th May, 1898, page 806.]

No. 3.

(Circular.)

SIR,— Downing Street, 2nd March, 1898.

By desire of the Board of Trade, I have the honour to transmit to you, for information in the colony under your government, copies of the Act passed last session of Parliament amending "The Merchant Shipping Act, 1894," with respect to the power of detention for undermanning, together with the instructions which will shortly be issued by the Board to their surveyors under that Act. I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Enclosure No. 1.

60 and 61 Vict.] "MERCHANT SHIPPING ACT, 1897." [C. 59.

Chapter 59.

AN ACT to amend "The Merchant Shipping Act, 1894," with respect to the Power of Detention for Undermanning.

A.D. 1897.] [*6th August, 1897.*

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:—

1. (1.) Section four hundred and fifty-nine of "The Merchant Shipping Act, 1894" (which gives power to detain unsafe ships), shall apply in the case of undermanning, and accordingly that section shall be construed as if the words "or by reason of undermanning" were inserted therein after the word "machinery," and as if the words "or for ascertaining the sufficiency of the crew" were inserted after the word "surveyed," and as if the words "or the manning of the ship" were inserted therein after the words "reloading of cargo," and the powers exercisable under or for the purposes of that section shall include power to muster the crew.

(2.) Section four hundred and sixty-two of "The Merchant Shipping Act, 1894" (which relates to foreign ships), shall also apply in the case of undermanning, and accordingly that section shall be construed as if the words "or by reason of undermanning" were inserted therein after the words "improper loading."

2. This Act may be cited as "The Merchant Shipping Act, 1897."

Enclosure No. 2.

Board of Trade, Marine Department, February, 1898.

INSTRUCTIONS TO PRINCIPAL OFFICERS, SUPERINTENDENTS, AND SURVEYORS.

"The Merchant Shipping Act, 1897."—Instructions as to Procedure.

FOREIGN-GOING steamships of over 200 ft. in length, or not less than 700 tons gross, when proceeding to sea should have, independently of the master and two mates, a sufficient number of deck-hands available for division into two watches, so as to provide a minimum effective watch—viz., a

competent hand at the wheel, a look-out man, and an additional hand on deck available for any purpose.

In case of any such vessel opening or lodging articles of agreement and failing to have six deck-hands, in addition to the master and two mates, the Superintendent or Deputy-Superintendent should draw the master's attention to the fact, and immediately report the case in writing to the Resident Detaining Officer or Surveyor of the Board of Trade.

The Resident Detaining Officer or Surveyor should at once, on receiving such notice from the Superintendent, visit the vessel and point out to the master the necessity of providing the requisite number of deck-hands, so that there may always be *three* on deck in addition to the officer of the watch. Should the master refuse to comply with this, the Detaining Officer should, if satisfied that the undermanning is such as to cause serious danger to life, have the ship provisionally detained.

In any case in which the Detaining Officer or Surveyor does not feel justified in detaining a ship so reported to him, he should immediately report the case to the Board of Trade, giving the reasons which have induced him to allow the vessel to proceed to sea.

Steamships Coasting or Steamships Oversea less than 700 tons or 200ft. long.—When a steam-vessel of less than 200 ft. in length, or less than 700 tons gross, or any steam-vessel proceeding on a home trade or on a coasting voyage, appears to be unsafe through undermanning, the Detaining Officer should at once inspect the vessel, obtain all necessary particulars, and report fully to the Board of Trade.

Sailing-ships.—When articles of agreement are being signed or deposited in the case of sailing-vessels the Superintendent should, if it appears to him that the number or efficiency of the crew is such as to fall materially below the general practice in similar vessels, as evidenced by the office records, bring the matter to the master's notice in careful and guarded terms, reporting it at the same time to the Detaining Officer of the Board of Trade.

The Detaining Officer should at once have the vessel inspected and reported upon fully in the matter of rig, equipment, labour-saving appliances, intended voyage, together with details, if procurable, of sail area and number of cloths in head of main course, or any other particulars likely to affect the question. These particulars should be sent at once to the Board of Trade, with a report from the Surveyor or principal officer as to whether he considers the vessel so undermanned as to be likely to lead to serious danger to life.

In carrying out the above instructions due regard must be had to the nature of the service for which the vessel is intended.

In the case of foreign vessels dealt with by section 462 of the Merchant Shipping Act of 1894, as amended by section 1 (2) of the Act of 1897, as they do not require to go through shipping-office formalities when in our ports, trustworthy information as to their manning will chiefly come to hand through formal complaint of the crew, or particulars supplied by Customs or consular officers. If such information be received, the vessel should be visited, and the same course adopted as in the case of a British vessel, the officers being careful to use tact in pointing out to the master his requirements and the result of non-compliance with the same, communicating at the same time with the Consul of the nation to which the vessel belongs.

Where there is reason to believe that the law in force in any foreign country is such as to secure as efficient manning as is required in British ships no attempt should be made to interfere with a vessel unless there be trustworthy evidence that such law has not been complied with.

COURTENAY BOYLE, Secretary.
INGRAM B. WALKER, Assistant Secretary.

No. 4.

(Circular.)

SIR,— Downing Street, 8th March, 1898.

I have the honour to transmit to you a copy of a letter addressed to the Board of Trade by the Director of the Bureau at Berne of the International Union for the Protection of Literary and Artistic Works, asking to be supplied with copies of all laws and regulations, &c., in operation in the British colonies regarding the protection of copyright.

I shall be obliged if you will furnish me, at your early convenience, with two copies of such documents, so far as the colony under your government is concerned, for transmission to the Bureau.

I shall also be glad to be furnished with a third set of these documents for the use of this department.

It will not, of course, be necessary to forward copies of the Imperial Copyright Acts which are in force in the colony, but a reference to any such Acts or sections thereof should be given in all cases, for the information of the International Bureau.

I have, &c.,
J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

No. 5.

(Circular.)

SIR,— Downing Street, 15th March, 1898.

With reference to my circular despatch of the 15th December last, enclosing a parliamentary paper containing an additional Act signed at Paris on the 4th May, 1896, modifying certain articles of the Convention concerning the creation of an International Union for the Protection of Literary and Artistic Works, signed at Berne on the 9th September, 1886, I have the honour to transmit to you, for information and publication in the colony under your government, copies of an order of Her Majesty in Council for giving effect to the additional Act of Paris above referred to.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 26th May, 1898, page 913.]

No. 6.

(Circular.)

SIR,— Downing Street, 21st March, 1898.

My attention has recently been called to the fact that the statutory provisions in force in the colonies in some cases differ materially from the provisions contained in "The Merchant Shipping Act, 1894." As it is desirable that in matters connected with merchant shipping uniformity of practice should as far as possible be preserved, particularly where cases arise of investigation into shipping casualties and the conduct of ships' officers, I desire to call your attention to a memorandum which has been prepared upon this subject by the Board of Trade, and which is transmitted herewith, and request that you will invite your Government to consider whether any legislation is necessary or desirable to bring the practice in the Courts of the colony under your government into conformity with the general practice which is laid down in "The Merchant Shipping Act, 1894."

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

Enclosure.

MEMORANDUM ON COLONIAL LEGISLATION WITH RESPECT TO INQUIRIES INTO SHIPPING CASUALTIES AND THE CONDUCT OF SHIPS' OFFICERS.

THE special importance of harmonizing colonial with Imperial legislation on the subject of shipping inquiries arises from the fact that the casualties investigated in British possessions are frequently casualties occurring to British ships registered in some other part of the Empire, and that the officers' certificates dealt with in those inquiries are in many cases what may conveniently be called "Imperial" certificates—*i.e.*, certificates either granted in the United Kingdom under "The Merchant Shipping Act, 1894," or certificates granted in a British possession under the delegated authority of section 102 of the same Act, and declared by Order in Council to be of the same force as if granted directly under that Act.

Colonial legislation on the subject of shipping inquiries has hitherto been attended with some difficulty, owing to the great number of references to Imperial enactments rendered necessary by a series of Acts of Parliament passed in the United Kingdom during the forty years 1854–1894. The complications introduced by this fragmentary legislation have been commented upon by English Judges, but the subject has now become much simplified by "The Merchant Shipping Act, 1894," which consolidated and reduced to order the whole of the previous enactments.

Most of the existing colonial Acts and Ordinances refer to and are based upon provisions in the former Merchant Shipping Acts now repealed, and their consolidation under the Act of 1894 furnishes an argument and a convenient opportunity for new legislation in all British possessions which shall contain corresponding reference to the provisions of the Imperial Act of 1894 now in force.

The observations which follow, so far as they refer to the certificates of ships' officers, relate only to Imperial certificates and not to local certificates granted in a British possession merely in order to qualify ships' officers for the coasting trade of that possession.

Even if no Imperial certificate be at stake in a shipping inquiry, it is obviously desirable that the conditions and procedure under which the cause of a casualty to a British ship, owned in the United Kingdom or some other part of the Empire, may be inquired into and reported upon by a

colonial Court of inquiry should be practically the same throughout Her Majesty's dominions, for the report of the Court may involve serious consequences to the owner of the vessel in connection with questions of insurance or the interests of charterers, while the interests of owners of cargo and others may also be injuriously affected.

A formal investigation in a British possession should therefore be surrounded as far as possible with the safeguards deemed essential in the United Kingdom. More especially is this similarity of procedure desirable, and even necessary, in the case of formal investigations in which the professional prospects of a ship's officer may be seriously affected by the decision of a colonial Court to cancel or suspend an Imperial certificate.

Moreover, this matter does not depend upon mere *à priori* considerations, for in empowering colonial Courts to hold investigations and to deal with Imperial certificates the Imperial Legislature has expressly provided not only that the colonial Court or tribunal holding an inquiry under the provisions shall have the same jurisdiction as if the matter investigated had occurred within their ordinary jurisdiction, and the same powers of cancelling and suspending certificates, but "shall exercise those powers in the same manner as a Court holding a similar investigation or inquiry in the United Kingdom." (See section 478, (2) and (5) "Merchant Shipping Act, 1894.")

It is essential, therefore, that the Legislatures of British possessions shall follow closely the lines of Imperial legislation in framing enactments for the holding of inquiries into shipping casualties and into charges of incompetency or misconduct on the part of masters, mates, and engineers holding Imperial certificates.

The provisions of the Merchant Shipping Act upon the subject thus become of essential importance in the framing of colonial legislation, and it is accordingly proposed to pass briefly in review the substance of those provisions.

The existing legislation relating to the inquiries in question is contained in Part VI. of that Act.

The occurrences which for the purposes of inquiries and investigations in the United Kingdom are to be deemed shipping casualties are defined in section 464, and, in accordance with section 468, include casualties to fishing-vessels when attended by loss of life.

By section 465 provision is made for holding a preliminary inquiry into shipping casualties, and another kind of preliminary inquiry is held in certain cases under section 517. Some observations on these inquiries are made at a later part of this memorandum.

Formal Investigations into Shipping Casualties.

The constitution of the Courts of formal investigation is next dealt with in section 466. They are to be held in England or Ireland either

(*a.*) Before a Wreck Commissioner, or

(*b.*) A Court of summary jurisdiction—*i.e.*, two Justices of the Peace or a Stipendiary Magistrate.

In Scotland the Board of Trade may remit the case to the Lord Advocate to be dealt with as he may direct (subsection 13). By arrangement, formal investigations in Scotland are always now heard before the Sheriff's Substitute, who are placed in direct communication with the Board of Trade.

No Wreck Commissioner has been appointed since the death of the late Mr. Rothery in 1888.

It is made imperative by subsection (3) that the Court shall be assisted by one or more Assessors, of nautical, engineering, or other special skill or knowledge, appointed by the Secretary of State out of a list of persons approved by him for that purpose, in accordance with rules made by the Lord Chancellor.

Section 467 contains further provisions relating to the compilation of the list of Assessors.

If a formal investigation appears likely to involve a question as to the cancellation or suspension of the certificate of a master, mate, or engineer, not less than two Assessors of experience in the merchant service are to be appointed. (Subsection 4.)

In accordance with subsection (5), the Board of Trade superintends, through its legal department, the preparation and conduct of the case.

The Court is required by subsection (6) to make a report to the Board of Trade containing a full statement of the case, and of the opinion of the Court thereon, accompanied by such report of or extracts from the evidence and such observations as the Court thinks fit.

Each Assessor must either sign the report or state in writing to the Board of Trade his dissent therefrom, and the reasons for that dissent. (Subsection 7.)

Provision is made by subsection (8) for the making of such order as the Court thinks fit respecting the costs of the investigation or any part thereof, and for the enforcement of such order.

The Board of Trade is empowered by subsection (9) to pay the costs of any formal investigation, if they shall think fit to do so.

For the purposes of section 466, the Court holding a formal investigation is invested with all the powers of a Court of summary jurisdiction when acting as a Court in exercise of their ordinary jurisdiction. (Subsection 10.)

It is made imperative by subsection (11) that every formal investigation shall be conducted in such manner that if a charge is made against any person he shall have an opportunity of making a defence.

Provision is made by subsection (12) for holding investigations in a public building or other suitable place other than an ordinary Police Court, which is not to be resorted to except in case of absolute necessity, and all enactments relating to the Court shall, for the purposes of the investigation, have effect as if the selected place were a place appointed for the exercise of the ordinary jurisdiction of the Court.

