

(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.