The power of a Court of formal investigation to cancel or suspend the certificate of a ship's officer is defined and limited by section 470.

The Court must find that the loss or abandonment of or serious damage to a ship, or loss of life, has been caused by the officer's wrongful act or default. The latter words have received interpretation in cases of appeal to the Admiralty Division of the High Court in England.

The Court is prohibited by subsection (1 *a*) from dealing with any certificate unless one at least of the Assessors concurs in the finding of the Court.

It is made imperative by subsection (2) that the decision of the Court upon the question of cancelling or suspending a certificate shall be stated in open Court.

The Court are required by subsection (3) in all cases to send a full report on the case with the evidence to the Board of Trade, and, where they have cancelled or suspended a certificate, that document is to be sent to the Board of Trade with the report.

No certificate is to be cancelled or suspended unless a copy of the report or a statement of the case on which the investigation has been ordered has been furnished to the holder of the certificate before the commencement of the investigation. (Subsection 4.)

A master, mate, or engineer whose certificate is cancelled or suspended is required to deliver his certificate for that purpose, under a penalty not exceeding £50.

Power is given to the Board of Trade by section 474, if they think that the justice of the case requires it, to reissue and return the certificate of a ship's officer which has been cancelled or suspended in the United Kingdom or in a British possession, or to shorten the time of suspension, or to grant in place thereof a certificate of the same or any lower grade.

Power is given to the Board of Trade by section 475 to order in any case the rehearing of a formal investigation, and it is imperative upon them to do so,—

(*a.*) If new and important evidence which could not be produced at the investigation has been discovered; or

(*b.*) If for any other reason there has in their opinion been ground for suspecting that a miscarriage of justice has occurred.

The Courts before whom the rehearing takes place, which include the Court or authority by whom the case was heard in the first instance, are defined in subsection (2).

An appeal will also lie under subsection (3) in cases where a decision has been given with respect to the cancelling or suspension of a certificate of a ship's officer, and an application for a rehearing under this section has not been made or has been refused.

An appeal lies to the High Court if the decision is given in England, to the Court of Session if in Scotland, and to the High Court in Ireland if in Ireland.

Under subsection (4) any rehearing or appeal under this section is to be conducted in accordance with the rules made under the Act by the Lord Chancellor.

Inquiries into Incompetency or Misconduct of Masters, Mates, and Engineers.

Another form of inquiry is provided for by section 471, which empowers the Board of Trade, if they have reason to believe either by the report of the Local Marine Board or otherwise that a certificated officer is from incompetency or misconduct unfit to discharge his duties, or that in the case of a collision* has failed to render such assistance or give such information as is required by section 422 of "The Merchant Shipping Act, 1894," to cause an inquiry to be held.

The powers of the Board of Trade in relation to the constitution of the Court of inquiry are defined by subsection (2).

By subsection (3 *b*) the Court is invested with all the powers of a Board of Trade Inspector under "The Merchant Shipping Act, 1894," sections 728–730, and is required by subsection (3 *c*) to give any ship's officer against whom a charge is made an opportunity of making his defence, either in person or otherwise, and may summon him to appear, and by subsection (3 *d*) may make such order as to the costs of the inquiry as they think just, and by subsection (3 *e*) is required to send a report upon the case to the Board of Trade.

When a Court of summary jurisdiction holds the inquiry, it is assimilated by subsection (4) in all respects to the procedure of a formal investigation into a shipping casualty already dealt with; but, if the Board of Trade so direct, the person who has brought the charge against the ship's officer to the notice of the Board of Trade is required to conduct the case.

Under section 470, subsection (1 *b*), the certificate of a ship's officer may be cancelled or suspended by a Court holding an inquiry under this part of "The Merchant Shipping Act, 1894," into the conduct of a ship's officer if they find that he is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that in a case of collision he has failed to render such information as is required under section 422.

The remaining subsections of section 470 apply alike to formal investigations into shipping casualties and to inquiries into conduct, and require:—

(*a.*) That a decision with respect to the cancelling or suspension of a certificate shall be stated in open Court;

(*b.*) That in all cases a full report with the evidence is to be sent to the Board of Trade with the certificate cancelled or suspended; and

(*c.*) That a certificate is not to be cancelled or suspended unless a copy of the report or statement of the case on which the inquiry has been ordered has been furnished, before its commencement, to the holder of the certificate.

Section 473, with respect to the delivery-up of a certificate cancelled or suspended, and section 474, empowering the Board of Trade to restore the certificate, or to shorten the time of

* Misconduct of this kind is usually dealt with in a formal investigation where a collision is the subject of inquiry.

suspension, or to grant a certificate in place thereof, and section 475, providing for a rehearing or an appeal, apply also to the case of an inquiry under section 471.

Jurisdiction of Colonial Courts.

A colonial Court has no jurisdiction except under Imperial legislation to inquire into casualties or misconduct occurring to or on board of British ships outside the territorial limits of the British possession. This question was raised and so decided in 1881 by a colonial Court in the case of a casualty happening to a British ship off the coast of Australia, upon her arrival with her crew at one of the Australian Colonies, and the inquiry was thereupon stayed. The Law Officers of the Crown, having advised that the decision was right, an Act was passed in 1882 to extend the jurisdiction of the colonial Courts, and its provisions are now incorporated in "The Merchant Shipping Act, 1894."

The necessary authority and jurisdiction are conferred upon colonial Courts by section 478, which provides in subsection (1) that the Legislature of any British possession may authorise any Court or tribunal to make inquiries into shipwrecks or other casualties affecting ships, or as to charges of incompetency for misconduct on the part of masters, mates, or engineers of ships in the following cases, namely:—

(*a.*) Where a shipwreck or casualty occurs to a British ship on or near the coasts of the British possession, or to a British ship in the course of a voyage to a port within the British possession.

(*b.*) Where a shipwreck or casualty occurs in any part of the world to a British ship registered in the British possession.

(*c.*) Where some of the crew of the British ship which has been wrecked, or to which a casualty has occurred, and who are competent witnesses to the facts, are found in the British possession.

(*d.*) Where the incompetency or misconduct has occurred on board a British ship on or near the coasts of the British possession, or on board a British ship in the course of a voyage to a port within the British possession.

(*e.*) Where the incompetency or misconduct has occurred on board a British ship registered in the British possession.

(*f.*) Where the master, mate, or engineer of a British ship who is charged with incompetency or misconduct on board that British ship is found in the British possession.

The tribunal has the same jurisdiction, but subject to the same conditions as if the matter in question had occurred within its ordinary jurisdiction.

No inquiry is to be held into any matter already inquired into and dealt with by a competent Court in any part of Her Majesty's dominions, or by a Naval Court, or where an inquiry has already been commenced in the United Kingdom.

A tribunal holding an inquiry under this section shall have the same power of cancelling and suspending certificates, and shall exercise those powers in the same manner as a Court holding a similar investigation or inquiry in the United Kingdom.

The Board of Trade are empowered to order a rehearing as in the case of an inquiry in the United Kingdom, but if an application for rehearing either is not made or is refused, an appeal shall be from any order or finding to the High Court in England, except where the ship is registered in a British posssession, or the decision affects the certificate of a ship's officer not granted under Imperial authority pursuant to "The Merchant Shipping Act, 1894."

The appeal shall be conducted under rules made under the powers contained in section 479.

The Lord Chancellor is empowered by section 479 to make general rules for carrying into effect the enactments relating to formal investigations, and to the rehearing of an appeal from any investigation or inquiry held under Part VI. of "The Merchant Shipping Act, 1894," and in particular with respect to the appointment and summoning of Assessors, the procedure, the parties and persons allowed to appear, the notice to those parties or persons or to persons affected, the amount and application of fees, and the place in which formal investigations are to be held.

Any rule made under this section while in force is to have effect as if it were enacted in this Act. (Subsection 2.)

By subsection (3) the rules made with regard to the rehearing of or appeals from any investigations or inquiries as to the appointment of Assessors, and as to the place in which formal investigations are to be held, are required to be laid before both Houses of Parliament as soon as may be after the rules are made.

Points to be kept in View.

The points to be kept in view in colonial legislation on this subject may be gathered from the foregoing review of the provisions in the Imperial Act, but it may be convenient to summarise those points which may affect the validity of the decisions of the colonial Courts with respect to the cancelling or suspension of an Imperial certificate.

Summary of Points with respect to Investigations into Shipping Casualties.

1. A casualty to a British ship in respect of which a colonial Legislature may authorise an investigation to be held must be such as is defined in section 478, subsections (1 *a*), (1 *b*), and (1 *c*).

2. A colonial Court has no jurisdiction if the casualty has already been investigated and reported on by a competent Court in any part of Her Majesty's dominions, or if an investigation has already been commenced in the United Kingdom. (Section 478, subsections 3 and 4.)

3. Provision should be made, if possible, in all cases, and at all events where a formal investigation appears likely to involve a question as to dealing with the certificate of a ship's officer, for the appointment of Assessors, of whom not less than two shall have had experience in the merchant service. (Section 466, subsections 3 and 4.)

4. It is imperative to conduct every formal investigation in such manner that the person against whom a charge is made shall have an opportunity of making a defence. (Section 466, subsection 11.)

5. The Court is to have the same powers and to exercise them in the same manner as a similar Court in the United Kingdom. (Section 478, subsection 5.) They should therefore be fully defined in colonial legislation, in agreement with "The Merchant Shipping Act, 1894."

6. No certificate can be dealt with unless a copy of the report or statement of the case on which the investigation has been ordered has been furnished to the holder of the certificate before the commencement of the investigation. (Section 470, subsection 4.)

7. A certificate can only be cancelled or suspended if the Court find that the loss or abandonment of or serious damage to a ship has been caused by the wrongful act or default of a ship's officer, and it is to be noted that the damage must be serious. (Section 470, subsection (1 *a*.)

8. The Court is prohibited from dealing with a certificate unless one at least of the Assessors concurs in the findings. (Section 470, subsection 1 *a*.)

9. The decision of the Court upon the question of cancelling or suspending a certificate must be stated in open Court. (Section 470, subsection 2.)

10. The Court is required to make a report to the Board of Trade in the manner defined by section 466, subsection (6), and if any certificate has been in question the evidence is also to be sent, and the certificate itself if cancelled or suspended.

11. Each Assessor must either sign the report, or state in writing to the Board of Trade his dissent therefrom, and the reasons for that dissent. (Section 466, subsection 7.)

Summary of Points as to Inquiries into Incompetency or Misconduct.

The following requirements, some of which have been already mentioned as obligatory in the case of formal investigations, apply to these inquiries, namely:—

(1.) The incompetency or misconduct of a ship's officer in respect of which a colonial Legislature may authorise an inquiry to be held must be such as is defined in section 478, subsection (1 *a*), (1 *e*), and (1 *f*).

(2.) A colonial Court has no jurisdiction if the incompetency or misconduct has already been the subject of inquiry and reported on by a competent tribunal in any part of Her Majesty's dominions, or if an inquiry has already been commenced in the United Kingdom. (Section 478, subsections 3 and 4.)

(3.) A ship's officer against whom the charge is made must be afforded an opportunity of making his defence either in person or otherwise. (Section 471, subsection 3 *c*.)

(4.) The Court is to have the same powers and to exercise them in the same manner as a similar Court in the United Kingdom.

(5.) A certificate is not to be cancelled or suspended unless a copy of the report or statement of the case on which the inquiry has been ordered has been furnished before its commencement to the holder of the certificate. (Section 470, subsection 4.)

(6.) A certificate can only be cancelled or suspended if the Court find that a ship's officer is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that in the case of collision he has failed to render such assistance or give such information as is required under section 422. (Section 470, subsection 1 *b*.)

(7.) The decision in respect of the cancelling or suspension of a certificate must be stated in open Court. (Section 470, subsection 2.)

(8.) A full report, with the evidence, is to be sent to the Board of Trade in all cases, and also any certificates which may have been cancelled or suspended. (Section 470, subsection 3.)

General Observations.

Reference has been made to the subject of preliminary inquiries into shipping casualties held either under section 465 or section 517. A preliminary inquiry may or may not be followed by a formal investigation dealing with the certificates of ships' officers whose conduct may in the preliminary investigation appear likely to be called in question in connection with the circumstances of the casualty. In practice, the Board of Trade invariably determines after a perusal of the depositions taken at the preliminary inquiry whether or not a formal investigation shall be held, and it has been found that the preliminary inquiry is very useful as well for that purpose as for obtaining the statements of witnesses *recenti facto* immediately upon their landing, and, where a formal investigation is afterwards ordered, for the preparation of the report or statement of the case required by section 470 (4) to be served upon a ship's officer before the commencement of the investigation as an indispensable condition precedent to the cancelling or suspension of his certificate. The procedure of a preliminary inquiry is quite informal, and in practice is limited to the taking of the depositions of the witnesses immediately upon their landing after the casualty.

A preliminary inquiry is not held where the subject of inquiry is the incompetency or misconduct of a ship's officer, unconnected with the loss of or a casualty to a ship.

When the system of inquiries into shipping casualties was originally introduced, under "The Steam Navigation Act, 1846," they were confined to investigations into the causes of accidents to steamships, with a special view to the prevention of loss of life at sea by further legislative measures, and this primary feature of shipping inquiries, afterwards common alike to investigations with respect to steamships and sailing-ships, has given rise to successive Acts of Parliament relating to

merchant shipping, and has ever since been steadily kept in view. The punishment of ships' officers, on the other hand, is, although important, rather incidental to the main purpose of the inquiries than a primary object in itself.

Some difficulty has arisen in adapting the procedure of shipping inquiries in the United Kingdom to this dual nature of the proceedings.

Regarded as an inquiry, the object of a formal investigation is to ascertain the facts, and, as these are in theory not completely discovered until the close of the inquiry, it is difficult to formulate a charge against the ship's officers or other persons beforehand; while regarding a Court of formal investigation as a Court of discipline, having power to cancel or suspend certificates, to impute blame to owners or other persons, or to condemn the parties in costs, it is both fair and right in itself, and necessary in order to give effect to the statutory requirement, that an accused person shall have an opportunity of defence, to give that person the earliest possible intimation of the matters which may be brought against him.

To meet this difficulty a formal investigation into a shipping casualty has been divided into two parts, the first part being an inquiry into the facts of the case, and the second part a *quasi*-prosecution of the ship's officers or other persons whose conduct appears to have caused or contributed to the casualty.

Under the powers conferred by "The Merchant Shipping Act, 1876," now re-enacted in section 479, the Lord Chancellor has from time to time made rules called the "Shipping Casualties Rules" to regulate the procedure in a formal investigation.

Until the year 1895 the second part of the investigation was commenced by delivering to the officers or other persons implicated a statement of the questions which the Board of Trade intended to raise with respect to their conduct, and these were based upon the evidence previously given during the first part of the investigation.

It has, however, been deemed more fair to the implicated officers or other persons to give them a still earlier intimation of the matters intended to be alleged against them, and accordingly in the Shipping Casualties Rules, 1895 (now in force), provision has been made for the delivery to the owners, master, and officers of the ship, before the investigation, of a notice containing a statement of the questions which, on the information then in the possession of the Board of Trade, they intend to raise for the opinion of the Court on the hearing. These questions are afterwards formally put in at the commencement of the second part of the investigation, with such modifications in, additions to, or omissions from them as the Board of Trade, having regard to the evidence given in the first part of the investigation, may think fit to make. But it should be stated that it is only found possible to satisfactorily comply with such a rule when the facts relating to a casualty have been as completely as possible obtained beforehand from the depositions of the witnesses taken at the preliminary inquiry provided for by section 465, or held under section 517, supplemented by the subsequent more detailed examination of those and other witnesses through the legal department of the Board of Trade.

This practice has worked smoothly and well, and affords to ships' officers and others a reasonably sufficient opportunity of making a defence against any charge which may be brought against them in the second part of the investigation.

The remaining Shipping Casualties Rules may furnish other suggestive matter for consideration in connection with projected legislation.

It would be a great and general advantage if, in addition to an assimilation of colonial Acts and Ordinances to Imperial legislation, there could also be secured, as far as may be consistent with the special features of the judicial and executive administration of the several colonies, a greater degree of uniformity as between the various British possessions themselves in the provisions they may severally make for inquiring into shipping casualties and into the conduct of ships' officers.

The Board of Trade will be ready to afford such further assistance as may be desired in furtherance of this object, and of Mr. Chamberlain's views on the subject generally.

10th January, 1898. W.M.

No. 7.

(Circular.)

SIR,— Downing Street, 13th April, 1898.

With reference to Lord Granville's circular despatch of the 16th July, 1886, enclosing copy of a treaty of friendship, commerce, and navigation between Her Majesty and the Republic of Ecuador, signed at Quito on the 18th October, 1880, I have the honour to inform you that the Secretary of State for Foreign Affairs has received a telegram from the Acting British Consul-General at Lima, dated the 30th March last, reporting that the Ecuadorean Government had made a communication to him giving twelve months' notice to terminate that treaty.

I have, &c.

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

No. 8.

(Circular.)

SIR,— Downing Street, 26th April, 1898.

With reference to my telegrams communicating to you the rules for the observance of the duties of neutrality to be in force during the existing state of war between Spain and the United States of America, I have the honour to transmit to you a copy of a letter from the Foreign Office embodying those rules, together with copies of Her Majesty's Proclamation of neutrality.

I have to request that you will cause both documents to be immediately published throughout the colony under your government, referring to the Proclamation or notifications, you may have already issued on receipt of my telegraphic instructions on the subject, and that you will not fail to conform to Her Majesty's commands.

I have, &c.,
J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 25th April, 1898, and 23rd June, 1898, pages 681 and 1019.]

No. 9.

(General.)

MY LORD,— Downing Street, 29th April, 1898.

With reference to my circular despatches of the 28th August, 1895, and the 15th August, 1896, and to my general despatch of the 6th February, 1897, I have the honour to transmit to your Lordship a copy of the correspondence noted in the margin, respecting a proposal of the Royal Society to hold, during the present year, an International Convention to consider the report of the Royal Society's committee upon the preparation of an International Catalogue of Scientific Literature. I also enclose copies of the report referred to. As soon as the date of the Convention is fixed I will communicate with you further, and I have to request that you will be good enough to inform me whether your Government will be prepared to send a delegate to the proposed Conference.

I have, &c.,
J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

Enclosure No. 1.

SIR,— The Royal Society, Burlington House, W., 6th April, 1898.

Adverting to Professor Foster's letter of the 15th August, 1895, relating to the subject of a proposed International Catalogue of Scientific Literature, I am now directed to forward copies of a report upon the subject, drawn up by a committee appointed by the Royal Society at the request of the International Conference which was held thereon in the summer of 1896, and to request that you will be so good as to transmit copies to the several colonial Governments which took part in the Conference above mentioned.

I am further directed to inform you that the Royal Society committee think it very desirable that an International Conference should again meet for the purpose of considering the report, and Her Majesty's Secretary of State for Foreign Affairs is being approached with a view to such a Convention being summoned for this year. The Royal Society committee therefore trust you will see your way to invite the several Colonial Governments who accepted the invitation to the Conference of 1896 to appoint delegates to an International Convention, with powers to authorise the establishment of an organization for the conduct of the catalogue. A list of those Governments is appended.

Since it is very desirable to take action in the matter without delay, an early date has been suggested for the meeting of the Convention, and Tuesday, the 12th July has been mentioned, but, in the event of this date being considered to give too short a notice of meeting, Tuesday the 11th October is proposed.

It is suggested that the number of delegates to be sent by each Government might perhaps, as in 1896, be left to the several Governments for decision.

The reports under reference are being forwarded to the Colonial Office direct from the society's printers.

I have, &c.,

Right Hon. J. Chamberlain, M.P., &c. ROBERT HARRISON, Assistant Secretary.

The Governments of the following colonies accepted invitations to the International Catalogue Conference of 1896: Canada, Cape Colony, Natal, New South Wales, New Zealand, and Queensland.

Enclosure No. 2.

SIR,— Downing Street, 12th April, 1898.

I am directed by Mr. Secretary Chamberlain to acknowledge receipt of your letter of the 6th April, forwarding copies of the report of a Committee of the Royal Society on the subject of the preparation of an International Catalogue of Scientific Literature, and stating that it is proposed that an International Convention shall again meet for the purpose of considering the report.

In reply, I am to state that on learning the date finally fixed for the assembling of the Convention proposed to be held this year, Mr. Chamberlain will be happy to forward a copy of your letter under acknowledgment, with copies of the report, to the Governors of the colonies named, with a request to be informed whether their respective Governments will send delegates to the Convention. I am to add that Mr. Chamberlain considers that the 11th October would be a preferable date to the 12th July for the meeting of the Convention, looking to the shortness of the notice which could be given in the event of the earlier date being decided on.

I am, &c.,
C. P. LUCAS.

The Assistant Secretary, Royal Society.

Enclosure No. 3.

SIR,— The Royal Society, Burlington House, London, W., 20th April, 1898.

Adverting to Mr. Lucas's letter (No. 7764/98) of the 12th April, on the subject of the proposed meeting of an International Convention to consider the report of the Royal Society's committee upon the preparation of an International Catalogue of Scientific Literature, I am desired by the President and Council to say that it is not possible to fix the date for the proposed meeting of the Convention until the Royal Society is in possession of the views of the foreign Governments with which Her Majesty's Secretary of State for Foreign Affairs is in communication on the subject.

In the meantime, the President and Council think it very desirable that the report of the Royal Society's committee under reference should be in the hands of all the Governments that participated in the Conference of 1896 as soon as possible, and they trust, therefore, that you will see your way to forward the copies of the report now in your hands to the colonial Governments concerned, leaving the question of the date of meeting to form the subject of a later communication.

I am, &c.,
M. FOSTER.

The Under Secretary of State, Colonial Office.

No. 10.

(Circular.)

SIR,— Downing Street, 5th May, 1898.

With reference to my circular despatch of the 20th August, 1897, respecting the termination on the 30th July next of the treaty of commerce between Great Britain and the Zollverein of 1865, I have the honour to transmit to you, for the information of your Government, a copy of a despatch addressed to the Secretary of State for Foreign Affairs by Her Majesty's Ambassador at Berlin, enclosing translation of a Bill introduced into the Reichstag on the 21st April, empowering the Federal Council to extend most favoured nation treatment to Great Britain and her colonies up to the 30th July, 1899.

I have, &c.,
J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 6th July, 1898, page 1108.]

No. 11.

(Circular.)

SIR,— Downing Street, 6th May, 1898.

I have the honour to inform you that representations have been made to me by the Lords Commissioners of the Admiralty that non-commissioned officer pensioners of the Royal Marines, or non-commissioned officers about to be pensioned from the corps, are practically debarred from employment in the Permanent Defence Forces of the colonies, owing to the fact that candidates for such employment are only sought for from the army, although non-commissioned officers from the Royal Marine Artillery are, from their experience in naval gunnery and land-service methods of handling guns and ordnance material generally, eminently fitted for the training of coast defence artillery, and that those from the Royal Marine Light Infantry are equally well suited for giving instruction in infantry drill, and in a lesser degree in heavy gun drill.

In these circumstances I shall be glad if your Government will take the matter into consideration, and cause me to be informed whether they would object to a portion of the appointments referred to being offered to non-commissioned officers of the Royal Marines.

If they should see no objection, I propose, in dealing with the applications from colonial Governments for the services of such non-commissioned officers (in the absence of a specific request for the appointment of men from the army) to apply indifferently to the War Office or the Admiralty, as circumstances may make most desirable.

I have, &c.,
J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

No. 12.

(Circular.)

SIR,— Downing Street, 9th May, 1898.

I have the honour to transmit to you, for the information of your Government and for publication in the colony, an extract from the London *Gazette*, containing a note from the United States Ambassador at this Court announcing the rules which his Government intend to observe during hostilities between the United States and Spain, together with a translation of a Royal Decree issued by the Spanish Government as to the principles which that Government will observe during the war, and a translation of the instructions drawn up by the Spanish Minister of Marine for exercising the right of visit in accordance with Article 5 of the Royal Decree.

I have, &c.,
J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 7th July, 1898, page 1109.]

No. 13.

(Circular.)

SIR,— Downing Street, 30th May, 1898.

With reference to my circular despatch of the 1st March last, enclosing copies of a provisional order of the Queen in Council applying section 238 of "The Merchant Shipping Act, 1894," respecting the arrest of seamen deserters, in the case of Japan, I have the honour to transmit to you, for publication in the colony under your government, copies of a further Order in Council dated the 19th May, issued after compliance with section 1 of "The Rules Publication Act, 1893."

I have, &c.,
J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 4th August, 1898, page 1260.]

No. 14.

(Circular.)

SIR,— Downing Street, 10th June, 1898.

With reference to my circular despatch of the 15th March last, enclosing copies of an order of Her Majesty in Council dated the 7th March, 1898, for giving effect to the additional Act of Paris modifying the International Copyright Convention of the 9th September, 1886, I have the honour to transmit to you, for information and publication in the colony under your government, copies of an order of Her Majesty in Council, dated the 19th May, 1898, extending the operation of the Order in Council of the 7th March, 1898, to the Republic of Hayti.

I have, &c.,
J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 4th August, 1898, page 1258.]

No. 15.

(Circular.)

SIR,— Downing Street, 5th July, 1898.

With reference to my circular despatch of the 5th May last, forwarding No. papers relative to the treatment to be accorded by Germany to the subjects and products of Great Britain and her colonies after the expiration, on the 30th July, 1898, of the treaty of 1865, I have the honour to transmit to you, for the information of your Government, translations of the text of the law signed by the Emperor on the 11th May last, and of a notice published thereunder in the *Reichsanzeiger*, relative to the commercial relations between Germany and the British Empire after that date.

I have, &c.,
J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 15th September, 1898, page 1471.]

No. 16.

(General.)

MY LORD,— Downing Street, 14th July, 1898.

I have the honour to transmit to your Lordship copies of a report of the delegates to the British Conference of the Union for the Protection of Industrial Property, held at Brussels in December last, which contains, *inter alia*, the proposed additional Act to the Industrial Property Convention of the 20th March, 1883.

I also enclose copies of correspondence between the Board of Trade and this department on the subject, and I request that I may be informed at the earliest convenience of your Government whether they are willing to accept the additional Act in question, in order that the necessary notification may be made to the Belgian Government.

I have, &c.,
J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

Enclosure No. 1.

SIR,— Foreign Office, 3rd May, 1898.

With reference to your letter of the 29th January last, I am directed by the Marquis of Salisbury to transmit herewith, to be laid before the Board of Trade, copy of a note which has been received from the Belgian Minister at this Court, transmitting copies of the protocol of the additional Act to the Industrial Property Convention of the 20th March, 1883.

I am to request that his Lordship may be favoured with the opinion of the Board of Trade as to whether Her Majesty's Minister at Brussels should be directed to sign the additional Act in question; and that his Lordship may also receive the views of the Board on the other points, respecting which Baron Whettnall invites observations in connection with the next session of the Conference on this subject, which the Belgian Government hope may take place before the autumn.

I am, &c.,
F. H. VILLIERS.

The Secretary to the Board of Trade.

Sub-enclosure.

MONSIEUR LE MARQUIS,— Londres, le 19 Avril, 1898.

La conference de l'Union internationale pour la protection de la propriété industrielle, qui s'est réunie à Bruxelles au mois de Décembre, 1897, a abouti à la signature de deux protocoles soumettant aux Gouvernements interéssés:—

1. Un projet d' acte additionnel à la Convention du 20 Mars, 1883.
2. Un projet d' acte additionnel à l'arrangement du 14 Avril, 1891, concernant l'enrégistrement internationale des marques de fabrique ou de commerce;

D'aprés les ordres de mon Gouvernement j'ai l'honneur de rémettre a votre Siliqueurie cinq exemplaires dont un certifie conforme des Premier de ces Protocoles. La Grande Bretagne ne faisant pas partil de l'Union restreinte constituée par l'arrangement du 14 Avril, 1891, le protocole relatif à celui ci n'a pas été signé pas ses délégués.

Le Gouvernement du Roi apprendrait avec satisfaction, Monsieur le Marquis, que le Gouvernement de sa Majesté Britannique est disposé a signer le projet d'acte additionnel a la Convention de 1883.

Dans ce projet ont été inserées celles des dispositions destinées a modifier ou à completer la Convention précitée sur les quelles un accord unanime a pu s'établir entre les Délégués des États contractant. Sur d'autres points soumis également aux déliberations de la conférence, une entente groupant, tous les États Unionists n'a pu immédiatement être relaisée, mais il a été entendre que certains de ces points feraient, l'objet d'un nouvel examen au cours d'une seconde session qui se réunitait après que des négociations diplomatiques, confiées aux soins du Gouvernement Belge, auraient preparé les voies a un accord unanime.

Les discussions aux quelles il a été procédé au sein de la conférence ont fait reconnaitre qu'il pourrait être opportune de poursuivre l'examen des questions ci-après :—

1. Les délais de priorité (Article 4 de la Convention de 1883).
2. La déchéance des brevets pour cause de non-exploitation (Article 5).
3. L'admission des marques de fabrique a l'enregistrement (Article 6).
4. La concurrence déloyale (projet d'Article 10 bis).

La note, ci-jointe rapelle brièvement qu'elle a été, l'attitude des Délégations des divers États à l'égard de chacun de ces questions.

Parmi celles-ci, il eu est une le Gouvernement Britannique a paru attacher un intêret particulier, l'admission des marques a l'enrégistrement c'est d'ailleurs la Délégation de ces pays qui a pris l'initiation, d'en saisir la Conférence : elle a presente dans la première séance, une proposition, qui ainsi, que le constate, la vote sus visée a subi au cours des travaux de la Conférence, plusieurs modifications avant d'etre soumise au vote de l'assemblée pleuière. Ce vote a groupé en faveur de la proposition les voix de huit Délégations, cinq se sont prononcés contre une s'est absténue.

La Gouvernement Anglais aujourd'hui éclaire sur les vues des differents Gouvernements rélativement a la question dont il s'agit, aura peut-être soumis celle-ci a un nouvel examen dans le but de prouver une formule qui faciliterait une entente. Peut-être aussi s'inspirant de cette appréciation, formulée par les Délégues d'un certain nombre de pays que la proposition Britanniques ne modifiait pas la Portee des disposition actuellément inscrites dans la Convention, aura-t-il pensé que des lors on pourrait s'en tenir provisoirement du moins a la Convention dans son tests actuel.

La délégation de la Grande-Bretagne a cru devoir réserver son vote sur la durée du delai de priorité pour les brevets d'invention, parce qu'elle ne se trouvait pas en possession d'instructions précises de son Gouvernement. Mais elle n'a fait aucune déclaration qui permettre de supposer que la proposition de fixer la durée de ce délai à donze mois doive être défavorablement accueillie par le Gouvernement Britannique. Il serait naturellement agréable au Gouvernement du Roi. Monsieur le Marquis, d'apprendre que le Cabinet de Londres se rallie au délai du donze mois, délai dont l'adoption parait devoir exercer une influence décisive sur les déterminations de l'Allemagne au point de vue de son adhésion a la Convention de 1883.

Ce délai a récueilli les voix de neuf Délégations au sein de la Conférenci, il n'est pas donteux que l'adhésion de l'Angleterre a ce delai aurait une grande influence sur les déterminations des Etats qui n'ont pas cru devoir y donner leur vote au cours de la première session.

Ou peut dire que les Délégations ont été unanimes à témoigner de l'interet que leurs Gouvernements attacheraient à voir l'Empire Allemand entrer dans l'Union Internationale ; or, les déclarations des Délégues de l'Allemagne ne laissent guere d'espoir de voir atteindre ce but si le délai precite n'est pas porte au chiffre dé donze mois.

Je rapellerai aussi qui un cours de la discussion sur la même question la Délégation d'Autriche-Hongarie au déclaré qu'il serait difficile a Monarchié Austro-Hongroise de confirmer son succession à l'Union, si la durée du délai n'alleigerait pas ce chiffre.

Je n'ai pas à entre tenir votre Seigneurie des deux autres questions réservées pour la session prochaine : celle de la déchéance des brevets pour cause de non-exploitation et celle de la concurrence déloyale.

La Délégation Britannique a comme la plupart des autres Délégations emis un vote favorable à la proposition présentée par la Délégation Francaise relativement a ce dernier objet. Quant à la déchéance des brevets elle s'est prononcée en faveur de celles des solutions soumises au vote de la conférence qui parraissent les plus propres a amener le resultat, que la conférence de Bruxelles a en surtout en vue en abordant l'examen de cette question a savoir l'adhésion de l'Allemagne a l'Union Internationale.

En foisant appel aux vues conciliantes du Gouvernement de sa Majesté sur les points envisagés au début de la présente lettre il me sera permis de constater que plusieurs de vote emis par la Délégation Belge relativement aux questions dont il s'agit l'ont été que dans un but de conciliation c'est a dire on vue d'amener un accord unanime permettant d'atteindre le but que je viens d'indiquer.

Il serait fort desirable, Monsieur le Marquis, que la seconde session de la Conférence put avoir lieu avant l'automne prochain.

Le Gouvernement du Roi attacherait donc du prix à être informe dans un délai rapproche des dispositions du Gouvernement de sa Majesté Britannique.

Venillez agréer, Monsieur le Marquis, les assurances de la plus haute consideration avec laquelle J'ai l'honneur d'être, &c. B. WHETTNALL.

La Seigneurie Monsieur le Marquis de Salisbury, K.G., &c.

Enclosure No. 2.

Board of Trade, Railway Department, 7, Whitehall Gardens,
London, S.W., 2nd June, 1898.

SIR,—

I am directed by the Board of Trade to transmit to you herewith, for the information of the Secretary of State for the Colonies, a print of the report of the British delegates to the recent

Conference at Brussels of the Union for the Protection of Industrial Property, and to draw attention to the first final protocol annexed thereto, which contains the proposed additional Act to the Industrial Property Convention of the 20th March, 1883.

I am at the same time to enclose copy of a communication which the Board have received from the Foreign Office, covering copy of a note from the Belgian Minister at this Court which refers to the subject of the ratification of the additional Act in question, and I am to state that the Board purpose to recommend its acceptance by Her Majesty's Government.

Before, however, replying in this sense to the Foreign Office, the Board of Trade would be glad if you would move Mr. Chamberlain to be so good as to cause them to be informed as to what notification should be made by Her Majesty's Minister at the time of signature as to the position of the British colonies, of which two—namely, Queensland and New Zealand—are already parties to the Union.

I am to add that the Board would ask to be favoured with a reply as early as practicable, as it is desired that the signature of the additional Act should take place not later than the 14th instant

I have, &c.,

The Under-Secretary of State, Colonial Office. FRANCIS J. S. HOPWOOD.

Sub-enclosure.

The BRITISH DELEGATES to the BRUSSELS CONFERENCE of the UNION for the PROTECTION of INDUSTRIAL PROPERTY to the Right Hon. C. T. RITCHIE, M.P.

SIR,— Brussels, 15th December, 1897.

We have the honour to report that, in accordance with our instructions, we have attended the Conference of the Union for the Protection of Industrial Property, which met in this city on the 1st instant, and closed yesterday.

Nearly all the countries of the Union sent delegates, and amongst those States not parties to the Union which were represented may be mentioned Germany, which sent an able and well-equipped delegation who took an active part in the proceedings; Austria-Hungary, which will shortly enter the Union, represented by two well-informed delegates; and Japan, which sent three delegates to watch, but not to take part in the proceedings.

The object of the Conference was the discussion of a revision of the Convention of 1883, and of the additional Acts signed at Madrid on the 14th April, 1891.

It is not necessary for us now to recite at length the various proposals which had been put forward by the International Bureau of Berne and by the States parties to the Union as the basis of the proceedings, many of these having been dropped or modified in the course of the discussions.

When the Conference got to work it soon became apparent that the chief difficulties would be encountered in regard to the following points :—

(*a.*) Article IV. of the Convention of 1883, as to the delay of priority for patents and trade-marks.

(*b.*) Article V., respecting forfeiture of patents on account of non-working.

(*c.*) Article VI., relative to the obligation of the contracting States to register trade-marks *telle quelle*, or in the form originally registered in another State of the Union.

(*d.*) The arrangement of Madrid of the 14th April, 1891, respecting false indications of origin.

We propose, in the first place, to give a short explanation of what took place on each of these points.

(a.) *Delay of Priority for Patents.*

It will be remembered that the Paris Convention of 1883 provides for the international recognition of a period which commences from the deposit in one of the States of the Union of an effective application to such State for the grant of a patent, design, or trade-mark, and within which such applicant can, by subsequently depositing a like application in another State of the Union, enjoy in such last-mentioned State the same rights as if his application thereto had been deposited at the same time as his application to the first-mentioned State.

The above period, usually spoken of as the "period of priority for patents," is fixed by Article IV. of the Convention of 1883 at six months, one month more being allowed for countries beyond sea.

Section 103 of "The Patents, Designs, and Trade-marks Act, 1883," grants a period of seven months to all foreign States to which the Act has been applied by Order in Council.

It has been made clear at the Conference that the German Government would not enter the Union unless this period could be extended to twelve months. The object of the German Government appears to be to enable the German patentees to avail themselves of the results of the official examination practised in Germany as to novelty of invention, before they decide whether they will also take out their patents in foreign States.

It has been found necessary in practice that a period of at least twelve months should be allowed for the completion of this examination.

There is at present no similar examination in the United Kingdom, otherwise the extension suggested by Germany would probably become necessary. As the English law at present stands, it would be disadvantageous to British inventors to extend the time during which British patentees are left in uncertainty whether or not they can be forestalled by means of patents taken out by foreigners in the United Kingdom under the Convention.

It would consequently be necessary, if the German proposal were hereafter entertained, to make some provision to obviate this inconvenience. This might possibly be done by requiring

foreigners who apply in the United Kingdom for patents under the Convention, to file with their application a complete specification setting out fully the objects and mode of working of their patents, and by shortening the period at present allowed for the acceptance of that specification. At present a period of nine months is allowed before the complete specification must be filed, and the latter specification need not be accepted until the expiration of twelve months from the date of the application. These periods may be extended to ten and fifteen months respectively.

The proposal put before the Conference was to extend the period of priority fixed by the Convention in the case of patents to twelve months, and in the case of trade-marks to four months in all cases.

We stated our readiness to agree to seven months for patents and four months for trade-marks, as now provided by English law. A vote on the extension to twelve months was eventually taken, with the following result:

Ayes, 9.—Belgium, Brazil, Spain, United States, Italy, Norway, Netherlands, Sweden, Switzerland.

Noes, 4.—France, Portugal, Servia, Tunis.

Abstention, 1.—Denmark.

Reserved Vote, 1.—Great Britain.

Germany and Austria had no votes, not being as yet parties to the Union.

As it was clear that unanimity could not be obtained, and bearing in mind the importance which is attached to the entry of Germany into the Union, we thought it best to reserve our vote, so as not to have the appearance of closing the door to possible future negotiations.

(b.) *Forfeiture of Patents for Non-working.*

Several of the contracting States are desirous of adding to the Convention provisions to mitigate the severity of the laws in force in some of the States of the Union, which provide for the forfeiture of patents which are not being worked in the countries in which they are taken out by foreigners.

The proposal on this subject, which was brought forward by the International Bureau as a basis of discussion, was to add the following two paragraphs to Article V. of the Convention of 1883:—

Nevertheless, he shall only be subject to this obligation after a minimum delay of years, at the expiration of which judgment may be given in favour of the forfeiture of the patent if the patentee fail to account for his inaction.

The following shall be considered as one of the justifiable grounds of inaction: The absence of any offer to the patentee to acquire licenses from him on equitable terms after he shall have invited such offers by the publication of notices recognised as satisfactory.

Under the English law patents are not forfeited for non-working, but non-working is one of the grounds on which compulsory licenses may at any time be obtained under section 22 of the Act of 1883.

In the course of the discussions on this subject, it appeared that the proposal of the Bureau was intended to affect not only the forfeiture of patents, and was not designed in any way to modify the law as to compulsory licenses under section 22. No objection was therefore raised to our proposal to make this clear by substituting the words "*le brevet ne pourra être frappé de déchéance pour cause de non exploitation,*" for the words "*il ne sera soumis à cette obligation*" on the first line of the above paragraphs.

The proposal, as thus amended, would have had the effect of affording some protection against forfeiture to British patents taken out in foreign countries, while in no way affecting our law under section 22.

Considerable divergence of opinion was manifested as to the minimum period at the expiration of which a patent should be forfeitable for non-working, the French delegates being strongly in favour of not extending this period beyond two years, while several of the delegates, including those of Germany, were very desirous that it should be extended to three years.

The French delegates strongly objected to the second of the proposed additional paragraphs, which was supported by Germany and other States.

As it became evident that unanimity was not procurable on this subject, the question was reserved for future consideration.

Germany will probably not join the Union unless the three years can be granted.

(c.) *Article VI., relative to the obligation to Register a Trade-mark "telle quelle," or in the Form originally registered in another State of the Union.*

Article VI. of the Convention of 1883 is as follows:—

Every trade-mark duly registered in the country of origin shall be admitted for registration and protected in the form originally registered in all the other countries of the Union. That country shall be deemed the country of origin where the applicant has his chief seat of business. If this chief seat of business is not situated in one of the countries of the Union, the country to which the applicant belongs shall be deemed the country of origin. Registration may be refused if the object for which it is solicited is considered contrary to morality or public order.

Paragraph 4 of the final protocol adds the following explanations:—

4. Paragraph 1 of Article VI. is to be understood as meaning that no trade-mark shall be excluded from protection in any State of the Union from the fact alone that it does not satisfy, in regard to the signs composing it, the conditions of the legislation of that State; provided that on this point it comply with the legislation of the country of origin, and that it had been properly registered in said country of origin. With this exception, which relates only to the form of the mark, and under reserve of the provisions of the other articles of the Convention, the internal legislation of each State remains in force.

To avoid misconstruction, it is agreed that the use of public armorial bearings and decorations may be considered as being contrary to public order in the sense of the last paragraph of Article VI.

The difficulties to which these stipulations have given rise in England are well known.

The fundamental principle of the Union, as fixed in Article II. of the Convention, is that subjects of any State of the Union shall enjoy in the other States the same protection as natives for patents and trade-marks, but no more. It is difficult to reconcile this principle with the stipulations of Article VI. and paragraph 4 of the final protocol; and the problem has already become the subject of judicial decisions and of official correspondence in England.

In accordance with our instructions, we first submitted to the Conference the following proposition, founded upon a suggestion originally made by Mr. Herbert Hughes, as a means of giving effect to the provisions of section 10 of the Patents, Designs, and Trade-marks Act of 1888, and otherwise meeting the difficulty:—

Article VI. to be maintained in its present form, with addition of the following provisions:—

This ground of refusal is applicable to marks containing—

(*a.*) Public arms and decorations.

(*b.*) A word or words referring to the nature or quality of the goods, or a geographical word or words, unless the depositor state in his application that he lays no claim to any exclusive right to the use of these words or names.

(*c.*) The name or names of a person or company, unless such name be printed or woven in a distinctive shape, or consist of the written signature in original or *fac simile* of the person or company which makes the deposit.

Paragraph 4 of the final protocol to be suppressed.

We accompanied this proposition by the "*Exposé des Motifs*" which forms Enclosure 1 in the present despatch.

This proposition met with little support, and our next attempt to meet the difficulty was to concur in the making of a proposal by the Austrian delegate to the following effect:—

Replace the first paragraph of Article VI. by the following:—

"No trade-mark regularly deposited in the country of origin can be refused registration in the other countries of the Union except for reasons which would equally prevent the registration of marks by natives."

This proposal would, we believe, have secured a majority of votes, but evidently did not command the unanimity necessary for a revision of the Convention.

After a prolonged discussion lasting over several days, we recurred to our original proposal, as amended in the following shape:—

The English delegation proposes to maintain in its integrity Article VI. of the Convention, as well as No. 4 of the final protocol, with the addition of the following provision:—

"It shall be permissible to each of the contracting States to refuse deposit in the following cases:—

"1. Marks consisting exclusively of the name or names either of a person or of a company, unless these names be presented for deposit in a distinctive shape, or consist of the signature in original or in *fac simile* either of the person or of the company which makes the deposit. This provision does not in any way infringe Article VIII. of the Convention.

"2. Marks consisting either of a designation necessary for the indication of the nature or quality of products, or of geographical names, unless the depositor in his application makes a declaration to the effect that he lays no claim to any exclusive right to the use of these designations or names by themselves, and without prejudice to the protection to which indications of origin are entitled.

"Denominations which do not indicate origin, as well as invented names in the two preceding cases (1 and 2) shall continue to be protected.

"3. Marks which include public arms or decorations without sanction from the proper authorities."

It is probable that this would have been sufficient to meet the existing English law, but the form is complicated owing to the necessity of making compromises to meet the views insisted on by various delegates, and we should not recommend that this form should be adopted as the best, in case the matter should be hereafter reopened by Her Majesty's Government.

The proposition in question was put to the vote with the following result: *Ayes*, 9; *Noes*, 5; one abstention. Germany and Austria supported our proposal, but not being yet members of the Union, had no votes.

Ayes.—Holland, Switzerland, Norway, Sweden, Denmark, Spain, Brazil, Servia, Great Britain.

Noes.—France, Tunis, United States, Italy, Portugal.

Abstaining.—Belgium.

Supporting, without vote.—Germany, Austria.

The practical result, therefore, was 11 to 4 in favour of our proposal. There is some reason to believe that the United States delegate might have reconsidered his vote if the question had been reopened, and that possibly Italy might have given way if eventually unanimity had been secured.

The chief, and, indeed, the only serious, opponents to the principle of our proposals for an alteration of Article VI. were the French delegates, who rejected every suggestion put forward by us on this point, and who were firm in maintaining the existing text intact. We could not move them from this position, even by pointing out that the logical consequence of their attitude was that if, say, in a South American State, where the French or English language was not spoken, any one succeeded in obtaining the registration of the words "Bordeaux," "Burgundy," or "Champagne," as trade-marks, Great Britain might be compelled, on a strict interpretation of Article VI. and paragraph 4 of the final protocol, to register these words as trade-marks in the form originally registered, and that the exclusive use of those words would then be vested in the person so registering them, as against even wine-growers in those very districts seeking to sell their wares in Great Britain.

It became clear in the course of the discussions that the practice of many States of the Union is identical with our own in this particular, though the reasons given may be different, and we consider that the decisive majority obtained on our proposal is a sufficient argument in favour of the maintenance of the existing practice of the English Courts.

The result of the vote being a failure to obtain unanimity, it was evident that Article VI. of the Convention could not at present be amended, and, as we do not think it desirable to make any further efforts at conciliation, the question was reserved for ulterior consideration.

(d.) *False Indications of Origin.*

Some proposals for the amendment of the arrangement of Madrid of the 14th April, 1891, which had been made by the International Bureau and by the Spanish Government, were eventually dropped, after a long discussion. It was difficult to understand the exact position assumed by the Spanish, Portuguese, and French delegates on the question whether the effects of the arrangement of Madrid can be applied to goods and subjects of countries of the Union who have not adhered to that arrangement. We did not think it desirable to enter into the discussion further than to explain the existing English law and practice on the point as enabling Her Majesty's Government to seize any goods, whencesoever arriving, which bear false indications of origin. We further maintained the right of Great Britain to enter into arrangements with any State of the Union by which each contracting State should bind itself to seize all goods bearing false indications of origin.

In regard to the question of what constitutes a false indication of origin as applied to wines, we made the following declaration:—

Great Britain by existing law gives complete effect to the arrangement of Madrid in its present form, and the English municipal law derogates in no respect from that arrangement. Under the Customs regulations in England, any goods may be admitted to entry which bear, in clear and legible characters, an indication of origin which is not false; for example, "Cape Port," "Swiss Champagne," for it is evident that in such cases the indication of origin consists in the precise mention of the locality from which the goods come.

The question of false indications of origin having been disposed of by the withdrawal of all the proposed amendments, the arrangement of Madrid remains untouched.

Towards the close of the Conference it was found that unanimity was impossible on the three points (*a*), (*b*), and (*c*) above indicated, but unanimity had already been arrived at on several other proposed amendments of the Convention of 1883.

The President therefore proposed that these three points should be reserved for an attempt to come to some understanding by means of diplomatic correspondence to be initiated by Belgium, and that if an accord should be established in principle by that means, these points should be again treated at an adjourned meeting of the present Conference.

One other point would also be reserved for consideration at such an adjourned meeting—viz., the following additional Article to the Convention suggested by France:—

The subjects or citizens of States parties to the Convention (Articles II. and III.) shall enjoy, in all the States of the Union, the protection accorded to nationals against dishonest competition (*concurrence déloyale*).

This suggestion was received with favour by the Conference, but unanimity could not be obtained, as four delegates, being without instructions on the point, reserved their votes.

The addition of such an article would be of especial advantage to Great Britain in furtherance of the interests of honest trade.

The Conference ended in the signature by all the delegates of the enclosed final protocol, containing proposed amendments to the Convention of 1883, which the delegates submit for the consideration of their respective Governments.

The following observations may be made respecting the various articles contained therein:—

Amendment to Article III.—The words "*effectifs et sérieux*" are added to the original text for the purpose of ruling out establishments of a fictitious character.

Amendment to Article IV.—The only respect in which this article has been altered is by striking out of the fourth line of the second paragraph the words "*par un tiers*," after the word "*exploitation.*" It had been suggested that these words might be taken to imply that the working of the patent by the applicant himself during the period of priority would invalidate subsequent registration under the Convention. The omission of the words will not necessitate any alteration in the English law; and, if it has any effect on foreign patent laws, the alteration will benefit the British patentee, as it will enable him to work his patent during the period of priority without any fear of forfeiting his right to registration in any other State of the Union.

Proposed Additional Article IV. bis.—This is a new article. Its effect will be that patents for the same invention taken out in different States of the Union will be independent of one another, and of similar patents granted outside the Union. At present, all patents taken out in England are independent of patents for the same invention taken out in foreign countries, and the new article therefore involves no alteration in the English law. But, hitherto, every patent which has been granted in the United States for an invention previously patented in any foreign country has been limited so as to expire at the same time with the foreign patent. As the ordinary life of a patent is seventeen years in the United States and fourteen years only in the United Kingdom, when a patent has been granted in the United States for an invention previously patented in the United Kingdom its life has been limited to fourteen years from the date of application for the patent in Great Britain. This will no longer be the case, as the American law will be assimilated to the English law in this respect as from the 1st January next. The ordinary life of a British patent is shorter than that of a patent in any other State in the Union, and, consequently, the alteration is in favour of British patentees. The last two paragraphs of Article IV. *bis* apply the Article to patents now in existence and to patents in existence in any State at the time of its accession to the Union, but the delegate of the United States made a declaration at the final stage of the proceedings that his country could not bring in the legislation which would be necessary to carry the second paragraph of this new article into effect, so far as the United States were concerned.

Addition to Article IX.—This is proposed in order to provide in this article the alternative of prohibition which already exists in the arrangement of Madrid relative to false indications of origin. It will probably strengthen the hands of some States who are not at present able to take effective action by means of seizure in accordance with Article IX. as it stands at present.

Addition to Article X. defines "an interested party" in a manner which seems sufficient to meet the requirements of British trade.

Amendment of Article XI. speaks for itself, and seems to be unobjectionable.

Amendment to Article XIV. merely omits an unnecessary reference to the former meeting at Rome.

Amendment to Article XVI. defines the procedure in regard to accessions to the Union in a more convenient mode than that in the existing Convention.

None of these amendments appear to give rise to any objection, or to require fresh legislation in the United Kingdom, and we venture to recommend the first final protocol for signature on behalf of Her Majesty's Government within the prescribed period of six months.

The second final protocol relates to the Madrid arrangement for the international registration of marks, to which Great Britain is not a party. We did not, therefore, sign it, and it calls for no observation on our part.

At the end of the sittings the United States Minister gave an invitation for the next meeting of the Union to be held at Washington, at a date to be hereafter fixed. This proposal met with general assent. We reserved the expression of the opinion of Her Majesty's Government, as we had received no instructions on the subject.

As a summary of the above report, we may state that, if the positive results of the Conference are not great, the thorough discussion to which the disputed points have been subjected may possibly clear the ground for the establishment of a general accord.

It is evident that the German Government will not join the Union unless satisfaction is given to them on two points, viz.: (1.) Agreement to three years as the minimum period for the forfeiture of patents for non-working; and (2) the extension of the period of priority for patents from six to twelve months. Great Britain could grant the former of these concessions without fresh legislation; not so, however, as regards the latter.

It will be for Her Majesty's Government to consider whether, if an agreement can be reached between Great Britain and France and the other contracting States as to Article VI., relative to the registration of a trade-mark "*telle quelle*," it is desirable or not to undertake the legislation which would be required to give effect to an extension of the period of priority for patents from six to twelve months. If this could be done, every obstacle, so far as Great Britain is concerned, would apparently be removed to the adhesion of Germany to the Union.

When the *procès-verbaux* of the Conference are printed in a complete shape we shall have the honour to send copies for the use of the Board of Trade.

As regards the final protocol, which we have signed, we venture to express the opinion that it contains some useful amendments to the Convention of 1883, and that none of its stipulations are open to objection as regards British interests. If it be accepted by Her Majesty's Government it will be necessary, at the time of its signature by Her Majesty's Minister at Brussels, to make a declaration as to the extent of its application to British colonies, of which two—viz., Queensland and New Zealand—are already parties to the Union.

In concluding this despatch we desire to record our grateful appreciation of the support afforded to us by Her Majesty's Minister, the Hon. Sir F. Plunkett, who was always ready and able, by his influence and high position, to help us in any difficulty. We venture also to suggest that the thanks of Her Majesty's Government are due to Mr. Herbert Hughes for his services as technical adviser to the British delegates. The suggestion originally made by him for an amendment of Article VI. of the Convention formed the basis of the proposals made by us to the Conference on this difficult point; and his legal knowledge and general counsel proved invaluable during the course of the proceedings. We have also to express our thanks to Mr. Charles Somers-Cocks for his efficient services as secretary to the British delegates.

We have, &c.,

CHARLES B. STUART WORTLEY.
H. G. BERGNE.
C. N. DALTON.

Enclosure 1.

Paper presented by the British Delegation to the Conference.

Exposé des Motifs.

The application of Article VI. and of No. 4 of the final protocol has given rise in England to rather serious difficulties. The Conference may be reminded that the true principle of the Union, established in Article II. of the Convention, consists in this: that subjects of each of the contracting States are entitled to enjoy in the other States the same advantages as, and not superior advantages to, nationals.

Article VI. in its present form and the interpreting protocol appear to authorise the foreign depositor to claim protection for a mark for which registration would not be accorded to a national, because the local law does not allow of such a mark being considered as entitled to registration.

The Government of Her Britannic Majesty hesitate to give their assent to a provision in virtue of which a stranger might claim in England advantages superior to those enjoyed by nationals, and it seems difficult to them to make the stipulations of Article II. tally with those of Article VI. and of No. 4 of the final protocol. The British delegates beg the Conference to give due weight to this difficulty.

The Convention, taken as a whole, appears to aim at securing a right of priority for obtaining registration rather than an absolute right to such registration, and at laying down that the depositor ought to submit to local law in every country where he claims registration.

An instance may be quoted which will prove to the Conference the danger of allowing the registration of marks without any restriction; if, for instance, some one succeeded in getting the

words "pig iron" registered as a trade-mark in one of the contracting States, would all the States of the Union be bound be bound to grant protection to these words, even England and the United States, where no other term exists for designating the substance?

It can, moreover, be affirmed that the principle of the British proposal should be admitted by all the States as resulting from international law.

It would be contrary to the true interests of all Unionists to grant to an individual the exclusive right of using terms bearing on the nature or quality of goods, geographical names, or names of individuals or societies. Such words or names should always remain public property; no one can wish a monopoly in them to be granted to a private person.

Difficulties have already arisen in regard to this matter in England, and the Government of Her Britannic Majesty considers the moment to have come when the real bearing of the provisions on this point should be defined.

Acting on this theory, the British delegates venture to submit to the favourable consideration of this Conference their proposal, which aims at inserting in the Convention a series of exceptions to the principle which appears to be involved in the present text of Article VI. and of No. 4 of the final protocol. This proposal keeps in view the amendments proposed by the International Bureau and by the Administration of the Netherlands. Should it be accepted, No 4 of the final protocol would cease to be of use, and be suppressed.

Enclosure 2.

International Union for the Protection of Industrial Property.

First Final Protocol.

The International Conference of the Union for the Protection of Industrial Property, called together at Brussels the 1st December, 1897, submits to the Government of the States of the Union the following draft:—

Additional Act to the Convention of March 20, 1883, concluded between [Here follow the names of the contracting States].

The undersigned, duly authorised by their respective Governments, have, under reserve of ratification, agreed as follows:—

Article III. of the Convention shall run as follows:—

Subjects or citizens of States not forming part of the Union, who are domiciled or who own effective and serious industrial or commercial establishments in the territory of any of the States of the Union, shall be assimilated to the subjects or citizens of the contracting States.

Article IV. shall run as follows:—

Any one who has duly applied for a patent, industrial design, or model, or trade-mark in one of the contracting States shall enjoy, as regards registration in the other States, and reserving the rights of third parties, a right of priority during the periods hereinafter stated. Consequently, subsequent registration in any of the other States of the Union before expiry of these periods shall not be invalidated through any acts accomplished in the interval, either, for instance, by another registration, by publication of the invention, or by the working of it, by the sale of copies of the design or model, or by the use of the trade-mark. The above-mentioned terms of priority shall be six months for patents and three months for industrial designs or models and trade-marks. A month longer is allowed for countries beyond the sea.

An Article IV. *bis* is inserted in the Convention, running as follows:—

The patents claimed in the different contracting States by persons entitled to the benefit of the Convention, in accordance with the terms of Articles II. and III., shall be independent of the patents obtained for the same invention in other States, whether adhering to the Union or not. This provision shall apply to patents existing at the time of its coming into operation. The same rule shall apply, in the case of the accession of new States, to patents existing in either State at the time of accession.

Two paragraphs are added to Article IX., running as follows:—

In States where the legislation does not allow seizure on importation, it shall be possible for such seizure to be replaced by a prohibition of entry.

The authorities shall not be bound to seize in case of transit.

Article X. shall run as follows:—

The provisions of the preceding article shall apply to all goods falsely bearing the name of a specified locality as indication of the place of origin, when such indication is associated with a trade name of a fictitious character, or assumed with a fraudulent intention.

Any producer, manufacturer, or trader engaged in the production of, fabrication of, or trade in, such goods, and established either in the locality falsely designated as the place of origin, or in the region where such locality is situated, shall be deemed an interested party.

Article XI. shall run as follows:—

The high contracting parties shall grant, in conformity with the legislation of each country, temporary protection to patentable inventions, to industrial designs or models, and to trade-marks, for articles appearing at official or officially recognised international exhibitions organized in the territory of one of them.

Article XIV. shall run as follows:—

The present Convention shall be subjected to periodical revisions, with a view to introducing improvements calculated to perfect the system of the Union. To this end Conferences shall be successively held in one of the contracting States between the delegates of the said States.

Article XVI. shall run as follows:—

States which have not taken part in the present Convention shall be permitted to adhere to it at their request. Such adhesion shall be notified through the diplomatic channel to the Government of the Swiss Confederation, and by the latter Government to all the others. It shall imply complete accession to all the clauses, and admission to all the advantages stipulated by the present Convention, and shall become effective one month after the notification made by the Swiss Government has been sent to the other Unionist States, unless a later date has been indicated by the adhering State.

The present additional Act shall have the same value and duration as the Convention of the 20th March, 1883: It shall be ratified, and the ratifications shall be exchanged at Brussels, in the form adopted for that Convention, as soon as possible, and within a year at the latest. It shall come into operation three months after such exchange.

In witness whereof the undersigned have signed the present additional Act.

Done at Brussels, the .

The respective Governments are invited to sign the above draft within six months; the signature and exchange of ratifications shall take place in the manner provided for in the said additional Act.

Done in single copy at Brussels.

For Belgium—
A. Nyssens.
L. Capelle.
Geœrges de Ro.
J. Dubois.
For Brazil—
F. Vieira Monteiro.
For Denmark—
H. Holten Nielsen.
For Spain—
The Marques De Bertemati.
Eduardo Toda.
For the United States of America—
Bellamy Storer.
Francis Forbes.
For France—
Montholon.
C. Nicolas.
Michel Pelletier.
For Great Britain—
Charles B. Stuart Wortley.
H. G. Bergne.
C. N. Dalton.
For Italy—
R. Cantagalli.
C. F. Gabba.
S. Ottolenghi.
For Norway—
Chr. Hansson.
For the Netherlands—
Snyder van Wyssenkerke.
For Portugal—
F. Quintella de Sampayo.
Jayme de Séguier.
For Servia—
Spassoïe Radoïtchitch.
For Sweden—
Hugo E. G. Hamilton.
For Switzerland—
Alphonse Rivier.
L. R. de Salis.
For Tunisia—
Montholon.
Étienne Bladé.

International Union for the Protection of Industrial Property.

Second Final Protocol.

[This was not signed by the British Delegates.]

The undersigned, representatives of the States which have adhered to the arrangement of Madrid of the 14th April, 1891, respecting the international registration of trade-marks, assembled in Conference at Brussels on the 1st December, 1897, submit to their respective Governments the following draft:—

Additional Act to the Arrangement of April 14, 1891, respecting the International Registration of Trade-marks, concluded between [Here follow the names of the contracting States].

The undersigned, duly authorised by their respective Governments, have, under reserve of ratification, agreed as follows:—

Article 2 of the arrangement shall run as follows:—

The subjects or citizens of States which have not given their adherence to the present arrangement, but which, within the limits of the restricted Union set up by the arrangement, satisfy the conditions established by Article III. of the General Convention, shall be assimilated to the subjects or citizens of the contracting States.

Article 3 shall run as follows:—

The International Bureau shall at once register marks deposited in conformity with Article 1. It shall notify such registration to the contracting States. The marks registered shall be published in a supplement to the Journal of the International Bureau by means of a representation of the mark to be furnished by the depositor. If the depositor claims the colour of the mark as a distinctive element, he shall be bound—(1) To make a declaration to that effect, and to accompany his deposit with a description, in which mention shall be made of the colour; (2) To join to his claim coloured copies of the said mark, which shall be annexed to the notifications made by the International Bureau. The number of these copies shall be fixed by the regulations for carrying the arrangement into effect. In view of the publicity necessary in the different States for registered marks, each Administration shall receive gratis from the International Bureau such a number of copies of the above publication as it may choose to apply for.

An Article 4 *bis* is inserted in the arrangement, conceived in the following terms:—

When a mark already deposited in one or several of the contracting States has been subsequently registered by the International Bureau in the name of the same owner or of his legal representative, the international registration shall be considered as substituted for such previous national registrations, without prejudice to the rights acquired by the previous registration having taken place.

Article 5 shall run as follows:—

In the countries where it is authorised by legislation, the Administration to whom the registration of a mark is notified by the International Bureau shall have the right to make a declaration stating that protection cannot be granted to this mark on their territory. Such a refusal can only be given in the conditions applicable, in virtue of the Convention of the 20th March, 1883, to a mark deposited for national registration. The Administrations must exercise this faculty within the delay provided for by their national law, and at the latest in the year of the notification provided for by Article 3, by indicating to the Bureau the motives of their refusal. The said declaration thus notified to the International Bureau shall be transmitted by it without delay to the Administration of the country of origin and to the owner of the mark. The interested party shall have the same means of redress as if the mark had been directly deposited by him in the country where protection is refused.

An Article 5 *bis* is inserted in the arrangement, conceived in the following terms:—

The International Bureau shall deliver to every applicant, on payment of a charge fixed by the regulations, a copy of the entries in the register in regard to any specified mark.

Article 8 shall run as follows:—

The Administration of the country of origin shall fix at discretion, and shall collect for its own profit, a charge to be claimed from the owner of the mark for which international registration is requested. To this charge shall be added an international emolument of 100 fr. for the first mark and of 50 fr. for each of the succeeding marks deposited at the same time by the same owner. The annual income produced by this charge shall be divided in equal shares between the contracting States by the International Bureau, after a deduction for the common expenses required for the execution of this arrangement.

An Article 9 *bis* is inserted, conceived as follows:—

When a mark entered in the International Register is transmitted to some person established in a contracting State other than the country of origin of the mark, such transmission shall be notified to the International Bureau by the Administration of the said country of origin. The International Bureau shall register such transmission, and, after receiving the assent of the Administration having jurisdiction over the new owner, shall notify it to the other Administrations, and publish it in its journal.

The present provision does not effect a modification of the legislations of the contracting States, which prohibit the transmission of the mark without the simultaneous giving up of the industrial or commercial establishment, the products of which are distinguished by the mark.

There shall not be registered any transmission of a mark entered in the International Register for the benefit of a person not established in one of the signatory countries.

Article 2.—The final protocol, signed at the same time as the arrangement of the 14th April, 1891, is suppressed.

The present additional Act shall have the same value and duration as the arrangement to which it has reference. It shall be ratified, and the ratifications shall be exchanged at Brussels, in the form adopted by that arrangement, as soon as possible, and within a year at the latest. It shall come into operation three months after such exchange.

In witness whereof the undersigned have signed the present additional Act.

Done at Brussels,

The respective Governments are invited to sign the above draft within six months. The signature and exchange of ratifications shall take place in the manner provided in the additional Act.

Regulations for carrying the Arrangement into effect.

Modifications submitted to the Approbation of the Contracting Administrations.

To insert in the regulations an Article 6 *bis*, conceived in the following terms:—

The charge provided for by Article 5 *bis* of the arrangement, for copies or extracts from the register is fixed at 2 fr. each extract.

To modify Article 7 by making it run as follows:—

The changes that may have occurred in the ownership of a mark, in regard to which a notification shall have been made as provided for in Articles 9 and 9 *bis* of the arrangement, shall be entered in the register of the International Bureau. The latter shall in its turn notify them to the contracting Administrations, and publish them in its journal, while keeping count of the special provisions of Article 9 *bis* for cases in which the new owner is not established in the country of origin of the mark.

To modify the first paragraph of Article 11 as follows:—

The present regulations shall remain in operation as long as the arrangement to which it has reference.

Done in single copy, at Brussels, the 14th December, 1897.

For Belgium—
A. Nyssens.
L. Capelle.
Georges de Ro.
J. Dubois.

For Brazil—
F. Vieria Monteiro.

For Spain—
The Marques De Bertemati.
Eduardo Toda.

For France—
Montholon.
C. Nicolas.
Michel Pelletier.

For Italy—
R. Cantagalli.
C. F. Gabba.
S. Ottolenghi.

For the Netherlands—
Snyder van Wyssenkerke.

For Portugal—
F. Quintella de Sampayo.
Jayme de Séguier.

For Switzerland—
Alphonse Rivier.
L. R. de Salis.

For Tunisia—
Montholon.
Étienne Bladé.

Enclosure No. 3.

Sir,— Downing Street, 9th June, 1898.

In reply to your letters (R. 4984, of the 2nd instant, and R. 7055, of the 8th instant), respecting the proposed ratification of the additional Act to the Industrial Property Convention of the 20th March, 1883, I am directed by Mr. Secretary Chamberlain to state that it will be necessary to ascertain the views of the Governments of Queensland and New Zealand as to the acceptance of the additional Act by these colonies, and that the Act should therefore be signed on behalf of the United Kingdom, only power being reserved by Her Majesty's Government to accede to the Act on behalf of Queensland and New Zealand at a later date.

I am to request to be furnished, for transmission to Queensland and New Zealand, with twelve additional copies of the printed paper enclosed in your letter of the 2nd June containing the report of the British delegates to the Brussels Conference.

It is proposed to defer sending copies of the additional Act to the colonies generally until it is presented to Parliament. I am, &c.,

C. P. LUCAS.

The Assistant Secretary, Railway Department, Board of Trade.

No. 17.

(General.)

MY LORD,— Downing Street, 12th August, 1898.

With reference to your Lordship's despatch (No. 32), of the 23rd June, A.-1, No. enclosing a letter from the Minister of Education covering a report on the educational system of New Zealand for publication in the volume of special reports on colonial systems of education, I have the honour to state that the Lords of the Committee of Council on Education, to whom the papers were duly forwarded, have asked that their thanks may be conveyed to the Minister of Education for his courteous and valuable assistance.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

No. 18.

(No. 52.)

MY LORD,— Downing Street, 15th August, 1898.

I have the honour to acknowledge the receipt of your despatch (No. 37), of the 5th ultimo, reporting the appointment of Mr. Henare Tomoana to the Legislative Council. I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, &c.

No. 19.

(Circular.)

SIR,— Downing Street, 17th August, 1898.

With reference to Lord Granville's circular despatch of the 1st March, 1886, I have the honour to transmit to you, for information in the colony under your government, copies of the Queen's Regulations respecting foreign orders and medals, recently revised as regards foreign orders, and I have to request that they may be substituted for the copies of those previously in force.

It will be observed that the exceptions under Rule II. of the Regulations of 1886 have been extended. I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 6th October, 1898, page 1589.]

No. 20.

(Circular.)

SIR,— Downing Street, 20th August, 1898.

I have the honour to inform you that an address has been presented by the House of Commons to Her Majesty for a "Return showing the British Colonies which pay Bounties on the Export of Agricultural Produce, and defining the Commodities on which such Bounties are paid, and the Amounts under each Heading."

I shall be obliged if you will furnish me as soon as possible with the information, so far as it relates to the colony under your government, required to enable this return to be prepared. I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

No. 21.

(Circular.)

SIR,— Downing Street, 25th August, 1898.

I have the honour to transmit to you, for publication in the colony under your government, a copy of an order of Her Majesty the Queen in Council, dated the 9th August, 1898, for giving effect to the treaty between Her Majesty and the President of the Republic of Chile for the mutual extradition of fugitive criminals, signed at Santiago on the 26th January, 1897, the ratifications of which were exchanged at Santiago on the 14th April, 1898.

I have, &c.,
J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 20th October, 1898, page 1669.]

No. 22.

(Circular.)

SIR,— Downing Street, 2nd September, 1898.

I have the honour to transmit to you, for information in the colony under your government, a copy of a paper presented to both Houses of Parliament containing the exchange of notes establishing a provisional *modus vivendi* between the United Kingdom and Belgium, pending the conclusion of a treaty of commerce and navigation between the two countries

The arrangement does not extend to the colonies or foreign possessions of Her Majesty; but if any colonial Government should intimate to me its wish to enter into a similar arrangement, such a wish would be made known to the Belgian Government.

I have, &c.,
J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

No. 23.

(No. 55.)

MY LORD,— Downing Street, 8th September, 1898.

A.-1, 1899, No. 10. I have the honour to acknowledge the receipt of your despatch (No. 40) of the 7th July, reporting the opening by you of the third session of the thirteenth Parliament of New Zealand upon the 24th June last, and enclosing copies of your speech upon the occasion, together with copies of the Addresses presented to you in reply by the Legislative Council and House of Representatives.

I note with satisfaction from your speech that your Ministers intend to give the Parliament of New Zealand the opportunity of discussing the question of preferential duties on goods manufactured in the Mother-country, with the view of securing an alteration in this direction of the Customs tariff of the colony if the colonial finances will admit of it.

I have, &c.,
FREDERICK GRAHAM,
For the Secretary of State.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

No. 24.

(Circular.)

SIR,— Downing Street, 14th September, 1898.

No. 23. With reference to my circular despatch of the 2nd instant, informing you of the temporary commercial arrangement entered into on the 27th July last between Great Britain and Belgium, I have the honour to acquaint you that Her Majesty's Minister at Brussels has reported to the Secretary of State for Foreign Affairs that on various occasions both Monsieur de Favereau and Monsieur Capelle have expressed the hope that as many as possible of the

British colonies will adhere to that temporary arrangement, and that he therefore feels sure that any proposal to include any colony would be well received at the Belgian Foreign Office. I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

No. 25.

(General.)

My Lord,— Downing Street, 16th September, 1898.

I have the honour to transmit to your Lordship a copy of a letter from the Board of Trade, asking to be supplied with certain information as to the operation in the colonies of the laws relating to the compulsory working of patented inventions.

I shall be obliged if you will furnish me with the information desired in relation to the colony under your government, and I shall be glad if you will forward to me at the same time two copies of the laws and regulations at present in force dealing with the subject.

I have, &c.,

FREDERICK GRAHAM,

For the Secretary of State.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

No. 26.

(No. 61.)

My Lord,— Downing Street, 3rd October, 1898.

I have the honour to acknowledge the receipt of your telegram of the 24th instant, requesting me to convey to Her Majesty the thanks of the people of New Zealand for the honour conferred on the colony in sanctioning the burial of the late Sir George Grey in St. Paul's Cathedral.

This message was duly laid before the Queen, and Her Majesty was pleased to receive it graciously. I have, &c.,

SELBOURNE,

For the Secretary of State.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

No. 27.

(No. 63.)

My Lord,— Downing Street, 5th October, 1898.

With reference to your despatch No. 78, of the 23rd December last, covering copy of a memorandum by the Premier of New Zealand respecting "The Shipping and Seamen's Act Amendment Act, 1896," I have the honour to transmit to you, for the information of your Ministers, copy of a letter from the Board of Trade enclosing a memorandum on the subject by their solicitor. A.-1, 1898, No. 22.

It will not, in my opinion, be necessary that Her Majesty should be advised to exercise her power of disallowance in respect of this Act when the usual authenticated copy has been received.

I have, &c.,

EDWARD WINGFIELD,

For the Secretary of State.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

Enclosure.

Board of Trade (Marine Department), 7, Whitehall Gardens,

Sir,— London, S.W., 29th July, 1898.

With reference to previous correspondence between this department and the Colonial Office respecting the provisions of "The (New Zealand) Shipping and Seamen's Act Amendment

Act, 1896," I am directed by the Board of Trade to state that they have given their special consideration to the minute submitted by the Premier of New Zealand, a copy of which was enclosed in your letter of the 8th February.

This minute deals with those provisions of the Act which formed the subject of a memorandum by the solicitor to the Board of Trade (enclosed in the Board's letter of the 12th April, 1897), and which, it was represented, were open to objection by reason of their application, as it appeared, to other vessels besides those employed in the New Zealand coastal trade.

The Board of Trade now desire me to transmit to you, to be laid before Mr. Secretary Chamberlain, a copy of a further memorandum by their solicitor, in which the apparent intention and application of these provisions is discussed in connection with the explanations given by Mr. Seddon.

I have, &c.,

The Under-Secretary of State, Colonial Office. WALTER J. HOWELL.

Sub-enclosure.

MEMORANDUM OF SOLICITOR TO BOARD OF TRADE.

I HAVE found it necessary to deal with this case not merely on its own particular facts, but as raising important general questions regarding the limits within which colonial legislation may legally and properly operate. I have also been assisted by prolonged discussion with counsel after he had mastered the papers.

The whole matter is difficult and complicated. The New Zealand Act in question purports, by short cuts, to amend the previous Merchant Shipping Acts of the colony, and involves a great number of references both to those Acts and to Imperial Acts relating both to merchant shipping as well as to the special and general legislation in the United Kingdom regulating the field of colonial laws in relation to our own.

The matter is further complicated by the extreme difficulty of ascertaining to what particular vessels the particular clauses of this Act are intended to apply, owing mainly to the vague and indirect manner in which the New Zealand Act has been framed.

Finally, we are met with the difficulty that the New Zealand authorities apparently attach a different meaning from our own to certain expressions in the Act, and there is therefore an absence of common ground between us in attempting to grapple with the questions raised for consideration.

The New Zealand Act in question deals with several different subject-matters: —

(1.) Sections 2 and 4 to 6 may be said roughly to provide for an extension of the existing provisions of the New Zealand Acts (hitherto similar to the Imperial Act) by providing for third-class engineers certificates of competency, and making other provisions with regard to engineers and their status.

(2.) Sections 7, 8, and 9 provide a scale of the number and qualifications of engineers required to be carried in steamships, for the ventilation of steamships, and the accommodation of engineers on board.

(3.) Sections 10 and 11 relate to the rate and recovery of wages applicable to "any ship."

(4.) Section 18 relates to undermanning.

There are other general provisions which seem unobjectionable.

1. First, with regard to sections 2 and 4 to 6: The Premier's explanation of the scope of these sections is satisfactory as far as those enactments in themselves are concerned, subject, however, to the question which underlies the whole discussion, "How will the new provisions affect British ships sailing from the United Kingdom, or another colony, on a round voyage, and touching at more than one port in New Zealand before returning to the United Kingdom or the colony as the case may be? The Premier observes that the operation of sections 4 to 6 is limited by sections 7 to 9.

As those sections do not contain any express reference to sections 2 and 4 to 6, I presume that Mr. Seddon contends that the provisions of section 2 and 4 to 6, relating to qualifications, &c., of third-class engineers, are local, because they are merely auxiliary to and lead up to the provisions of section 7, laying down a scale of requirements as to the number of engineers for foreign-going steamships and sea-going home-trade steamships "going to sea from any port in the colony"; while section 9 expressly declares that section 7 shall not apply to foreign-going steamships trading beyond the limits "prescribed" in the case of intercolonial ships—that is to say, trading between New Zealand and any other Australian colony, including Tasmania.

The real difficulty in the case of ships coming from the United Kingdom or non-Australian Colonies arises with respect to the meaning and application of the words "foreign-going steamships when within the limits prescribed in the case of intercolonial ships," quoted from section 9.

2. Next, with regard to sections 7 to 9: Section 7 prescribes the number of engineers to be carried, according to a detailed scale set forth in the Schedule to the Act; section 8 makes provision for the ventilation of engine-rooms, &c., and the accommodation of engineers; while section 9 defines the application of both those sections.

To dispose first of section 8: The Premier remarks that it only applies "to ships registered in the future in the colony," and all difficulty will be removed if such limited application be made quite clear by inserting in the first line of section 8, after the word "registered," the words "in New Zealand."

Then, with regard to section 7: The Premier states that by section 9 the application of those enactments is limited to foreign-going steamships trading within the limits prescribed in the case of intercolonial ships. This observation would also be satisfactory, so far as ships sailing from the United Kingdom are concerned, if by the words "trading within the

limits prescribed" the Premier does not include ships sailing from the United Kingdom, and proceeding to more than one port of discharge and loading in New Zealand or Australia before returning to the United Kingdom. But in that case the section should clearly express that construction. If, however, the Premier does include such vessels in his definition of "trading within the limits prescribed," the question would arise whether it was right and desirable, as a matter of policy, that the obligations of section 7 should apply to the vessels in question? But, whatever doubt may arise with regard to ships sailing from the United Kingdom, it is clear that sections 7 and 8 will apply to ships registered in and coming to New Zealand from any of the other Australian colonies, inasmuch as they clearly do not trade "beyond the limits prescribed for intercolonial ships"; and on leaving a New Zealand port they may be required, under section 7, to be engineered in accordance with the scale prescribed by that section, although they may be properly officered in that respect under the laws of their own colony. This, again, raises a question of policy. But I understand the Premier to contend that the time has gone by for raising any question either of law or policy with respect to sections 7 and 8, on the ground that those sections are simply amendments of provisions in laws passed in 1877, 1894, and 1895, to which no objection was then taken by the Imperial Government.

3. With regard to sections 10 and 11: The former section requires, as to seamen "engaged in the colony," or "employed in the colony" wherever they may have been engaged, that they "shall be paid and may recover the current rate of wages for the time being ruling in the colony," but the section shall not apply to ships from abroad discharging cargo or passengers in the colony and then "shipping fresh passengers or cargo to be carried abroad." Section 11 entitled a seaman to the "full amount of his wages" up to the date of his discharge, whenever he is discharged in the colony, although he has not completed the full term of his engagement.

Mr. Seddon observes, with regard to section 10, that it clearly applies to vessels "while engaged in the coasting trade," and that the proviso distinctly negatives the application of the section to ships from abroad "which do not carry on coasting trade in the colony." The whole controversy here depends upon the meaning of the expression "carry on coasting trade in the colony." If a British ship coming from abroad—*i.e.*, from the United Kingdom, or any other colony than New Zealand—on a round voyage terminating outside New Zealand, ships a passenger or cargo to be carried to a New Zealand port before or as part of her return voyage, is she carrying on coasting trade in the colony? If she is not, the proviso should be made to express that meaning; if she is—and this is apparently Mr. Seddon's view—then her crew are "employed in the colony;" and, apart from the question of discharge under section 11, the New Zealand Act purports to alter contracts made for the whole round voyage for the time during which the vessel is so employed, although the section cannot actually operate unless the crew or any member of it is discharged in New Zealand. It would be desirable, however, that the section should not purport, on the face of it, to interfere with contracts made here if it can have no such practical operation.

But if a ship from abroad embarking a single passenger, or even a minute amount of cargo, for another port in New Zealand before or as part of her return voyage is to be held to be "carrying on coasting trade in the colony," and any seaman is discharged in New Zealand before completing his engagement, then under section 11 he is to be paid and may recover the full amount of his wages up to discharge, which, under section 10, would be the ruling rates of wages in the colony while the seaman was so "employed" there. Although, therefore, he entered into a contract in the United Kingdom for £4 per month in the United Kingdom, he might recover for the time in question £8 per month. This is the complaint of the London Chamber of Shipping, as I understand it; and, accepting Mr. Seddon's contention that it is within the power of the New Zealand Legislature to alter while operating in New Zealand a contract made here, that contention at least gives rise to a question of policy. Mr. Seddon appears to urge in defence of the section that British ships from abroad would otherwise compete unfairly with New Zealand coasting ships, and that the section treats all British ships alike. It must be admitted that there is considerable force in this argument, but the question should be carefully considered in all its bearings.

4. Section 18 is an amendment of section 7 of "The Shipping and Seamen's Act Amendment Act, 1894," which for the first time either in Imperial or colonial Legislatures, at any rate in modern times, lays down a scale of manning for ships. Like this provision, section 18 only applies to vessels engaged in the "coastal or intercolonial trade," but is limited to sailing-vessels, and does not, like section 7, apply also to steamships.

The same difficulty occurs here as in the case of other sections. What is the meaning of "coastal or intercolonial trade" as applied to British sailing-ships coming from the United Kingdom or other colonies? And the same necessity arises for ascertaining, first, the real meaning and scope of the section, and, secondly, the expediency of the policy thus involved.

Mr. Seddon relies also in regard to section 18 upon the fact that the New Zealand Act of 1894, of which it is an amendment, was not objected to by the Imperial Government.

Upon reviewing the whole subject, I have come to the conclusion that the Board of Trade would not be justified in advising the Colonial Office to disallow the clauses which have been the subject of discussion. They have been passed by the Legislature of a self-governing colony, whose powers are undoubtedly large; and although the clauses give rise to important questions of policy requiring further consideration, the better course would seem to be to act upon the suggestion made by the Board of Trade in the concluding paragraph of their letter of the 21st June, 1897, in reply to Mr. Chamberlain's letter of the 20th May, 1897. It appears to me that this is one of the matters affecting the administration of the Merchant Shipping Act generally which might with great advantage be discussed with the Agent-General or some other representative of the colony capable of explaining the views of the New Zealand Government in this matter, and that, upon the understanding that such a discussion will take place, the New Zealand Act might be allowed to come into operation in due course.

14th July, 1898. W. M.

No. 28.

(No. 66.)

MY LORD,— Downing Street, 21st October, 1898.

A.-1, 1899, No. 17. I have the honour to acknowledge the receipt of your despatch (No. 56) of the 1st ultimo, reporting the appointment of Lieutenant-Colonel Gudgeon as British Resident at Rarotonga, and stating that you propose to visit the Cook Islands in person a few months hence. I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

No. 29.

(General.)

MY LORD,— Downing Street, 31st October, 1898.

A.-1, 1899, No. 14. I have the honour to acknowledge the receipt of your Lordship's despatch (No. 50) of the 8th August last, conveying a request from your Government to be relieved from their obligation to contribute towards the expenses of the International Customs Tariff Bureau after the 31st March next.

2. The International Convention of the 5th July, 1890, contains no provision for the withdrawal of any party thereto, except on the expiry of each term of seven years for which the Convention may remain in force, and then only if the Convention has been denounced twelve months before the expiry of such term.

3. The first term of seven years expired on the 31st March, 1898, and, as your Government did not denounce the Convention twelve months before that date, I am advised—and the Foreign Office, to which department the question was referred, concur in this view—that your Government is bound to continue its contributions until the 31st March, 1905; and then, in order to be relieved of any payments after that date, it will be necessary for your Government to denounce the Convention in time for such denunciation to reach the Belgian Government twelve months before the expiration of that date.

I have, &c.,

J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

No. 30.

(Circular.)

SIR,— Downing Street, 2nd November, 1898.

I have the honour to transmit to you, for publication in the colony under your government, a copy of an order of Her Majesty the Queen in Council, dated the 20th October, 1898, for giving effect to the treaty between Her Majesty and the President of the Republic of Bolivia for the mutual extradition of fugitive criminals, signed at Lima on the 22nd February, 1892, the ratifications of which were exchanged at Lima on the 7th March, 1898.

I have, &c.,

J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 5th January, 1898, page 11.]

No. 31.

SIR,— Downing Street, 5th November, 1898.

I have the honour to transmit to you, for the information of your Ministers, a copy of the despatch noted below, reporting the appointment of

Lieutenant-Colonel Gudgeon to be a Deputy-Commissioner under the Pacific Order in Council, 1893.

I have, &c.,
EDWARD WINGFIELD,
For the Secretary of State.

The Officer Administering the Government of New Zealand.

Date.	Description of Document.
12th September, 1898	High Commissioner for the Western Pacific, to the Secretary of State

Enclosure.

Western Pacific,
(No. 49.)

Office of the High Commissioner for the Western Pacific,
Suva, Fiji, 12th September, 1898.

SIR,—

With reference to your telegram, received on the 31st ultimo, on the subject of the appointment of Major Gudgeon as British Resident at Rarotonga, I have the honour to report that, in accordance with the instructions contained therein, I have, by instrument under my hand and the seal of the Western Pacific High Commission, appointed that officer to be a Deputy Commissioner to exercise the jurisdiction of the High Commissioner's Court for the Cook Islands under the provisions of the Pacific Order in Council, 1893.

I have, &c.,
G. T. M. O'BRIEN.

The Right Hon. the Secretary of State for the Colonies, &c.

No. 32.

(Circular.)

SIR,— Downing Street, 8th November, 1891.

With reference to my circular despatch of the 31st March, 1897, enclosing copies of the revised regulations for the entry of engineer students in Her Majesty's Navy, I have the honour to transmit to you copies of a circular issued by the Admiralty respecting the new scheme of examination, and the limits of age of entry in the future.

I have, &c.,
J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

[For enclosure, see *New Zealand Gazette*, 9th February, 1898, page 328.]

No. 33.

(No. 71.)

MY LORD,— Downing Street, 11th November, 1898.

I have the honour to acknowledge the receipt of your despatch (No. 66) of the 29th September, respecting the installation of Lieutenant-Colonel Gudgeon as British Resident in the Cook Islands. A.–1, 1899, No. 19.

I have, &c.,
J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

No. 34.

(No. 72.)

MY LORD,— Downing Street, 15th November, 1898.

As it has been brought to my notice that the rule governing the payment of pensions to army pensioners serving in Colonial Military Forces has in some cases not been clearly stated to the Colonial Governments interested in the subject, I have the honour to inform you that the rule in question is to the effect that non-commissioned officers who have earned an army pension by mixed Im-

perial and colonial service are not allowed to draw such pension so long as they continue in Colonial military employment.

I have, &c.,
J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

No. 35.

(No. 75.)

My Lord,— Downing Street, 1st December, 1898.

With reference to my telegram of the 27th September last, on the subject of the apprehended application of the United States coasting-trade regulations to the Hawaiian Islands, I have the honour to inform you that Her Majesty's Ambassador at Washington has been instructed to address a communication to the United States Government prior to the meeting of Congress, representing to them the hardships which would be involved in the exclusion of foreign ships from trading between the United States and their newly-acquired possessions.

I have, &c.,
J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, K.C.M.G., &c.

No. 36.

(Circular.)

Sir,— Downing Street, 8th December, 1898.

I have the honour to transmit to you a copy of a correspondence which has passed between the Treasury and this department regarding a request of the Government of the United States of America to be furnished with information as to the weight and value of gold and silver produced in the British Colonies in the year 1897.

2. If either of the precious metals is produced in the colony under your administration, I should wish to be supplied as soon as possible with the information desired in respect of the year 1897, and also with similar information in respect of subsequent years when it becomes available.

I have, &c.,
J. CHAMBERLAIN.

The Officer Administering the Government of New Zealand.

No. 37.

(No. 76.)

Sir,— Downing Street, 13th December, 1898.

I have the honour to inform you, with reference to the Secretary of State's circular despatch of the 21st February, 1893, that Count Louis Antoine Marie Joseph Henri de Courte has been appointed Vice-Consul of France at Wellington.

Her Majesty's exequatur has at once been issued to this gentleman as he is not resident at the place to which he has been appointed.

I have, &c.,
EDWARD WINGFIELD,
For the Secretary of State.

The Officer Administering the Government of New Zealand.

No. 38.

(No. 82.)

My Lord, — Downing Street, 24th December, 1898.

I have the honour to acquaint you that an application has been received from the Belgian Chargé d'Affaires at this Court for the issue of an exequatur to enable Mr. R. Oliver to act as Consul for Belgium at Dunedin.

As this gentleman appears to be resident in the colony under your government, I am to request you to report whether you are aware, or not, of any objection to his appointment; and, if not, you will recognise him provisionally in that capacity until the arrival of the exequatur.

I have, &c.,
EDWARD WINGFIELD,
For the Secretary of State.

The Officer Administering the Government of New Zealand.

No. 39.

(No. 83.)

My Lord,— Downing Street, 24th December, 1898.

I have the honour to acquaint you that an application has been received from the Belgian Chargé d'Affaires at this Court for the issue of an exequatur to enable Mr. J. Burns to act as Consul of Belgium at Auckland.

As this gentleman appears to be resident in the colony under your government, I am to request you to report whether you are aware, or not, of any objection to his appointment; and, if not, you will recognise him provisionally in that capacity until the arrival of the exequatur.

I have, &c.,
EDWARD WINGFIELD,
For the Secretary of State.

The Officer Administering the Government of New Zealand.

No. 40.

(No. 84.)

My Lord,— Downing Street, 26th December, 1898.

I have the honour to acquaint you that an application has been received from the Belgian Chargé d'Affaires at this Court for the issue of an exequatur to enable Mr. J. J. Kinsey to act as Consul for Belgium at Christchurch.

As this gentleman appears to be resident in the colony under your government, I am to request you to report whether you are aware, or not, of any objection to his appointment; and if not, you will recognise him provisionally in that capacity until the arrival of the exequatur.

I have, &c.,
EDWARD WINGFIELD,
For the Secretary of State.

The Officer Administering the Government of New Zealand.

No. 41.

(No. 85.)

My Lord,— Downing Street, 30th December, 1898.

In reply to your despatch (No. 72) of the 3rd ultimo, I have the honour to inform you that Her Majesty the Queen has been graciously pleased to approve the grant of the title "Royal" to the proposed Humane Society of New Zealand. A.-1, 1899, No. 21.

2. I have to add that it would not be in accordance with precedent for Her Majesty to become the patron of the society.

I have, &c.,
J. CHAMBERLAIN.

Governor the Right Hon. the Earl of Ranfurly, &c.

Approximate Cost of Paper.—Preparation, not given; printing (1,425 copies), £16 17s. 6d.

By Authority: John Mackay, Government Printer, Wellington.—1899.

Price 1s.]